HMRC - OT18570 - PRT Compliance: Responding To Specific Returns, Claims And Notification From A Low Risk Customer

The TCRM Guidance does not change the legal obligations of customers; it changes how we respond to customers after those obligations have been fulfilled. The following paragraphs detail how we will respond to the submission of particular returns and claims. These paragraphs extend the guidance previously outlined to United Kingdom Oil Industry Taxation Committee (UKOITC), Oil Taxation Advisory Committee (OTAC) and the British Independent Oil Exploration Companies (Brindex) in a letter of 10th July 2008, following the issue of the December 2007 version of the TCRM Guidance.

In this page, the term “Low Risk customer” is used, see OT18560.

PRT 1 return

The PRT 1 return is company specific therefore the risk status of the customer of which the company is a part will determine the compliance response that will be applied. If a company is a Low Risk Customer, it should normally expect to receive enquiries about these returns only if the exceptions apply.

PRT 2 returns

The PRT 2 is a statutory return and the obligation on the Responsible Person to submit it remains. The PRT 2 is also a necessary pre-requisite for non-operator participators to produce their PRT 1 returns. UKOITC agreed in 2008 that the PRT 2 return is a useful document for non-operators.

If a company is Low Risk Customer whether it is the Responsible Person or a non operator, it should expect to receive enquiries concerning a PRT2 only in the circumstances described in the TCRM Guidance - the enquiry is raised as mandatory work or in the context of a project or campaign

On occasion it has been discovered through reviewing the PRT 1 return that the PRT 2 return is incorrect in some respect. The scenario may arise where an enquiry into a non Low Risk customer’s PRT1 demonstrates or suggests that the PRT 2 submitted by Responsible Person which is a Low Risk customer is incorrect. We would expect the two companies to discuss the situation and, if there is a mistake, for the Responsible Person to submit a revised PRT 2.

PRT 1A return

The PRT 1A return is required to calculate Tax Reference Prices for all non arms length sales of oil. The requirement to file returns is contained in the Section 62 FA 1987 although following FA 2006 we have said that HMRC will use its “care and management” powers to exclude Category 1 oil (as defined in Oil Pricing Regulations 2006) and we expect to continue to do so until the position is formally changed by legislation. Subject to the exercise of the care and management power submission of the PRT 1A remains a statutory obligation for all companies, including Low Risk Customers. As these returns are necessary to allow HMRC to fulfil a mandatory obligation (see OT18620) clarification may be sought from such companies.

Commingling Arrangements - Section 63 FA 1987

Responsibility for informing HMRC about the first and any subsequently revised allocations lies with individual participators and ordinarily we would not wish to raise enquiries on those participators who are Low Risk companies. However issues may arise in relation to Section 63 which potentially effect both Low Risk and Non Low-Risk Customers. Unless the Low Risk Customer’s position is clearly different any enquiry raised should be addressed to them as well.

Schedule 5 expenditure claims

The risk status of a Responsible Person will govern the compliance regime for Schedule 5 claims. Thus, if a Responsible Person is a Low Risk Customer, the claims that they prepare and submit on behalf of the participators will only generate an enquiry if the Annex E exceptions apply. The corollary of this is that where a Non Low Risk Customer is a participator in a field which has a Low Risk Customer as a Responsible Person it will generally find that its share of the Schedule 5 expenditure claimed will be accepted without reservation, unless any of the exceptions apply.

If a Non Low-Risk Customer acts as the Responsible Person for a field that does not mean that we will definitely be raising enquiries. Such queries that we raise will be based on our assessment of risk and take into account factors such as materiality.

Schedule 6 & 7 expenditure claims and Schedule 8 UFL claim

Because these claims are company specific, the risk status of the customer of which the company is a member will determine the response. If the customer is Low Risk, it should normally expect to receive enquiries about these claims only if the exceptions apply.

An Unrelievable Field Loss claim (see OT16250 to OT16520) requires the prior agreement of the Board that the winning of oil from the field has permanently ceased. This may require preliminary correspondence between the Responsible Person and LB Oil & Gas. The guidance at OT16350 should be followed. The request for the Board’s agreement on this matter will affect all the field participators and is a statutory clearance rather than an enquiry.

PRT/CT Income & Expenditure reconciliations

We expect all groups or companies to have systems or processes to reconcile PRT returns and claims to their accounts. Some of these processes have been agreed with LB Oil & Gas in the past and are well established. System assurance is and will continue to be a major element in agreeing Low Risk status and we consider that the reconciliations; or some process that reconciles claims and returns to accounts; are part of the system on which we need assurance. See also OT18600 and OT18660.

Provided the conditions for Low Risk status are maintained, then the requirement to provide annual reconciliations has been relaxed with effect for the accounting period ending in 2008. The obligation for Low Risk customer companies to ensure that all income is returned and that double claims are not made does not disappear because the reconciliations are not sent in; this relaxation reflects the view that the systems are sufficiently robust to deliver accurate returns and claims. The position in respect of the need to send in reconciliations will however be reconsidered when the low risk status is reviewed.

Low Risk Customer companies can of course continue to submit reconciliations if they want to. Naturally, we would expect them to correct any errors discovered.

The relaxation mentioned above only applies to customers that are Low Risk within the meaning of the TCRM Guidance. Non-Low risk customers will still be required to provide these reconciliations on a basis to be agreed for each company having due regard to individual circumstances.

If a company or group has no field interest on which it pays PRT there is no requirement for reconciliations. If it has a field interest on which it subsequently becomes liable to pay tax or acquires such an interest, reconciliations will be required for years when tax is due or in which tax effective expenditure is incurred.

New Responsible Persons

If a company becomes a Responsible Person for the first time, and the field is tax paying, we would need to be assured of the fitness of the various systems. If it is a Low Risk Customer company we would aim to work closely with the new operator in advance of submission of their first Schedule 5 claim to ensure that the Low Risk relationship can be retained.

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