Oil and Gas Industry Direct Tax Forum

Minutes of meeting held on 23 March 2021

Attendees invited
Uel Magill (HMRC – Sector Lead), Tommy McKnight (Repsol Sinopec – UKOITC Chair), Alastair Mather (Repsol Sinopec). Hugh Dorey (HMRC), Brendan Macrae (HMRC), Leisa Newton (HMRC), Gary Sinnamon (HMRC, Violet McCallum (HMRC), Joanne Ellis (HMRC), Linda Nicol (HMRC), Hugh Grainger (HMRC), Nicola Garrod (HMRC), Michelle Hendry (HMRC), Alan Moffat (HMRC), Professor Alex Kemp (University of Aberdeen), Karen Street (Chrysaor), Carsten Hansen (INEOS), Andrew Wood-Hill (Suncor), Gordon Metcalf (EnQuest), Derek Reid (TAQA), Amy Miller (APACHE), Ian Hack (CW Energy), Gordon Cormack (Shell), Neil Strathdee (EY), Mike Gaskill (OGUK), Stephen Radlett (Exxon), Bob Cardno (EY), Claire Pearson (Chevron), Fiona Davidson (Baker Hughes), Joanne Steed (Premier Oil), Roman Webber (Deloitte), Paul Haworth (Rockrose), Anthony Masset (KPMG), Linda Ritchie (Ithaca), Colin Smith (PWC), Jenny Doak (Weil), Alastair Blain (Chrysaor), Francesca Bell (OGUK), Dan Espie (Total), Paul Quin (HMRC).

1. Introduction

- Brendan Macrae welcomed those joining the Teams meeting.

2. IPT

- Oliver Waterfield (OW), Indirect Tax Sector Lead for Insurance, provided the update.
- There is an ongoing project into Loss of Production insurance contracts and information has been requested from the insurance Industry.
- The First Tier Tribunal case, Tartaruga, whilst not on all fours provided valuable insight for the project team and discussions are being held with Policy on the way forward.
- HMRC lost the case and there has been no appeal by either side. OW unable to discuss the specifics of the case as it relates to an individual customer.
- A meeting with the Association of British Insurers (ABI) is expected before the end of the month where HMRC will set out its position and following the meeting will send a communication to UKOITC.

3. PRT Repayments and Ongoing Engagement

- Joanne Ellis (JE) apologised as despite best efforts, PRT repayments have been delayed but all customers affected should now have been contacted.
- 1H20 loss carry back issues on the new IT system caused delays.
- The communication issued in January 2021 about resolution of IT problems was incorrect as issues with earlier years were subsequently identified and JE appreciates that this has been frustrating for both customers and the PRT Team.
- The majority of repayments have been processed though this is taking longer than expected due to ongoing issues with a small number of cases and the need to check on each chargeable period up to and including 1H20.
- Once calculated details are passed to Corporate Finance to make repayments where additional mandatory checks as set out by the NAO are performed.
- Corporate Treasury function has always been part of the process, albeit out of sight, and JE has approached them about speeding up the process. JE has been assured that their processes have been streamlined taking 3 weeks to complete.

- The first batch of repayments are out. The 2nd batch is due out on Friday 26th March and the 3d batch is due out on the 15th April. Each batch contains around 8 repayments.
- JE confirmed that further batches were still to be prepared and these would extend beyond April given the input required from Corporate Treasury
- Having addressed the IT issues JE expects that 2H20 should be processed on time.
- JE is currently looking at expenditure claims for 2H20 and preparing Decision letters for issue.
- UKOITC appreciated JE's overview and that normal timescales would be resumed for 2H20.
- From a UKOITC perspective the PRT refunds are in the spotlight of CFOs and Treasury Departments trying to manage liquidity and support businesses.

