

CHAPTER 2 Petroleum taxation

Interpretation). FA92 s75; FA95 s42(a) 684.—(1) In this Chapter—

“abandonment activities”, in relation to a relevant field or any part of it, means those activities of a person, whether carried on by the person or on behalf of the person, which comply with the requirements of a petroleum lease held by the person, or, if the person is a company, held by the company or a company associated with it, in respect of—

(a) the closing down, decommissioning or abandonment of the relevant field or the part of it, as the case may be, or

(b) the dismantlement or removal of the whole or a part of any structure, plant or machinery which is not situated on dry land and which has been brought into use for the purposes of transporting as far as dry land petroleum won from the relevant field or from the part of it, as the case may be;

“abandonment expenditure”, in relation to a relevant field or any part of it, means expenditure incurred on abandonment activities in relation to the field or the part of it, as the case may be;

“chargeable period” means an accounting period of a company or a year of assessment;

“designated area” means an area designated by order under section 2 of the Continental Shelf Act, 1968 ;

“development expenditure” means capital expenditure incurred in connection with a relevant field on the provision for use in carrying on petroleum extraction activities of—

(a) machinery or plant,

(b) any works, buildings or structures, or

(c) any other assets,

which are of such a nature that when the relevant field ceases to be worked they are likely to be so diminished in value that their value will be nil or almost nil, but does not include—

(i) expenditure on any vehicle suitable for the conveyance by road of persons or goods or the haulage by road of other vehicles,

(ii) expenditure on any building or structure for use as a dwelling house, shop or office or for any purpose ancillary to the purposes of a dwelling house, shop or office,

(iii) (I) expenditure incurred on petroleum exploration activities, and

(II) payments made to the Minister for the Marine and Natural Resources on the application for, or in consideration of the granting of, a licence (other than a petroleum lease) or other payments made to that Minister in respect of the holding of the licence,

(iv) expenditure on the acquisition of the site of a relevant field, or of the site of any works, buildings or structures or of rights in or over any such site,

(v) expenditure on the acquisition of, or of rights in or over, deposits of petroleum,

(vi) expenditure on—

(I) machinery or plant, or

(II) works, buildings or structures,

provided for the processing or storing of petroleum won in the course of carrying on petroleum extraction activities, other than the initial treatment and storage of such petroleum,

or

(vii) any interest payment,

and “assets representing development expenditure” shall be construed accordingly and shall include any results obtained from any search or enquiry on which the expenditure was incurred;

“dry land” means land not permanently covered by water;

“exploration expenditure” means—

(a) capital expenditure incurred on petroleum exploration activities, and

(b) payments made to the Minister for the Marine and Natural Resources on the application for, or in consideration of the granting of, a licence (other than a petroleum lease) or other payments made to that Minister in respect of the holding of the licence,

but does not include any interest payment, and “assets representing exploration expenditure” shall be construed accordingly and shall include any results obtained from any search, exploration or enquiry on which the expenditure was incurred;

“initial treatment and storage”, in relation to petroleum won from a relevant field, means the doing of any of the following—

(a) subjecting petroleum so won to any process of which the sole purpose is to enable the petroleum to be safely stored, safely loaded into a tanker or safely accepted for refining,

(b) separating petroleum so won and consisting of gas from other petroleum so won,

(c) separating petroleum won and consisting of gas of a kind that is transported and sold in normal commercial practice from other petroleum so won and consisting of gas,

(d) liquefying petroleum so won and consisting of gas of such a kind as is mentioned in paragraph (c) for the purpose of transporting such petroleum,

(e) subjecting petroleum so won to any process so as to secure that petroleum disposed of without having been refined has the quality that is normal for petroleum so disposed of from the relevant field, or

(f) storing petroleum so won before its disposal or its appropriation to refining or to any use, except use in—

(i) winning petroleum from a relevant field, including searching in that field for and winning access to such petroleum, or

(ii) transporting as far as dry land petroleum that is won from a place not on dry land,

but does not include any activity carried on as part of or in association with the refining of petroleum;

“licence” means—

(a) an exploration licence,

(b) a lease undertaking,

(c) a licensing option,

(d) a petroleum prospecting licence,

(e) a petroleum lease, or

(f) a reserved area licence,

granted in respect of an area in the State or a designated area under the Petroleum and Other Minerals Development Act, 1960, and which was granted subject to—

(i) the licensing terms set out in the Notice entitled “Ireland Exclusive Offshore Licensing Terms” presented to each House of the Oireachtas on the 29th day of April, 1975,

(ii) licensing terms presented to each House of the Oireachtas on a day or days which fall after the 29th day of April, 1975, or

(iii) licensing terms to which paragraph (i) or (ii) relates, as amended or varied from time to time;

“licensed area” means an area in respect of which a licence is in force;

“mining trade” means a trade consisting only of working a mine which is a qualifying mine or, in the case of a trade consisting partly of such an activity and partly of one or more other activities, the part of the trade consisting only of working such a mine which is treated by virtue of section 685 as a separate trade;

“petroleum” means petroleum (1) of the Petroleum and Other Minerals Development Act, 1960) won or capable of being won under the authority of a licence;

“petroleum activities” means any one or more of the following activities—

(a) petroleum exploration activities,

(b) petroleum extraction activities, and

(c) the acquisition, enjoyment or exploitation of petroleum rights;

“petroleum exploration activities” means activities of a person carried on by the person or on behalf of the person in searching for deposits of petroleum in a licensed area, in testing or appraising such deposits or in winning access to such deposits for the purposes of such searching, testing or appraising, where such activities are carried on under a licence (other than a petroleum lease) authorising the activities and held by the person or, if the person is a company, held by the company or a company associated with it;

“petroleum extraction activities” means activities of a person carried on by the person or on behalf of the person under a petroleum lease authorising the activities and held by the person or, if the person is a company, held by the company or a company associated with it in—

(a) winning petroleum from a relevant field, including searching in that field for and winning access to such petroleum,

(b) transporting as far as dry land petroleum so won from a place not on dry land, or

(c) effecting the initial treatment and storage of petroleum so won from the relevant field;

“petroleum profits”, in relation to a company which is chargeable to corporation tax on its profits, means the income of the company from petroleum activities and any amount to be included in its total profits in respect of chargeable gains accruing to the company from disposals of petroleum-related assets;

“petroleum-related asset” means any of the following assets or any part of such an asset—

(a) any petroleum rights,

(b) any asset representing exploration expenditure or development expenditure,

(c) shares deriving their value or the greater part of their value, whether directly or indirectly, from petroleum activities, other than shares dealt in on a stock exchange;

“petroleum rights” means rights to petroleum to be extracted or to interests in, or to the benefit of, petroleum, and includes an interest in a licence;

“petroleum trade” means a trade consisting only of trading activities which are petroleum activities or, in the case of a trade consisting partly of such activities and partly of other activities, the part of the trade consisting only of trading activities which are petroleum activities which is treated by virtue of section 685 as a separate trade;

“qualifying mine” has the same meaning as in section 672;

“relevant field” means an area in respect of which a licence, being a petroleum lease, is in force.

(2) For the purposes of this Chapter, 2 companies shall be associated with one another if—

(a) one company is a 51 per cent subsidiary of the other company,

(b) each company is a 51 per cent subsidiary of a third company, or

(c) one company is owned by a consortium of which the other company is a member,

and for the purposes of paragraph (c) a company shall be owned by a consortium if all the ordinary share capital of that company is directly and beneficially owned between them by 5 or fewer companies, which companies are in this Chapter referred to as “the members of the consortium”.