HMRC - OT18040 - PRT: Transfer Of Licence Interests - Unused Expenditure Relief

FA80\Sch17\Para6

Claims under OTA75\Sch5

FA80\SCH17\PARA6(1) deals with the transfer to the new participator (NP) of field expenditure claimed and allowed under OTA75\SCH5. Expenditure included in a claim by the Responsible Person, allowed by LB Oil & Gas and allocated to the old participator (OP), on the basis of its pre-transfer interest, is transferred to NP if, apart from the provisions of the paragraph, it would have been taken into account in computing the profit or loss accruing to the OP in the transfer period or a later chargeable period.

Where part of OP’s interest has been transferred, only a corresponding part of the expenditure is transferred.

Transferred expenditure is then allowed to NP in computing its assessable profit or allowable loss. The date of the decision allowing the expenditure, or the date of the appeal (if the expenditure is allowed on appeal), determines the timing of NP’s relief under OTA75\S2(9). The expenditure is relieved in the first assessment made on NP following whichever of those dates is relevant.

Example of a claim under OTA75\Sch5

A has a 100% interest in a field. On 30 September 1985 a 50% interest is transferred to B.

An expenditure claim for the claim period to 30 June 1985 is received on 28 August 1985, for £3m. £2m is allowed on 20 November 1985, £1m being reserved but allowed later on 24 February 1986.

In the 1H1985 assessment made on 30 November 1985, A will get a deduction of £2m. Although the assessment is made after the transfer, the assessment relates to a chargeable period preceding the transfer period.

In the 2H1985 assessments made on 31 May 1986, A will get a deduction of £0.5m and B will similarly also get a deduction of £0.5m. This is an assessment for the transfer period, so although the full £1m in question was incurred by A, an amount corresponding to the part-interest it no longer holds is transferred to B.

Claims under OTA75\Sch6

FA80\SCH17\PARA6(2) also deals with the transfer to NP of field expenditure incurred by OP, which is claimed by OP under OTA75\SCH6 and allowed to OP. If, apart from the provisions of the paragraph, it would have been taken into account in computing the profit or loss accruing to the OP in the transfer period or a later chargeable period, then the allowed expenditure is transferred to NP. The rules about timing of relief apply as they do for OTA75\SCH5 claims.

The provision only applies if the whole of OP’s interest in the field is transferred in the transfer period to one or more other participators. If there is more than one NP then the expenditure transferred is divided pro rata between them.

If only part of the OP’s interest is transferred, then the whole of the allowed expenditure remains with the OP.

An argument has sometimes been met that FA80\SCH17\PARA6(2)(b) only transfers expenditure actually allowed before the transfer. This is incorrect. It does not matter whether the actual decision notice is issued before or after the transfer.

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