HMRC - OT04425 - Responsible Person Claims - Division Of Expenditure

Schedule 5 Claims

OTA75\SCH5\PARA2(4)(b)

OTA75\SCH5\PARA2(4)(b) requires that…“A claim must state… the shares in which, in accordance with their respective interests in the oil field, the participators propose to divide between them … the expenditure allowed on the claim…”. In many cases the Responsible Person will propose that a Schedule 5 claim should be shared in direct proportion to the participators’ equity interests in the field as they stand at the end of the relevant claim period. However, LB Oil & Gas recognises that the phrase “interests in the oil field” is not limited to “equity” interests. In some circumstances it can, and should, be interpreted as a reference to the participators’ wider interests in the field.

The following examples illustrate the principles involved:

Participators’ interests in the field (in the sense that they have a stake in the production) may mean that they incur expenditure otherwise than in accordance with their equity interests. For example, operating expenditure tanker costs during the claim period may have been borne under a separate tanker operating agreement (see OT09175) or pipeline costs may have been calculated on the basis of each participator’s respective throughput during the period. In both cases the expenditure is directly related to the participators’ interests in the field even though it is not incurred in direct proportion to the participators’ equity interests. Unless there are other reasons for rejecting it, a proposed division based on the expenditure incurred by each participator should be accepted.

Expenditure on, and ownership of long term assets (e.g. pipelines) may not be in proportion to the participators’ equity interests in the field. Providing the ownership arrangements arise from the companies’ interests in the oil field, a claim for expenditure incurred on the asset may be divided in accordance with the ownership of the asset.

Where expenditure on long-term assets is expected to result in tariff generation OTA83\SCH1\PARA 5 may require a division of expenditure between the participators of the fields involved that is not in direct proportion to their equity interests. Similarly, where operating expenditure is incurred in connection with several fields a non-equity- based division may be needed in order to give effect to the provisions of OTA75\S3(6) & (7). In each case, although the division dictated by the legislation is not in direct proportion to the participators’ equity interests it does arise from their interests in the oil fields. Therefore, unless there are other reasons for rejecting it, a proposed division that takes account of the provisions of OTA83\SCH1\PARA5 or OTA75\S3(6) &(7) may be accepted.

Although in such cases as those outlined above, the division of expenditure for a field may differ from an equity-based split, the allocation must be essentially related to the participators’ interests in the field. Proposed divisions that are based on arrangements that do not relate to, or arise out of, the participators’ interests in the oil field should be rejected.

See also OT18290 regarding operating expenditure specifically allocated under a redetermination agreement and (see OT18320) regarding the treatment of a work programme carried out by an increasing interest party.

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