

The Petroleum Tax Code, 1997

A Code which compiles the specific provisions of the laws relating to income tax, customs duty, central excise, cess, royalties and licence/lease fees as applicable to activities connected with the prospecting for or extraction or production of petroleum and natural gas in the upstream sector under Production Sharing Contracts entered into on or after 1 st April 1998 in terms of the New Exploration Licensing Policy (NELP) country

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THE PETROLEUM TAX CODE, 1997

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Title and Application

1. (1) This Code may be called the Petroleum Tax Code, 1997.

(2) The code compiles the specific provisions of the laws relating to income tax, customs duty, central excise, cess, royalties and licence/lease fees, in relation to all or any of the under mentioned activities in the whole of India including the continental shelf of India and the exclusive economic zone of India

- (a) The prospecting for or extraction or production of petroleum and natural gas in relation to which the Government of India has entered into a Production Sharing Contract on or after 1 st November 1997 with any person for the association or participation of the Government of India or any person authorised by it;
- (b) The provision of any services or facilities or supply of any ship, aircraft, machinery or plant (whether by way of sale or hire) to any person in connection with the prospecting for or extraction or production of Petroleum and Natural Gas referred to in (a);
- (c) The rendering of services as an employee of any person engaged in any of the activities referred to in (a) or (b).

Compilation

2. (1) The fiscal provisions compiled herein are those in force under the enactments and rules mentioned below and or the notifications issued thereunder in relation to activities connected with the prospecting for or extraction or production of Petroleum and Natural Gas in the upstream sector under Production Sharing Contracts entered into on or after 1 st November 1997

(a) The Territorial Waters, Continental Shelf, Exclusively Economic Zone and other Maritime Zone Act (Act No.80 of 1976).

(b) The Income-tax Act (Act No.43 of 1961)

(c) The Income-tax Rules, 1962

(d) The Central Excise Act, 1944 (Act No.1 of 1944)

(e) The Central Excise Tariff Act, 1985 (Act No.5 of 1986)

(f) The Oil Industry (Development) Act, 1974 (Act No.47 of 1974)

(g) The Customs Act, 1962 (Act No.52 of 1962)

(h) The Oil fields (Regulation & Development) Act, 1948 (Act No.53 of 1948)

(i) The Petroleum and Natural Gas Rules, 1959

(j) Customs Tariff Act, 1975 (51 of 1975)

(2) In the event of any inconsistency as between this code and any enactment and or any rule prescribed or notification issued thereunder, the relevant act or rule or notification, as the case may be, shall apply.

Definitions

3. (1) (a) "Commercial Production" means production of Petroleum or Natural Gas or both (excluding any production for testing purposes) from a field and delivery of the same at the relevant delivery point under a programme of regular production and sale. The date of commencement of commercial production will be the date when commercial production commences from a field and the date of commencement of commercial production shall be intimated by the contractor to the Government of India in writing.

(b) "Continental Shelf" of India comprises the sea bed and the sub soil of the submarine areas that extend beyond the limits of its territorial waters throughout the natural prolongation of its land territory to the outer edge of the continental margin or to a distance of two hundred nautical miles from the base line, referred to in section 3(2) of the Territorial Waters, Continental Shelf, Exclusive Economic Zone and other Maritime Zones Act, 1976, where the outer edge of the continental margin does not extend up to that distance.

(c) "Contract Area" in relation to any PSC Participant means the area described and delineated in the Production Sharing Contract entered into by that person with the Government of India or any portion of said area remaining after relinquishment or surrender from time to time pursuant to the terms of the said contract.

