HMRC - OT05080 - Currency Translation - Practical Application

It is clear from OT05075 that there are many different ways in which these general principles can be interpreted in any particular case and indeed that one participator can have different conventions to cover different products and for arm’s length and non-arm’s length disposals.

LB Oil & Gas are content for this to be the case but will seek to ensure some uniformity of treatment by agreeing with each participator methods of dealing with the translation of foreign currency proceeds that will apply automatically to each of the products in each of their fields. These methods will include not only the basis on which the conventional translation dates are to be fixed but also details of the source and the precise measure of the rates to be used (e.g. FT Closing Mid or Nat West 10:30 GMT mean).

In agreeing these methods with each participator LB Oil & Gas will seek to apply the following general rules:

the methods chosen must be transparent; the company must choose a measure of the exchange rate to be used on each conventional translation date that is verifiable by LB Oil & Gas. The most commonly used source is the Financial Times but rates from other publications (e.g. Reuters) or the banks themselves are also acceptable. Where however the source data is not published, documentary verification will be requested in support of the returned rates.

the methods must be consistently applied; participators will be expected to apply the agreed methods to the products covered automatically from period to period with no deviation except in the case of a major change in the method of disposal for any product (e.g. if arm’s length tanker deliveries of crude oil were replaced by non-arm’s length pipeline deliveries). There should be no opportunity to pick and choose the most favourable rates.

In particular any methodology based on the forward sale of currency must be closely and demonstrably linked to actual sales of oil if it is to be acceptable.

Thus, whilst there is obviously a multiplicity of actual methods agreed with participators, the methods are based on a set of principles and rules that ensure consistency of treatment. In addition, they allow a fair and largely mechanistic translation of the foreign currency proceeds of all disposals into sterling for the purposes of assessment.

Nomination scheme

FA87\SCH10\PARA6 requires the nominated price of any arm’s length transaction to be the “…price specified in the contract of sale…” and the nominated price of any appropriation to be “…the market value in accordance with OTA75\SCH3…”. In each of these circumstances (as discussed above) the likelihood is that the price will in fact be initially expressed in dollars but any nomination excess that might arise will be charged to tax in sterling. Conversion will once more be necessary but in the case of the nomination scheme there are formal regulations governing the translation of the nominated prices into sterling. These are found in SI87\1338\REG18 which gives two methods of translation:

If the oil was delivered into the nominated contract and in the proposed delivery month then the date of delivery will become the conventional translation date for the purposes of the nomination scheme.

In all other circumstances the rate on 15th of the proposed delivery month is to be taken.

These regulations do not specify which particular measure of the exchange rate should be used on the relevant day and LB Oil & Gas is content to use the measure usually adopted by the participator for arm’s length crude deliveries.

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Ring fence CT

The PRT exchange convention can have significant effects in dealing with the CT adjustments required by ICTA88\S493 (the substitution for the purposes CT of PRT market value for consideration in all non-arm’s length transactions). See OT21026.

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