Draft Order laid before the House of Commons under sections 349 and 349A of the Corporation Tax Act 2010 and paragraph 22 of Schedule 22 to the Finance Act 2012 for approval by resolution of the House of Commons.

D R A F T S T A T U T O R Y I N S T R U M E N T S

2013 No.0000

OIL TAX

The Additionally-developed Oil Fields Order 2013

Made - - - - ***** 2013*

Coming into force in accordance with article 1

The Commissioners for Her Majesty's Revenue and Customs make the following Order, in exercise of the powers conferred by sections 349 and 349A of the Corporation Tax Act 2010(**a**) and paragraph 22 of Schedule 22 to the Finance Act 2012(**b**).

In accordance with sections 349 and 349A of the Corporation Tax Act 2010, a draft of this Order was laid before the House of Commons and approved by a resolution of that House.

Citation, commencement and interpretation

1.—(1) This Order may be cited as the Additionally-developed Oil Fields Order 2013 and is treated as having come into force on 1st April 2013.

(2) In this Order "CTA 2010" means the Corporation Tax Act 2010.

Additionally-developed oil field

2.—(1) The conditions which a project that is described in a consent for development of an oil field must meet for the purposes of section 349A(1)(b) of CTA 2010 are as follows.

(2) Condition A is that the project was authorised as mentioned in section 349A(1)(a) of CTA 2010 on or after 7th September 2012.

(3) Condition B is that the cost per tonne of the project is more than £60.

(4) Condition C is that the additional reserves of oil which the field has as a result of the project have not been taken into account in calculating the cost per tonne of any qualifying project that has previously been authorised in relation to the field.

(5) A project authorised in relation to an oil field is a "qualifying project" for the purposes of paragraph (4) if a field allowance has at any time been held for the field as a result of the project.

(6) Condition D is that, as at the authorisation day, the whole of the oil field lies on the seaward side of the baselines from which the territorial sea is measured.

(7) Condition E is that the project does not involve enhanced oil recovery using carbon dioxide.

(**a**) 2010 c. 4; section 349 was amended by paragraph 14 of Schedule 22 to the Finance Act 2012 (c. 14) and section 349A was inserted by paragraph 15 of Schedule 22.
(**b**) 2012 c. 14.

(8) For the purposes of this article the "cost per tonne" of a project authorised in relation to an oil field means the amount given by—

$$\frac{E}{R}$$

where—

E is the expected capital expenditure of the project (see paragraph (9)), and

R is the sum of the amounts of additional reserves of oil (in tonnes) which the field and any other oil fields have as a result of the project.

(9) The expected capital expenditure of a project is to be determined as follows—

Step 1

Calculate the amount of capital expenditure which it is reasonably expected, as at the authorisation day, will be incurred in carrying out the project.

In calculating that amount, ignore any expenditure incurred before the authorisation day which, if the project had not been authorised, would have been wasted expenditure.

Step 2

Calculate the amount of any capital expenditure which it is reasonably expected, as at the authorisation day, would have been incurred on or after that day if the project had not been authorised.

In calculating that amount, ignore any expenditure which—

(a) would have been incurred under an agreement entered into before the authorisation day, and

(b) would not have been wasted expenditure.

Step 3

Deduct the amount given by step 2 from the amount given by step 1.

But if the amount given by step 2 is greater than the amount given by step 1, the expected capital expenditure of the project is nil.

(10) In determining the expected capital expenditure of a project—

(a) where an amount attributed to an item of expenditure includes an amount for contingencies, the amount so included may not exceed 20% of the amount that would be attributed to that item of expenditure in the absence of any amount for contingencies,

(b) expenditure is not to be treated as wasted expenditure to the extent that it is recoverable, and

(c) the following are to be disregarded—

(i) any decommissioning expenditure (within the meaning of section 330C of CTA 2010(**a**)), and

(ii) any payments of interest.

(11) For the purposes of this article—

(a) the amount of additional reserves of oil which a field has is to be determined on the authorisation day,

(b) 1,100 cubic metres of gas at a temperature of 15 degrees celsius and pressure of one atmosphere is to be counted as equivalent to one tonne,

(c) "authorisation day", in relation to a project, means the day when the project is authorised as mentioned in section 349A(1)(a) of CTA 2010, and

(d) "territorial sea" means the territorial sea of the United Kingdom.

(**a**) Section 330C was inserted by paragraph 3 of Schedule 21 to the Finance Act 2012.

