HMRC - OT15250 - Receipts - Reduction Of Disposal Receipts For Tax-Exempt Tariffing Use

OTA83\S7A inserted by FA04\Sch37\Para5(4) provides for a reduction of the amount or value of disposal receipts where an asset was used for tax-exempt tariffing in the 6 year period ending with the date of disposal.

Calculation of reduction

The reduction is made by multiplying the amount or value of the disposal receipts by the fraction equal to 1 - T/A where:

T = the aggregate of tax-exempt tariffing use of the asset in the 6 year period ending with the date of disposal, and

A = the aggregate of all use of the asset in the 6 year period ending with the date of disposal.

For the purpose of the calculation use of the asset in the 6 year period is:

the use by the participator who made the disposal relating to the interest disposed of and

the use by any previous owners, but only to the extent that the use relates to the interest in the asset disposed of by the participator who made the disposal (“represented interest”)

In the case of both the participator who made the disposal and a previous owner the use is only taken into account if the user was a participator in a taxable field at the time of the use.

Where the asset was not in existence at the beginning of the 6 year period the calculation is based on usage in the period from the creation of the asset to the date of disposal.

Use of Asset OTA83\S7A(8)

The use of the asset for the purposes of the “T” and “A” factors in the calculation of the reduction is determined by reference to the volumes of oil transported or processed by the asset (or the appropriate proportion in the case of a part interest). Where exceptionally the use does not relate to oil, the use of the asset is determined on a just and reasonable basis.

Previous Owner OTA83\S7A(4)

A previous owner is a person from whom the participator who made the disposal derives title to the interest in the asset disposed of, directly or indirectly.

Part Disposals OTA83\S7A(9)

Only the use that relates to the interest in the asset disposed of is included in the calculation. Where the participator makes a part disposal of an asset only the use attributable to that part is taken into account. Similarly if the participator who made the disposal acquired an interest in an asset from another participator in a taxable field only the use by the previous owner relating to that interest is taken into account. For the purpose of determining the use of an asset that is referable to the interest disposed of, or a previous owner’s represented interest, a just and reasonable view is taken based on the history of the interests in asset.

Earlier Disposals OTA83\S7A(6)

Any use by a previous owner within the 6 year period that would otherwise be taken into account in the calculation of the reduction is excluded where that use was taken into account in an earlier calculation.

Brought-In Assets OTA83\S7A(7)

The rules are modified where the asset is a ‘brought-in asset’ (OT11500) and the receipts on the disposal of the asset are subject to a reduction under OTA83\Sch2\Para9 (OT15060). In this situation the use of the asset for the purposes of the “T” and “A” factors excludes any part of the “initial period”, for brought-in asset purposes, that falls within the 6 year period.

Example

X has a 100% interest in Field A and pipeline AA

Y acquires a 50% interest in Field A and pipeline AA from X on 1 January 2007 (no disposal receipt is chargeable on X as the transfer is pursuant to the transfer of the field interest).

Y disposes of half the 50% interest pipeline AA to Z on 31 December 2010 for consideration of £10M

The 6 year period ending with the date of disposal is 1 January 2005 to 31 December 2010

Use of asset

Calculation

Tax-exempt tariffing use by Y referable to the interest disposed of - 8 mmbls x 50% = 4 mmbls (Y share x ½ the 50% interest disposed of)

Tax-exempt tariffing use referable to X’s represented interest - 12mmbls x 25% = 3 mmbls (X share 100% x ½ interest disposed of to Y x ½ interest disposed of by Y)

T = 7 mmbls

All use by Y referable to the interest disposed of - 16 mmbls x 50% = 8 mmbls (Y share x ½ the 50% interest disposed of)

All use referable X’s represented interest - 36 mmbls x 25% = 9 mmbls (X share 100% x ½ interest disposed of to Y x ½ interest disposed of by Y)

A = 17 mmbls

Fraction: 1 - 7/17 = 0.58

Disposal receipts £10M x 0.58 = £5.8M

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