HMRC - OT09525 - Expenditure - Specifically Excluded Expenditure: Production Related

OTA75\S3(4)(d)

OTA75\S3(4)(d) disallows expenditure wholly or partly dependent on, or determined by reference to,

the quantity or

value or

proceeds of,

or the profits from

oil won from the field.

The section is directed at overriding royalties, financing arrangements and similar obligations but the terms and scope of the section are drawn widely. The section seeks to deny relief for a payment that represents a sharing of profits established as earned, as opposed to necessary expenditure incurred in winning oil.

We will need to consider the detailed conditions of production-related or incentivised payments where these feature as part of an expenditure claim. Our examination will take into account, inter alia, the level of risk to which the contractor is exposed the relative and absolute capital investment required, the nature of his investment, and what the necessary expenses to be taken into account are in striking a profit.

The section does not debar expenditure for transportation and\or processing that is incurred under a genuine tariff agreement. Similarly, a payment which is merely apportioned by reference to the quantity, value or proceeds of oil, rather than being determined by it e.g. throughput basis of a fixed rental for a pipeline, would not normally be within the scope of the disallowance.

Previous page

Next page