



UK oil and gas fiscal regime: new onshore allowance

Who is likely to be affected?

Companies involved in exploration, appraisal and development of onshore oil and gas.

General description of the measure

The measure will introduce a new onshore allowance to reduce the amount of adjusted ring fence profits subject to the supplementary charge. The portion of profits reduced by the allowance will be dependent on a company's capital spend on onshore oil and gas projects.

Policy objective

This measure is designed to support the early development of onshore oil and gas projects which are economic but not commercially viable at the 62 per cent tax rate. Shale gas and other onshore hydrocarbons could help increase our energy security as resources in the North Sea basin decline. They also have the potential to support thousands of jobs, generate substantial business investment and could lower energy bills for households and businesses.

The tax regime will be simpler as the new onshore allowance will cover both conventional and unconventional hydrocarbons and will replace all existing field allowances for onshore projects.

Background to the measure

This measure was announced at Budget 2013.

A consultation *Harnessing the potential of the UK's natural resources – a fiscal regime for shale gas* was launched on 19 July 2013 and closed on 13 September 2013.

The Government's response to this consultation will be published on 10 December 2013.

Detailed proposal

Operative date

The measure will have effect in respect of capital expenditure incurred on and after 5 December 2013 in relation to an onshore oil and gas related activity.

Current law

Corporation Tax Act (CTA) 2010 Chapter 6 section 330 imposes a supplementary charge on a company's adjusted ring fence profits. Chapter 7 sets out existing oil field allowances which reduce a company's adjusted ring fence profits subject to the supplementary charge.

Proposed revisions

Legislation will be introduced in Finance Bill 2014 to amend CTA 2010 to introduce a new onshore allowance. The allowance will remove an amount equal to 75 per cent of capital expenditure incurred by a company in relation to an onshore site from its adjusted ring fence profits which are subject to the supplementary charge, subject to certain capacity limits (for production yield). Onshore oil and gas projects will also be removed from the scope of existing field allowances.

Summary of impacts

Exchequer impact (£m)	2013-14	2014-15	2015-16	2016-17	2017-18	2018-19
nil	nil	nil	negligible	-5	-20	-20
	These figures are set out in Table 2.1 of the Autumn Statement and have been certified by the Office for Budget Responsibility. More details can be found in the policy costings document published alongside the Autumn Statement.					
Economic impact	The onshore allowance is expected to increase investment in unconventional hydrocarbon exploration. If exploration establishes the commercial viability of these resources, then in the longer term there could be a significant increase in the domestic production of hydrocarbons, increased energy security, the creation of jobs and benefits to the UK supply chain.					
Impact on individuals and households	Any resulting increase in production would contribute to the security of the UK's energy supply and has the potential to lower energy bills for households and businesses.					
Equalities impacts	The allowance is considered to have no differential impact on any equality groups.					
Impact on business including civil society organisations	The proposal is designed to support the onshore oil and gas industry through the exploration phase and into development. This measure is expected to have a negligible administrative impact on these businesses. This measure will have no impact on civil society organisations.					
Operational impact (£m) (HMRC or other)	The additional costs for HM Revenue & Customs in implementing this change are expected to be negligible.					
Other impacts	<p><u>Sustainable development, wider environment and health</u>: the oil and gas industry is heavily regulated to ensure its activities do not lead to pollution or disturbance to habitat or wildlife, and to ensure the health and wellbeing of its workers.</p> <p><u>Small firms impact test</u>: it is not anticipated that any small or micro businesses will be affected by this measure. This change applies only to oil and gas companies operating in the UK.</p> <p>Other impacts have been considered and none have been identified.</p>					

Monitoring and evaluation

The measure will be kept under review through regular communication with affected taxpayer groups.

Further advice

If you have any questions about this change, please contact Nicola Garrod on 03000 589251 (email: nicola.garrod@hmrc.gsi.gov.uk).

Declaration

Nicky Morgan MP, Economic Secretary to the Treasury, has read this Tax Information and Impact Note and is satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impacts of the measure.

1 Supplementary charge: onshore allowance

Schedule 1 contains provision about the reduction of adjusted ring fence profits by means of an onshore allowance.

SCHEDULES

SCHEDULE 1

Section 1

SUPPLEMENTARY CHARGE: ONSHORE ALLOWANCE

PART 1

AMENDMENTS OF PART 8 OF CTA 2010

- 1 Part 8 of CTA 2010 (oil activities) is amended as follows.