4. CT Repayments

- UM not aware of issues affecting CT repayments and urged Customers to make use of the CCM network and flag any problems. For non CCM Customers UM happy to act as a conduit.
- Linda Nicol (LN) reminded everyone that the CT position is impacted by any adjustments to PRT payments which are claimed as deductions in the CT computations. Customers should bear in mind that the CT computation/return may require to be amended to reflect any PRT repayments they receive.
- LN explained that there are various legislative Sections under which CT repayments might be claimed e.g. is it a claim for repayment in advance of the return being filed, is it a claim for decommissioning loss carry back etc.
- LN advised HMRC are unaware of major issues with CT repayments and is looking to the Industry to flag up problems. LN highlighted late last year about the potential for interest to be computed incorrectly when repayments are made, in particular where this involves decommissioning loss carry backs and supplementary charge issues.
- UKOITC understood that interest is one aspect which impacts, and that some companies had been repaid more interest than expected. UKOITC queried whether this would hold up repayment or whether repayment of the principal sum could be made straightaway and the interest repaid once resolved, as they didn't expect the interest amounts would be significant.
- LN said HMRC is currently exploring that option and hopes to have an answer soon. However, LN explained that, for example, where a company is carrying back decommissioning losses to say 2008 the interest if calculated to the wrong EDP might run to several £100,000s. LN considered it was better for both the customer and HMRC to ensure that an incorrect amount wasn't repaid only to be clawed back shortly afterwards.
- LN said that any such review of repayments before issue may cause a relatively short delay of a few days depending on the particular reasons of why the repayment might be incorrect.
- UKOITC pleased to hear the commitment to supporting liquidity and advised that some companies may look to accelerate submission of 2020 returns especially if in a repayment position.

5. CT Decommissioning

- Hugh Dorey (HD) thanked all those who had contributed to the consultation and highlighted that some changes were made to the draft legislation that had been shared in January.
- The changes were that expenditure could now be incurred in anticipation of all 3 of the conditions in s163(3A) being met. And whilst the clawback remained the decision had been taken to exclude ongoing maintenance costs.

- HMRC are keen to continue working with industry to ensure that the legislation works as intended and would be interested to know of cases causing particular difficulty so that issues can be addressed at an early stage
- UKOITC are pleased that the work over a number of years has borne fruit.
- UKOITC see as a positive that HMRC will keep discussing issues as they arise.

6. **Budget Outcomes**

- UM asked for any immediate thoughts or observations on the recent Budget.
- UKOITC appreciated that the Chancellor had a difficult task given the unprecedented debt and inherent uncertainty.
- Industry has been managing EU Transition and will have to manage carbon emission policies.
- UKOITC are looking at long term investment into the basin and welcome that Oil & Gas tax allowances remain.
- Enhanced Deduction was positive though the tax rate rise to 25% on non-ring fence activity was higher than expected and will affect the downstream side such as marketing, refining and especially the supply chain which already works to tight margins. Increased costs may be, to some degree, be passed on to operators.
- Stability in this budget and future Budgets would be welcome and this will help attract investment and protect jobs in a maturing basin.
- UKOITC's views were echoed by a number of participants.
- A question was asked if the super deduction for Capital Allowances was restricted to plant. HD asked that details be sent to himself and he will contact his Capital Allowance Policy colleagues for a response.

7. **Making Tax Digital**

- UKOITC's response to the consultation has been fed back to the MTD team who are willing to attend the next DTF meeting.
- UM has a conduit into the MTD Team and asked that if anything in particular needed highlighted to feed that back to him.
- Brendan Macrae felt that the MTD session was beneficial and that Industry put points across for MTD Team to consider.
- UKOITC have some concerns around timings for MTD reporting and that these did not conflict with other requirements such as reporting to Companies House.
- Proposals *for transaction by transaction* reporting will require a lot of additional work by companies and require a significantly different approach to the collation (and pre-submission validation) of information for tax administration purposes than is currently undertaken.
- Accelerating the filing deadline will be an issue as currently make Statutory Account submissions within 9 months and then with all the information through the Computations are prepared ensuring an eye to detail. Alignment of filing dates may increase the risk of error or mistake, which the current 3 month period helps remedy / manage.
- The same staff are generally involved in preparing both Statutory Accounts and Computations, therefore resourcing aligned submission dates is a real practical concern.