HMRC - OT18290 - Re-Determinations - Schedule 17

FA80\Sch17\ParaARA1(1)(a) (transfers of interests in oil fields, see OT18000) provides that the schedule does not apply where there is a re-determination under a unitisation agreement and this applies both to UK and transmedian fields. It goes on to define the terms “Unitisation” and “Re-determination”. A unitisation agreement means an agreement for the exploitation of an oil field falling within 2 licensed areas or a transmedian field. A redetermination means in relation to such fields a re-determination of the oil between the respective licensed areas.

Disposal

The view of LBS Oil & Gas is that a re-determination of a UK unitised field does not constitute a disposal for the purposes of OTA 1983. This view is reinforced by OTA83\S7(3) (see OT15060) which specifically brings into PRT charge as disposal receipts, repayments arising on a re- determination of a transmedian field. If re-determinations were otherwise within the scope of OTA 1983 there would be no need for this sub-section

Redetermination in relation to Start-up of Production

Where the re-determination of unit equities on a UK field takes place before production start up, and thus usually before expenditure claims are submitted and agreed, the expenditure claims can show the revised interests. However if production has commenced this means that some parties will have received too much oil and paid too much expenditure or vice-versa.

Claim Periods post Re-determination

The position is corrected for the future by re-aligning the percentage interests of each participator from the date of the re-determination. For the past the position is corrected by the making of cash payments between participators to correct the respective over and under investments.

Interest payments

Such payments often include interest or some other type of pecuniary obligation and, by virtue of OTA75\S3(4)(a), see OT09475. This element is ignored for PRT purposes. Interest as receipt is also ignored, see OT15060.

Disproportionate cost sharing - operating costs

It sometimes happens that the correction of past operating costs is effected, not by way of cash payments but by means of adjusting the liftings of the participators post re-determination until correction has been achieved (known as the “make up” period). In such circumstances it will be appropriate for the proposed division of allowable expenditure (OTA75\Sch5\Para2(4)(b)) to depart from a split based directly on percentage equity interests and instead to divide the costs by reference to liftings, see OT04420.

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