Draft Order laid before the House of Commons under section 349(4) of the Corporation Tax Act 2010, for approval by resolution of the House of Commons.

DRAFT STATUTORY INSTRUMENTS

2012 No. 0000

OIL TAX

The Qualifying Oil Fields Order 2012

Made - - - - December 2012

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 section 349 of the Corporation Tax Act 2010(**a**).

In accordance with section 349(4) of that Act, 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 Qualifying Oil Fields Order 2012 and comes into force on the day after the day on which it is made.

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

Amendments to Chapter 7 of Part 8 of CTA 2010

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

3. In section 352 ("qualifying oil field"), omit the "or" at the end of paragraph (b) and after paragraph (c) insert—

"(d) a large deep water oil field,

(e) a large shallow water gas field, or

(f) a deep water gas field."

4. In section 353(1) ("small oil field"), for "3,500,000 tonnes" substitute "7,000,000 tonnes".

5. After section 355 insert—

"**355A. "Large deep water oil field"**

(1) In this Chapter "large deep water oil field" means an oil field that meets conditions A to C.

(2) Condition A is that the field was authorised for the first time on or after 21 March 2012.

(**a**) c.4; section 349 was amended by paragraphs 1 and 14 of Schedule 22 to the Finance Act 2012 (c.14).

(3) Condition B is that the field has reserves of oil of—

(a) 25,000,000 tonnes or more, but

(b) less than 55,000,000 tonnes.

(4) Condition C is that the depth of the sea above the field is greater than 1,000 metres.

(5) For the purposes of this section and section 356(4)(**a**)—

(a) the amount of reserves of oil which an oil 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, and

(c) the depth of the sea above an oil field is to be measured at the lowest astronomical tide from the water surface to the lowest point of the natural sea bed at the location of the primary subsea manifold or the first development well, whichever is the deeper.

355B. "Large shallow water gas field"

(1) In this Chapter "large shallow water gas field" means an oil field that meets conditions A to D.

(2) Condition A is that the field was authorised for the first time on or after 25 July 2012.

(3) Condition B is that more than 95% of the reserves of oil which the field has consist of gas.

(4) Condition C is that the depth of the sea above the field is less than 30 metres.

(5) Condition D is that the amount of reserves of gas which the field has, or, where there are one or more oil fields related to the field, the total amount of reserves of gas which the field and those related oil fields together have, is—

(a) 10 billion cubic metres or more, but

(b) less than 25 billion cubic metres.

(6) For the purposes of subsection (5) and section 356(5), an oil field is "related" to another oil field if—

(a) the field meets conditions A to C, and

(b) the authorisation day for each oil field is the same.

(7) For the purposes of this section and section 356(5)—

(a) the amount of reserves of oil which an oil 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, and

(c) the depth of the sea above an oil field is to be measured at the lowest astronomical tide from the water surface to the highest point of the natural sea bed at the location of the primary subsea manifold or the first development well, whichever is the shallower.

355C. "Deep water gas field"

(1) In this Chapter "deep water gas field" means an oil field that meets conditions A to C.

(2) Condition A is that more than 75% of the reserves of oil which the field has consist of gas.

(3) Condition B is that the depth of the sea above the field is more than 300 metres.

(**a**) see article 6 of this Order.

(4) Condition C is that the length of the planned route of the primary pipe-line, or pipe-lines, to be used for transporting gas from the field to the relevant infrastructure is more than 60 kilometres.

(5) For the purposes of subsection (4)—

(a) the length of the planned route is to be determined on the authorisation day,

(b) "pipe-line" has the same meaning as in the Pipe-lines Act 1962(**a**) (see section 65 of that Act),

(c) "the relevant infrastructure", in relation to an oil field, means any pipe-line or gas processing facility which is used by, or is intended to be used by, another oil field whose development was authorised before the authorisation day for the oil field, and

(d) "gas processing facility" has the meaning given by section 90(1) of the Energy Act 2011 (**b**).

(6) For the purposes of this section—

(a) the amount of reserves of oil which an oil 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, and

(c) the depth of the sea above an oil field is to be measured at the lowest astronomical tide from the water surface to the lowest point of the natural sea bed at the location of the primary subsea manifold or the first development well, whichever is the deeper."

6.—(1) Section 356 ("total field allowance for a new oil field") is amended as follows.

(2) In subsection (1), omit the "and" after paragraph (b), and after paragraph (c) insert—

"(d) in the case of a large deep water oil field, the amount determined in accordance with subsection (4),

(e) in the case of a large shallow water gas field, the amount determined in accordance with subsection (5), and

(f) in the case of a deep water gas field, the amount determined in accordance with subsection (6)."

(3) For subsection (2) substitute—

"(2) The total field allowance for a small oil field is—

(a) if the field has reserves of oil of 6,250,000 tonnes or less, £150,000,000, and

(b) in any other case (where the oil field has reserves of more than 6,250,000 tonnes but not more than 7,000,000 tonnes) the following amount—

$$£150{,}000{,}000 \times \frac{7{,}000{,}000 - X}{7{,}000{,}000 - 6{,}250{,}000}$$

where X is the amount of the reserves of oil (in tonnes) which the field has."

