

DIVISION 7
Special Provisions for the Joint Development Area

Section 65 quattuordecim. The provisions of this Division shall apply to the companies that have entered into production sharing contracts with the Joint Authority.

The definitions of “petroleum”, “petroleum operation”, “income”, “disposal”, “royalty” and “company” in Section 65 quindecim shall replace the definitions of those words in Section 4, and the provisions in Section 65 sedecim, Section 65 septendecim, Section 65 duodeviginti, Section 65 undeviginti, Section 65 viginti and Section 65 unviginti shall replace those provisions in Section 20, Section 21, Section 22, Section 24, Section 25 and Section 26 respectively for the companies under paragraph 1.

The definitions of “tax reference price” in Section 4 and the provisions in Section 18 shall not apply to the companies under paragraph 1.

The provisions in other Divisions of this Act shall apply to the companies under paragraph 1 insofar as they are not contrary to or inconsistent with the provisions in this Division. Wherever it refers to “petroleum”, “petroleum operation”, “income”, “disposal”, “royalty” and “company”, it shall mean “petroleum”, “petroleum operation”, “income”, “disposal”, “royalty” and “company”, respectively, under this Division. Wherever it refers to Section 20 Section 21, Section 22, Section 24, Section 25 and Section 26, it shall mean Section 65 sedecim, Section 65 septendecim, Section 65 duodeviginti, Section 65 undeviginti, Section 65 viginti and Section 65 unviginti, respectively, under this Division.

Section 65 quindecim. In this Division:

“the Joint Authority” means the Thai-Malaysia Joint Authority under the Thai-Malaysia Joint Authority Act B.E. 2533;

“the Joint Development Area” means the Joint Development Area under the Thai-Malaysia Joint Authority Act B.E. 2533.

“petroleum” means crude oil or other hydrocarbons and natural gas in a natural state and natural gas liquid at well head, and it shall also include bitumens rocks and other embedded resources which can be extracted for oil.

“petroleum operation” means the petroleum operation under the production sharing contract, and it shall include the transfer of all or any of the properties or rights for such operation, notwithstanding whether such transfer is made in the usual course of business, and also include any activity incidental to such operation or transfer;

“income” means money, properties or other benefits acquired that can be calculated as money, and it shall also include the tax and duty paid for by other persons;

“disposal” means the delivery of crude oil in the part of the company to a refinery or a storage place for the purpose of refining the company’s crude oil, the delivery of natural gas to a gas separation plant, gas liquefied plant, gas compression plant or a storage place for such activities of the company, appropriation of petroleum in the part of the company for use in any activity of the company other than for sale, or transfer of such petroleum without consideration;

“royalty” means the royalty that the company must pay to the Joint Authority under the Thai-Malaysia Joint Authority Act B.E. 2533.

“company” means the person who has been awarded the production sharing contract or having joint interest in the production sharing contract made with the Joint Authority whether it is a juristic person or not;

“production sharing contract” means the production sharing contract issued under the Thai-Malaysia Joint Authority Act B.E. 2533;

Section 65 sedecim. The company shall pay income tax for each accounting period at the following rate of the net profit derived from the petroleum operation:

During the first accounting period to the eighth accounting period, at the rate of 0 percent; During the ninth accounting period to the fifteenth accounting period, at the rate of 10 percent; From the sixteenth accounting period onwards, at the rate of 20 percent.

Section 65 septendecim. In calculating net profit, the following items shall be included as revenue:

In the case the transfer is made during the first accounting period to the eighth accounting period, at the rate of 0 percent.

In the case the transfer is made during the ninth accounting period to the fifteenth accounting period, at the rate of 10 percent.

In the case the transfer is made from the sixteenth accounting period onwards, at the rate of 20 percent.

Section 65 duodeviginti In calculating net profit, the following items shall be included as revenue: (1) gross income from the sale of petroleum;

(2) value of petroleum disposed of;

(3) gross income arising from a transfer of any property or right related to petroleum operation, if the total amount of such gross income is definitely determinable;

(4) Any other income arising from conducting petroleum operation.

Section 65 undeviginti. Subject to Section 65 viginti and Section 65 unviginti, ordinary and necessary expenditures shall be limited specifically to the expenditures that the company can prove to be ordinary and necessary, in a reasonable amount, and only expended for its, petroleum operation, whether incurred within or outside

the Kingdom; and within these limits, ordinary and necessary expenditures shall include:

- (1) rent or other considerations for hire of property;
- (2) labour cost, service charges, cost of materials consumed, and other similar expenditures paid or incurred for the exploratory or production drilling;
- (3) entertainment expenses;
- (4) bad debts written off;
- (5) contribution to a provident or pension fund;
- (6) allowance for capital expenditure;
- (7) head office expenditure reasonably allocable to the petroleum operation of the company;
- (8) cost of property or rights after deduction of capital expenditure allowance, for revenue under Section 65 duodeviginti (3).

Section 65 viginti Items not to be treated as ordinary and necessary expenditures shall include: (1) capital expenditure or expenditure laid out for making an addition to, or an alteration, extension, or improvement of properties;

Capital expenditure under paragraph 1 means the expenditure laid out for acquiring properties or benefits, whether directly or indirectly, if such properties or benefits effect the operation for more than one accounting period, and it shall also include all losses and ordinary and necessary expenditures incurred or paid prior to the first accounting period under Section 65 unviginti (1), paragraph 2;

- (2) an expenditure of personal nature, a gift or a donation;
- (3) losses recoverable through insurance or any contract of indemnity;
- (4) an expenditure made in consideration for the company's capital or property;
- (5) any reserve or contribution to any fund, except as provided in Section 65 undeviginti (5);
- (6) income tax, penalty and surcharge which the company is liable to under this Act, or abroad;
- (7) an expenditure paid or incurred for such operation or for acquiring income not subject to tax under this Act;
- (8) any expenditure that the company cannot prove the identity of the recipient;
- (9) interest;
- (10) fines for criminal offences,
- (11) royalty for petroleum, whether in cash or in kind.

