Extraordinary

Federal Republic of Nigeria
Official Gazette

No. 45 **Lagos - 11th March, 2024** **Vol. 111**

Government Notice No. 35

The following is published as supplement to this *Gazette* :

Printed and Published by The Federal Government Printer, Lagos, Nigeria
FGP 60/112024/150

Annual Subscription from 1st January, 2024 is Local : ₦100,000.00 Overseas : ₦131,000.00 [Surface Mail] ₦150,000.00 [Second Class Air Mail]. Present issue ₦3,000 per copy. Subscribers who wish to obtain *Gazette* after 1st January should apply to the Federal Government Printer, Lagos for amended Subscriptions.

B 728

OIL AND GAS COMPANIES (TAX INCENTIVES, EXEMPTION, REMISSION, ETC.) ORDER, 2024

NOTICE OF TAX INCENTIVES ON DEEP OFFSHORE OIL AND GAS PRODUCTION, 2024

ARRANGEMENT OF PARAGRAPHS

Paragraph :

B 730

S. I. No. 32 of 2024

OIL AND GAS COMPANIES (TAX INCENTIVES, EXEMPTION, REMISSION, ETC.) ORDER, 2024

NOTICE OF TAX INCENTIVES ON DEEP OFFSHORE OIL AND GAS PRODUCTION, 2024

[28*th Day of February*, 2024] Commencement.

In exercise of the powers conferred on me under paragraph 10 of the Oil and Gas Companies (Tax Incentives, Exemption, Remission, Etc.) Order, 2024 and Section 2 of the Ministers' Statutory Powers and Duties (Miscellaneous Provisions) Act, Cap. M14, Laws of the Federation of Nigeria, 2004, and of all other powers enabling me in that behalf, I, Wale Edun, Minister of Finance and Coordinating Minister of the Economy, Federal Republic of Nigeria, issue the following Notice —

Application of Deep Offshore Oil and Gas Production Tax Incentives

1.—(1) The tax credit incentives specified under paragraphs 2 and 3 of this Notice shall apply to the following categories of deep offshore Developments within oil mining leases and petroleum mining leases with production sharing contracts or profit-sharing contracts —

(*a*) existing deep offshore leases with a Field Development Plan (FDP), where the lessee make a Final Investment Decision (FID) for the Development, in the period from the Effective Date to 1st January, 2029 ;

Provided that where the lessee is —

(*i*) unable to commit to the FID as prescribed in sub-paragraph (1) (*a*) of this paragraph due to the occurrence or subsistence of a *force majeure*, the lessee may apply to the Commission for an extension, and

(*ii*) desirous of taking the benefit of any incentive under this Notice, the lessee shall notify the Commission of such FID within 30 days of the FID being made ;

(*b*) future leases awarded after the Effective Date, as well as those derived from existing licenses or future licenses awarded after the Effective Date.

(2) Where the lessee is unable to achieve the criteria in sub-paragraph (1)(*a*) of this Notice, the tax credit incentives specified under Paragraphs 2 and 3 of this Notice, shall nonetheless apply, but at a reduced rate of 50% across board.

Incentives applicable to Deep Offshore Oil Development

2.—(1) There shall be a production tax credit on crude oil production at the rate of —

(*a*) US$3.00 per barrel or at 20% of the fiscal oil price, whichever is lower, in respect of crude oil produced in upstream petroleum operations, from the commencement of production up to a cumulative production of 150 million barrels, where the producible reserves of such deep offshore Development does not exceed 400 million barrels of crude oil equivalent ; or (*b*) US$4.50 per barrels or at 20% of the fiscal oil price, whichever is lower, in respect of crude oil produced in upstream petroleum operations, from the commencement of production up to a cumulative production of 500 million barrels, where the producible reserves of such deep offshore Development exceeds 400 million barrels of crude oil equivalent.

(2) For lease under Paragraph 1(1)(*b*) of this Notice, there shall be an additional tax credit of US$1.00 per barrel from the commencement of production up to a cumulative production of 500 million barrels.

(3) Where the crude oil prices fall beow $50 per barrel, the tax credit incentives specified under Paragraph 2 of this Notice, shall nonetheless apply, but at a reduced rate of 50% across board.

