HMRC - OT26785 - Production Sharing Contracts - Cessation Of Relief And Disposal Value

The circumstances in which a person will cease to be treated as owning plant and machinery are set out in CAA01\S168(2) & CAA01\S169(2).

The deemed ownership ends when the plant either

ceases to belong to the government or its representative, or

ceases to be used or held for use under the contract.

The most common circumstance in which this will occur is when the contract itself comes to an end, either because exploration has proved abortive, or because the field life has come to a natural end.

There may be other circumstances, such as hostile action by a rebel force in the overseas country, or privatisation of the National Oil Company, which could also trigger a cessation of use.

The onus is very much on the contractor to establish what the position regarding the plant is on the ground and HMRC will expect the claimant to keep track of the plant in order to establish when it ceases to qualify for relief.

When the ownership test is no longer met, and the deemed ownership has ended, then the normal rules in the capital allowances regime regarding disposals will apply.

However, for plant and machinery that has been treated as owned by the person through the operation of CAA01\S168(2), CAA01\S169(2) or CAA01\S170(2) the disposal value is the amount of any capital compensation received, or nil if no capital compensation is received (CAA01\S171). This is the situation in cases where the relevant assets have either ceased to belong to the overseas government (or its representative) or have ceased to be used, or held for use, under the contract.

Without these special rules, the disposal value would be taken as the market value of the plant and machinery. As disposal could include events such as forcible appropriation of the assets by a new, perhaps hostile, government in the host territory, it would not be fair to tax the person by reference to the market value of the assets.

Compensation

Compensation for this purpose will include, for example, scrap receipts, expropriation compensation, and insurance proceeds but it will not include cost recovery oil.

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