Onshore allowance

- 2 After Chapter 7 insert –

“CHAPTER 8

SUPPLEMENTARY CHARGE: ONSHORE ALLOWANCE

Introduction

357ZA Overview

This Chapter sets out how relief for certain capital expenditure incurred in the course of onshore oil-related activities is given by way of reduction of a company’s adjusted ring-fence profits, and includes provision about –

- (a) the need for allowance held for a site to be activated by relevant income from the same site in order for the allowance to be available for reducing adjusted ring-fence profits,
- (b) elections by a company to transfer allowance between different sites in which it is a licensee (see section 357ZN), and
- (c) mandatory transfers of allowance where shares in the equity in a licensed area are disposed of (see sections 357ZT to 357ZV and the related provisions in sections 357ZO to 357ZS).

357ZB “Onshore oil-related activities”

- (1) “Onshore oil-related activities” means activities of a company which are carried on onshore and –
 - (a) fall within any of subsections (1) to (4) of section 357ZC, or
 - (b) consist of the acquisition, enjoyment or exploitation of oil rights.

- (2) Activities of a company are carried on “onshore” if they are authorised –
 - (a) under a landward licence under Part 1 of the Petroleum Act 1998 or the Petroleum (Production) Act 1934, or
 - (b) under a licence under the Petroleum (Production) Act (Northern Ireland) 1964.
- (3) In subsection (2)(a), “landward licence” means a licence in respect of an area which falls within the definition of “landward area” in the regulations pursuant to which the licence was applied for.

357ZC The activities

- (1) Activities of a company in searching for oil or causing such searching to be carried out for the company.
- (2) Activities of a company in extracting oil, or causing oil to be extracted for it, under rights which –
 - (a) authorise the extraction, and
 - (b) are held by it or by a company associated with it.
- (3) Activities of a company in transporting, or causing to be transported for it, oil extracted under rights which –
 - (a) authorise the extraction, and
 - (b) are held as mentioned in subsection (2)(b),but only if the transportation meets the condition in subsection (5).
- (4) Activities of the company in effecting, or causing to be effected for it, the initial treatment or initial storage of oil won from any site under rights which –
 - (a) authorise its extraction, and
 - (b) are held as mentioned in subsection (2)(b).
- (5) The condition mentioned in subsection (3) is that the transportation is to a place at which the seller in a sale at arm’s length could reasonably be expected to deliver it (or, if there is more than one such place, the one nearest to the place of extraction).
- (6) In this section “initial storage” –
 - (a) means, in relation to oil won from a site, the storage of a quantity of oil won from the site not exceeding 10 times the relevant share of the maximum daily production rate of oil for the site as planned or achieved (whichever is greater), but
 - (b) does not include the matters excluded by paragraphs (a) to (c) of the definition of “initial storage” in section 12(1) of OTA 1975;and in this subsection “the relevant share” means a share proportionate to the company’s share of oil won from the site concerned.
- (7) In this section “initial treatment” has the meaning given by section 12(1) of OTA 1975; but for this purpose that definition is to be read as if the references in it to an oil field were to a site.

357ZD “Site”

In this Chapter “site” (except in the expression “drilling and extraction site”) means—

- (a) a drilling and extraction site that is not used in connection with any oil field, or
- (b) an oil field (whether or not one or more drilling and extraction sites are used in connection with it).

Onshore allowance

357ZE Generation of onshore allowance

- (1) Subsection (2) applies where a company incurs any relievable capital expenditure in relation to a qualifying site.
- (2) The company is to hold an amount of allowance equal to 75% of the amount of the expenditure.
- (3) “Qualifying site” means a site whose development (in whole or in part) is authorised for the first time on or after 5 December 2013.
- (4) Capital expenditure incurred by a company is “relievable” only if, and so far as—
 - (a) it is incurred in the course of onshore oil-related activities (see section 357ZB), and
 - (b) neither of the disqualifying conditions is met at the beginning of the day on which the expenditure is incurred (see section 357ZF).
- (5) Allowance held under this Chapter is called “onshore allowance”.
- (6) Onshore allowance is said in this Chapter to be “generated” at the time when the capital expenditure is incurred (see section 357ZZ).
- (7) Onshore allowance is referred to in this Chapter as being generated—
 - (a) “by” the company concerned,
 - (b) “at” the site concerned.
- (8) Where capital expenditure is incurred only partly in the course of onshore oil-related activities, or the onshore oil-related activities in the course of which capital expenditure is incurred are carried on only partly in relation to a particular site, the expenditure is to be attributed to the site concerned on a just and reasonable basis.
- (9) In this section, references to authorisation of development of a site—
 - (a) in the case of a site which is an oil field, are to be read in accordance with section 351;
 - (b) in the case of a drilling and extraction site, are to be read in accordance with section 357ZY.