Incentives applicable to Deep Offshore Non-Associated Gas Development

3.—(1) There shall be a production tax credit for gas production sold from non-associated gas Developments or Developments containing crude oil and non-associated gas in the deep offshore, at the rate of —

(*a*) US$1.00 per thousand standard cubic feet (mscf) of gas sold or 30% of the fiscal gas price of such sale, whichever is lower, from commencement of production up to a cumulative volume of gas sold of 5 trillion cubic feet (TCF), where the Hydrocarbon Liquids ("HCL") content in the field does not exceed 30 barrels per million standard cubic feet (mmscf) ; or

(*b*) US$0.50 per thousand cubic feet (mscf) of gas sold or 30% of the fiscal gas price of such sale, whichever is lower, from commencement of production up to a cumulative volume of gas sold of 5 TCF, where the HCL content in the field exceeds 30 barrels per million standard cubic feet (mmscf), but does not exceed 100 barrels per million standard cubic feet (mmscf).

(2) The production tax credit in Paragraph 3(1) of this Notice shall not apply where the HCL content from the relevant development exceeds 100 barrels per million SCF (mmscf).

(3) The determination of the HCL in a non-associated gas field as contemplated under this paragraph shall be limited to HCL within upstream petroleum sector and based on guidelines issued by the Commission.

Profit Gas Sharing Formula

4. The minimum profit gas allocation to the Government under existing non-associated gas deep offshore production sharing contracts, where NNPCL represents the Federation, shall be as follows —

(*a*) Up to and including 1TCF – 20% ;
(*b*) Over 1 TCF and up to, and including 3 TCF – 35% ;
(*c*) Over 3 TCF and up to, and including 5 TCF – 45% ;
(*d*) Over 5 TCF and up to, and including 7 TCF – 50% ; and
(*e*) Over 7 TCF and up to, and including 9 TCF – 60%.

5. The tax credit incentives under this Notice are meant to incentivize investments in the deep offshore developments, and as such are intended to exclusively benefit parties to a production sharing contract who are directly providing the funding for developments that lead to production.

Deep Offshore Incentives for Production Sharing Contracts

6. The production tax credit granted by this Notice shall be reduced by 10%, for qualifying Developments where the Unit Technical Cost of development exceeds the benchmarked cost levels determined in accordance with regulations made by the Commission on a periodic basis, provided that for the year 2024, the benchmark cost level shall be set at US$20.00 per Barrel of Oil Equivalent.

Applicable incentives in relation to Technical Cost of Development

7. The production tax credit accruable in any year shall not be combined with the production allowances incentives provided in the Sixth Schedule to the Petroleum Industry Act or the Associated Gas Framework Agreement (AGFA).

Exclusion of Production Allowances and Associated Gas Framework Agreement (AGFA) from Tax Incentives

8. Where there is a production tax credit surplus in any year, the surplus shall be carried forward to the subsequent year, provided that unutilized production tax credit surplus occurring in any year, shall only be carried forward for a maximum of three years.

Production Tax Credit Surplus

9. The fiscal price for calculating the production tax credit shall be the same price for determining royalties under the Act, and the production tax credit shall be —

Calculation of Production Tax Credit

(*a*) based on total annual production from the Development after production commences ; and

(*b*) apportioned based on the relative share of capital contributed by each investor in the Development.

10. The Federal Inland Revenue Service shall, within fifteen (15) days from the date of this Notice, issue implementation guidelines with respect to the incentives.

Implementation Guidelines

11. This Notice is effective from the date of the Order.

Effective date

12. In this Notice —

Interpretation

(*a*) "*Act*" means the Petroleum Industry Act, No. 6, 2021 ;

"*Commission*" means Nigerian Upstream Petroleum Regulatory Commission established under the Act ;

"*Development*" means a set of activities solely aimed at developing a greenfield (undeveloped field) or group of greenfields within a single or multiple leases, pursuant to a field development plan ;

"*Final Investment Decision*" means the point at which a lessee, group of lessees on a single lease or a unitised lease and their contractors, in the case of a production sharing contract, or other stakeholders, formally commit(s) irreversibly to fund and develop an Oil and Gas Project and has engaged its construction contractors to start implementation of the project ;

"*Order*" means the Oil and Gas Companies (Tax Incentives, Exemption, Remission, etc.) Order, 2024 ; and

"*Unit Technical Cost*" means the sum of the unit operating cost and unit capital cost ; and.

(*b*) All undefined terms used in this Notice shall have the same meaning as used under the Act.

Citation

13. This Legal Notice may be cited as the Notice of Tax Incentives on Deep Offshore Oil and Gas Production, 2024.

MADE at Abuja, this 28th day of February, 2024.

WALE EDUN
Minister of Finance
and Coordinating Minister of the Economy