

1 Restriction of relief available for decommissioning expenditure

- (1) Part 8 of CTA 2010 (oil activities) is amended as follows.
- (2) In section 330 (supplementary charge in respect of ring fence trades), at the end of subsection (2) insert –

“See also sections 330A and 330C (which provide for the amount of adjusted ring fence profits to be further adjusted where decommissioning expenditure has been taken into account).”
- (3) After section 330 insert –

“330A Decommissioning expenditure taken into account in calculating ring fence profits

- (1) This section applies where –
 - (a) any decommissioning expenditure is taken into account in calculating the amount mentioned in paragraph (a) of subsection (3) of section 330 or the amount mentioned in paragraph (b) of that subsection, and
 - (b) if that expenditure were not so taken into account, the amount of the adjusted ring fence profits of the company for the accounting period would be greater than nil.
- (2) In calculating for the purposes of section 330(1) the amount of the adjusted ring fence profits of the company for the accounting period, there is to be added an amount equal to the appropriate fraction of the used-up amount of that expenditure.
- (3) For the purposes of this section –

“the appropriate fraction” is –

$$\left(\frac{SC - 20\%}{SC} \right)$$

where SC is the percentage specified in section 330(1) for the accounting period, and

“the used-up amount”, in relation to any expenditure, is the difference between –

 - (a) the adjusted ring fence profits of the company for the accounting period determined in the absence of this section (which may be nil), and
 - (b) what the adjusted ring fence profits of the company for that accounting period would be if that expenditure were not taken into account as mentioned in subsection (1).
- (4) In determining for the purposes of this section whether, and to what extent, any losses which have been taken into account as mentioned in subsection (1) are attributable to decommissioning expenditure –
 - (a) assume that any amounts of any other expenditure which could be taken into account in calculating those losses are taken into account before any amounts of decommissioning expenditure, and
 - (b) where any losses have been surrendered in accordance with Part 5, the company must specify, in accordance with a basis determined jointly by the company, the surrendering company

(if different) and any other claimant company, whether any of those losses is attributable to decommissioning expenditure.

- (5) But if paragraph (a) of subsection (4) would work unfavourably in the company's case, the company may elect for that paragraph not to apply in relation to it and for any amounts of expenditure which could be taken into account in calculating those losses instead to be taken into account in the order specified in the election.
- (6) In determining for the purposes of this section the used-up amount of decommissioning expenditure, assume that any other amounts that could be deducted in calculating the adjusted ring fence profits of the company for the accounting period have already been so deducted.
- (7) But if subsection (6) would work unfavourably in the company's case, the company may elect for that subsection not to apply in relation to it and for any amounts that could be deducted in calculating those adjusted ring fence profits instead to be deducted in the order specified in the election.
- (8) For the purposes of this section, any deduction made under section 330C is to be disregarded.
- (9) This section does not apply in relation to any accounting period for which the percentage specified in section 330(1) is less than or equal to 20% (including any accounting period beginning before 24 March 2011 and ending on or after that date).
- (10) In this section –
 - “claimant company” and “surrendering company” are to be read in accordance with Part 5 (see section 188), and
 - “decommissioning expenditure” has the meaning given by section 330B.

330B Meaning of “decommissioning expenditure”

- (1) In section 330A “decommissioning expenditure” means expenditure incurred in connection with –
 - (a) demolishing any plant or machinery,
 - (b) preserving any plant or machinery pending its reuse or demolition,
 - (c) preparing any plant or machinery for reuse,
 - (d) arranging for the reuse of any plant or machinery, or
 - (e) the restoration of any land.
- (2) It is immaterial for the purposes of subsection (1)(b) whether the plant or machinery is reused, is demolished or is partly reused and partly demolished.
- (3) It is immaterial for the purposes of subsection (1)(c) and (d) whether the plant or machinery is in fact reused.
- (4) In subsection (1)(e) “restoration” includes landscaping.

