HMRC - OT04640 - Decisions - Reservations On Claims

The concept of reserving expenditure is based on the final three lines of OTA75\SCH5\PARA3(1) which say that

where the decision relates to part only of the expenditure claimed…. the Board shall give a further notice or notices in relation to the remainder.

In other words the statute assumes that the Board may give a decision which relates to part of the expenditure in a claim, reserving for a later decision, other parts of the expenditure.

The basic policy is that if Inspectors have sufficient information to enable them to make up their minds, one way or the other, to allow or to disallow expenditure and/or supplement claimed, then they must do so; but if they are unsure, and feel that further information should be sought or further discussions should take place, then a reservation is appropriate.

There are four basic situations where reservations are made:

where there is a doubt about the whole of an item of expenditure. No problem arises here - the whole of the expenditure is reserved. An example would be research costs - some part may eventually be found to be allowable, but there is a serious doubt about the whole;

when it is clear that most, but possibly not all, the expenditure will be allowable. An example would be overheads which may contain expenditure on buildings or on non-allowable Head Office functions. Here a view must be taken of the amount to be withheld pending further enquiry, and this amount, regarded as “part of a claim” is arrived at on the basis of the Inspector’s judgement as to the likely outcome, based on his experience of other cases or earlier claims in the same case;

where it is clear that the expenditure is allowable in full, but title to supplement is questionable. An example would be well workovers. Here the expenditure is allowed, and the decision on supplement reserved pending resolution of the supplement aspect (see also OT12075).

Legal advice indicates that a claim that expenditure qualifies for supplement cannot be made separately from the claim for uplift itself. Despite the doubt as to whether the claim for supplement can be regarded as a separable part claim (see OT12075) it is clearly in the interests of companies that LB Oil & Gas allows the expenditure and reserves supplement rather than reserving both until those doubts have been resolved.

where there is such doubt about a company’s records or claims procedures that the Inspector cannot be satisfied that the expenditure or supplement is allowable he will notify the company that it is proposed not to take decisions until the PRT/accounts reconciliations have been received and agreed, or other suitable assurances have been provided.

If a part decision states that a decision is reserved on certain expenditure no appeal right is created in relation to that reservation. The claimant must await a final or part decision which incorporates a formal refusal before his appeal right can be exercised (see OT04690).

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