Amendments of CTA 2010

3. Chapter 7 of Part 8 of CTA 2010 (reduction of supplementary charge for eligible oil fields) is amended as follows.

4. In section 337 (licensee to hold field allowance), in subsection (2), for "section 356" substitute "sections 356 and 356A".

5. In section 340 (conditions for activation of field allowance where no change in equity share), after subsection (5) insert—

"(6) But in a case where the field is an additionally-developed oil field in relation to which a qualifying project has been authorised as mentioned in section 349A(1)(a), the company is to be treated as having relevant income from the field in the accounting period if, and only if—

(a) a substantial amount of work has been done in relation to the project, and

(b) the accounting period begins on or after the first day of the year of expected first production for the field.

(7) For the purposes of subsection (6)—

(a) "the year of expected first production" for the field is the year that was notified to the national authority, on or before the day on which the project was authorised, as the calendar year in which additional reserves of oil were expected to be first won from the field as a result of the project, and

(b) "qualifying project" means a project meeting the conditions in subsection (1)(aa) and (b) of section 349A."

6. In section 341 (activation of field allowance), in subsection (3), for "section 356" substitute "sections 356 and 356A".

7. In section 342 (conditions for activation of field allowance where change in equity share), after subsection (5) insert—

"(5A) But in a case where the field is an additionally-developed oil field in relation to which a qualifying project has been authorised as mentioned in section 349A(1)(a), the company is to be treated as having relevant income from the field in the accounting period if, and only if—

(a) a substantial amount of work has been done in relation to the project, and

(b) the accounting period begins on or after the first day of the year of expected first production for the field.

(5B) For the purposes of subsection (5A)—

(a) "the year of expected first production" for the field is the year that was notified to the national authority, on or before the day on which the project was authorised, as the calendar year in which additional reserves of oil were expected to be first won from the field as a result of the project, and

(b) "qualifying project" means a project meeting the conditions in subsection (1)(aa) and (b) of section 349A."

8. In section 344 (activation of field allowance), in subsection (3), for "section 356" substitute "sections 356 and 356A".

9. In section 349A(1) (meaning of "additionally-developed oil field"), for paragraph (a) substitute—

"(a) since the time when consent for development of the oil field was first granted, the national authority has authorised a project in relation to the field,

(aa) the project is described in a further consent for development of the field, and".

10. After section 356 insert—

"**356A "Total field allowance for an additionally-developed oil field"**

(1) For the purposes of this Chapter, the total field allowance for an additionally-developed oil field in relation to which a qualifying project has been authorised as mentioned in section 349A(1)(a) is—

(a) if the field is not a cross-boundary field, the amount determined in accordance with subsection (2), and

(b) if the field is a cross-boundary field, the amount determined in accordance with subsection (3).

This is subject to subsections (4) and (7).

(2) In a case where the field is not a cross-boundary field, the total field allowance for the field is—

$$AR \times 50 \times \frac{CPT - £60}{20}$$

where—

AR is the amount of additional reserves of oil (in tonnes) which the field has as a result of the project, and

CPT is—

(a) where the cost per tonne of the project is £80 or more, £80, and

(b) in any other case (where the cost per tonne of the project is less than £80 but more than £60), the cost per tonne of the project (expressed in pounds).

(3) In a case where the field is a cross-boundary field, the total field allowance for the field is—

$$A \times UKR$$

where—

A is the amount that would be determined in accordance with subsection (2) as the total field allowance for the field if it were not a cross-boundary field, and

UKR is the fraction of the reserves of oil which the field has lying within the UK marine area.

(4) The total field allowance for an additionally-developed oil field may not exceed the relevant maximum (see subsection (5)).

(5) The relevant maximum is—

(a) in the case of a licensee in the field who is liable to PRT, £500,000,000, and

(b) in any other case, £250,000,000.

(6) For the purposes of subsection (5) a licensee in an oil field in relation to which a qualifying project has been authorised as mentioned in section 349A(1)(a) is "liable to PRT" if—

(a) it is reasonably expected, as at the authorisation day, that the licensee will be chargeable with petroleum revenue tax for a chargeable period in respect of its share of the equity in the field, and

(b) the chargeable period is one in which oil is reasonably expected, as at the authorisation day, to be won from the field as a result of the project.

