HMRC - OT10400 - PRT: Decommissioning - Allowable Expenditure: Abandonment Guarantees: Reimbursement Expenditure

FA91\S106

FA91\S106 operates in reverse to FA91\S105 (see OT10350) by restoring PRT relief to the defaulting participator that subsequently reimburses the guarantor.

When, as the result of the making of any guarantee payment on or after 19 March 1991, the participator becomes liable under the terms of an abandonment guarantee to make any payments to the guarantor, the amount so incurred, or consideration given, is ‘reimbursement expenditure’ (FA91\S106(1) and FA91\S106(3)).

‘Reimbursement expenditure’ however does not include any amounts repaid to the guarantor as a result of the whole of the guarantee payment not being applied in meeting the participator’s decommissioning costs (FA91\S106(2)).

A proportion of any reimbursement expenditure, calculated as follows, is treated as expenditure incurred for the purpose of obtaining an abandonment guarantee and is therefore allowable under OTA75\S3(1)(hh). The allowable amount (FA91\S104(4)-(6)) is

A x B/C where

\* A = the reimbursement expenditure incurred in the claim period. \* B = that part of 'the expenditure represented by the guarantee payment' (see below) as would be allowable under OTA75\S3 if it had been incurred by the participator. \* C = the total amount (for all periods) that the participator has become liable to pay to the guarantor up to the end of the claim period.

The aggregate result of the A x B/C formula is limited to the lesser of B and C so that the relief given does not exceed the amount actually required in reimbursement by the guarantor. In any such case the limitation is to be applied to expenditure of a later rather than of an earlier claim period.

‘The expenditure represented by the guarantee payment’ is any expenditure for which the participator is liable and which is met, directly or indirectly out of the guarantee payment. FA91\S105 makes clear that such expenditure is not to be regarded for any purpose of OTA75 as expenditure incurred by the participator.

Example

A guarantor under an abandonment guarantee pays a total of £1m into a fund prior to decommissioning on failure of the participator to meet his decommissioning obligations.

Interest and capital accrues on the £1m so that on decommissioning, after conversion to cash, the amount available to meet the participator’s decommissioning expenditure is £1.2m.

The participators share of decommissioning costs is £1.5m, all of which is PRT admissible.

The participator uses the amount in the fund to meet his decommissioning expenditure. The rest it meets itself.

The participator is liable under the terms of the guarantee for £1m plus interest and charges of £0.3m.

The participator reimburses in one claim period the guarantor for the full amount claimed.

(i.e. £1.5m-£1.2m)

B = £1.2 (b) and (c) above

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