**Answer-to-Question-_1_**

In the oil and gas industry, the principal tax regimes include variations and are often combined with other taxes and levies, such as export duties and VAT.

1. **Export duties** are taxes imposed on the amounts of the oil and gas production exported from the production country. Export duties, unlike VAT, are not taxes imposed on production but are imposed for the rights to the country's oil and gas. It is common for countries to combine export duties with other taxes, such as Minerals Extraction Tax, i.e. royalties based on the amounts of crude oil and natural gas production in the example of Russia. In addition, export duties may be combined with the tax imposed on corporate profits (as is again in the example of Russia.

2. **VAT** is an indirect tax imposed on the sales performed by a company. The VAT deduction mechanism allows companies to deduct the VAT amounts of the purchases that relate with the sales performed. The VAT system provides for specific zero-rated transactions as is the export sales, which in parallel allows for the deduction of the VAT paid for the related purchases. The oil and gas company may therefore be in a credit VAT position and therefore entitled to request from the competent tax authorities a VAT refund. This situation may be tricky in certain cases whereby the local tax authorities do not satisfy promptly the refund requests. The VAT refund may also be an issue in the event that they are restricted to the related joint ventures rather than the investor companies. Another indirect tax similar to the VAT is the Gross Turnover Tax, a single stage tax imposed on the final sale to the consumer that is applied in many states in the US.

In addition, custom duties are other indirect charges that may be imposed by countries on the import of the equipment necessary for undertaking the oil and gas exploration and drilling activities, which could eventually dissuade investors as could lead to significant charges. In this respect, several countries provide for specific exemption regimes in cases whereby equipment used in oil and gas activities is subsequently exported after being used (e.g. the Brazilian Repetro regime).

**Answer-to-Question-_2_**

Undertaking an oil and gas activity requires in advance careful planning and structuring so as to render the activity tax efficient, taking also into account the peculiarities of the various local jurisdictions that may be involved in the overall structure. In this respect, one should examine the holding structure of the companies involved (i.e. whether a local company will be interposed as the holder of the oil and gas license and therefore a double holding structure will be required) and also the various cash flows in order to ensure that profits are derived in countries with lower or nil tax regimes (tax havens) or in countries that exempt the relevant income (as is the Netherlands, where the participation exemption for dividends receive may apply provided that certain requirements apply).

It is common for MNEs to set up group oil trading companies in lower tax jurisdictions. Nevertheless, in such case attention should be paid to avoid the application of any anti-tax avoidance legislation, which could lead to the taxation of profits to another jurisdiction.  Therefore, tax residency issues should be taken into account In this respect, such oil trading companies should ensure that are properly staffed with local directors, local traders, performance management staff, administration/ execution staff, back office staff etc. in order to be able to prove that they can undertake independent trading operations and that the decision making process indeed takes place in the country where the trading company is established. Transfer Pricing regulation should be taken into careful consideration when deciding upon the structure, since the transactions between related parties should be at arm's length, in the sense that their consideration should be similar to the ones that take place between unrelated/ independent parties. Lastly, one should keep in mind that once the Beps action 13 CbC Reporting requirements are now applicable, the activity and specific details of the position of the oil trading company will be disclosed.

In the oil and gas trading activities derivatives are commonly used as financial instruments. Derivatives are securities whose value is determined or derived upon the value of an underlying asset. Such underlying asset can be a bond, shares,commodities including oil and gas, interest rates etc. The most common derivatives used in the oil and gas trading business are options and forward contracts on the purchase and sale of oil and gas.

**Options**

Options are right to purchase or sell an asset at a later date. Call options are the ones that entitle their owner to buy and put options are the ones that entitle their buyer to sell. An option premium is usually paid to the option writer (i.e. the seller of the option). The main tax related issue is when the option writer should be taxed for such fee.

**Forwards**

Forward contracts are agreements to purchase or sell an asset at a specific later date. Futures are forward contracts on a predetermined form that can be traded on securities exchange markets. The main tax issue about such securities is whether the gain or loss is recognised while it is still unrealized based on changes in the market values.

**Swaps**

Swaps are agreements to exchange on flow of income for another and usually are employed to hedge interest rate or foreign currency risks. A category of swaps commonly used in the oil and gas trading is the credit default swaps, which are in essence the sale of insurance since they are payments by the protection seller in the case of loan default of a company. The main consideration here is that on the event of default, the protection seller should have sufficient liquidity and assets to meet their obligations towards the protection buyer. Credit default swaps may not be treated as payments of interest and are therefore not subject to withholding tax. Another category of swaps are the total return swaps which may be used to return the income and capital gain from an investment without the company holding the investment directly itself.

Derivatives may not be subjects to withholding tax on payments to non residents.

**Answer-to-Question-_3_**

The main characteristics of the UK petroleum fiscal regime may be summarised in the following points:
- The UK imposes corporate tax on profits from all upstream oil and gas activities at 30% (Ring Fence Corporation Tax).
- The corporate tax rate on non-upstream oil and gas activities is 17% as of 2020.
- The Supplementary Charge (SC) regime applies at a 10% rate to fields which received development consent from March 1993, in addition to corporate tax, leading to an effective tax rate of 40%. The supplementary charge is not deductible for corporate tax purposes.
- The Petroleum Revenue Tax (PRT) is an older regime that applied under the Oil Taxation Act 1975 to profits on fields which received development consent prior to March 1993 in addition to corporate tax. The PRT has been reduced to 0% from 2016 onwards.