(d) "Development Operations" means operations conducted in accordance with the development plan pursuant to a Production Sharing Contract and shall include the purchase, shipment or storage of equipment and materials used in developing Petroleum and/or Natural Gas accumulations, the drilling, completion and testing of development wells, the drilling and completion of wells for gas or water injection, the laying of gathering lines, the installation of offshore platforms and installations, the installation of separators, tankage, pumps, artificial lift and other producing and injection facilities required to produce, process and transport Petroleum and/or Natural Gas into main oil storage or gas processing facilities, either onshore or offshore, including the laying of pipelines within or outside the Contract Area, storage and delivery point or points, the installation of said storage or gas processing facilities, the installation of export and loading facilities and other facilities required for the development and production of the said Petroleum and/or Natural Gas accumulations and for the delivery of Petroleum and/or Natural Gas at the delivery point and also including incidental operations not specifically referred to herein but required for the most efficient and economic development and production of the said Petroleum and/or Natural Gas accumulations in accordance with good international petroleum industry practices.

(e) "Exclusive Economic Zone" of India is an area beyond and adjacent to the territorial waters of India, and the limit of such zone is two hundred nautical miles from the baseline referred to in section 3(2) of the Territorial Waters, Continental Shelf, Exclusive Economic Zone and other Maritime Zones Act, 1976.

(f) "Exploration Operations" means operations conducted in the Contract Area pursuant to a Production Sharing Contract in searching for Petroleum and/or Natural Gas and in the course of an appraisal programme and shall include but not be limited to aerial, geological, geophysical, geochemical, palaeontological, palynological, topographical and seismic surveys, analysis, studies and their interpretation, investigations relating to the sub-surface geology including structure test drilling, stratigraphic test drilling, drilling of exploration wells and appraisal wells and other related activities such as surveying, drill site preparation and all work necessarily connected therewith that is conducted in connection with Petroleum and/or Natural Gas exploration.

(g) "Natural Gas" means wet gas, dry gas, all other gaseous hydrocarbons, and all substances contained therein, including sulphur, carbon dioxide, nitrogen and helium, which are produced from oil or gas wells, excluding liquid hydrocarbons that are condensed or extracted from gas and are liquid at normal temperature and pressure conditions, but including the residue gas remaining after the condensation or

extraction of liquid hydrocarbons from gas.

(h) "Participating Interest" means, in respect of each PSC Participant, the undivided share, expressed as a percentage, of such participant's participation, as it may exist at any given time, in the rights and obligations under a Production Sharing Contract.

(i) "Petroleum" means crude oil existing in its natural condition i.e., all kinds of hydrocarbons and bitumens, both in solid and in liquid form, in their natural state or obtained from Natural Gas by condensation or extraction, including distillate and condensate (when commingled with the heavier hydrocarbons and delivered as a blend at the delivery point) but excluding Natural Gas

(j) "Petroleum Operations" means, as the context may require, Exploration Operations, Development Operations or Production Operations or any combination of two or more of such operations, including construction, operation and maintenance of all necessary facilities, plugging and abandonment of wells, environmental protection, transportation, storage, sale or disposition of Petroleum or Natural Gas to the delivery point, site restoration and all other incidental operations or activities as may be necessary

(k) "Production Operations" means all operations conducted for the purpose of producing Petroleum and/or Natural Gas from the development area after the commencement of production from the development area including the operation and maintenance of all necessary facilities therefor.

(l) "Production Sharing Contract" means an agreement entered into on or after ... by the Government of India with any person for the association or participation of the Government of India or any person authorised by it in any business consisting of the prospecting for or extraction or production of petroleum and natural gas .

(m) "PSC Participant" means a person with whom the Government of India has entered into a Production Sharing Contract on or after 1 st April 1998 and where more than one person is a party to such Production Sharing Contract, the term "PSC Participants" shall mean all such persons collectively, including their respective successors and permitted assigns.

(2) Any word or expression not defined herein shall have the meaning assigned to it in the context to which it relates in the applicable enactment, rule or notification or the Production Sharing Contract, as the case may be.

General

4. PSC participants, their employees, persons providing any materials, supplies, services or facilities or supplying any ship, aircraft, machinery, equipment or plant (whether by way of sale or hire) to the PSC participants for Petroleum Operations or for any other purpose and the employees of such persons shall be subject to all fiscal legislation in India except where, pursuant to any authority granted under any applicable law, they are exempted wholly or partly from the application of the provisions of a particular law or as otherwise provided in the Production Sharing Contract.

