

EXPLANATORY MEMORANDUM TO
THE PETROLEUM REVENUE TAX (NOMINATION SCHEME FOR
DISPOSALS AND APPROPRIATIONS) (AMENDMENT) REGULATIONS
2006

2006 No. 3089

1. This explanatory memorandum has been prepared by the Commissioners for Her Majesty's Revenue and Customs and is laid before the House of Commons by Command of Her Majesty.

This memorandum contains information for the Select Committee on Statutory Instruments.

2. **Description**

The Regulations will, when made, amend the Petroleum Revenue Tax (Nomination Scheme for Disposals and Appropriations) Regulations 1987 (S.I. 1987/1338). They limit the scope of the nominations scheme so that it applies only to oil sold under a Brent Forties Oseberg forward contract. They also amend the process under which nominations are made.

3. **Matters of special interest to the Select Committee on Statutory Instruments**

None.

4. **Legislative Background**

The powers to make the regulations are in section 61(8) of, and paragraphs 1(1), 4(1B)(a) and (3), 5(1)(h), 5A(1)(h), 7(3) and 12 of Schedule 10 to, the Finance Act 1987, section 133(1) of the Finance Act 1999 and section 150(15) of the Finance Act 2006. These provide for participators in oil fields to nominate proposed sales of oil.

5. **Extent**

This instrument applies to all of the United Kingdom.

6. **European Convention on Human Rights**

As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. **Policy background**

Some oil companies have sought to limit their liability to Petroleum Revenue Tax, and Ring Fence Corporation Tax, by entering in a practice known as 'tax

spinning', involving the use of forward contracts. Legislation introduced in 1987 (the Nominations Scheme) and then amended in 1994, sought to limit the scope for tax spinning. However, it had become clear that significant amounts of tax were still being lost.

The amending Regulations limit the scope of the Nominations Scheme to particular contracts, known as Brent Forties Oseberg contracts. The effect is to take sales of oil where there is no risk of tax spinning out of the Scheme. In addition, the time for nominations is limited to two hours from entering into a sale in order to ensure companies do not have time to engage in tax spinning. Notwithstanding the shortening of the period for nomination, it remains possible for a participator to make a nomination in an appropriate case. Nomination has the effect of determining the sale price for tax purposes.

8. Impact

A Regulatory Impact Assessment was prepared by HM Revenue and Customs in respect of Part 5 of the Finance (No. 2) Bill of the 2005-06 Session and was published on 22nd March 2006. That Bill received Royal Assent as the Finance Act 2006.

9. Contact

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