

Q: In Part VI, section 21(4) of the Offshore Petroleum Taxation Bill 2007 it says that allowable loss for the previous income year shall not be included for the purpose of calculating APT. What exactly is this referring to? My understanding so far has been that it refers to the Loss Carry Forward of max 5 years from Part V, section 11? Is this correct? Are there any other allowable deductions used for calculating Income Tax that should not be included in calculating APT base?

A: Under section 11 of the Offshore Petroleum Taxation Act 2007, losses can be carried forward for a maximum of five (5) years to off-set against taxable income. However under section 21 (4) of the same Act when calculating additional profit taxes, allowable deductions exclude allowable losses carried forward, but include income tax, paid as a deductible. Therefore, deductibles for the purpose of calculating additional profit taxes should include Total Operating Expenses, Depreciation, Royalty, Total Annual Fees and Income Taxes.

Q: When are the Offshore Petroleum Regulations likely to become final?

A: The Offshore Petroleum Regulations (with Amendments), as posted on this website, have been approved by Cabinet. They are currently awaiting publication in the Official Gazette.

Q: Explain the State Carry on each block. Is it biddable, or set in stone?

A: This is not biddable. The maximum state carry will be set by Government for each block before bids are submitted.

Q: Will the exploration license details be an addendum to the Regulations?

A: Yes.

Q: After a license is awarded, will there be an opportunity to negotiate and clarify details that are not covered under the bidding regulations?

A: Yes, however, biddable terms will be non-negotiable.

Q: Given the possibility of the State becoming a partner in the joint operations, will there be a model Joint Operating Agreement issued prior to close? Or, if there is an existing JOA among the licensees, will the State be novated into that agreement?

A: Currently, there is no completed model for a Joint Operating Agreement, but it is anticipated that a model agreement which involves the state and IOCs, with respect to state participation, will soon be addressed.

Q: Likewise, will there be a model Exploration Licence and/or Production Licence issued prior to the close?

A: A model Exploration Licence and a model Production Licence have been supplied as part of the Schedules in the Regulations.

Q: What is the procedure by which the licensee for an Exploration Licence has the right to apply for and be granted a Production Licence? Under what terms and conditions? Does the licensee to a discovery have the unequivocal and exclusive right to be granted a Production Licence without the risk of the imposition of additional burdens and/or

conditions?

A: Under Section 24(1)(a) of the Act, if a person declares a discovery to be commercial under an Exploration Licence, they have the right to apply for a Production Licence. The application must be made immediately or the discovery surrendered / relinquished. No other person has the right to apply for a Production Licence for the discovery unless the discovery is surrendered / relinquished back to the Crown, in which case the Crown may licence the discovery in accordance with a Call for Tenders or a Call for Negotiations. The terms of the Production Licence can be viewed in the model for the Production Licence contained in the Fourth Schedule to the Regulations (annexed).

Q: What is the discretion of the Designated Authority with respect to the formulation and content of Development Plans and Decommissioning Plans? In the event of a dispute, will the licensee have recourse to arbitration?

A: The Designated Authority has discretion to require such information and impose such conditions as it considers appropriate in the circumstances in relation to the issue of a licence, the grant of any approval and the authorisation of any matter. In addition, under Section 55 of the Act, provision is made for resolving disputes by mediation, or, failing that, by arbitration.

Q: Could you provide clarity regarding the criteria for the award of blocks? Is the same weight to be given to the first (obligatory) phase of exploration, as well as to the second and third optional phases?

A: The work programme proposed by the bidder is considered to be the minimum commitment at each phase of the license. As it is the ministry's intention to ensure that exploration drilling is undertaken in prospective acreage following a suitable surface exploration programme, it is considered important that there is a clear commitment to long-term investment should the licensee elect to enter into any subsequent exploration phase. However, it should be noted that there is no legal obligation to pursue a second and third exploration phase. Regulation 11 (2) covers the issues of relinquishment referred.

Q: How will the estimated monetary value of a given work program (seismic, wells etc.) be used relative to the technical merits of the work programme itself? If, for example, two companies bid the same amount of seismic data-but one company estimates it will cost more-how will this be evaluated, given that by the time the seismic is acquired the actual cost could vary significantly from the estimate?

A: The monetary value of a given work programme will be used to designate the highest bidder and will be considered the minimum commitment. However, the company placing the bid with the highest points will subsequently be requested to present its exploration programme to the ministry for approval. This approval will include not only an acceptance of the suitability of the programme proposed, but also an acceptance of the estimation of the cost of the programme.

Q: What are the implications of the domestic supply requirement, especially with respect to natural gas, for which contracts are structured on a long-term basis?

A: Domestic supply requirements are sold at the well head and do not require the landing of the hydrocarbon in Barbados. It is anticipated that the enforcement of any such requirement will not have a material impact on any long-term sales contracts.

Q: Is there flexibility around the 90-day timeframe for submission of EIA in advance of the issuance of the exploration licence to an awardee?

A: The Designated Authority is willing to consider this on a case by case basis, provided the IOC is able to justify the need for said extension.

Q: What is the Government's refined position on state participation and carried interest in the offshore?

A: The Government of Barbados has opted for a carried interest position which allows them to be carried through exploration and development. Under this scenario, the state enterprise has no capital outlay obligation until production begins. Additionally the costs associated with dry holes are not to be included in the reimbursements and repayment of costs, related to carried interests, must be taken from no more than 25% of revenues in any one year.

Q: With respect to the application pre-qualification criteria set forth in subparagraph (e), kindly indicate what the Ministry is seeking with respect to plans or commitments for a Company's petroleum operations for the next 5 years.

A: The intention of the State is to encourage investment in the Offshore, however there must be some level of protection from companies which may apply for E&P rights but are not in a financial or a technical position to meet their obligations. Therefore, the wording of (e) is intended to provide a background for analysis of the medium to long term commitments of the applicants.