Income-tax in relation to PSC Participants

5. (1) PSC Participants shall not be assessed on their income as association of persons or body of individuals; but each PSC Participant shall be assessed in respect of his or its share of income, as the case may be, in the same status in which that participant has entered into the Production Sharing Contract with the Government of India

"Status" means the category under which a person is assessed to income tax under the Income-tax Act, 1961, e.g., individual, company, firm, etc.

(2) The profits and gains of business of a PSC Participant from Petroleum Operations shall, for the purpose of levy of income tax under the Income-tax Act, 1961, be computed on the basis of the value, determined in accordance with the Production Sharing Contract, of its Participating Interest share of Petroleum produced and saved and sold, or otherwise disposed of, from the Contract Area and from any revenue realised on the sale of associated or non associated Natural Gas referred to in the Production Sharing Contract as well as

any other gains or receipts from Petroleum Operations, as reduced by the deductions as specified herein, and, except as herein provided, all the provisions of the Income-tax Act, 1961, shall apply

(3) Subject to the provisions here in below, in computing the profits and gains from the business of Petroleum Operations of a PSC Participant for the purpose of income tax, there shall be allowed full deduction of the following expenditures in lieu of (and not in addition to) corresponding allowances provided for under the heading "Profits and Gains of Business or Profession" in the Income-tax Act, 1961 -

- a) all expenditure incurred in respect of Exploration Operations
- b) all expenditure incurred in respect of drilling operations
- c) all expenditure incurred in respect of Development Operations (other than drilling operations and physical assets)

Expenditure incurred in respect of Production Operations will be allowed as per the provisions of the Income-tax Act, 1961 *and* depreciation with regard to expenditure incurred on depreciable assets in connection with Development Operations (other than drilling operations) will be allowed as per (9) of this clause.

However, the allowance of all expenditure mentioned herein is subject to the following :

(i) where any expenditure is not solely incurred on Petroleum Operations or is incurred as part of or in conjunction with any other business, only that portion of the total expenditure which is proved to the satisfaction of the Assessing Officer to be attributable to the Petroleum Operations, having regard to all the relevant facts and circumstances, shall be allowed to be deducted

(ii) Sections 40A and 44C of the Income-tax Act, 1961, shall apply i.e.

a) Where any expenditure is incurred in respect of which payment has been made or is to be made to any person referred to in clause (b) of section 40A(2) of the Income-tax Act, 1961 and the Assessing Officer is of opinion that such expenditure is excessive or unreasonable having regard to the fair market value of the goods, services or facilities for which the payment is made or the legitimate needs of the business of the PSC Participant or the benefit derived by or accruing to him therefrom, so much of the expenditure as is so considered by him to be excessive or unreasonable shall not be allowed as a deduction.

b) Where any expenditure is incurred in respect of which payment is made in a sum exceeding twenty thousand Indian rupees, otherwise than by a cross cheque drawn on a bank or by a crossed bank draft, 20 % of such expenditure shall not be allowed as a deduction, except in such cases and under such circumstances as may be prescribed in the Income-tax Rules, 1962.

c) No deduction shall be allowed in respect of any provision made for the payment of gratuity to employees on their retirement or on termination of their employment for any reason, except where the provision is made for the purpose of payment of a sum by way of any contribution towards an approved gratuity fund, in which case the deduction shall be allowed on the basis of actual payment to the fund in accordance with the provisions of section 43B of the Income-tax Act, 1961, or the provision is made for the purpose of payment of any gratuity that has become payable during the year.

d) No deduction shall be allowed in respect of any sum paid by a PSC Participant as an employer towards the setting up or formation of, or as contribution to, any fund, trust, company, association of persons, body of individuals, society or other institution for any purpose except where such sum is paid by way of contribution towards a recognized provident fund, or an approved superannuation fund or an approved gratuity fund referred to in clause (iv) and clause (v) of section 36(1) of the Income-tax Act, 1961 to the extent mentioned therein.

e) In the case of a PSC Participant, being a non-resident, the deduction of head office expenditure shall be limited to -

- i. 5 % of the adjusted total income, or
- ii. so much of the expenditure in the nature of head office expenditure incurred by him as is attributable to the business carried on in India.

whichever is lower.