357ZF Disqualifying conditions for section 357ZE(4)(b)

- (1) The first disqualifying condition is that production from the site is expected to exceed 7,000,000 tonnes.

- (2) The second disqualifying condition is that production from the site has exceeded 7,000,000 tonnes.
- (3) For the purposes of this section 1,100 cubic metres of gas at a temperature of 15 degrees celsius and pressure of one atmosphere is to be counted as equivalent to one tonne.

357ZG Expenditure not related to an established site

- (1) A company may make an election under this section in relation to capital expenditure incurred by it in the course of onshore oil-related activities if the appropriate condition is met.
- (2) The appropriate condition is that at the time of the election no site can be identified as a site in relation to which the expenditure has been incurred.
- (3) An election under this section must specify –
 - (a) the expenditure in question,
 - (b) a site (“the specified site”) every part of which is, or is part of, an area in which the company is a licensee, and
 - (c) an accounting period of the company (“the specified accounting period”).
- (4) An election under this section may not be made before the beginning of the fourth accounting period of the company after that in which the expenditure is incurred.
- (5) Where a company makes an election under this section in relation to an amount of expenditure, that amount is treated for the purposes of this Chapter as incurred by the company –
 - (a) in relation to the specified site, and
 - (b) at the beginning of the specified accounting period.

Reduction of adjusted ring fence profits

357ZH Reduction of adjusted ring fence profits

- (1) A company’s adjusted ring fence profits for an accounting period are to be reduced by the cumulative total amount of activated allowance for the accounting period (but are not to be reduced below zero).
- (2) In relation to a company and an accounting period, the “cumulative total amount of activated allowance” is –

$$A + C$$

where –

A is the total of any amounts of activated allowance the company has, for any sites, for the accounting period (see section 357ZK(2)) or for reference periods within the accounting period (see section 357ZQ(1)), and
C is any amount carried forward to the period under section 357ZI.

357ZI Carrying forward of activated allowance

- (1) This section applies where, in the case of a company and an accounting period –
 - (a) the cumulative total amount of activated allowance (see section 357ZH(2)), is greater than
 - (b) the adjusted ring fence profits.
- (2) The difference is carried forward to the next accounting period.

357ZJ Companies with both field allowances and onshore allowance

- (1) This section applies where a company’s adjusted ring fence profits for an accounting period are reducible both –
 - (a) under section 333(1) (by the amount of the company’s pool of field allowances for the period), and
 - (b) under section 357ZH(1) (by the cumulative total amount of activated allowance for the period).
- (2) The company may choose the order in which the different allowances are to be used.
- (3) If the company chooses to apply section 333(1) first, then –
 - (a) Chapter 7 and this Chapter are to be ignored in calculating the “adjusted ring fence profits” in accordance with section 357, and
 - (b) if section 357ZH(1) is also applied: this Chapter, but not Chapter 7, is to be ignored in calculating the adjusted ring fence profits in accordance with section 357ZZA.
- (4) If the company chooses to apply section 357ZH(1) first, then –
 - (a) this Chapter and Chapter 7 are to be ignored in calculating the adjusted ring fence profits in accordance with section 357ZZA, and
 - (b) if section 333(1) is also applied: Chapter 7, but not this Chapter, is to be ignored in calculating the “adjusted ring fence profits” in accordance with section 357.

Activated and unactivated allowance: basic calculation rules

357ZK Activation of allowance: no change of equity share

- (1) This section applies where –
 - (a) a company is a licensee in a licensed area for the whole or part (“the licensed part”) of an accounting period,
 - (b) the company’s share of the equity in the site is the same throughout the accounting period or, as the case requires, throughout the licensed part of the accounting period,
 - (c) the licensed area is or contains a site,
 - (d) the company holds, for the accounting period and the site, a closing balance of unactivated allowance (see section 357ZL) that is greater than zero, and
 - (e) the company has relevant income from the site for the accounting period.

- (2) The amount of activated allowance the company has for that accounting period and that site is the smaller of—
 - (a) the closing balance of unactivated allowance held for the accounting period and the site;
 - (b) the company’s relevant income for that accounting period from that site.
- (3) “Relevant income”, in relation to a site and an accounting period of a company means production income of the company from any oil extraction activities carried on at the site that is taken into account in calculating the company’s adjusted ring fence profits for the accounting period.

357ZL The closing balance of unactivated allowance for an accounting period

The closing balance of unactivated allowance held by a company for an accounting period and a site is—

$$P + Q - R$$

where—

P is the amount of onshore allowance generated by the company in the accounting period at the site (including any amount treated under section 357ZN(7) or 357ZV(1) as generated by the company in that accounting period at that site);

Q is any amount carried forward from an immediately preceding accounting period under 357ZM(3) or from an immediately preceding reference period under section 357ZR;

R is any amount deducted in accordance with section 357ZS(1) (reduction of allowance if equity disposed of).

