HMRC - OT04780 - Withdrawal Of Claims

Until 1996, the withdrawal of claims to expenditure/supplement relief was not considered to be specifically authorised under the provisions of OTA75. The only circumstances in which withdrawals were permitted were those described in the Statement of Practice note of 15 January 1986 at Appendix 7 (see OT19550) - that is, where there are difficulties caused by the interaction of expenditure claims with safeguard under OTA75\S9. (See OT17700.)

However, following legal advice, our view changed. Industry representatives were advised of the change in a letter dated 6 March 1996 which referred to the Statement of Practice note of 15 January 1986. The letter explained that the original Statement was prefaced with references to claims which fall to be decided at or about the time that safeguard relief comes into play. The effect of the fresh statement (which was published in the Tax Bulletin in April 1996 in the terms set out below) is to remove that limitation whilst leaving the rest of the original Statement unaffected.

Petroleum Revenue Tax (PRT) Expenditure Claims

Change of Practice

Qualifying expenditure is relieved for PRT under rules set out in the Oil Taxation Act 1975. The previous practice of the Department was to allow an expenditure claim to be withdrawn only in limited circumstances. But, in the light of legal advice, the Board now accepts that a claimant may withdraw any claim or part of any claim to the extent that a decision has not been taken on it in respect of the withdrawn expenditure in question. Oil industry representative bodies were advised of this change of view in 1996 in the following terms.

“Withdrawal of Expenditure Claims

You will be aware that we have recently received advice on this topic. I am writing now to confirm our change of practice following that advice. We are advised that any claim can be withdrawn to the extent that a decision has not been taken on it in respect of the withdrawn expenditure. But where a decision has been taken to allow some, or all, of the claimed expenditure, that claim, or part of the claim as appropriate, cannot be withdrawn. The withdrawn expenditure may be included in a fresh claim, provided that the conditions for making such a claim are still satisfied (for example that the time limit for claiming the expenditure relief has not expired).

There is no change in the Board’s view of a claim for supplement, which, if it is claimed, must be included in a claim for the associated expenditure. It follows that if a claim for expenditure qualifying for supplement is withdrawn, then so also is any associated supplement claim. To the extent that a decision has not been taken on the claim in respect of expenditure identified as qualifying for supplement, the claimant can withdraw the claim which must include the associated supplement. The claimant may make a fresh claim for the expenditure (subject to the conditions for submitting the claim still being satisfied) without the expenditure necessarily being identified as qualifying for supplement.”

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