"adjusted total income" means total income computed in accordance with the Income-tax Act, 1961, as modified herein, but before any deduction for carried forward unabsorbed depreciation, carried forward family planning expenses under section 36(1)(ix), any losses carried forward under section 72(1), or section 73(2) or section 74(1) or section 74(3) or section 74A(3) or deduction under section 80IA of the Income-tax Act, 1961.

"head office expenditure" means executive and general administration expenditure incurred by the PSC Participant outside India, including expenditure incurred in respect of -

- a) Rent, rates, taxes, repairs or insurance of any premises outside India used for the purposes of the business;
- b) Salary, wages, annuity, pension, fees, bonus, commission, gratuity, perquisites or profits in lieu of or in addition to salary, whether paid or allowed to any employee or other person employed in, or managing the affairs of, any office outside India;
- c) Travelling by any employee or other person employed in, or managing the affairs of, any office outside India; and
- d) Such other matters connected with executive and general administration as the government of India may prescribe for the purpose of section 44C of the Income-tax Act, 1961

(3) All allowable expenditure incurred by a PSC Participant prior to the year in which Commercial Production commences shall be aggregated and the aggregate amount of such expenditure shall be deemed to have been incurred in the year in which Commercial Production commences and be deductible in full in that year.

Provided however, that a PSC participant may, at his option, amortise such expenditure over a period of 10 years.

Provided however further that, a PSC Participant may, at his option, set off any loss on account of the allowable expenses in the year such expenses are incurred against profits from any other source in accordance with and subject to the provisions of sections 70 and 71 of the Income-tax Act, 1961.

(5) A PSC Participant shall be entitled, for income tax purposes only, to deduct all his unsuccessful Exploration Costs in Contract Areas covered by other contracts from the aggregated value of Petroleum and/ or Natural Gas allocable to the PSC Participant from any field(s) in the Contract Area in the following manner -

(a) Unsuccessful Exploration Costs incurred in contract areas other than the Contract Area where a commercial discovery has been made up to the date of commencement of Commercial Production shall be aggregated and the PSC Participant shall be entitled to deduct the full aggregate cost in the year of commencement of Commercial Production.

(b) Unsuccessful Exploration Costs incurred in contract areas other than the Contract Area where a commercial discovery has been made, after the commencement of Commercial Production, shall be deductible in full in the year in which such costs are incurred.

Provided however, a PSC Participant may, at his option set off any costs mentioned in (a) or (b) above in the year in which such costs are incurred against profits from any other source in accordance with and subject to the provisions of sections 70 and 71 of the Income-tax Act, 1961.

(6) A PSC Participant shall be entitled to deduct, while computing his profits and gains of business from Petroleum Operations, for the purpose of income tax, any amount actually paid by him in accordance with an agreement reached with the Managing Committee referred to in the Production Sharing Contract to the

Site Restoration Fund maintained by the Ministry of Petroleum and Natural Gas, Government of India, in the year in which such amount is actually paid.

(7) A *PSC Participant* will be entitled to deduct for the purpose of income tax, any expenditure (net of any recovery from the Site Restoration Fund referred to in (6) above) incurred by him on the expiry or termination of the Production Sharing Contract or on relinquishment of part of the Contract Area towards removal of all equipments and installations from the relinquished area or former Contract Area in a manner agreed with the Government of India pursuant to an abandonment plan or towards all necessary Site Restoration in accordance with good international petroleum industry practice and towards taking all other action necessary to prevent hazards to life or property or environment, from the profits and gains of business of Petroleum Operations in the year in which such expenditure is incurred and if the PSC Participant ceases to carry on business of Petroleum Operations in India in that year or has ceased to carry on business of Petroleum Operations in India in any earlier year, then such expenditure can, at his option, be carried back and claimed equally in the last three years (or lesser number of years) during which the PSC Participant had carried on the business of Petroleum Operations in India, as if such expenses were incurred in those years. For this purpose, notwithstanding any limitations contained in the Income-tax Act, 1961, the PSC Participant would be entitled to file revised returns of income making such claim and the Assessing Officer shall, if the assessment has not been completed in respect of any year in question, take into account such claim while making the assessment or if the assessment pertaining to any year in question has already been completed, then notwithstanding any limitations contained in the Income-tax Act, 1961, the Assessing Officer shall pass a revised assessment order for the year in question, taking into account such claim. The provisions of the Income-tax Act, 1961, in relation to rectifications, revisions and appeals shall apply with respect to such revised assessment orders as if such orders were passed under section 143(3) of the Income-tax Act 1961.