Section 65 unviginti. The computation of revenue, expenses, and net profit under this Division shall be as follows:

- (1) The computation shall be for each accounting period.

The first accounting period shall begin on the day the company makes its first economic petroleum production under the production sharing contract; provided, however, that the company, with the approval of the Director-General, chooses to use as the beginning date of the first accounting period any day of the same month before the date of its first sale or disposal of such petroleum, it shall begin on the date so chosen. Each subsequent accounting period shall begin on the closing date of the preceding accounting period.

An accounting period shall be twelve months long, but may be shorter in the following cases:

(a) if the company chooses any day as the closing date of the first accounting period;

(b) if the company ceases its petroleum operation, the date of dissolution shall be the closing date of the accounting period;

(c) if the company changes the closing date of an accounting period, with the approval of the Director-General.

In the case the company transfers any rights under the producing sharing contract prior to the beginning date of the first accounting period under paragraph 2, this date of transfer shall be treated as the beginning and closing date of the accounting period for computing net profit arising from the transfer of such rights. No accounting period shall be deemed to exist between such closing date and the beginning date of the first accounting period under paragraph 2.

(2) Subject to the provisions of this Division, the accounting methods, rules and practices for the computation of revenue, expenses, and net profit of the company shall be in accordance with sound and usual accounting methods, rules and practices of the petroleum industry.

(3) The proceeds from the sale of petroleum under Section 65 duodeviginti (1) and the value of petroleum disposed of under Section 65 duodeviginti (2) shall be computed from the market price in accordance with the rules prescribed by the Director-General

(4) If a company with a joint interest in the production sharing contract incurs expenses in petroleum exploration or in developing a petroleum reservoir to acquire such interest, but such expenses are not paid to the other companies having joint interest in the production sharing contract, such expense shall not be treated as income of such other companies.

(5) Capital expenditure allowances shall be deductible only for such categories, at such rates, and under such conditions, as prescribed by the Royal Decree.

(6) Labor cost, service charges, cost of materials consumed, and other similar expenses paid or incurred in exploratory or production drilling may, at the company's option, be treated as capital expenditure for the accounting period in which such expenses are paid or incurred.

(7) The deduction of entertainment expenses shall be in accordance with the conditions prescribed by the Ministerial Regulations.

(8) The value of properties other than inventories of merchandise shall be carried at cost. If the cost price is in a foreign currency, it shall be converted into the Thai currency in accordance with the methods described in (10). Such value may be decreased by means of capital expenditure allowances under (5), but may not be decreased by revaluation. It may be increased by revaluation only as provided by the Revenue Code.

(9) The value of inventories of merchandise at the end of an accounting period shall be carried at cost, or at cost or market price, whichever is lower. The value so determined shall be the value of such inventories to be carried forward to the new accounting period.

Any accounting method once adopted in computing the cost under paragraph 1 shall be consistently applied. Deviation from it may be made only with the approval of the Director-General.

(10) The currencies, debts, or claims bearing values in a foreign currency received or paid during an accounting period shall be valued in the Thai currency at the rate that foreign currency is bought or sold.

In the absence of a purchase or sale of a foreign currency, such currencies, debts or claims shall be valued at the monthly average rate of exchange prevailing in the month prior to the month of receipt or payment, using the average of daily rate of exchange at which commercial banks buy or sell foreign currencies, as computed by the Bank of Thailand.

(11) The currency, debts or claims bearing value in a foreign currency remaining on the closing date of the accounting period shall be valued in the Thai currency, using the latest average buying or selling rate, as the case may be, of commercial banks during such accounting period, as computed by the Bank of Thailand.

(12) Bad debts can be written off only after reasonable action for recovery thereof has been taken. Any bad debt written off and subsequently recovered shall be included as revenue for the accounting period in which it is recovered.

(13) Contributions to a provident fund or pension fund may be deducted as expense only to an extent not exceeding 10 percent of the salaries or wages received by the employees during the accounting period, subject also to the following conditions:

(a) the fund is established exclusively for the benefits of the employees; (b) the fund is set aside beyond the possession of the company;

(c) the fund cannot be used for any purpose other than for the benefits of the fund; (d) contributions to the fund are irrecoverable by the company; and

(e) contributions to the fund are made in accordance with the written regulations governing the fund.

(14) In the case where the company has also been awarded a concession for exploration blocks which are subject to the provisions of the Petroleum Income Tax Act B.E. 2514 prior to its amendment by the Petroleum Income Tax Act (No.5), B.E. 2541, such company shall compute the revenue, expenses, and net profit for the

exploration blocks subject to such Act and the exploration blocks subject to the Petroleum Income Tax Act B.E. 2514 as amended by the Petroleum Income Tax Act (No.5), B.E. 2541 as if it were a separate company.

In computing the revenue and expense for the exploration blocks under paragraph 1, the items of revenue and expense which cannot be clearly apportioned shall be averaged in accordance with the conditions, rules and procedures as stipulated in the Ministerial Regulation.”

Countersigned Chuan Leekpai Prime Minister