HMRC - OT26740 - Production Sharing Contracts - The Scope Of The PSC Rules On Plant And Machinery

CAA01\S167

Subject to some conditions, these rules apply where “the contractor” (a term frequently used in the actual Production Sharing Contract) is entitled to an interest in a contract made with the government, or their authorised representative, of a country or territory in which oil is, or may be, produced (CAA01\S167(1)(a)).

The reference to “authorised representative” recognises that the overseas government may authorise another party to act for it in relation to the contract. This is usually the state-owned national oil company (NOC). As a state oil company or its affiliate can act as a contractor within the terms of the PSC legislation, then in some circumstances, the host government can be represented in contractual terms by some other body, for example a Petroleum Ministry. It will be a question of fact and law in any given case whether a state oil company or its affiliate is acting as a party to the contract, and what its contractual status is. A similar question of fact or law may arise if it is necessary to determine whether a state oil company remains an authorised representative of the government in the event of full or partial privatisation of the NOC.

Where there are a number of companies who are contractors for a designated area, and one is appointed as “operator”, then provided the individual contractors incur capital expenditure and meet all the other relevant tests in CAA01\S167 to CAA01\S171 they will qualify for allowances in the normal way.

Risk Service Contracts and other types of Contracts

In the course of discussions on the draft clause, the industry asked for confirmation that contracts known colloquially as “Risk Service Contracts” would come within the scope of the legislation. The tests in CAA01\S167(1) define the scope of the rules by setting out the sort of contract and the conditions that must exist. If the contract passes all the tests, then the rules may be applied whether the contract in question is badged as a Risk Service Contract, a PSC or some other type of contract, subject of course to meeting the other conditions.

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