

2006 No. 3089

CORPORATION TAX

PETROLEUM REVENUE TAX

The Petroleum Revenue Tax (Nomination Scheme for Disposals and Appropriations) (Amendment) Regulations 2006

<i>Made</i>	- - - -	<i>20th November 2006</i>
<i>Laid before the House of Commons</i>		<i>21st November 2006</i>
<i>Coming into force</i>	- -	<i>12th December 2006</i>

The Commissioners for Her Majesty's Revenue and Customs make the following Regulations in exercise of the powers conferred by 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(a), section 133(1) of the Finance Act 1999(b) and section 150(15) of the Finance Act 2006, and now vested in them(c).

Citation, commencement and effect

1.—(1) These Regulations may be cited as the Petroleum Revenue Tax (Nomination Scheme for Disposals and Appropriations) (Amendment) Regulations 2006 and shall come into force on 12th December 2006.

(2) These Regulations shall have effect—

- (a) from 1st July 2006,
- (b) in relation to proposed sales whose transaction base time (see regulation 9) is a time on or after that date; and
- (c) not in relation to proposed transactions with a transaction base date (within the meaning in regulation 7 of the Petroleum Revenue Tax (Nomination Scheme for Disposals and Appropriations) Regulations 1987(d), as that regulation stood prior to the making of these Regulations) before that date.

(a) 1987 c. 16; section 61 and Schedule 10 are amended by sections 149 and 150 of the Finance Act 2006 (c. 25) respectively.
(b) 1999 c. 16.
(c) The functions of the Commissioners of Inland Revenue (“the former Commissioners”) were transferred to the Commissioners for Revenue and Customs (“the new Commissioners”) by section 5 of the Commissioners for Revenue and Customs Act 2005 (c. 11). Section 50 of that Act provides that, insofar as is appropriate in consequence of section 5, a reference to the former Commissioners is to be read as a reference to the new Commissioners.
(d) S.I. 1987/1338; relevantly amended by regulation 3(2) of S.I. 1990/2469, regulation 3(2) to (4) of S.I. 1993/2939, regulation 3(2) of S.I. 1994/939 and regulation 3 of S.I. 2000/1072.

Amendment of the Petroleum Revenue Tax (Nomination Scheme for Disposals and Appropriations) Regulations 1987

2. The Petroleum Revenue Tax (Nomination Scheme for Disposals and Appropriations) Regulations 1987 are amended as follows.

3. In the title and citation of those Regulations—

- (a) for “Petroleum Revenue Tax” substitute “Oil Taxation”;
- (b) omit “and Appropriations”.

4. In regulation 2 (interpretation)—

- (a) omit the definition of “composite nomination”; and
- (b) for the definition of “the Board” substitute—
““the Commissioners” means the Commissioners for Her Majesty’s Revenue and Customs;”.

5. For regulation 2A substitute—

“Excluded oil

2A.—(1) Oil which forms part of a participator’s equity production from an oil field (within the meaning in paragraph 1(2) of Schedule 10, immediately before the coming into force of section 150 of the Finance Act 2006, but omitting references to a month) shall be excluded from section 61 of the Finance Act 1987 if it is sold otherwise than under a Brent-Forties-Oseberg forward contract.

(2) In paragraph (1) “a Brent-Forties Oseberg forward contract” means a contract which provides for settlement, at least 21 days after the date on which it is made, by the delivery of a volume of oil comprising, at the seller’s election, Brent blend, Forties blend or oil of Oseberg grade(a), or a cash payment.”.

