Representation from the Chartered Institute of Taxation
for Finance Bill 2024-25 Committee of Whole House

Chartered Institute of Taxation.

Clauses 15-18

Oil and Gas Taxation

Executive Summary

- **The Bill extends the duration and increases the rate of the Energy Profits Levy (EPL), while reducing the generosity of allowances.**
- **The removal of the Investment Allowance may be problematic for some companies due to long timelines for investment.**
- **Frequent changes to taxation of the oil and gas sector undermine fiscal stability and make the UK a more challenging place to invest in.**
- **We encourage the government to introduce a framework to capture future 'price shock' scenarios without a need for emergency legislation.**

Overview and background

1.1. The Energy Profits Levy (EPL) was introduced in May 2022 by The Energy (Oil and Gas) Profits Levy Act 2022 to tax the 'extraordinary profits' of oil and gas companies operating in the UK or the UK Continental Shelf. It was introduced as a 'time-limited windfall tax'.

1.2. Currently, the EPL is set at a rate of 35%, bringing the total headline rate of tax on upstream oil and gas activities to 75%.

1.3. When the EPL was introduced, the government sought to avoid the dramatic increase in the rate of tax payable by oil and gas companies having an adverse impact on investment in the UK continental shelf by introducing two investment allowances:

- the 29% Investment Allowance
- the 80% Decarbonisation Investment Allowance

1.4. The EPL is due to expire on 31 March 2028 (though the previous government had announced an intention to extend it to March 2029), unless oil and gas prices both fall to thresholds set out in the Energy Security Investment Mechanism (ESIM) for a sustained period, in which case regulations would be laid to end the levy.

1.5. In July 2024 the government announced that the rate of the EPL would increase, that the Investment Allowance would be abolished, and that the capital allowances and Decarbonisation Investment Allowance would be reviewed, with final details set out at Autumn Budget 2024.

1.6. Clauses 15 to 17 to the Finance Bill implement the changes to the EPL that were confirmed by the Budget, namely that:

- the rate of the EPL is increased from 35% to 38% from 1 November 2024.

- the period for which the EPL has effect is extended to 31 March 2030. The ESIM will remain.
- the main 29% Investment Allowance is removed for qualifying expenditure incurred on or after 1 November 2024.
- However, 100% first-year allowances in the EPL will remain and the Decarbonisation Investment Allowance will also remain, at a reduced rate of 66% (this reduced rate retains its existing cash value given the rise in the EPL rate).

1.7. Clause 18 relates to taxation of the oil and gas sector but not to the EPL. It legislates for certain payments into a decommissioning fund to be treated as decommissioning expenditure for the purposes of corporation tax, income tax and petroleum revenue tax, with effect for payments made on or after Royal Assent to the Finance Bill. This measure is designed to remove barriers to the repurposing of existing ring fence infrastructure for energy transition purposes (e.g. use for carbon capture, usage and storage (CCUS) projects).

1.8. The government has announced that it will consult in early 2025 to develop and implement a successor regime to the EPL for responding to price shocks once the EPL regime ends. The government says that ‘after a period of change, the government also recognises the importance of providing the oil and gas industry with long-term certainty on taxation’.

2. CIOT comments

2.1. The removal of the Investment Allowance and reduction in the rate of the Decarbonisation Investment Allowance may be problematic for some companies as, given the long timeline for investment in this sector, companies are likely already to have committed to incurring costs after 1 November 2024, when these changes take effect.

2.2. These changes to the EPL are the latest in a series of changes to the tax since it was introduced in May 2022. For an industry that is notable for the long-term nature of its investments, these frequent changes undermine fiscal stability, and make the UK a more challenging place in which to invest. Therefore, we welcome the consultation on a successor regime and hope that it results in a move towards stabilising the long-term regime and giving investors greater certainty.

2.3. When the EPL was announced in May 2022 CIOT expressed some reservations about emergency ‘windfall taxes’ but noted that, with energy bills expected to double in just six months, the circumstances did seem exceptional in this case:

“Emergency, temporary, un-consulted on measures are bad for the tax system and should only be introduced in the most exceptional circumstances. But these are pretty exceptional circumstances, and the new tax appears quite carefully targeted.”

We added that: *“The biggest risk with a temporary windfall tax like this is that businesses generally may conclude that, when they make money in the UK, a retrospective tax will come and claw back much of those profits, so it undermines the investment proposition for the UK. This is possible but given how exceptional the situation is right now in the energy market it seems unlikely too many wider conclusions will be drawn about this setting a new precedent.”*

2.4. We stand by these comments but observe that the longer this temporary, emergency levy is in place the harder it becomes to maintain that it is an emergency measure targeting ‘extraordinary profits’ (the original rationale of the EPL). Either profits will fall or they will remain high. In neither circumstance will they be able to be regarded as ‘extraordinary’.

2.5. With this in mind we note that the government has committed to introducing something when the EPL ends to capture 'price shock' scenarios. We welcome this. Anything which avoids the need for emergency legislation in future is good news. We hope this will happen without undue delay in order to minimise uncertainty over the intervening period. We understand from practitioners in this area that there is a hope in some quarters that if a rational 'price shock' mechanism can be designed now, it could be introduced in place of EPL from an earlier date. We would welcome this. A better designed, more predictable regime would be a positive development.

The Chartered Institute of Taxation

The CIOT is the leading professional body in the United Kingdom concerned solely with taxation. The CIOT is an educational charity, promoting education and study of the administration and practice of taxation. One of our key aims is to work for a better, more efficient, tax system for all affected by it – taxpayers, their advisers and the authorities. The CIOT's work covers all aspects of taxation, including direct and indirect taxes and duties. Through our Low Incomes Tax Reform Group (LITRG), the CIOT has a particular focus on improving the tax system, including tax credits and benefits, for the unrepresented taxpayer.

The CIOT draws on our members' experience in private practice, commerce and industry, government and academia to improve tax administration and propose and explain how tax policy objectives can most effectively be achieved. We also link to, and draw on, similar leading professional tax bodies in other countries. The CIOT's comments and recommendations on tax issues are made in line with our charitable objectives: we are politically neutral in our work.

The CIOT's 20,000 members have the practising title of 'Chartered Tax Adviser' and the designatory letters 'CTA' and 'CTA(Fellow)', to represent the leading tax qualification.

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The Chartered Institute of Taxation
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