(8) If a PSC Participant transfers or assigns a part or all of his Participating Interest in a Production Sharing Contract in accordance with the terms thereof, any amount paid by the transferee/ assignee to the transferor/assignor to the extent of expenditure and allowances in respect of Exploration Operations, Development Operations and/or Production Operations relating to the portion of the Participating Interest so transferred and remaining to be actually allowed for tax purposes in the hands of the transferor/ assignor, shall be allowed in computing the Profits and Gains from business of Petroleum Operations in the hands of the transferee/ assignee to the same extent and in the same manner as it would have been allowed in the hands of the transferor/ assignor had the assignment or transfer not taken place, provided the transferor/ assignor furnishes a declaration to the effect that such expenditure or allowance will not be claimed by him, whether as such or as a part of any loss, and the declaration is filed with the Assessing Officer having jurisdiction over the assessment of the transferee/ assignee and a copy of such declaration is filed with the Assessing Officer having jurisdiction over the assessment of the transferor/ assignor.

(9) Any capital expenditure, other than those qualifying for 100 % allowance as per (3) and (5) above, in the nature of buildings, machinery, plant or furniture owned by the PSC Participant and used for the Petroleum Operations, shall be eligible for depreciation allowance on the written down value of the block of assets in accordance with section 32 of the Income-tax Act, 1961, at the rates prescribed in Appendix I of the Income-tax Rules, 1962.

Provided however, a PSC Participant shall, if he so chooses, be entitled to allowance of depreciation at the rate of 100 % on depreciable assets built or acquired in connection with Development Operations (other than drilling operations) in lieu of depreciation at the rates prescribed in Appendix I of the Income-tax Rules, 1962, subject to other conditions mentioned in section 32 of the Income-tax Act, 1961..

(10) Set off, or carry forward and set off of losses, if any, shall be in accordance with the provisions of the Income-tax Act, 1961.

(11) Under section 80-IA of the Income-tax Act, 1961, PSC Participants who begin Commercial Production of Petroleum and Natural Gas in the State of Arunachal Pradesh, Assam, Manipur, Meghalaya, Mizoram, Nagaland and Tripura shall be entitled to claim deduction of 100% of their profits and gains derived from Commercial Production of Petroleum and / or Natural Gas in the said States for initial seven years commencing from the first year of Commercial Production.

(12) Under section 80-IA of the Income-tax Act, 1961, PSC Participants who begin Commercial Production of Petroleum and Natural Gas in States other than those specified in (11) above, shall be entitled to claim a

deduction of 100% of their profits and gains derived from Commercial Production of Petroleum and Natural Gas from any field in those States for initial five years commencing from the first year of Commercial Production in such field.

(13) (a) Where the total income of a PSC Participant consists only of Profits and Gains derived from a Production Sharing Contract, the tax payable by him on his total income shall be the amount of income-tax calculated on such total income at the rate of thirty five per cent of such income **in case of Indian companies and forty eight per cent of such income in case of foreign companies ;**

(b) Where the total income of a PSC Participant includes such Profits and Gains, the tax payable by him on his total income shall be -

i. The aggregate of income-tax payable by him in accordance with the provisions of clause (a) on the profits and gains referred to in that clause included in the total income; plus

ii. The amount of income-tax with which he would have been chargeable had his total income been reduced by the amount of income referred to in clause (a)

(14) The provisions of section 115JA of the Income-tax Act, 1961 shall not apply to a PSC Participant in respect of profits and gains derived from a Production Sharing Contract.