6. For regulation 3(2) and (3) (manner of making nominations) substitute—

“(2) A nomination shall—

- (a) be made in writing—
 - (i) in the case of a nomination made during business hours, by or on behalf of the participator who is proposing to carry out the sale in respect of which the nomination is made; and
 - (ii) in the case of a nomination made outside business hours, by or on behalf of the participator, where the participator (or group of which the participator is a member) is proposing to carry out the sale in respect of which the nomination is made; and
- (b) be transmitted to the Commissioners—
 - (i) at the e-mail address published by the Commissioners for the receipt of such nominations, from time to time, by e-mail electronic communications; or
 - (ii) in the case of disruption of e-mail communications, by telephonic facsimile transmission to the number published by the Commissioners for the receipt of such nominations, from time to time.

(3) For the purpose of determining whether the nomination is made within the period of two hours mentioned in paragraph 4(1)(a) or (1A)(a) of Schedule 10, the time of sending the transmission is to be used.

(a) Oseberg grade oil is an oil won from the Norwegian sector of the North Sea.

(3A) But transmission shall not be regarded as having been effected for the purposes of paragraph (2) until the nomination is received by the Commissioners at that address or number.”.

7. In regulation 3(4) omit “(c)(v) above”.

8. Omit regulations 4 to 6.

9. For regulations 7 and 8 substitute—

“Transaction base time

7.—(1) This regulation prescribes the transaction base time for a proposed sale for the purposes of paragraph 4 of Schedule 10.

(2) The transaction base time is the time (and date) at which there is an agreed price (in the form of a unit price or formula for determination of the price) at which oil is to be delivered pursuant to the contract of sale (irrespective of whether or not a legally binding agreement has come into being).”.

10. In regulation 9 (nominal volume)—

- (a) in paragraph (1) omit “, or to supply or relevantly appropriate,”;
- (b) in paragraph (2) omit sub-paragraphs (b) to (d) and the immediately preceding word “or”; and
- (c) omit paragraph (3).

11. In regulation 10 (maximum tolerance) for “5” substitute “1”.

12. Omit regulations 11 to 18.

13. In regulation 19 (nominations of proposed transactions in blended oil having effect with respect to more than one field)—

- (a) in paragraph (1)—
 - (i) for “Subject to paragraph (2) below, a” substitute “A”;
 - (ii) omit “, supply or appropriation”;
 - (iii) omit from “; and in this and the next following” to the end; and
- (b) omit paragraph (2).

14. Omit regulation 20.

Paul Gray
Steve Lamey

20th November 2006

Two of the Commissioners for Her Majesty’s Revenue and Customs

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Petroleum Revenue Tax (Nomination Scheme for Disposals and Appropriations) Regulations 1987 (S.I. 1987/1338: “the principal Regulations”) (in future to be called the Oil Taxation (Nomination Scheme for Disposals) Regulations 1987).

Sections 149 and 150 of the Finance Act 2006 (c. 25) amend section 61 of and Schedule 10 to the Finance Act 1987 (which provides for participators in oil fields to nominate proposed sales of oil). The nomination scheme previously had effect only for Petroleum Revenue Tax purposes but under section 151 of the Finance Act 2006 it will have effect for Oil Taxation purposes generally including ring fence Corporation Tax and Supplementary Charge purposes.

Regulation 1 provides for citation, commencement, and effect. The power to make the retrospective provision contained in regulation 1(2) is contained in section 61(8) of the Finance Act 1987 (as amended by section 149(5) of the Finance Act 2006).

Regulation 2 provides for amendment of the principal Regulations, and regulation 3 for their renaming. Regulations 3 to 14 make technical amendments to the principal Regulations.

Regulation 5 provides that proposed sales other than under a Brent-Forties-Oseberg Forward contract are excluded from section 61 of the Finance Act 1987 (and the nomination scheme).

Regulation 6 makes amendments to the manner of making nominations (the primary manner is by e-mail except in the case of disruption of e-mails when telephone facsimile may be used).

Regulation 9 defines the transaction base time for a proposed sale of oil. Regulation 11 amends the maximum volume tolerance from 5% to 1% (in line with the Brent-Forties-Oseberg Forward contract).

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.

£3.00

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E1454 11/2006 161454T 19585