HMRC - OT04360 - Appeals Against Assessments

OTA75\SCH2\PARA14

A participator may appeal to the First-tier Tribunal against an assessment or determination or an amendment of an assessment or determination within the thirty days following the date of issue of the relevant notice, OTA75\SCH2\PARA14(1).

The grounds of appeal should be specified on the notice of appeal, but at the hearing the First-tier Tribunal may allow the appellant to put forward any ground not specified in the notice, and may take it into consideration if satisfied that the omission was not wilful or unreasonable.

But note that LB Oil & Gas has the power to make or amend an assessment or determination without an appeal, see OT04330.

OTA75\SCH2\PARA14(1) allows appeals against assessments, determinations and amendments. This means that an appeal against an amendment is distinct from an appeal against the original assessment or loss determination. An appeal against an amendment is only competent in respect of changes made by the amendment.

Appeals will normally be against incomings such as gross profits and tariff receipts. But where expenditure has been claimed for a particular chargeable period but not allowed, a participator cannot appeal against the assessment for that chargeable period on account of it not including the expenditure in question. On the allowance of expenditure generally, see OT09025.

Appeals may be abandoned by the appellant in writing at any time. In that instance LB Oil & Gas has thirty days to object by notice in writing to the participator. Any such notice of abandonment must therefore be considered urgently.

Postponement of tax

Rights of postponement are limited. A participator who has given notice of appeal against an assessment may, until the appeal is determined or abandoned, withhold payment of all or part of the tax charged in the assessment under OTA75\SCH2\PARA14(3), i.e. withhold the lesser of

tax charged and

tax on the difference between the returned values of incomings and the amounts included in the assessment, i.e. the difference between the returned market values and the equivalent LB Oil & Gas values.

However, if the market value included in the return is less than the average price for disposals at arm’s length in the period this average value is substituted for the returned market value, OTA75\SCH2\PARA14(6).

Previous page

Next page