HMRC - OT10450 - PRT: Decommissioning - Allowable Expenditure: Abandonment Guarantees: Defaulter's Decommissioning Costs Met By Co-Participators Or Former Participators

OTA75\Sch5\Para2A-C provides PRT relief to a participator for any expenditure which it is required to meet after 30 June 1991 on behalf of a defaulting co-participator which has failed to meet its own share of the costs of abandoning the field. For expenditure incurred after 30 June 2008 FA08\S102 and S103 extend this relief to former participators of the field who are no longer licence holders in the field but are nevertheless required to meet the whole or part of the amount in default. S102 in particular extends the meaning of “participator” (see OT03100).

When all of the following conditions are met, the decommissioning costs in the relevant claim under OTA75\Sch5 are allocated to the participators who have borne them rather than shared out in accordance with their interests in the field:

A claim is made under OTA75\Sch5 for any expenditure within OTA75\S3(1)(i) (see OT10050) or OTA75\S3(1)(j) (see OT10150) incurred after 30 June 1991.

The defaulter has failed to meet its liability for decommissioning expenditure under a relevant agreement, (see OT10300) or an abandonment programme as defined at OTA75\Sch5\Para2C(2).

The defaulter still has an interest in the field (for expenditure apportionment purposes) at the end of the claim period (OTA75\Sch5\Para2B(3)).

The non-defaulting participators have taken all reasonable legal steps to secure payment and to enforce any guarantee provided in respect of that liability (OTA75\Sch5/\Para2B(4)).

The contributing participator is not connected with the defaulter within the meaning of section 839 of the Taxes Act (OTA75\Sch5\Para2B(3)).

A participator is regarded as having defaulted if any part of the payment to which he is liable remains unpaid sixty days after it has become due or, if before those sixty days are up, its licence interest (or part of it) becomes liable to be sold or forfeited because of its failure (OTA75\Sch5\Para2C(5)).

When the above conditions are met the expenditure allowed on the claim is to be apportioned in such a way that there is attributed to the qualifying participator the lesser of

the default payment and

that part of the sum in default that the qualifying participator is required to meet in the event of failure by the defaulter (OTA75\Sch5\Para2A(3))

in addition to its own share of decommissioning expenditure.

The procedure works by firstly allocating the decommissioning expenditure to all of the participators (including the defaulter) in accordance with their interests and then by reducing the amount allocated to the defaulter by the amount attributed to the other participators (OTA75\Sch5\Para2A(6)).

Previous page

Next page