HMRC - OT18030 - PRT: Transfer Of Licence Interests - Procedures

FA80\Schedule17Notice of transfer, FA80\SCH17\PARA3

Under FA80\SCH17\PARA3 the transferor (OP) and the transferee (NP) are required to deliver to the Board a notice of the transfer (form PRT80) within two months from the end of the chargeable period in which the transfer takes place. But the application of the usual FA80\SCH17 transfer rules does not depend on the timely submission of the PRT80. The provisions operate automatically unless an application to disapply the rules under FA80\SCH17\PARA4 is accepted (see below).

Opt-outs, FA80\SCH17\PARA4

This paragraph enables OP and NP to request that the transfer provisions of FA80\SCH17 do not apply. Such a request should accompany the PRT80 (i.e. within two months from the end of the transfer period). Where the Board consider that the opt-out will materially affect the total tax chargeable in the field, it will be refused.

Anti-avoidance measures were introduced by FA01\S101 and FA01\SCH32 to prevent an application under FA80\SCH17\PARA4 from artificially creating unrelievable field losses (UFLs). An application made late in field life could prevent losses resulting from decommissioning expenditure being carried back against profits made during a predecessor’s ownership; alternatively an application made before payback could prevent the utilisation of losses within the field. Both situations set up claims for the losses as UFLs in a way unintended by the original legislation. FA01\SCH32 does not mean that companies cannot make an application under FA80\SCH17\PARA4; it means that the UFLs will be calculated as if Schedule 17 applies. See OT16500 for more details.

Partial transfers, FA80\SCH17\PARA5

This paragraph provides that when OP transfers only part of its interest, the OP and NP (or NPs) must propose, and the Board specify, the appropriate parts of expenditure, losses etc, which are to be transferred. The PRT80 allows for the ‘proposal’ but no formal notice is necessary for the Board’s ‘specification’. The paragraph contains appeal procedures should the amounts specified by the Board differ from those proposed by the parties.

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