HMRC - OT09225 - Expenditure - Disposing

OTA75\S3(1)(h)

The costs of disposing of any oil won from a field are allowable under OTA75\S3(1)(h) so long as the oil is disposed of at arm’s length. Costs incurred in disposing of crude in transactions not at arm’s length do not qualify for relief.

Allowable expenditure includes handling fees and the cost of maintaining a sales office provided of course that sales are at arm’s length. Where sales are on a mixed basis, expenditure can be apportioned according to the relative scale of arm’s length sales. On apportionment of operating expenditure generally, see OT09375.

Where the responsibilities of seller and shipper meet, the seller should be asked to demonstrate that the expenditure it bears is a direct cost of disposing of the oil and not a cost of shipping it. Where the expenditure relates to shipping, relief must follow the particular rules in S3(1)(f), see OT09200.

Any claims under OTA75\S3(1)(h) for the cost of deballasting should be refused.

The Special Commissioners case of BPEOC v CIR (SpC00254) confirmed that costs of disposal should be interpreted narrowly i.e. they are limited to legal or administration costs rather than physical or other costs of delivery, “otherwise the provision would be so wide that there would be little point in having the elaborate statutory structure with its variety of purposes which attract relief”. Allowable expenditure covers handling fees and the cost of maintaining a sales office provided of course that sales are at arm’s length. Where sales are on a mixed basis, expenditure can be apportioned according to the relative scale of arm’s length sales.

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