HMRC - OT13825 - PRT: Non-Field Expenditure - Acquisition Of Interests In Producing Fields

FA84\S113 places a limit on where participators can claim expenditure on abortive exploration, exploration and appraisal (E&A) and research. The provision also relates to unrelievable field losses (see OT16250) and cross field allowance (CFA) (see OT13020). (The limits on research and CFA are the result of FA87 amendments.)

‘Non-field’ expenditure incurred before a company’s ‘qualifying date’ in relation to a particular field cannot be claimed in that field. The provision does not apply however if the ‘qualifying date’ falls before 14 September 1983 or before the end of the field’s first chargeable period.

Qualifying date

FA84\S113(4) defines ‘qualifying date’ as whichever of the following dates is the earliest:

the date on which the company first becomes entitled to the benefit of a licence whose area includes some or all of the field,

the date on which an associated (see OT13810) company becomes so entitled,

where there is an illustrative agreement under OTA75\SCH3\PARA5 (see OT19400), the date the agreement was made or, if later, the date on which the licensee becomes so entitled.

The qualifying date is not the date the company becomes a participator. Entitlement typically crystallises on the date the sale agreement is concluded or on a later closing date specified in the agreement. Claims that an acquiring company can become entitled to the benefit of a licence prior to that date should therefore be rejected, even if there is a provision in the agreement which gives an earlier deemed ‘effective date’ of commencement.

FA80\SCH17\PARA16, 16A and 16B transfers

Where there is a transfer of the licence interest, these paragraphs allow (subject to particular conditions being met) the new participator (transferee) to claim any abortive exploration, E&A and research expenditure which could have been claimed by and allowed to the old participator (transferor) or an associate of the old participator. See OT18140 for the detail of these provisions.

However, FA84\113(6) was amended by FA97\S107 to remove a loophole in the meaning of ‘qualifying date’ in relation to the transfer provisions. For claims made on or after 23 July 1996, the old participator’s qualifying date is now to be taken as the qualifying date of the new participator. The amendment puts it beyond doubt that relief is only available if the transferor participator could itself have claimed relief for the non-field expenditure.

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