357ZM Carrying forward of unactivated allowance

- (1) This section applies where X is greater than Y in the case of an accounting period of a company and a site, where—
 - X is the closing balance of unactivated allowance for the accounting period and the site;
 - Y is the company’s relevant income for the accounting period from that site.
- (2) An amount equal to the difference between X and Y is treated as onshore allowance held by the company for that site for the next accounting period (and is treated as held with effect from the beginning of that period).

Transfer of allowances between sites

357ZN Transfer of allowances between sites

- (1) This section applies if a company has, with respect to a site, an amount (“N”) of onshore allowance available to carry forward to an accounting period –
 - (a) under section 357ZM(2), or
 - (b) by virtue of section 357ZR(3).
- (2) The company may elect to transfer the whole or part of that amount to another site (“site B”), if the appropriate conditions are met.
- (3) The appropriate conditions are that –
 - (a) every part of site B is, or is part of, an area in which the company is a licensee, and
 - (b) the election is made no earlier than the beginning of the fourth accounting period of the company after that in which the allowance was generated.
- (4) For the purposes of subsection (3)(b), a company may regard an amount of onshore allowance held by it for a site as generated in a particular accounting period if the amount does not exceed –

A – T

where –

A is the amount of onshore allowance generated in that accounting period for that site;

T is the total amount of onshore allowance generated in that period for that site that has already been transferred under this section.

- (5) An election must specify –
 - (a) the amount of onshore allowance to be transferred;
 - (b) the site at which it was generated;
 - (c) the site to which it is transferred;
 - (d) the accounting period in which it was generated.
- (6) Where a company makes an election under subsection (2), then –
 - (a) if the company elects to transfer the whole of N, no amount is available to be carried forward under section 357ZM(2) or (as the case may be) by virtue of section 357ZR(3);
 - (b) if the company elects to transfer only part of N, the amount available to be carried forward as mentioned in subsection (1) is reduced by the amount transferred.
- (7) Where an amount of onshore allowance is transferred to a site as a result of an election, this Chapter has effect as if the allowance is generated at that site at the beginning of the accounting period following that in which the election is made.

Changes in equity share: activation of allowance

357ZO Introduction to sections 357ZP to 357ZS

- (1) Sections 357ZP to 357ZS apply to a company in respect of an accounting period and a licensed area that is or contains a site, if the following conditions are met –
 - (a) the company is a licensee in the licensed area for the whole, or for part, of the accounting period;
 - (b) the company has different shares (greater than zero) of the equity in the licensed area at different times during the accounting period.
- (2) In a case where a company has three or more different shares of the equity in a licensed area during a particular day, sections 357ZP to 357ZS (in particular provisions relating to the beginning or end of a day) have effect subject to the necessary modifications.

357ZP Reference periods

- (1) For the purposes of sections 357ZQ to 357ZS, the accounting period, or (if the company is not a licensee for the whole of the accounting period) the part or parts of the accounting period for which the company is a licensee, are to be divided into reference periods (each of which “belongs to” the site concerned).
- (2) A reference period is a period of consecutive days that meets the following conditions –
 - (a) at the beginning of each day in the period, the company is a licensee in the licensed area;
 - (b) at the beginning of each day in the period, the company’s share of the equity in the field is the same;
 - (c) each day in the period falls within the accounting period.

357ZQ Activation of allowance: reference periods

- (1) The amount (if any) of activated allowance that a company has with respect to a site for a reference period is the smaller of the following –
 - (a) the company’s relevant income from the site in the reference period;
 - (b) the total amount of unactivated allowance that is attributable to the reference period and the site (see section 357ZS).
- (2) The company’s relevant income from the site in the reference period is –

$$I \times \frac{R}{L}$$

where –

I is the company’s relevant income from the site in the whole of the accounting period;
R is the number of days in the reference period;

L is the number of days in the accounting period for which the company is a licensee in the licensed area concerned.

357ZR Carry-forward of unactivated allowance from a reference period

- (1) If, in the case of a reference period (RP1) of a company, the amount mentioned in subsection (1)(b) of section 357ZQ exceeds the amount mentioned in subsection (1)(a) of that section, an amount equal to the difference between those amounts is treated as onshore allowance held by the company for the site concerned for the next period.
- (2) If RP1 is immediately followed by another reference period of the company (belonging to the same site), “the next period” means that reference period.
- (3) If subsection (2) does not apply, “the next period” means the next accounting period of the company.

