

OBJECTS AND REASONS

This Bill would amend the *Offshore Petroleum (Taxation) Act, Act 2007-31*, among other things, to

- (a) allow the profits tax rate applicable to taxable income to reflect differences in the quality of crude oil; and
- (b) refine the provision made for the carrying forward of losses to the next succeeding income year.

Arrangement of Sections

Section

1. Short title.
2. Amendment of section 3 of Act 2007-31.
3. Amendment of section 5 of Act 2007-31.
4. Repeal and replacement of section 11 of Act 2007-31.
5. Amendment of section 21 of Act 2007-31.
6. Amendment of section 22 of Act 2007-31.
7. Commencement.

BARBADOS

A Bill entitled

An Act to amend the *Offshore Petroleum (Taxation) Act, 2007*.

ENACTED by the Parliament of Barbados as follows:

- 1.** This Act may be cited as the *Offshore Petroleum (Taxation) (Amendment) Act, 2012*. Short title.

Amendment
of section 3
of Act 2007-
31.

2. Section 3 of the *Offshore Petroleum (Taxation) Act, 2007*, in this Act referred to as the principal Act, is amended

(a) by deleting the definition of "licensee" and substituting the following:

" "licensee" means, unless otherwise stated, the holder of a production licence;"; and

(b) in the definition of "signature bonus", by deleting the words "a call for negotiations" and substituting the words "direct negotiations".

Amendment
of section 5
of Act 2007-
31.

3. Section 5(2) of the principal Act is amended

(a) in paragraph (b), by deleting the words "a call for negotiations" and substituting the words "direct negotiations"; and

(b) by deleting sub-paragraphs (i) and (ii) and substituting the words "the exploration licence referred to in paragraph (a) or the production licence referred to in paragraph (b), as the case may be."

Repeal and
replace-
ment of
section 11
of Act
2007-31.

4. Section 11 of the principal Act is deleted and the following is substituted:

"Allowable
losses.

11. (1) Subject to subsection (2), the allowable deductions of a licensee for an income year includes any allowable losses of the licensee for the previous income years that were not allowed as a deduction against the assessable income of the licensee.

(2) Any loss referred to in subsection (1) that is carried forward in a succeeding income year shall be deducted in the next succeeding income year to the full extent of the lesser of

(a) the amount of the loss carried forward; and

(b) the assessable income of the licensee for the next succeeding income year.

(3) Where the amount of the loss carried forward, in accordance with subsection (2), exceeds the assessable income of the licensee for the next succeeding income year, only the amount of the excess shall be carried forward further.

(4) No loss or part of a loss shall be carried forward beyond the fifth income year from the income year in which the loss was sustained."

5. Section 21 of the principal Act is amended

Amendment
of section
21 of Act
2007-31.

(a) in subsection (5),

(i) by deleting the word "The" where it first occurs and substituting the words "Subject to subsection (5A), the"; and

(ii) by deleting paragraph (a) and substituting the following:

"(a) for each day within the income year that the market value of the chargeable petroleum of a licensee, disposed of by the licensee in sales at arm's length and delivered by the licensee in the income year

(i) exceeds, in the case of

(A) oil, \$60 US per barrel; or

(B) natural gas, \$6 US/MMBtu,

the daily rate of profits tax in respect of the oil or natural gas, as the case may be, shall be 30 per cent;

(ii) does not exceed, in the case of

(A) oil, \$60 US per barrel; or

(B) natural gas, \$6 US/MMBtu,

the daily rate of profits tax in respect of the oil or natural gas, as the case may be, shall be zero; and";

(b) by inserting after subsection (5), the following:

"(5A) Where a licensee, in contravention of section 22, fails to maintain proper records and books of accounts to enable the making of the calculations necessary for the determination of profits tax in accordance with subsection (5), the profits tax rate applicable to the taxable income referred to in subsection (3), for each income year, shall, subject to subsection (5B), be calculated as follows:

(a) for each day within the income year that the maximum reference price published on the NYMEX Exchange

(i) exceeds, in the case of

(A) light sweet crude oil, \$60 US per barrel; or

(B) natural gas, \$6 US/MMBtu,

the daily rate of profits tax in respect of the oil or natural gas, as the case may be, shall be 30 per cent;

- (ii) does not exceed, in the case of
 - (A) light sweet crude oil, \$60 US per barrel; or
 - (B) natural gas, \$6 US/MMBtu,the daily rate of profits tax in respect of the oil or natural gas, as the case may be, shall be zero; and

(b) at the end of the income year, the profits tax rate shall be determined by taking a simple average of the daily profits tax rates.

(5B) For the purpose of the calculation of profits tax pursuant to subsection (5A), the quality of the petroleum actually sold by a licensee may, upon the request of the licensee, be independently evaluated and the maximum reference price referred to in that subsection adjusted, to take account of the quality.";

(c) by deleting subsection (6) and substituting the following:

"(6) Notwithstanding subsections (5) and (5A), where at the time that the licensee was granted

(a) the exploration licence under which the licensee made the discovery which led to the grant of the production licence of the licensee; or

(b) a production licence pursuant to a call for tenders or direct negotiations,

a rate different from that specified in subsection (5) or (5A) was applicable in respect of taxable income referred to in subsection (3), the licensee shall pay profits tax at the rate that was applicable at the time that the licensee was granted

- (i) the exploration licence; or
- (ii) the production licence pursuant to the call for tenders or direct negotiations."; and

(d) by inserting after subsection (6), the following:

"(7) For the purpose of subsection (5), "chargeable petroleum of a licensee" and "sales at arms's length" shall be construed in accordance with section 7(2) to (6)."

Amend-
ment of
section 22
of Act
2007-31.

6. Section 22 of the principal Act is amended by deleting all the words appearing after the word "made" and substituting a full stop.

Commence-
ment.

7. This Act comes into operation on a date to be fixed by Proclamation.