- The carry forward of losses is allowed indefinitely, while a one-year carry back of losses is permitted.
- The UK applies ring fencing provisions between activities, which provide that onshore losses may not offset offshore profits.
- Group tax consolidation is allowed for corporate tax and supplementary charge purposes between companies with 75% common ownership.
- Interest deductions within a group may be limited to a specific arm's length amount.
- Income and capital gains on the sale of upstream assets are subject to corporation tax at 30% and the additional 10% of the supplementary charge.
- Brexit is expected to have a substantial effect especially on the indirect taxation, i.e. VAT and customs tariffs, as the UK is now considered to be a third country for VAT purposes.

**Answer-to-Question-_5_**

1. One of the main considerations before any merger and acquisition transaction is for the investor to decide whether they will proceed with an asset or a share deal, that is whether they will buy the assets of the target company or its shares. The interest deductions allowed in either case should be taken into account when determining which way to go.

One possible structure for an M&A is to purchase the assets of an oil and gas company using a local holding company, which will borrow the funds required to make the purchase. The relevant interest deriving from the amount borrowed will be deductible as it is related with income-producing assets. If we refer to amounts borrowed by a related party, thin capitalisation rules may be relevant, limiting the deduction amount allowed in accordance with a specific debt to equity ratio. Obtaining interest deductions may be more difficult in case the target company s acquired through a share acquisition, since tax consolidation should be available in the local country in order for the local acquiring company to be able to offset the profits in the target company with the relevant interest payments. Another consideration in share deals is the availability of carry-forward losses which are retained by purchasing the target company shares. Retaining the tax losses is essential since the oil and gas exploration phase can last long and result in very large balances of carry-forward losses. This may not be an issue in countries with production sharing contracts regimes, as the purchaser generally retains the costs balances allowed under the PSC.

2. The fact that as discussed above under 1. it may be more difficult to obtain deductions to purchase the shares of a target company gives rise to structures that seek to use interest deductions with debt push down, so that interest deductions may be used against profits of the acquired company if the country allows tax grouping or consolidation. When we refer to a cross border acquisition the debt push down issue may be more complex. In this case, the purchaser company will borrow in order to acquire the target and obtain a tax deduction in its own country. However, it may not be able to effectively use the interest deduction if it has no significant profits to offset. A potential solution would be to use an SPV located in the local country (i.e. that of the target company), which would acquire the target company. If the target company is acquired and tax consolidation is available in the local country, then the tax losses of the interest deductions would be transferred from the SPV to the target company, whose tax would be reduced. The debt is not itself transferred but the tax effect of the consolidation is that the debt is notionally pushed down for tax purposes.
In the debt push down structure described above timing is essential, since the related party debt would better be increased

at a later stage when the target company is profitable in order for the deductions to be utilised and offset profits. As it may be entailed from the above, the debt push down structure depends heavily on the existence of a tax consolidation regime in the local country where the SPV and the target company are located.

**Answer-to-Question-_6_**

Decommissioning refers to the removing of the oil and gas installation infrastructure once the activities in the oil and gas production field are terminated and it is going to shut down. Decommissioning may include actions such as the dismantling of the wellhead, removing the topside installations, well plugging, decking, removing pipelines and sub sea equipment etc. Nowadays with the environmental awareness raised towards the companies' activities and new environmental legislation coming in place, decommissioning requirements are increasing and therefore the expected decommissioning costs are increasing too.

The main tax issue about decommissioning relates to the deductiblity of the decommissioning costs, since such costs are incurred at the end of the oil and gas field life. From an accounting perspective, decommissioning costs are included as annual provisions in the oil and gas company's books and records, since we refer to costs that will be incurred many years later (ten to twenty years in the future in some cases). Nevertheless, from a tax viewpoint, the decommissioning provisions are not considered as tax deductible in most of the countries, since we refer to future costs that have not yet been incurred. Tax-wise, these decommissioning costs will be deductible when an actual liability arises (e.g. an invoice of a contractor that has undertaken the decommissioning) as soon as the actual decommissioning takes place.

In the UK, the decommissioning costs have been considered as a disincentive to invest in offshore oil and gas projects on the UK continental shelf, since the decommissioning provisions are not deductible and the relevant decommissioning costs are allowed for deduction only when incurred. The uncertainty around the amount of decommissioning costs has made it more expensive for investors to obtain a bank letter of credit. This is why the UK government introduced back in 2013 the Decommissioning Relief Deeds, which provide that as specified in the relevant agreement, if the amount of tax relief in respect of any decommissioning expenditure incurred is less that the amount provided in the relevant agreement, then the difference is payable to the company that incurred the expenditure. In the UK, purchasers are also required to provide security to the seller for decommissioning as the UK legislation imposes the decommissioning liability on the present and future field operators and partners. However, the deductibility issue about the deductibility of the relevant provisions remains, while investors face uncertainty as to the deduction rate for decommissioning expenses due to the constantly changing UK oil and gas fiscal regime. The amount of decommissioning relief was capped in 2012 at the prior Supplementary Charge tax rate of 20%.