

## Oil and Gas Industry Direct Tax Forum Minutes of meeting held on 12 September 2018

### London:

Marie Baird (HMRC – Sector Lead), Jacqui Akinlosotu (Eni), Kathryn Anderson (Cairn Energy), Claire Angell (KPMG), Eleanor Bray (BP), Ray Daly (HMRC), Jenny Doak (VE Law), Hugh Dorey (HMRC), Mike Earp (OGA), Malcolm Galloway (BP), Simon Gell (JX Nippon), Hugh Grainger (HMRC), Phil Greatrex (CW Energy), Johnny Halls (HMT), Paul Haworth (Marathon), Craig Hill (ExxonMobil), Anne Hurdman (HMRC), Sandra Matz (HMRC), Romina Mele-Cornish (OGUK), Neil Strathdee (EY), Thomas Thornton-Kemsley (HMT), Tanzana Uddin (HMRC), Roman Webber (Deloitte)

### Aberdeen:

Philip Wood (CNR – Stand-in UKOITC Chair), Alastair Blain (ConocoPhillips), Bob Cardno (EY), Padrig Davies (HMRC), Dan Espie (Total), Sandy Inglis (Enquest), Professor Alex Kemp (University of Aberdeen), Martin Kirkham (Chevron), Thomas McKnight (Repsol-Sinopec), Amy Miller (Apache), Linda Nicol (HMRC), Derek Reid (TAQA)

### 1. Introduction and minutes of last meeting

- MB and PW welcomed the group.
- PW sent Simon Kelsey's apologies. PW was standing in as UKOITC Chair.
- The minutes for the previous meeting in June were agreed & will be published shortly.

### 2. Decommissioning update

- James Marshall (HMRC) had been leading on decommissioning within HMRC and was not able to attend the meeting, so HMRC suggested this be an opportunity to listen to industry's view of the matter and take on board feedback. A separate meeting had been planned on this topic, and that could be a forum to take forward detailed discussion on the remaining matters.
- Following JM letter 23 May 2018, UKOITC put together a working group headed by Bob Cardno (EY).
- BC had sent a response to JM's letter. BC talked through this and asked whether there was an update on internal HMRC discussion on end-of-life repairs and maintenance. UKOITC view is that this will normally be capital, and therefore part of decommissioning.
- HD advised that discussions were ongoing, but there was no final outcome yet. It is expected that at least in some circumstances this expenditure will be capital. The accountancy treatment might be informative, but it would not be determinative. It would depend on the facts.
- Industry thought this represented progress and a greater amount of certainty on HMRC's position.
- The group discussed the re-use of assets, which industry felt is specifically provided for under s163(4A) CAA01. Industry pointed out that if an asset is moved between fields it is unlikely that the JV interests would be the same, so it would have to be specifically accounted for, probably as a capital acquisition and disposal.
- Industry considered that whether the reuse was in the same company or a different company should not have an impact on the tax treatment, as otherwise the tax might drive commercial decisions.
- It was agreed that the treatment of this will depend on the facts and circumstances. The nature of the asset might be relevant – that is, whether it is one which is expected to be moved from platform to platform, or one which is typically fixed.

- MB explained that it is important for HMRC to understand the context of the expenditure. It is not an attempt to move the boundary, but to understand exactly where it is and narrow the scope for disputes. It is not possible to settle every issue in advance, so as industry come across new areas it is helpful to discuss them.
- BC felt that it was still not entirely clear what the formalisation of agreements with OPRED would mean from a regulatory perspective, and how it would work in practice, or for historic costs. UKOITC have looked at the meaning of “conditions imposed” in s163 as an alternative route to meeting the conditions.
- MB explained that HMT and HMRC policy had taken this away to think about. The intention of any formalisation of the process would not be to introduce any changes to the conditions for relief, but provide a route to make it easier for industry to show HMRC that the conditions are met. It is not intended that this should make it more difficult to claim relief.

### 3. Policy update (HMT and HMRC)

- JH introduced himself as the new head of Oil & Gas tax at HMT, replacing Andy Willis.
- The TTH consultation has now closed and HMT and HMRC thanked industry for their engagement during the consultation. Both are still going through the responses and considering the appropriate technical updates needed to the legislation.
- Industry expressed a continuing desire to be involved, and provided an open offer to discuss revisions to legislation, especially in areas where it was felt the legislation did not initially work as intended.
- There will not be another formal consultation, but HMT and HMRC will engage on this, although the precise form of this is still to be determined.
- The legislation will be included in the Finance Bill, to be published shortly following the Budget. The Budget date is not yet announced, but the next draft of the legislation is intended to be prepared in the next five or so weeks.

