HMRC - OT10250 - PRT: Decommissioning - Apportionment Of Allowable Expenditure: Transitional Provisions

FA01\S102(5) to (11)

The original FA91 legislation which applies as far as 6 March 2001 is fundamentally based on the same principle as the rules amended by FA01\S102. That is relief in a particular field should reflect only the use to which the decommissioned asset has been put in that field. However, the amendments were necessary because it was possible under the old rules to claim relief in a field where it was most PRT-effective even if the use of the asset in that field did not properly warrant the level of the relief. Companies could achieve this by transferring their field interests or ownership of the underlying asset prior to decommissioning it.

Take the following example. X is a participator in two fields, both sharing the same infrastructure and both subject to PRT. It has paid PRT in one of those fields (P) but not (on account of the availability of oil allowance etc.) in the other (NP). It ceases production in field NP and transfers its interest in field P to an associate, XY. XY then decommissions the shared infrastructure.

Under the old OTA75\S3(1C), all the expenditure would have been relievable in the paying field, P. Because XY had never been a participator in the non-paying field, NP, an apportionment of the expenditure would not have been possible. None of the expenditure would have been attributed to NP in spite of the fact that it had used the infrastructure.

While FA01\S102 closes that loophole, the legislation recognises that certain decisions might have been made on the strength of the old rules. There are accordingly transitional provisions in FA01\S102(5)-(11) to avoid any element of retrospection in the new rules. The following example illustrates the effect of these provisions.

Transitional Provisions Example

On 9 March 2001, Y incurs allowable decommissioning expenditure on a qualifying asset used in each of fields, A, B and C. They are all taxable fields.

All the conditions in FA01\S102(5) apply.

Y, a participator in a taxable field, has on or after 7 March 2001 incurred apportionable expenditure under the new section OTA75\S3(1C).

Y was a participator in the taxable field both immediately before and at the beginning of 7 March.

The expenditure is incurred on an asset which was a qualifying asset in relation to the participator and the field both immediately before and at the beginning of 7 March.

A person was a participator in two or more fields before 7 March 2001 and the asset mentioned in (c) was a qualifying asset in relation to that person and at least two of those fields.

FA01\S102(6)-(8) are therefore triggered. Because an apportionment under the old rules would have been possible - between fields A and B - FA01\S102(7) applies (rather than FA01\S102(6)). This subsection ensures that the decommissioning expenditure is apportioned between fields A and B. Meanwhile FA01\S102(8) prevents any apportionment being made to Field C as no apportionment of expenditure to that field would have been possible under the old rules.

The effect of the 6 March 2001 transfer, which takes Field C out of the equation, is therefore preserved, though the new legislation guarantees that an apportionment can be made between Fields A and B in spite of the second transfer on 8 March. There is no need to protect in the same way the effect of that transfer as it takes place after the introduction of the new rules.

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