BCLP. Client Intelligent

Insights

FURTHER CHANGES TO THE ENERGY (OIL AND GAS) PROFITS LEVY ANNOUNCED

Jul 30, 2024

SUMMARY

The UK government has announced further changes to the Energy (Oil and Gas) Profits Levy, increasing the rate to 38%, extending the period to which it applies to 31 March 2030 and removing the “unjustifiably generous” main 29% investment allowance. The changes are likely to give investors further pause for thought on future investment plans in the North Sea.

Following the statement yesterday (29 July) by Rachel Reeves, the Chancellor of the Exchequer, on the state of public spending, the UK government made a number of tax related announcements, including several changes to the Energy (Oil and Gas) Profits Levy (**EPL**).

WHAT ARE THE CHANGES?

1. **To increase the current EPL rate of 35% to 38% from 1 November 2024.** This will increase the total headline rate of tax on upstream oil and gas profits from 75% to 78%, which now mirrors the Norwegian marginal tax rate for upstream activity on the Norwegian Continental Shelf.

2. **To extend the period to which the EPL applies from 31 March 2029 to 31 March 2030**. The new sunset date has been chosen as the end of the financial year in which the current Parliament is due to finish. It is worth remembering that the original sunset date when the EPL was introduced was 31 December 2025. However, the Energy Security Investment Mechanism (**ESIM**) will remain in place and the EPL will end sooner if oil and gas prices fall to thresholds set out in the ESIM – i.e. if the six-month average prices for both oil and gas are no more than the ESIM threshold prices of $74.21 per barrel for oil and £0.57 per therm for gas (which will be adjusted annually by reference to the preceding December's CPI figure).

3. **To abolish the EPL’s main 29% investment allowance for qualifying expenditure incurred on or after 1 November 2024 and reduce the extent to which capital allowance claims (including First Year Allowances) can be taken into account in calculating EPL profits**. Qualifying expenditure

consists of capital expenditure, operating expenditure or leasing expenditure, in each case incurred for the purposes of oil-related activities (other than certain disqualifying purposes), but excluding financing and decommissioning costs. The government will retain the 80% decarbonisation investment allowance and there are no plans to change the availability of capital allowances in the permanent regime. However, we will need to wait and see the details of the proposed changes to the capital allowance regime for the purposes of the EPL.

Further details of these changes will be set out in the Budget on 30 October 2024 and will be legislated for in the next Finance Bill.

WHAT DO THEY MEAN?

As a starting point, the change to the EPL rate continues the trend in recent years of increasing the headline rate on upstream oil and gas profits. It is worth bearing in mind that this is now almost double the total headline tax rate on profits from the UK Continental Shelf from two years ago (i.e. before the introduction of the EPL on 26 May 2022).

Aside from modelling the tax impact on future profits (and indeed the value of losses), taxpayers should bear in mind any transactions which they have entered into that have included any contingent payment arrangements, particularly if the amount of the payments are calculated by reference to a notional tax rate (especially if that rate has been fixed assuming a 35% EPL rate).

For investment going forward, there is now an incentive to incur as much qualifying expenditure as possible before 1 November 2024, but that is of course much easier said than done. Otherwise, it may be the case that investors press pause on any investment plans until the proposed changes to the capital allowance regime for the purposes of the EPL become clear.

The government also stated that they will work with industry to develop and implement a successor regime to the EPL for responding to price shocks to provide the oil and gas industry with long-term certainty on taxation. “Long-term certainty” is something which this industry is craving for, given the multiple changes to the tax rate and reliefs available for investment – whether a successor regime, which by definition suggests further changes, will achieve that remains to be seen but given the current potential for further years of uncertainty, it may well be the case that investors view further investment in the North Sea with a degree of trepidation.

If you have any questions, please contact Kyle O’Sullivan. With thanks to Rui Ci Lee for her help in drafting this insight.

RELATED CAPABILITIES

- Tax Advice & Controversy

MEET THE TEAM

Anne Powell

London

anne.powell@bclplaw.com
+44 (0) 20 3400 2162