357ZS Unactivated amounts attributable to a reference period

- (1) For the purposes of section 357ZQ(1)(b), the total amount of unactivated allowance attributable to a reference period and a site is –

$$P + Q - R$$

where –

P is the amount of allowance generated by the company in the reference period at the site (including any amount treated under section 357ZN(7) or 357ZV(1) as generated by the company in that accounting period at that site);

Q is the amount given by subsection (2) or (3);

R is any amount to be deducted under section 357ZU(1) in respect of a disposal of the whole or part of the company’s share of the equity in a licensed area that is or contains the site.

- (2) Where the reference period is not immediately preceded by another reference period but is preceded by an accounting period of the company, Q is equal to the amount (if any) that is to be carried forward from that preceding accounting period under section 357ZM(2).
- (3) Where the reference period is immediately preceded by another reference period (“the preceding reference period”) then Q is equal to the amount carried forward by virtue of section 357ZR(2).

Transfers of allowance on disposal of equity share

357ZT Introduction to sections 357ZU and 357ZV

- (1) Sections 357ZU and 357ZV apply where a company (“the transferor”) –

- (a) disposes of the whole or part of its share of the equity in a licensed area that is or contains a site;
 - (b) immediately before the disposal holds (unactivated) onshore allowance for the site concerned.
- (2) Each company to which a share of the equity is disposed of is referred to in section 357ZV as “a transferee”.

357ZU Reduction of allowance if equity disposed of

- (1) The following amount is to be deducted, in accordance with section 357ZS(1), in calculating the total amount of unactivated allowance attributable to a reference period and a site –

$$F \times \frac{E1 - E2}{E1}$$

where –

F is the pre-transfer total of unactivated allowance for the reference period that ends with the day on which the disposal is made;

E1 is the transferor’s share of the equity in the licensed area immediately before the disposal;

E2 is the transferor’s share of the equity in the licensed area immediately after the disposal.

- (2) The “pre-transfer total of unactivated allowance” for a reference period is –

$$P + Q$$

where P and Q are the same as in section 357ZS.

357ZV Acquisition of allowance if equity acquired

- (1) A transferee is treated as generating at the site concerned, at the beginning of the reference period or accounting period of the transferee that begins with, or because of, the disposal, onshore allowance of the amount given by subsection (2).

- (2) The amount is –

$$R \times \frac{E3}{E1 - E2}$$

where –

R is the amount determined for the purposes of the deduction under section 357ZU(1);

E3 is the share of equity in the licensed area that the transferee has acquired from the transferor;
 E1 and E2 are the same as in section 357ZU.

Miscellaneous

357ZW Adjustments

- (1) This section applies if there is any alteration in a company's adjusted ring fence profits for an accounting period after this Chapter has effect in relation to the profits.
- (2) Any necessary adjustments to the operation of this Chapter (whether in relation to the profits or otherwise) are to be made (including any necessary adjustments to the effect of section 357ZH on the profits or to the calculation of the amount to be carried forward under section 357ZI).

357ZX Orders

- (1) The Treasury may by order substitute a different percentage for the percentage that is at any time specified in section 357ZE(2) (calculation of allowance as a percentage of capital expenditure).
- (2) The Treasury may by order amend the number that is at any time specified in section 357ZF(1) or (2) (cap on production, or estimated production, at a site for the purposes of onshore allowance).
- (3) An order under subsection (1) or (2) may include transitional provision.

Interpretation

357ZY “Authorisation of development”: drilling and extraction sites

- (1) References in this Chapter to authorisation of development of a site are to be interpreted as follows in relation to a drilling and extraction site that is situated in, or used in connection with, a licensed area.
- (2) The references are to be read as references to a national authority –
 - (a) granting a licensee consent for development of the licensed area,
 - (b) serving on a licensee a programme of development for the licensed area, or
 - (c) approving a programme of development for the licensed area.
- (3) References in subsection (2) to a “licensee” are to a licensee in the licensed area mentioned in subsection (1).
- (4) In this section –
 - “consent for development”, in relation to a licensed area, does not include consent which is limited to the purpose of testing the characteristics of an oil-bearing area;
 - “development”, in relation to a licensed area, means winning oil from the licensed area otherwise than in the course of searching for oil or drilling wells;

- “national authority” means –
- (a) the Secretary of State, or
 - (b) a Northern Ireland Department.

357ZZ When capital expenditure is incurred

Section 5 of the Capital Allowances Act 2001 (when capital expenditure is incurred) applies for the purposes of this Chapter as for the purposes of that Act.