(7) In a case where—

(a) the field is not the only additionally-developed oil field that has additional reserves of oil as a result of the project, and

(b) the sum of the amounts determined in accordance with subsection (2) or (3) (as the case may be) in relation to each of those oil fields is greater than the relevant maximum (see subsection (5)),

the total field allowance for the field is the relevant percentage of the amount determined in accordance with subsection (2) or (3) (as the case may be) in relation to the field.

(8) The relevant percentage is—

$$\frac{RM}{T} \times 100$$

where—

RM is the relevant maximum, and

T is the sum of the amounts determined in accordance with subsection (2) or (3) (as the case may be) in relation to each of the additionally-developed oil fields that has additional reserves of oil as a result of the project.

(9) For the purposes of this section—

(a) 1,100 cubic metres of gas at a temperature of 15 degrees celsius and pressure of one atmosphere is to be counted as equivalent to one tonne,

(b) "cost per tonne", in relation to a project, has the same meaning as in article 2 of the Additionally-developed Oil Fields Order 2013,

(c) "cross-boundary field" has the meaning given by section 10(9) of the Petroleum Act 1998,

(d) "qualifying project" means a project meeting the conditions in subsection (1)(aa) and (b) of section 349A, and

(e) "UK marine area" has the same meaning as in the Marine and Coastal Access Act 2009 (see section 42 of that Act)."

11.—(1) Section 357 (other definitions) is amended as follows.

(2) The existing provision becomes subsection (1).

(3) In subsection (1), in the definition of "authorisation day", for paragraph (a) substitute—

"(a) in relation to an additionally-developed oil field and a project authorised in relation to the field as mentioned in section 349A(1)(a), the day when the project is so authorised,".

(4) After subsection (1) insert—

"(2) Any reference in this Chapter to a share of the equity in an oil field (other than the reference in section 356A(6)) is, in the case of an additionally-developed oil field and a project authorised in relation to the field as mentioned in section 349A(1)(a), to be read as a reference to a share of the additional reserves of oil which the field has as a result of the project."

12. In Schedule 4 to CTA 2010 (index of defined expressions), at the appropriate place insert—

"total field allowance for an additionally-developed oil field	section 356A".

Name
Name

Date

Two of the Commissioners for Her Majesty's Revenue and Customs

EXPLANATORY NOTE

(This note is not part of the Order)

This Order specifies the conditions that a project carried out in an oil field must satisfy in order for that oil field to be an "additionally-developed oil field" ("ADOF") for the purposes of Chapter 7 of Part 8 of the Corporation Tax Act 2010 (c. 4) ("CTA 2010"). An oil field that is an ADOF qualifies for a "field allowance". The effect of a field allowance is to reduce the extent to which profits are subject to the supplementary charge. In addition, this Order inserts a new section 356A into the CTA 2010. This new section prescribes the method by which the total field allowance for an ADOF is to be calculated. This Order also makes a number of consequential amendments to Chapter 7 of Part 8 of, and Schedule 4 to, the CTA 2010; firstly, to specify the time at which a company having an interest in an ADOF is entitled to the field allowance, and secondly, to amend section 349A(1) of the CTA 2010 so that the language of that provision more accurately reflects the way in which approval for the carrying out of projects is granted.

The effect of this Order, read with section 337 of CTA 2010, is that companies will be able to hold a field allowance from the beginning of any accounting period in which an authorisation day that falls on or after 7th September 2012 falls. Companies will be able to activate a field allowance for any accounting period beginning on or after the first day of the first year of expected first production; where the year of expected first production is 2013, companies will be able to activate a field allowance for any accounting period beginning on or after 1st January 2013 and ending on or after 1st April 2013. Authority for this limited retrospective effect is given by section 349(3)(b) of the CTA 2010.

Article 2 specifies five conditions that a project carried out in an oil field must satisfy in order for that field to be an ADOF.

Articles 3 to 12 amend Chapter 7 of Part 8 of and Schedule 4 to CTA 2010; articles 3 to 9 and 11 to 12 make the consequential changes referred to above.

Article 10 inserts a new section 356A into the CTA 2010. In summary, this section provides that an ADOF receives an amount of field allowance, up to a specified maximum, based upon the amount of capital expenditure which it is expected will be required to win a quantity of oil measured in tonnes.

A Tax Information and Impact Note covering this instrument was published on 23rd October 2012 and is available on the HMRC website at http://www.hmrc.gov.uk/thelibrary/tiins.htm. It remains an accurate summary of the impacts that result from this instrument.

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