HMRC - OT10805 - Certainty - The Effect Of A Claim On PRT

FA2013\S83

For the purposes of PRT, decommissioning expenditure taken into account in calculating a payment under a DRD is treated as having reduced the assessable profits of a company. This is the case whether or not the expenditure would otherwise have been allowed for PRT purposes. In addition, the company is treated as if it had received the tax relief it would have received which is paid out under the DRD.

S83(2) and (3) deal with the case where the claimant under the DRD makes a claim in respect of decommissioning expenditure it has incurred (whether in its own right or as the result of a default) and would have been relieved against its own profits. In particular this would apply where a future amendment to the PRT legislation reduces the relief that would have been available.

S83(4) and (5) deal with the case where the claimant under the DRD makes a claim in respect of a default and the decommissioning expenditure would have been relieved against the defaulter’s profits.

For the purposes of this section:

assessable profit and chargeable period have the same meaning as in OTA75 Part 1,

company has the meaning given by CTA2010\S1121,

decommissioning relief agreement has the same meaning as in FA 2013\S80, and

reference amount means the reference amount (within the meaning of FA2013\S80) that relates to the sum payable to a claimant company under a DRD.

Example 1

Legislation is introduced post FA 2013 that restricts relief to just 60% of decommissioning costs incurred. If Company A incurred 100 decommissioning costs and under the new rules it only received tax relief of 30 (60% of 100 at PRT rate of 50%). The company then makes a claim under the DRD for 20 this is the 50 it would have received as at FA 2013 less the amount it actually received. S83(3)(a) deems the full 100 decommissioning costs to have been relieved against company A’s PRT profits rather than 60 and S83(3)(b) effectively deems the 20 claimed under the DRD as an additional repayment of PRT.

Example 2

Company C incurs 100 decommissioning costs as a result of a default by company D. Company C’s tax history would give relief of 40 whereas company D’s tax history gives relief of 50. Company C claims 50 under the DRD referencing D’s tax history. S83(4) is in point and thus S835(a) deems the 100 decommissioning costs to have been incurred by company D, S83(5)(b) deems the 100 decommissioning to have been relieved against company D’s PRT profits and S83(5)(c) deems the 50 claimed under the DRD to be a repayment of PRT to company D.

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