(4) After subsection (3) insert—

"(4) The total field allowance for a large deep water oil field is —

(**a**) c.58; section 65 was amended by S.I.2000/1937 and S.I.2011/2305 and paragraph 6 of Schedule 2 to the Energy Act 2011 (c.16).

(**b**) c.16.

$$£3{,}000{,}000{,}000 \times \frac{55{,}000{,}000 - X}{15{,}000{,}000}$$

where X is—

(a) in a case where the amount of the reserves of oil which the field has is 40,000,000 tonnes or less, 40,000,000,

(b) in any other case (where the oil field has reserves of more than 40,000,000 tonnes but not more than 55,000,000 tonnes) the amount of the reserves of oil (in tonnes) which the field has.

(5) The total field allowance for a large shallow water gas field is—

$$£500{,}000{,}000 \times \frac{R}{T} \times \frac{25 - X}{5}$$

where—

R is the amount of the reserves of gas (in billion cubic metres) which the field has,

T is—

the amount of the reserves of gas (in billion cubic metres) which the field has, or

in a case where there are one or more oil fields related to the field, the total amount of reserves of gas (in billion cubic metres) which the field and those related oil fields together have, and

X is—

in a case where T is 20 or less, 20, and

in any other case (where T is greater than 20 but less than 25), T.

(6) The total field allowance for a deep water gas field is—

$$Y \times \frac{D - 60}{60}$$

where—

Y is—

(a) £800,000,000, or

(b) in a case where two or more deep water gas fields share the same authorisation day, £1,600,000,000 divided by the total number of those deep water gas fields, and

D is—

(a) where the length of the planned pipe-line route is more than 60 but less than 120 kilometres, that length (in kilometres), or

(b) in a case where the length of the planned pipe-line route is 120 kilometres or more, 120.

(7) In subsection (6) "the planned pipe-line route", in relation to a deep water gas field, means the planned route of the pipe-line (or pipe-lines) to be used for transporting gas from the field as mentioned in section 355C(4).

(8) If an oil field falls within more than one of the descriptions of oil field listed in section 352 ("qualifying oil field"), then for the purposes of this section the field is to be regarded as being of the description that produces the greatest total field allowance for that field."

Consequential revocation

7. The Field Allowance for New Oil Fields Order 2010(**a**) is revoked.

Application

8. (1) This Order has effect in relation to oil fields whose authorisation day is on or after the relevant day.

(2) "The relevant day" means—

(a) in the case of small oil fields and large deep water oil fields, 21 March 2012;

(b) in the case of large shallow water gas fields, 25 July 2012;

(c) in the case of deep water gas fields, the day on which this Order comes into force.

(3) Expressions used in this article and Chapter 7 of Part 8 of CTA 2010 have the same meaning in this article as they have in that Chapter.

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

(**a**) S.I. 2010/610.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order defines large deep water oil fields ("LDOF") and large shallow water gas fields ("LSGF") and specifies that oil fields that satisfy either definition are "qualifying oil fields" for the purposes of Chapter 7, Part 8 of the Corporation Tax Act 2010 (c.4) ("CTA 2010"). Companies holding a licence or a share in a licence in "qualifying oil fields" are entitled to a "field allowance" which reduces the extent to which their profits are subject to the supplementary charge. In addition, this Order revokes the Field Allowance for New Oil Fields Order 2010 (S.I. 2010/610) ("the 2010 Order") which specified that deep water gas fields ("DWGF") are "qualifying fields" and incorporates the amendments made by the 2010 Order directly into the CTA 2010. Finally, this Order extends the definition of a "small oil field" ("SOF"), which is an existing form of "qualifying oil field", from a field which has reserves of 3,500,000 tonnes or less to one which has reserves of 7,000,000 tonnes or less; and increases the amount of the total field allowance available to SOF from £75,000,000 to £150,000,000.

Article 3 amends section 352 CTA, which defines a "qualifying oil field", and extends the definition so as to include LDOF, LSGF and DWGF.

Article 4 amends section 353 CTA substituting, for the purpose of defining the maximum permitted size of a SOF, a reference to 3,500,000 tonnes with a figure of 7,000,000 tonnes.

Article 5 inserts three additional sections, 355A-C, into the CTA; these prescribe the characteristics of LDOF, LSGF and DWGF respectively.

Article 6 amends 356(2) CTA, which sets out the way in which the total field allowance is calculated, increasing the maximum value of the total field allowance for small oil fields from £75,000,000 to £150,000,000. It also inserts three additional sub-sections, 356(4)-(6), which prescribe respectively the way in which the total field allowance is to be calculated for LDOF, LSGF and DWGF; finally, it inserts an additional subsection, 356(8), which specifies the total field allowance to which an oil field is entitled in circumstances where it satisfies the definition of more than one category of "qualifying oil field".

Article 8 provides that the entitlement to field allowances in respect of LDOF and LSGF, and the amendments to the criteria for determining a SOF and the maximum amount of relief, are to apply retrospectively. The power to make such retrospective provision is section 349(3)(b) CTA 2010.

A Tax Information and Impact Note covering this instrument was published on 23rd October 2012 alongside a draft of this instrument 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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