(15) In terms of section 10(15) of the Income-tax Act, 1961, the following interest shall be exempt from income-tax in the hands of the payee.

Interest payable by a PSC Participant -

(a) On moneys borrowed under a loan agreement with such financial institution in a foreign country as may be approved in this behalf by the Central Government by a general or special order

(b) on moneys borrowed or debt incurred by it in a foreign country in respect of the purchase outside India of raw materials or components or capital plant and machinery, to the extent to which such interest does not exceed the amount of interest calculated at the rate approved by the Central Government in this behalf, having regard to the terms of the loan or debt and its repayment.

Explanation - For the purpose of this item, "purchase of capital plant and machinery" includes the purchase of such capital plant and machinery under a hire-purchase agreement or a lease agreement with an option to purchase such plant and machinery.

(c) On moneys borrowed by it in foreign currency from sources outside India under a loan agreement approved by the Central Government having regard to the need for industrial development in India, to the extent to which such interest does not exceed the amount of interest calculated at the rate approved by the Central Government in this behalf, having regard to the terms of the loan and its repayment.

Income-tax in relation to service providers and suppliers

6. (1) In the case of a person being a non-resident, engaged in the business of providing services or facilities in connection with, or supplying plant and machinery on hire used, or to be used, in the prospecting for or extraction or production of Petroleum and/or Natural Gas, a sum equal to 10% of the aggregate amount specified in (a) and (b) below shall be deemed to be the profits and gains of such business, which shall be taxed at the normal tax rate applicable to the business income of such non-resident

a) The amount paid or payable (whether in or out of India) to the person or to any other person on his behalf on account of the provision of services and facilities in connection with, or supply of plant and machinery on hire used, or to be used, in the prospecting for, or extraction or production of Petroleum and/or Natural Gas in India; and b) the amount received or deemed to be received in India by or on behalf of the person on account of the provision of services and facilities in connection with, or supply of plant and machinery on hire used, or to be used, in the prospecting for, or extraction or production of Petroleum and/or Natural Gas outside India "Plant" includes ships, aircraft, vehicles, drilling units, specific apparatus and equipment, used for the purpose of the said business

(2) The income-tax liability, if any, of a non-resident from transactions involving sale of plant and machinery in connection with the prospecting for or extraction or production of Petroleum and Natural Gas, shall be in accordance with the provisions of the Income-tax Act, 1961 or the applicable double taxation avoidance agreement entered into by India under section 90 of the Income-tax Act, 1961, whichever is more beneficial to the non-resident.

Subject to the above general position, and in particular, subject to the specific provisions of the applicable double taxation avoidance agreement, where a non-resident supplier of plant and machinery is also responsible for installation, hookup, commissioning or other activities in India in relation to the plant and machinery supplied by him

a) 10% of the gross receipts in respect of the activities performed in India would be deemed to be income attributable to such activities in India, taxable at the normal corporate tax rate applicable to the non-resident, and b) In case the property in the plant and machinery also passes in India, 1% of the gross receipts in respect of activities performed outside India in relation to such plant and machinery shall be attributed to the activity of the sale in India, taxable at the normal corporate tax rate applicable to the non-resident. Provided, however, if on the facts and in the circumstances of any particular case, a lesser percentage is attributable to the activity in India, the non-resident will have the option to claim that such lesser percentage would be taxable in India provided he satisfies the Assessing Officer in this behalf.

(3) Non-resident companies providing any services or facilities or supplying any ship, aircraft, machinery or plant (whether by way of sale or hire) in connection with any business consisting of the prospecting for or extraction or production of Petroleum and/or Natural Gas, will be exempt from the provisions of section 115JA of the Income-tax Act, 1961.