330C Decommissioning expenditure taken into account for PRT purposes

- (1) This section applies where –

- (a) any decommissioning expenditure is taken into account in calculating the assessable profit accruing to a participator in any chargeable period from an oil field, and
- (b) if that expenditure were not so taken into account, the amount of petroleum revenue tax with which the participator would be chargeable for the chargeable period would be greater than nil.
- (2) In calculating for the purposes of section 330(1) the amount of the participator's adjusted ring fence profits for the relevant accounting period, there is to be deducted an amount equal to the appropriate fraction of the PRT difference.
- (3) For the purposes of this section –
“the appropriate fraction” is
- $$\left(\frac{SC - 20\%}{SC} \right)$$
- where SC is the percentage specified in section 330(1) for the relevant accounting period, and
“the PRT difference” is the difference between –
- (a) the amount of petroleum revenue tax with which the participator is chargeable for the chargeable period (which may be nil), and
- (b) the amount of petroleum revenue tax with which the participator would be chargeable for that chargeable period if the decommissioning expenditure were not taken into account as mentioned in subsection (1).
- (4) In determining for the purposes of this section whether, and to what extent, any allowable losses which have been taken into account as mentioned in subsection (1) are attributable to decommissioning expenditure, assume that any amounts of any other expenditure which could be taken into account in calculating those losses are taken into account before any amounts of decommissioning expenditure.
- (5) But if subsection (4) would work unfavourably in the participator's case, the participator may elect for that subsection not to apply in relation to it and for any amounts of expenditure which could be taken into account in calculating those losses instead to be taken into account in the order specified in the election.
- (6) This section does not apply in relation to any accounting period for which the percentage specified in section 330(1) is less than or equal to 20% (including any accounting period beginning before 24 March 2011 and ending on or after that date).
- (7) In this section –
“assessable profit” and “allowable loss” have the same meaning as in Part 1 of OTA 1975 (see section 2 of that Act),
“decommissioning expenditure” means any expenditure allowable under section 3 of OTA 1975 (allowance of expenditure) by virtue of subsection (1)(i) or (j) of that section, and
“the relevant accounting period” –
- (a) in a case where section 301 applies, is to be construed in accordance with subsection (7) of that section, and

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- (b) in any other case, means the accounting period for which a deduction in respect of any petroleum revenue tax with which the participator may be chargeable for the chargeable period mentioned in subsection (1) would be made under section 299(2) (deduction of PRT in calculating income for corporation tax purposes).”
 - (4) In section 7 of FA 2011 (increase in rate of supplementary charge), in subsection (6), at the end insert –
 - “See also sections 330A and 330C of CTA 2010 (which have effect in relation to the separate accounting period consisting of so much of the straddling period as falls on or after 24 March 2011).”
 - (5) The amendments made by this section have effect in relation to expenditure incurred in connection with decommissioning carried out on or after [date of 2012 Budget].
 - (6) In subsection (5) “decommissioning” means anything falling within –
 - (a) any of paragraphs (a) to (e) of section 330B(1) of CTA 2010, or
 - (b) paragraph (i) or (j) of section 3(1) of OTA 1975.

EXPLANATORY NOTE

RESTRICTION OF RELIEF AVAILABLE FOR DECOMMISSIONING EXPENDITURE

SUMMARY

1. This clause restricts the rate of tax relief available for decommissioning expenditure for Supplementary Charge (SC) purposes to 20%. It does so by increasing the profits liable to the SC where decommissioning expenditure is taken into account in computing those profits. Where such expenditure reduces the amount of Petroleum Revenue Tax “PRT” chargeable the clause also provides a reduction from profits liable to the SC where the profits resulting from the reduction in PRT would be subject to SC at a rate of more than 20%.

DETAILS OF THE CLAUSE

2. Subsection (1) provides that Part 8 of Corporation Tax Act 2010 (CTA 2010) is amended by the insertion of sections 330A, 330B and 330C.
3. Subsection (2) amends section 330(2) of CTA 2010 to include a cross reference to sections 330A and 330C.
4. Subsection (3) inserts into CTA 2010:
 - section 330A (‘decommissioning expenditure taken into account in calculating ring fence profits’),
 - section 330B (‘meaning of ‘decommissioning expenditure’), and
 - section 330C (‘decommissioning expenditure taken into account for PRT purposes’)
5. Subsection (1) of section 330A provides that section 330A applies where:
 - (a) any decommissioning expenditure is taken into account in calculating the profit or loss of any ring fence trade or loss surrendered to the company, and
 - (b) if that expenditure were not taken into account the amount of the adjusted ring fence profits for the accounting period would be greater than nil.