357ZZA Other definitions

In this Chapter (except where otherwise specified) –

- “adjusted ring fence profits”, in relation to a company and an accounting period, means the adjusted ring fence profits that would (if this Chapter were ignored) be taken into account in calculating the supplementary charge on the company under section 330(1) for the accounting period (but see also section 357ZJ);
- “cumulative total amount of activated allowance” has the meaning given by section 357ZH(2);
- “licence” has the same meaning as in Part 1 of OTA 1975 (see section 12(1) of that Act);
- “licensed area” has the same meaning as in Part 1 of OTA 1975;
- “licensee” has the same meaning as in Part 1 of OTA 1975;
- “onshore allowance” has the meaning given by 357ZE(5);
- “relevant income”, in relation to an onshore site and an accounting period, has the meaning given by section 357ZK(3);
- “site” has the meaning given by section 357ZD.”

Restriction of field allowance to offshore fields

- 3 (1) Section 352 (meaning of “qualifying oil field) is amended as follows.
 - (2) Renumber section 352 as subsection (1) of section 352.
 - (3) In section 352(1) (as renumbered), after “an oil field” insert “, other than an onshore field,”.
 - (4) After subsection (1) insert –
 - “(2) An oil field is an “onshore field” for the purposes of subsection (1) if –
 - (a) the authorisation day is on or after 5 December 2013, and
 - (b) on the authorisation day every part of the oil field is, or is part of, an onshore licensed area;but see the transitional provisions in paragraph 8 of Schedule 1.
 - (3) A licensed area is an “onshore licensed area” if it falls within the definition of “landward area” in the regulations pursuant to which the application for the licence was made.”

Minor and consequential amendments

- 4 In section 270 (overview of Part), after subsection (7) insert –

- “(7A) Chapter 8 makes provision about the reduction of supplementary charge by an allowance for capital expenditure incurred in the course of onshore oil-related activities.”
- 5 In section 333 (reduction of adjusted ring fence profits) –
- (a) in subsection (1), after “reduced” insert “(but not below zero)”;
 - (b) omit subsection (2).
- 6 In section 357 (definitions for Chapter 7), in the definition of “adjusted ring fence profits”, at the end insert “; but see also section 357ZJ (companies with allowances under Chapter 8 as well as this Chapter)”.

PART 2

COMMENCEMENT AND TRANSITIONAL PROVISION

Commencement of onshore allowance

- 7 (1) The amendments made by paragraphs 2 and 4 to 6 have effect in relation to capital expenditure incurred on or after 5 December 2013.
- (2) The amendments made by paragraph 3 have effect in relation to any accounting period of a company in which a post-commencement authorisation day falls.
- (3) In sub-paragraph (2) “post-commencement authorisation day” means an authorisation day (as defined for Chapter 7 of Part 8 of CTA 2010) that is 5 December 2013 or a later day.
- (4) Section 5 of the Capital Allowances Act 2001 (when capital expenditure is incurred) applies for the purposes of this paragraph as for the purposes of that Act.

Option to defer commencement

- 8 (1) This paragraph applies in relation to any oil field whose development (in whole or in part) is authorised for the first time on or after 5 December 2013 but before 1 January 2015.
- (2) At any time before 1 January 2015, the companies that are licensees in the oil field may jointly elect that the law is to have effect in relation to each of those companies as if the date specified in –
- (a) section 352(2)(a) of CTA 2010 (as inserted by paragraph 3(4) of this Schedule),
 - (b) section 357ZE(3) of CTA 2010 (as inserted by paragraph 2 of this Schedule), and
 - (c) paragraph 7(3),
- were 1 January 2015.
- (3) Expressions used in this paragraph and in Chapter 7 of CTA 2010 have the same meaning in this paragraph as in that Chapter.

Introduction to paragraphs 10 and 11

- 9 (1) Paragraphs 10 and 11 apply where a company has an accounting period (the “straddling accounting period”) that begins before and ends on or after commencement day.
- (2) In paragraphs 10 and 11 “commencement day” means –
- (a) 5 December 2013 (except where paragraph (b) applies);
 - (b) 31 December 2014, in relation to a company that makes an election under paragraph 8.
- (3) Expressions used in paragraph 9 or 10 and in Chapter 8 of CTA 2010 (as inserted by paragraph 2) have the same meaning in the paragraph concerned as in that Chapter.
- 10 (1) The amount (if any) by which the company’s adjusted ring fence profits for the straddling accounting period are reduced under section 357ZH of CTA 2010 (as inserted by paragraph 2) cannot exceed the appropriate proportion of those profits.
- (2) Section 357ZI (carrying forward of activated allowance) applies in relation to the company and the accounting period as if the reference in subsection (1)(b) of that section to the adjusted ring fence profits were to the appropriate proportion of those profits.
- (3) The “appropriate proportion” of the company’s adjusted ring fence profits for the straddling accounting period is –

$$\frac{D}{Y} \times N$$

where –

D is the number of days in the straddling accounting period that fall on or after commencement day;

Y is the number of days in the straddling accounting period;

N is the amount of the company’s adjusted ring fence profits for the accounting period.

