HMRC - OT10200 - PRT: Decommissioning - Apportionment Of Allowable Expenditure

OTA75\S3(1C) and (1DC)

Special apportionment rules are required for decommissioning expenditure. This is because OTA83\Sch1\Para5, which deals with the apportionment of expenditure on ‘long-term assets’ (see OT11400), bases allowance on use, or expected use, of an asset at the end of a claim period, so the terminology is inappropriate for a process that will effectively put something out of use. Further, OTA75\S3(6) (see OT09375) is written in terms of field purpose and not with reference to qualifying assets, and also deals specifically with the apportionment of operating expenditure. Decommissioning expenditure, following the case of RTZ Oil & Gas Ltd v Elliss (61TC132) is generally incurred on capital account.

Where expenditure is incurred for the purpose of

any of the activities covered by OTA75\S3(1)(i) (see OT10050) and OTA75\S3(1)(j) (see OT10150)

and in respect of a qualifying asset (see OT15100) which at some time has been used otherwise than in connection with the field

only the ‘relevant portion’ of the expenditure is allowable for the field. The relevant rules are in OTA75\S3(1C) and OTA75\S3(1D) as amended by FA01\S100 and FA09\S87.

The relevant portion is defined in OTA75\S3(1D) as the expenditure that it is just and reasonable to apportion to the use of the asset for a qualifying purpose. Such a purpose includes use in connection with the field of claim but, under FA09\S87, is extended to include cases where an asset is used for a non-oil related purpose such as carbon capture or gas storage. This extension of the ‘relevant portion’ followed extensive consultation with industry over concerns that the decommissioning apportionment rules would prevent qualifying assets being used for change of use type activities.

Because each case will be different, there is no hard and fast formula that can be used to determine the level of allowance. Instead LB Oil and Gas will need to look closely at all the circumstances in which the asset has been used, whether it is use in taxable fields, non-taxable fields, or in connection with activities unrelated to the ring fence.

Where arm’s length tariffs are paid by the participators of one field to another in respect of a qualifying asset and they are fully effective in that latter, ‘chargeable’, field (see OT15150), LB Oil & Gas accepts that it will be just and reasonable to attribute the allowable expenditure under OTA75\S3(1)(i) and OTA75\S3(1)(j) to the chargeable field.

FA01\S102 applies to expenditure incurred on or after 7 March 2001 and amended the original apportionment rules which dated from 1991. Those rules together with transitional provisions in FA01\S102(5)-(11) are covered in OT10250.

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