HMRC - OT03100 - PRT: Overview Of PRT - Definitions

Field

Field

‘Field’ is a fundamental concept for PRT. OTA75\S12 states that an oil field is to be construed according to OTA75\SCH1 where it is defined as an area which an appropriate authority may determine to be an oil field, being an area of which every part is, or is part of, a licensed area. A field is determined on the basis of geological criteria by the Department of Energy and Climate Change (DECC) on behalf of the Secretary of State (see OT01007 The Role of DECC - Field Determination Process). A field cannot extend into unlicensed acreage. The definition of a field is extended (OTA75\SCH1\PARA6) to include areas that used to be fields but are no longer fields due to the expiry of a licence (see below). However such an area will cease to be deemed to be part of a field once the qualifying assets (see OT15100) of that field have been decommissioned. OTA75\SCH1\PARA7 sets out the criteria by which the assets in an area are deemed to be decommissioned and hence the area ceases to be part of the field. FA11\S61 ensures that the legislation applies even if the assets are situated outside of the UKCS. For the purposes of OTA75\SCH1\PARA7 HMRC (‘The Board’) will accept that decommissioning has taken place when DECC have issued an acceptance letter in response to the operator’s close out report.

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Licence

A field determination depends on the existence of a licence. For this purpose a licence is a production licence. Most of the expenditure incurred and allowable for PRT is incurred in relation to production licences. See OT30012 for more details on such licences.

When a licence expires (the oldest licences (1st round) expire in 2010), if no action is taken, companies will no longer be able to extract oil from fields in that (expired) licence area. DECC will, on expiry of the licence, extend the term of the licence (but only in respect of producing fields) for each field until such time as the company ceases production of oil from it. When the last such field on a licence ceases production, the licence itself will expire. However in such a case the decommissioning work on the field assets would still need to be carried out. Without being a licensee (see below) a company would no longer be a ‘participator’ (see definition below) and therefore no longer within the scope of PRT. In particular it would not be eligible for relief on its decommissioning costs. The definition of participator at OTA75\S12 was therefore extended to include companies that ceased to be licensees by reason of the expiry of a licence.

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Licensee

‘Licensee’ is defined in OTA75\S12. Most licensees qualify under the (a) definition, being persons who are entitled to the benefit of the licence. A person may however be a licensee under the (b) definition - having rights under an agreement which is approved by the Board and certified by the Secretary of State as conferring the same or similar rights as those of a licence. This may include persons with interests other than direct interests (e.g. the holders of sub-licences acquired as a result of a farm-in or similar arrangement). It does not, however confer on LB Oil & Gas alone the right to impose licensee status.

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Oil

Oil is given a wide meaning by OTA75\S1(1). It includes all substances won or capable of being won under the authority of a petroleum production licence. Oil, natural gas liquids and gas are therefore all ‘oil’ for the purposes of PRT.

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Participator

DECC (formerly the Department of Trade and Industry) is responsible for issuing production licences. The licence covers an area or areas known as a block. Normally a field is situated within one or perhaps two adjacent blocks. A company can either receive a 100% interest in a licence or it can be awarded a smaller percentage share in the licence with the remainder going to other companies. For tax purposes a licensee is known as a participator. Participator is defined in OTA75\S12(1). Generally, for PRT purposes a participator in a field for a chargeable period is any person who is or was:

a licensee during any part of the chargeable period for any licensed area included wholly or partly within the field. or

a licensee during any part of either of the two chargeable periods preceding the chargeable period. or

a former licensee who at any time in the chargeable period had a share of oil won from the field (from any period) which was not disposed of (or was disposed of but not delivered) or not appropriated during the period.

Broadly, any licensee is therefore a participator while a relevant licence is held and continues to be so for the two chargeable periods following the period in which the licence ceases to be held. A person also remains a participator after that time if oil stocks (see OT15150) continue to be held in any chargeable period. The definition of a participator is extended by FA99\S98 which applies in certain circumstances where changes of field ownership would otherwise have resulted in a change in the chargeable field (see OT15150). The definition of a participator is also extended by OTA75\SCH3\PARA5 to include companies operating under illustrative agreements.