(4) Residents providing any services or facilities or supplying any ship, aircraft, machinery or plant (whether by way of sale or hire) in connection with any business consisting of the prospecting for or extraction or production of Petroleum and/or Natural Gas, will be liable to income-tax in accordance with the normal provisions of the Income-tax Act, 1961.

Income tax in relation to providers of finance

6A. In computing the total income of a previous year of an infrastructure capital fund or an infrastructure capital company the income by way of dividends, interest or long term capital gains from investments made by way of shares or long term finance in any enterprise carrying on the business of commercial production of mineral oil shall not be included.

Customs Duty

7. (1) Import of machinery, plant, equipment, materials and supplies, shall be exempt from customs duty, provided -

a) They fall within the list given in Annexure A

b) The goods are imported in connection with Petroleum Operations to be undertaken under a Production Sharing Contract

c) A certificate is produced, in each case to the Assistant Commissioner of Customs from a duly authorised officer of the Directorate General of Hydro Carbons in the Ministry of Petroleum and Natural Gas, Government of India to the effect that the imported goods are required for such Petroleum Operations and have been imported under the aforesaid contract.

d) Where the import is undertaken by a foreign company or companies, the importer also certifies, in each case, that no foreign exchange remittance is made for the import of such goods

Such goods shall also be exempt from export duties or other charges on re-exportation in accordance with applicable legislation.

Any imports not fulfilling the above conditions shall be liable to customs duties at rates in force from time to time in relation to the specific item being imported.

(2) The Government of India shall have the right to inspect the records and documents of the physical item or items for which an exemption has been provided pursuant to (1) to determine that such item or items are being or have been imported solely and exclusively for the purpose for which the exemption was granted. The Government shall also be entitled to inspect such physical items wherever located to ensure that such items are being used for the purpose herein specified and any item not being so used shall immediately become liable to payment of the applicable customs duties.

(3) Subject to the provisions of the Production Sharing Contract, the PSC Participant, its sub-contractors and their sub-contractors may sell or otherwise transfer in India all imported items which are no longer required for Petroleum Operations, subject to the applicable laws governing customs duties and sale or disposal of such items.

Excise Duty and Cess

8. No excise duty or cess shall be levied on production of Petroleum and Natural Gas under Production Sharing Contracts.

Royalty

9. PSC Participants shall pay royalty calculated on the sale price of Petroleum and Natural Gas at the rate of 12.5 % for production in on-shore areas and at the rate of 10 % for production in off-shore areas.

Provided, however, the royalty will be charged at half the rate applicable to normal off-shore area i.e., at 5% for deep water areas beyond 400 m bathymetry for the first 7 years, commencing with the year in which Commercial Production is commenced.

The valuation of Petroleum and Natural Gas for the purpose of calculating royalty shall be the value at the oil fields or the oilwell-head. Such value shall be the value which forms the basis for cost recovery and sharing as per the Production Sharing Contract less transportation cost. The transportation cost shall be determined by the Management Committee set up under the Production Sharing Contract.

The royalty amount due for any month shall be paid to the Central Government/ State Government latest by the 10th day of the succeeding month in accordance with the provisions of The Petroleum and Natural Gas Rules, 1959

Bonus

10. There shall be no signature, discovery or production bonus.

Licence Fees and Area Rentals

11. There shall be no initial licence/lease fee or annual licence/lease fee (area rental) other than any fee which may be levied by any State Government.

Employees

12. Subject to the provisions of applicable double taxation avoidance agreements entered into by India under section 90 of the Income-tax Act 1961, employees of PSC Participants, service providers and suppliers shall be subject to the provisions of all fiscal legislation in India. However, if the employer bears the tax on the remuneration under conditions and circumstances referred to in section 10(5B) of the Income-tax Act, 1961, such tax shall not be included in the taxable income of the employee i.e. there will be no grossing up.

