

Oil and Gas Industry Direct Tax Forum

Minutes of meeting held on 15 June 2021

Attendees

Linda Nicol (HMRC – Sector Lead), Tommy McKnight (Repsol Sinopec – UKOITC Chair), Alastair Mather (Repsol Sinopec), Hugh Dorey (HMRC), Wendy Hodge (HMRC), Brendan Macrae (HMRC), Joanne Ellis (HMRC), Hugh Grainger (HMRC), Anne Hurdman (HMRC), Michelle Hendry (HMRC), Alan Moffat (HMRC), Professor Alex Kemp (University of Aberdeen), Andrew Wood-Hill (Suncor), Carol Donaldson (TAQA), Stephen Radlett (Exxon), Carsten Hansen (INEOS), Andy Richardson (PwC), Alistair Dunbar (OGA), Linda Ritchie (ITHACA), Catriona Manzi (NEO Energy), Andrew Lister (CW Energy), Alison Douglas (TOTAL), Bob Cardno (EY), Simon Kelsey (CNR Int), Philip Reid (CMS), Gordon Cormack (Shell), Helen Buchanan (Freshfields), Malcolm Galloway (BP), Alastair Blain (Chrysaor), Amy Miller (APACHE), Claire Angell (KPMG), Simon Lee (Deloitte), Nick Gardner (Ashurst), Paul Haworth (Rockrose), Sandee Osborne (ENI), Paul Quinn (HMRC), plus 2 guests.

1. Introduction

- Linda Nicol welcomed those joining the Teams meeting.

2. Counter Fraud – O&G Forum

- Wendy Hodge (WH), Customer Compliance Manager (CCM) Glasgow, part of Large Business Scotland & Northern Ireland region introduced this topic
- Large Business (LB) has a Counter Fraud Regime and has Counter Fraud Leads within each region. WH is also the Scotland and Northern Ireland (SNI) Counter Fraud Lead.
- HMRC is setting up a Counter Fraud Forum for the Oil & Gas Industry to share best practice in relation to the Corporate Criminal Offence (CCO) legislation.
- Counter Fraud Forums have been set up for other Sectors such as Banking, Construction and Insurance and HMRC were about to hold the very first Counter Fraud Asset Management Forum. WH intends to liaise with the O&G Sector Lead to arrange an O&G Forum for later this year.
- Counter Fraud Forums are chaired and facilitated by HMRC and their main focus is to discuss Corporate Criminal Offence (CCO) and compliance with the legislation.
- The Forums are also designed to be a safe space for Customer Sector Groups to come together to discuss Risk Assessments (RAs), development of procedures and due diligence as well as for HMRC to share red flags or alerts.
- To date the Forums have included HMRC presentations on CCO and the Counter Fraud Forums, Keynote speakers such as the relevant HMRC LB Sector Leads and Jo Wakeman, Director Large Business (LB), and there are also keynote speakers from industry sectors who present their own experiences in dealing with CCO. HMRC is keen to include speakers from the Customer Representative Bodies.
- Forums are normally designed to be face to face events, though during the current pandemic they have been held virtually using Microsoft Teams.
- Attendance from customer sectors is aimed at participants working in tax and finance teams who have an interest in the prevention of tax fraud and compliance with the CCO legislation. In addition to LB O&G customers, there are also a number of O&G customers who are dealt

with by HMRC Mid-Size Business, so the intention would be to include these customers too at any Forums held.

- WH is currently working with Linda Nicol (LN) and Paddy Davies (PD) to prepare Terms of Reference for the Counter Fraud Oil & Gas Forum and, working with colleagues from Mid-Size Business, the intention is to set up an online O&G Forum event later this year. WH stated that CCM's would be asked to issue an email to their O&G customers in due course with further details of the event.
- In the interim period, WH will be working with the O&G Sector Lead and they will also be looking to build links with other O&G organisations who are working to counter fraud in the industry and whose presence at the O&G Forum would be beneficial.
- WH stated that discussions at the Counter Fraud Forums and the Forums themselves are not aimed at discussing specific instances of fraud or naming or discussing criminal cases. Nor will HMRC be able to comment on, or give any agreement to, individual customers' CCO procedures. The Forums are aimed at sharing experiences and knowledge to aid prevention.
- UKOITC asked if the Forum was driven by a specific concern or simply that the Sector could be impacted by fraud. WH response was that the Sector could be affected by fraud. WH advised she had Counter Fraud colleagues who specifically dealt with CCO and they could research any specific areas where O&G customers could be affected.
- Some attendees thought that the Forum sounded like a useful opportunity and queried whether Agents would be permitted to attend. WH commented that CCO comes into play when there is evidence of tax evasion, across all heads of tax, and therefore she would give some thought to including Agents in the Forum attendees.