6. Subsection (2) of section 330A provides that an amount equal to the appropriate fraction of the used-up amount of that expenditure is added to the adjusted ring fence profits for the accounting period.
7. Subsection (3) of section 330A defines ‘the appropriate fraction’ and ‘the used-up amount’.
8. Subsection (4) of section 330A provides that in establishing the extent to which any losses which have been taken into account are attributable to decommissioning expenditure:
 - (a) any other amounts which could be taken into account in calculating those losses are assumed to be taken into account before any amounts of decommissioning expenditure, and
 - (b) where any group relief has been surrendered, the various companies concerned must specify whether any of those losses is attributable to decommissioning expenditure.
9. Subsection (5) of section 330A provides that a company can elect for paragraph (a) of subsection (4) not to apply if that paragraph would work unfavourably in the company’s case, and for any amounts instead to be taken into account in the order specified in the election.
10. Subsection (6) of section 330A provides that in determining the used-up amount, any other amounts that could be deducted in calculating the adjusted ring fence profits are assumed to have already been so deducted.
11. Subsection (7) of section 330A provides that a company can elect for subsection (6) not to apply if it would work unfavourably in the company’s case, and for any amounts instead to be deducted in the order specified in the election.
12. Subsection (8) of section 330A provides that for the purposes of this section, any deduction made under section 330C is to be disregarded.
13. Subsection (9) of section 330A provides that section 330A does not apply to any accounting period (including any accounting period beginning before 24 March 2011 and ending on or after that date) for which the rate of SC is less than or equal to 20%.
14. Subsection (10) of section 330A provides that ‘claimant company’ and ‘surrendering company’ take their meaning from chapter 5, and ‘decommissioning expenditure’ is as defined by section 330B.
15. Subsection (1) of section 330B defines ‘decommissioning expenditure’ for the purposes of section 330A.

16. Subsection (2) of section 330B clarifies the interpretation of section 330B (1)(b).
17. Subsection (3) of section 330B clarifies the interpretation of section 330B (1)(c) and (d).
18. Subsection (4) of section 330B extends the scope of section 330B (1)(e).
19. Subsection (1) of section 330C provides that the section applies where:
 - (a) any decommissioning expenditure is taken into account in calculating the assessable profit of a participator in any chargeable period from an oil field, and
 - (b) if that expenditure were not taken into account, some PRT would be chargeable on the participator for the chargeable period.
20. Subsection (2) of section 330C provides that an amount equal to the appropriate fraction of the PRT difference is deducted in calculating the amount of the participator's adjusted ring fence profits for the relevant accounting period.
21. Subsection (3) of section 330C defines 'the appropriate fraction' and 'the PRT difference'.
22. Subsection (4) of section 330C provides that in determining the extent to which any allowable losses taken into account in calculating the assessable profit are attributable to decommissioning expenditure, any amounts of any other expenditure which could be taken into account in calculating those losses are assumed to be taken into account before any amounts of decommissioning expenditure.
23. Subsection (5) of section 330C provides that a participator may elect for subsection (4) not to apply if that subsection would work unfavourably and for any amounts of expenditure which could be taken into account in calculating those losses instead to be taken into account in the order specified in the election.
24. Subsection (6) of section 330C provides that section 330C does not apply to any accounting period (including any accounting period beginning before 24 March 2011 and ending on or after that date) for which the rate of SC is less than or equal to 20%.
25. Subsection (7) of section 330C defines 'assessable profit', 'allowable loss', 'decommissioning expenditure' and 'the relevant accounting period' for the purposes of this section.

FINANCE BILL

26. Subsection (4) amends section 7 of FA 2011 to include a cross-reference to sections 330A and 330C.
27. Subsection (5) provides that the amendments made by the section have effect for expenditure incurred in connection with decommissioning carried out on or after Budget Day 2012.
28. Subsection (6) provides the meaning of 'decommissioning' in subsection (5).

BACKGROUND NOTE

29. Effective from 24 March 2011, the rate of Supplementary Charge increased from 20% to 32%.
30. Budget 2011 also announced that legislation would be introduced in the Finance Bill 2012, with effect from Budget 2012, to restrict the rate of tax relief for decommissioning expenses to 20% for Supplementary Charge purposes.
31. The clause seeks to ensure that the principles governing the restriction of decommissioning relief are applied consistently to PRT and non-PRT fields.
32. If you have any questions about this change, or comments on the legislation, please contact Hugh Hedges on 020 7438 6576 (email: hugh.hedges@hmrc.gsi.gov.uk).