- (4) If the basis of apportionment in sub-paragraph (3) would work unjustly or unreasonably in the company’s case, the company may elect for its adjusted ring fence profits to be apportioned on another basis that is just and reasonable and specified in the election.
- 11 (1) For the purpose of determining the amount of activated allowance the company has with respect to any site –
- (a) for the straddling accounting period (see section 357ZK of CTA 2010, as inserted by paragraph 2), or
 - (b) for a reference period that is part of the straddling accounting period (see section 357ZQ of CTA 2010, as so inserted),
- the company’s relevant income from the field in the whole accounting period is taken to be the appropriate proportion of the actual amount of that relevant income.

- (2) Accordingly, in relation to the company, the straddling accounting period and the site in question, section 357ZM of CTA 2010 (carrying forward of unactivated allowance) has effect as if Y in subsection (1) of that section were defined as the appropriate proportion of the company's relevant income for the straddling accounting period from that site.
- (3) The "appropriate proportion" of the company's relevant income from a site in the whole straddling accounting period is –

$$\frac{D}{Y} \times I$$

where –

D is the number of days in the straddling accounting period that fall on or after commencement day;

Y is the number of days in the straddling accounting period;

I is the amount of the company's relevant income from the site in the whole straddling accounting period.

- (4) If the basis of apportionment in sub-paragraph (3) would work unjustly or unreasonably in the company's case, the company may elect for its adjusted ring fence profits to be apportioned on another basis that is just and reasonable and specified in the election.

EXPLANATORY NOTE

SUPPLEMENTARY CHARGE: ONSHORE ALLOWANCE

SUMMARY

1. Clause X and Schedule Y introduce a new allowance, which will remove an amount equal to 75 per cent of capital expenditure incurred by a company in relation to an onshore site from its adjusted ring fence profits for the purposes of supplementary charge (SC).

DETAILS OF THE SCHEDULE

PART 1

AMENDMENTS TO PART 8 OF CTA 2010

2. Paragraph 1 provides that the Schedule amends Part 8 of Corporation Taxes Act 2010.

3. Paragraph 2 inserts after Chapter 7 a new Chapter 8 entitled “Supplementary Charge: Onshore Allowance” which makes provision for a new allowance (reducing the Supplementary Charge) for capital expenditure on “on-shore oil-related activities”.

4. New section 357ZA provides an overview of new Chapter 8. It explains that relief is given by way of an allowance for capital expenditure incurred on onshore oil-related activities, said allowance operating by way of reducing a company’s adjusted-ring fence profits for the purpose of the Supplementary Charge; that the new allowance is activated by relevant income in relation to a site; that allowances are transferred on disposal of a licence interest; and that a company may elect to transfer allowances between different sites for which it holds a licence.

5. New Section 357ZB defines “Onshore oil-related activities”.

6. New Section 357ZC defines “activities”.

7. New Section 357ZD defines what is meant by “site”.

8. New Section 357ZE explains how onshore allowance is generated, including that an amount of “relievable capital expenditure” (as defined by reference to activities in the course of which it is incurred, and disqualifying conditions) generates an allowance of 75 per cent of that amount, and that allowance is generated in relation to a “qualifying site”. There is also provision for cases where, in relation to a qualifying site, relievable capital expenditure is incurred there only partly in the course of onshore oil-related activities, or is incurred only partly in relation to the site; in that case the expenditure is to be apportioned to that site on a just and reasonable basis.