3. Consultation on R&D tax reliefs – UKOITC response

- UKOITC have given an update to their members resulting in some questions.
- The O&G Sector has been innovative and tried to provide solutions with a reliance on R&D and associated benefits.
- RDEC claims would be more prevalent given the make-up of UKOITC's membership rather claims from the small and medium population.
- Care may be required if combining both though there is no bias in favour of RDEC; the latter not having less value.
- Clear calculation, methodology, who can make a claim are what can make the regime beneficial. The economics of this activity play a part and compliance needs to be proportionate within the legislation.
- UKOITC naturally want any new legislation to be used (as the current regimes are). As set out above, to support up take and to best manage any risk of deadweight, the process should, as far as reasonably possible, provide for clear upfront confidence to investors re access to the relief, the relief available then being of sufficient magnitude to be taken into account by investors with associated compliance requirements being proportionate to the level of relief on offer.
- In the move to energy transition it becomes very important that this activity is captured within the legislation and something which investors would look at favourably.
- Other feedback asked if enough of this activity from both operations and service providers was being captured.
- Consultation is important, relied upon and encourages investment in the Sector.
- Hugh Dorey (HD) thanked UKOITC and its members for the response to the consultation which was wide ranging and covered other Sectors in addition to O&G. HD has made ensure that the response has been seen and he has been in contact with the appropriate colleagues.

4. IPT

- Uel Magill (UM) issued a communication following the last DTF call in March.
- LNM thanked members for their support and cooperation.
- Tommy McKnight confirmed that UM's response had been circulated to members.

5. PRT – 2H20 loss carry backs and expected timing of associated repayments

- Some companies may have submitted 2H20 loss carry back claims.
- UKOITC noted the wrinkles with 1H20 compounded by the need to access Shipley Office if papers records were required.
- UKOITC would like some visibility around 2H20 so that cash flow can be managed and Treasury teams kept updated on timings of repayments.
- Joanne Ellis (JE) acknowledged that service levels for 1H20 were below standard due to the IT system and a further issue identified with loss carry backs.
- Assessments and Loss Determinations have been issued on time as developers were able to put a fix in place.
- 2H20 repayments should be on schedule.
- Loss carry backs have started to come in and processing has commenced. The process involves HMRC Corporate Treasury which sets the date for repayment. Depending on amount of repayment this process may also involve the Treasury.
- The first repayment batch is due out at the end of July with the bulk of repayments following in August. Each batch contains 7 – 8 repayments.
- For a few customers repayments go back into the early 1980s and developers are aware of issues in the IT system and are working to resolve these. The PRT Team has started working on these early years and expect to complete during August.
- UKOITC would find it helpful that relevant communications are issued to keep members updated.
- JE thanked UKOITC and its members for their patience.

6. Decommissioning

- Consultation outcomes were now in the Finance Act and received Royal Assent late last week.
- HMRC will update the guidance in due course.
- Tommy McKnight and Hugh Dorey thanked all involved.

7. AOB

7.1 Making Tax Digital

- Launched in November 2020 the consultation closed this year.
- Responses are being reviewed to inform the design which will be a collaborative approach with stakeholders. The response will be published.
- Anyone interested in being involved in shaping the design should contact Linda Nicol (linda.nicol@hmrc.gov.uk). UKOITC will put that request out to its members.

- Back in March UKOITC had felt quite strongly about timing of responses with companies constrained by statutory time limits, filing dates, etc. Generally, the same people who prepare the statutory accounts will be involved in preparing the computations and needs consideration in terms of time and space.

7.2 Carbon Capture

- Professor Kemp is involved with working groups looking to Carbon Capture and repurposing O&G assets. In addition, there has been much media coverage yet Taxation has not been mentioned though tax issues could be quite important for both ORF and IRF.
- HD passed on Jonny Halls apology as he is unable to attend today's call.
- HD, HMRC Policy colleagues and HM Treasury have been in discussion with BEIS for some years over tax issues as assets are repurposed.
- HD signposted the change of use rules may help and options have been discussed. It's fair to say there has been a lot of thinking about this area.
- UKOITC acknowledged that the change of use rules from some years back cater for this at a point in time. UKOITC gathering thoughts on transitioning from O&F to non-ring fence.
- HD agreed that the thinking needs more developed in terms of the market and tax.
- Economics of change of use both inside and outside ring fence could be important and BEIS wrestling with the economics and how it should all work.

7.3 Date of next meeting

- Next meeting on 21st September 2021 at 13:00.