HMRC - OT15900 - PRT: Tax-Exempt Tariffing Receipts - Transitional Provision

FA04\SCH37\PARA9

Expenditure incurred on or after 1 January 2004 on a long term asset (OT11025) that is expected to give rise to tax-exempt tariffing receipts (OT15810) is specifically excluded from being allowable expenditure by OTA83\S3A (OT15910).

Transitional Provision

The transitional period is 9 April 2003 to 31 December 2003. This was the period between the announcement of the intention to exempt tariffs from new business in Budget 2003 and the start of the exemption. As OTA83\S3A does not apply to expenditure on a long term asset incurred in the transitional period the allowance of any expenditure is subject to the normal rules of allowance and apportionment. The transitional provision ensures that the amount of tariffs that qualify as tax-exempt tariffing receipts are reduced by reference to any allowable long term asset expenditure in the transitional period that relates to tax-exempt business in respect of a user field.

The transitional provision applies where:

expenditure was incurred in the period 9 April 2003 to 31 December 2003 by a participator in acquiring, bringing into existence or enhancing the value of a long term asset,

the expenditure is allowable for a claim period (OT04420) ending after 9 April 2003

at the time the expenditure was incurred the asset was being, or was expected to be used to any extent in relation to an oil field or foreign field or oil won from an oil field or foreign field,

the use, or expected use, is use in a way that gives rise or would have given rise to tax-exempt tariffing receipts in a chargeable period (OT04005) ending on or after 30 June 2004.

The transitional provision does not require there to have been use or expected use giving rise to tax-exempt tariffing receipts at the time the expenditure was incurred. It is sufficient that the asset was being used or expected to be used in relation to that user field or production from that field at the time and that the subsequent use gives rise to tax-exempt tariffing receipts.

Restriction of tax-exempt tariffing receipts

Where the transitional provision applies receipts that would otherwise be tax-exempt tariffing receipts (“the initial portion”) are treated as tariff receipts to the extent that the aggregate receipts in relation to the user field, or oil won from it, do not exceed the aggregate expenditure that it is just and reasonable to apportion to the expected use, or the provision of services or other business facilities of any kind in connection with the use, giving rise to tax-exempt tariffing receipts (”the qualifying threshold”). The “initial portion” is calculated on an individual user field basis.

The restriction also applies where the participator who incurred the expenditure subsequently transfers an interest in the asset and as a result of the transfer, or any subsequent transfer, the tariffs are received by a successor who is a participator in an oil field.

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