HMRC - OT26760 - Production Sharing Contracts - Trade Use And Qualifying Purposes

The expenditure must be on the provision of plant and machinery which is to have an oil-related use under the contract and for the person’s trade of oil extraction (CAA01\S168(1)(b) & CAA01\S169(1)(c)).

This legislation recognises that there may be a delay between the incurring of the expenditure and the date on which the plant is brought into use; if, for example, the plant has to be transported a great distance to the site of use; and ensures that the expenditure may qualify by reference to the date on which the expenditure is incurred.

Oil-Related Use

The definition of oil-related use is at CAA01\S167(2). This limits the application of the rules to plant and machinery to be used in the normal upstream activities which are the subject of typical PSCs.

In most cases, initial transportation to the point of sale would be a purpose “ancillary to the extraction of oil”. But circumstances can be envisaged, for instance, in which a contract governed both some small-scale extraction activities in a particular field and the construction of a major pipeline, the primary purpose of which was to transport production from other fields.

In that situation, HMRC would not regard the fact that oil extraction activities and the construction of a pipeline are governed by a single contract as necessarily meaning that the pipeline construction is “ancillary to the extraction of oil”. This would be regarded as a separate activity in its own right. The question of whether a particular pipeline is ancillary to the relevant oil extraction activity will depend on all the facts in each specific case. HMRC do not, for example, see some sort of crude “length test” as being appropriate to establish the status of a pipeline.

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