### 4. Transferable Tax History

- PD reiterated the thanks to industry for their engagement on the consultation.
- As well as the work being undertaken by HMT and HMRC Policy already, PD explained there is significant work ongoing to ensure that operationally HMRC is in a position to put the policy into practice. This work is not waiting until the policy comes into force. It involves a large number of internal stakeholders, including Large Business and Mid-size Business, and regular calls.
- This work includes ensuring that IT systems are in place to transfer the tax history and make repayments when necessary. It also includes the revised CT600 to keep track of elections and tracking of profits.
- There is also work ensuring effective internal processes for dealing with elections and claims are in place. This will ensure that when the first elections come in they can be dealt with as quickly as possible.
- PD also recognised that these processes will be reviewed and revised if necessary when the elections do begin coming in. PD asked that industry raise any concerns they may have, either once the process is in use or problems they can envisage now. HMRC would rather be told of the same potential problem multiple times than not at all, so PD would welcome comments at any time on the practical side of implementing TTH.

- MB suggested that it may be that HMRC ask industry to assist with testing any IT systems, and we welcome volunteers. This helps ensure that the system works in practice.

## 5. Investment and Cluster Allowances consultation

- UKOITC have put together a paper on the draft SI for Investment and Cluster Allowances. Industry felt that PRT and tariffing were still being tied together in ways which might cause problems.
- Under the SI there is still a need to allocate capex and tariff receipts to relevant fields, but although there is a method for allocating receipts to fields under PRT, there is no method in legislation or guidance for RFCT.
- If the asset owner does not have an interest in all the fields throughput is coming from, then industry felt that attribution by throughput would leave some expenditure unable to be activated and remove the investment incentive.
- HD explained the previous lead on this had moved roles, so the rest of the HMRC policy team was getting up-to-speed. The HMRC and UKOITC positions are not too far away, and there is a need to make sure that tariffs can activate the expenditure for these allowances. It may be that guidance on this point is the best route to provide certainty.
- This will be taken forward through the responses to the SI consultation. There is no fixed timeline on when the SI will come into force yet, so industry asked how to file their 2017 returns. MB advised that filing on a provisional basis, with a clear note that this was the case and explaining why, would be acceptable. MB can communicate to Customer Compliance Managers and Tax Specialists that this may be seen in returns.
- HD added that ultimately it will be for groups to consider the legislation and take a view. If they do not agree with the guidance HMRC produces, this would be testable by the courts if necessary.

## 6. UKOITC Annual Conference

- MB explained that it had been difficult getting a room for the annual conference in 100 Parliament Street before the end of the year. An alternative would be to hold it in HMRC's new Regional Centre in Croydon, and MB had sent dates to PW in advance.
- PW expressed a desire to hold it soon after the Budget, but as the date for this was not announced yet, either the 29 November or 3 December would suit.
- MB is to see if those dates are available and provisionally book the dates.
- MB also asked UKOITC to consider what presentations they would like to see at this conference. HMRC intend to have policy updates and an address by a senior leader on HMRC. MB noted that she and PD were due to attend an international conference for the North Sea tax authorities in October, and PD offered to present at the annual conference on this.
- MB would like the conference to be O&G specific and focus on big technical issues the industry is concerned about. The 2017 conference had a number of presentations on the HMRC-Industry relationship and dispute resolution, and MB felt these were not O&G specific so could be raised in other forums. It would be useful for HMRC to hear from industry on areas they consider HMRC should be aware of. For example, the short- and long-term economic picture for the sector. A past presentation by a decommissioning engineer had also been helpful in educating HMRC on the sector.

- Industry suggested a presentation on transactional issues and arrangements, in the context of the policy intention of TTH in encouraging such transactions. It was agreed this would be positive.

## 7. AOB

### 7.1 PRT

- RD noted that PRT work was to migrate to Scotland & Northern Ireland by Q1 2020. This would be focussed in Edinburgh, and Sandra Matz from the new PRT team was already in post.
- The new PRT computer system is also being prepared for the new team to take over. It is intended that this will allow incorporation of new features, but initially HMRC are ensuring the system works as expected.
- MB said that ahead of PRT moving a large majority of customers had already moved to S&NI and this was felt to have gone positively. LB London have remained involved and provided support, so it was thought that service had not dropped during or after the transition. If industry have any concerns on this, MB asked that they contact her.
- Policy work is remaining in London, but the close relationship between Large Business and the Policy team was remaining. This could be seen through, for example, PD's involvement in TTH. This would continue and allow policy and compliance to work closely.

### 7.2 Customs Information Paper 33 – End Use

- RMC asked whether there was any update on this. MB explained that this was taking longer than she would have liked. A solution is in place for day one, but the longer-term picture is still unclear.

### 7.3 EU Exit

- MB also asked for any input and concerns around the EU Exit. HMRC is looking to obtain the views of customers to ensure all areas are considered. This does not only apply to customs, it may have wider impacts, such as on direct tax. MB welcomed comments either in this forum or by email. Industry had no particular comments.

## 8. Close

- MB and PW thanked all for attending.
- Draft minutes will be shared following the meeting.