9. New section 357ZF defines the conditions which disqualify capital expenditure from being “relievable capital expenditure”.
10. New section 357ZG provides for how a company is to treat capital expenditure incurred before a site is established.
11. New Section 357ZH provides for a company’s adjusted ring fence profits for an accounting period to be reduced (but not below zero) by the total amount of activated allowances held by the company in that period.
12. New Section 357ZI provides that a company’s unused activated allowances are carried forward to the next accounting period.
13. New Section 357ZJ provides that where a company holds both field allowances and onshore allowances it may choose the order in which the allowances are to be used.
14. New Section 357ZK provides, in the case where during an accounting period a company’s share of the equity in the site remains unchanged, that a company is to have activated allowances no greater than the relevant income from that site. “Relevant income” is also defined in this section.
15. New Section 357ZL provides for the calculation of the closing balance of unactivated allowances held by a company for an accounting period.
16. New Section 357ZM provides that an amount equal to the a company’s closing balance of unactivated allowances, less relevant income for the period, is to be carried forward to the next accounting period.
17. New Section 357ZN provides that, where a company has an interest in a licence for more than one site, it may elect for the whole or part of its unactivated allowances in one site to be transferred to another site.
18. New Section 357ZO introduces new sections 357ZP to 357ZS, which provide for the case where a company’s share of the equity in a licensed area changes in any one accounting period. In summary, those provisions introduce a reference period to identify those parts of the accounting period for which the company is a licensee, and make provision for the activation of allowance for those reference periods.
19. New Section 357ZP defines a “reference period”.
20. New Section 357ZQ provides for the calculation of a company’s activated allowance in any reference period.
21. New Section 357ZR provides that the unactivated allowance in a reference period is carried forward to the next period (being either a reference period or an accounting period).
22. New Section 357ZS provides for the calculation of the amount of total unactivated allowances attributable to a reference amount and a site.

23. New Section 357ZT introduces new sections 357ZU and 357ZV which apply where a company holds unactivated allowances and disposes of some or all of its equity interest in a licensed area.
24. New Section 357ZU provides for the calculation of the amount to be deducted from a company's unactivated allowances attributable to a reference period and a site following the disposal of an equity interest in the licensed area.
25. New Section 357ZV provides for the calculation of the amount of unactivated allowance generated by a company for a reference period and in relation to a site following the acquisition of an equity interest in the licensed area.
26. New Section 357ZW provides that any alteration to a company's adjusted ring fence profits is reflected in the operation and calculations of Chapter 8.
27. New Section 357ZX provides that Treasury may by Order make adjustments to the percentage specified at section 357ZE(2) and the also the cap on production specified in section 357ZF.
28. New Section 357ZY explains how references in new Chapter 8 to "authorisation of development: drilling and extraction sites" are to be interpreted.
29. New Section 357ZZ explains when capital expenditure can be said to be incurred for the purposed of new Chapter 8.
30. New Section 357ZZA provides interpretation on definitions for "adjusted ring fence profits", "cumulative total amount of activated allowance", "licence", "licensed area", "licensee", "onshore allowance", "relevant income", and "site".
31. Paragraph 3 of the Schedule makes provision for existing field allowances to be unavailable in respect of fields licensed for onshore activity on or after commencement of Chapter 8.
32. Paragraphs 4 to 6 make minor consequential amendments to Part 8 as follows.
33. Paragraph 4 inserts in section 270 (overview of Part 8) a new subsection (7A) to introduce the onshore allowance.
34. Paragraph 5 amends section 333 (reduction of adjusted ring fence profits) to bring the wording in line with that used for the onshore allowance with regard to field allowances.
35. Paragraph 6 amends the definition of adjusted ring fence profits in section 357 to insert a reference to allowances under Chapter 8.

PART 2

COMMENCEMENT AND TRANSITIONAL PROVISIONS

36. Paragraph 7 provides that the amendments are to have effect in relation to capital expenditure incurred on or after 5 December 2013.

37. Paragraph 8 introduces transitional arrangements for onshore oil fields, allowing a company to elect to defer commencement of the onshore allowance until 1 January 2015.

38. Paragraph 9 introduces arrangements in paragraphs 10 and 11 for accounting periods which straddle the commencement date of 5 December 2013 (or, if applicable, 31 December 2014).

39. Paragraph 10 provides for the apportionment of a company's adjusted ring fence profits in a straddling accounting period according to the number of days falling on or after the commencement day.

40. Paragraph 11 provides for the apportionment of relevant income for determining activated allowance in a straddling accounting period according to the number of days falling on or after the commencement day.

BACKGROUND NOTE

In addition to ring fence corporation tax, oil and gas companies are also subject to an additional tax, the supplementary charge (SC), on adjusted ring fence profits arising from oil-related activities. The rate of SC is set at 32 per cent.

Field allowances provide relief by reducing the amount of adjusted profits on which SC is due for oil and gas projects which meet certain conditions. Existing field allowances are provided by Part 8, Chapter 7 CTA 2010 and apply to both onshore and offshore projects which satisfy the relevant criteria.

This clause introduces a new allowance, replacing field allowances for on-shore projects.

If you have any questions about this change, or comments on the legislation, please contact Tony Chanter on 03000 589073 (email: tony.chanter@hmrc.gsi.gov.uk).