Note that a person ceasing to be a licensee in a particular chargeable period does not mean that that person ceases to be a participator in respect of a previous chargeable period for which they have already qualified as a participator when that person was still a licensee. So for example a person ceasing to be a licensee on 30 June 2009 would still, and always would, remain a participator by virtue of definition (a) in respect of the period ending 30 June 2009 and all previous chargeable periods during which that person was a licensee. (That person would also qualify as a participator in respect of the two periods to 30 June 2010 by virtue of definition (b)).

Section 102 of Finance Act 2008 further extends the definition of a participator to include the case where a former participator in a field is required to meet a liability for decommissioning costs as a result of a default by a current participator in that field (see OT10450). The definition of participator at OTA75\S12(1) is extended to include the following.

A former participator to whom an amount is attributed under paragraph 2A(2) of Schedule 5 in respect of a default payment made in relation to the field in the relevant chargeable period; and

A former participator to whom an amount was attributed under paragraph 2A(2) of Schedule 5 in respect of a default payment made in relation to the field in either of the two chargeable periods preceding the relevant chargeable period; and

A person who:

\* made a default payment in relation to the field (whether the person was then a current participator or former participator) \* is not a participator during the relevant chargeable period under any of paragraphs (a) to (e) of this definition, and \* receives, in the relevant chargeable period, reimbursement expenditure (within the meaning of section 108(1)(c) of the Finance Act 1991) in respect of the default payment; and

A person who

\* made a default payment in relation to the field (whether the person was then a current participator or former participator) \* is not a participator during the relevant chargeable period under any of paragraphs (a) to (f) of this definition, and \* received, in in either of the two chargeable periods preceding the relevant chargeable period, reimbursement expenditure (within the meaning of section 108(1)(c) of the Finance Act 1991) in respect of the default payment;

and for the purposes of paragraphs (f)(i) and (g)(i), ‘current participator’, ‘former participator’ and ‘default payment’ have the same meaning as in paragraph 2A of Schedule 5.

For chargeable periods beginning after 30 June 2009, section 88 and Schedule 42 of Finance Act 2009 further extend the definition of a participator to include the case where a person ceases to be a licensee because of a cessation event. The definition of participator at OTA75\s12(1) is therefore extended to include the following.

A person who is no longer a licensee in respect of any licensed area wholly or partly included in the field, but who

\* was such a licensee at any time in any chargeable period preceding the relevant chargeable period, and \* ceased to be such a licensee because of a cessation event.

Cessation event is defined in OTA75\PARA12(1A) to mean any of the following:

determination of the licence by the licensee

revocation of the licence by the Secretary of State or a Northern Ireland Department

expiry of the licence at the end of its term

the licenced area ceasing to include any relevant area whatsoever, by reason of the licensee surrendering the licence so far as it relates to the whole of the relevant area, and

the licence ceasing to apply to the oil field by reason of the operation of the licence.

The term ‘determination’ at (1) above refers to the giving up of the licence by the licensee, for example if production has ceased or it is not intended to undertake development following initial exploration or appraisal. In (4) ‘surrender’ has a similar meaning although usually limited to a specific area. For the avoidance of doubt the relevant area referred to in (4) is that part of any licensed area that is included within the field. The wording at (5) includes the situation where the licence term has been extended due to continued production but has been terminated following cessation of production.

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Responsible Person

For each field one participator, usually the operator, is appointed by LB Oil & Gas to act as Responsible Person. He has special responsibilities under the Acts in relation to the submission of returns and expenditure claims for the field (see OT04030 Appointment of Responsible Person).

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Chargeable Periods

PRT is charged by reference to chargeable periods. There are two chargeable periods each year, each of six months duration, ending on 30 June or 31 December respectively (see OT04005).

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Taxable and non-taxable fields

As PRT was abolished for new fields on or after 16 March 1993 there are two categories of fields. Fields given development consent on or after 16 March 1993 are non-taxable fields (see OT03515). Fields given development consent before the 16 March 1993 are within the charge to PRT and are taxable fields. However legislation in FA 2007 and 2008 introduces two further categories of non-taxable field and these are detailed at OT03515.

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Transmedian Fields

A transmedian field exists when only part of an oil bearing structure falls within the United Kingdom Continental Shelf, the other part being under the jurisdiction of another country - see OT13450.

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Foreign Fields

A foreign field is an area not under the jurisdiction of the UK, and specified as a foreign field by the Secretary of State (see OT13500).

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