Exclusion

13. This Code does not take into account -

- a) Charges payable by specified industries or in connection with Petroleum Operations under any other legislation
- b) Payments for purchase, lease or rental of land or land rights in connection with Petroleum Operations
- c) Taxes, fees or charges for specific services rendered on request or to the public generally
- d) Sales tax, if any, leviable on the facts and circumstances of any given case
- e) Stamp duties, registration fees, licence fees, taxes such as taxes on property or assets (not calculated by reference to income or otherwise exempted) or other levies, fees or charges of a non-discriminatory nature and generally applicable in India or in the State where Petroleum Operations are being conducted.

Annexure - A

1. Land Seismic Survey Equipment and accessories, requisite vehicles including those for carrying the equipment, seismic survey vessels, global positioning system and accessories, and other materials required for seismic work or other types of Geophysical and Geochemical surveys for onshore and offshore activities
2. All types of Drilling rigs, jackup rigs, submersible rigs, semi submersible rigs, drill ships, drilling barges, short-hole drilling rigs, mobile rigs, workover rigs consisting of various equipment and other drilling equipment required for drilling operations, snubbing units, hydraulic workover units, self elevating workover platforms, Remote Operated Vessel (ROV)
3. Helicopters including assemblies/parts.
4. All types of marine vessels to support Petroleum Operations including work boats, barges, crew boats, tugs, anchor handling vessels, lay barges and supply boats; Marine ship equipment including water Maker, DP system and Diving system.
5. All types of Equipment/units for specialised services like diving, cementing, logging, casing repairs, production testing, simulation and mud services, oil field related lab equipment, reservoir engineering, geological equipment, directional drilling Stimulation, Coil Tubing units, drill stem testing (DST), data acquisition and processing, solids control, fishing (as related to downhole retrieval in oil field operations), well control, blowout prevention (BOP), pipe inspection including Non Destructive Testing, coring, gravel pack, well completion and workover for oil/gas wells including wireline and downhole equipment.
6. All types of casing pipes, drill pipes, production tubing, pup joints, connections, coupling, kelly, cross overs and swages, Drive Pipes.
7. All types of drilling bits, including nozzles, breakers and related tools.
8. All types of oil field chemicals including synthetic products used in petroleum operations, oil well cement and cement additives required for drilling, production and transportation of oil or gas.
9. Process, production and well platforms for oil, gas and water injection including items forming part of the platforms and equipment required like process equipment, turbines, pumps, generators, compressors, primemovers, water makers, filters and filtering equipment Telemetry, Telecommunication, Tele-Control and other material required for platforms.
10. Line pipes for flow lines and trunk pipelines including weight coating and wrapping

11. Derrick barges, Mobile and stationary cranes, trenchers, pipelay barges, cargo barges and the like required in the construction/installation of platforms and laying of pipelines
12. Single buoy mooring systems, mooring ropes, fitting like chains, shackles, couplings marine hoses and oil tankers to be used for oil storage and connected equipment; Tanks used for storage of oil, condensate, water, mud, chemicals and related materials
13. All types of fully equipped vessels and other units/equipment required for pollution control, fire prevention, fire fighting, safety items like Survival Craft, Life Raft, fire and gas detection equipment, including H 2 S monitoring equipment.
14. Mobile and skid mounted pipe laying, pipe testing and pipe inspection equipment
15. All types of valves including high pressure valves.
16. Communication equipment required for Petroleum operations including synthesized VHF Aero and VHF Marine multi channel sets.
17. Non directional radio beacons, intrinsically safe walkie-talkies, directional finders, EPIRV, electronic individual security devices including electronic access control system
18. Specialized antenna system, simplex telex over radio terminals, channel micro wave systems, test and measurement equipment.
19. X-band radar transponders, area surveillance system.
20. Common depth point (CDP) cable, logging cable, connectors, geo-phone strings, perforation equipment and explosives.
21. Wellhead and christmas trees, including valves, chokes, heads spools, hangers and actuators, flexible connections like chicksons and high pressure hoses, shut down panels.
22. Cathodic Protection Systems including anodes.
23. Technical drawings, maps, literature, Data tapes, Operational and Maintenance Manuals required for petroleum operations.
24. Sub-assemblies, tools, accessories, stores, spares, materials, supplies, consumables for running, repairing or maintenance of the goods specified in this list.