
MALAYSIA-THAILAND JOINT AUTHORITY ACT 1990

MALAYSIA-THAILAND JOINT AUTHORITY (PAYMENTS OF ROYALTY AND OTHER PROCEEDS FROM PETROLEUM PRODUCTION TO THE GOVERNMENTS) REGULATIONS 2004

In exercise of the powers conferred by section 7, and paragraphs 15 (b) and (j) of the Malaysia-Thailand Joint Authority Act 1990 [Act 440], the Minister, with the approval of the Governments, makes the following regulations:

PART I

PRELIMINARY

Citation

1. These regulations may be cited as the **Malaysia-Thailand Joint Authority (Payments of Royalty and Other Proceeds from Petroleum Production to the Governments) Regulations 2004**.

Interpretation

2. In these Regulations, unless the context otherwise requires—

“Act” means the Malaysia-Thailand Joint Authority Act 1990;

“production sharing contract” means a production sharing contract entered into between the Joint Authority and the contractor under section 14 of the Act;

“contractor” means any person who has entered into a production sharing contract with the Joint Authority under section 14 of the Act for the purpose of the exploration and exploitation of petroleum in the Joint Development Area, and shall include its permitted assignee;

“Fund” means the Fund as established pursuant to section 9 of the Act;

“reserve fund” means the reserve fund established pursuant to section 11 of the Act;

“non-petroleum income” means the income of the Joint Authority which is not derived from the production of petroleum conducted under the production sharing contract, and shall include any interest, gain from insurance settlement, or gain from the disposal of any property and asset of the Joint Authority;

“gross production of petroleum” means—

- (a) with reference to oil, the total volume of crude oil won and saved by the contractor from time to time under the production sharing contract measured at the relevant storage facility less basic sediment and water, and expressed in kilolitre; and
- (b) with reference to gas, gross proceeds of sale of gas;

“Agreement” shall have the same meaning as provided for in section 2 of the Act;

“profit petroleum” means profit oil and profit gas as defined in the production sharing contract;

“financial year” means the financial year of the Joint Authority.

PART II

PAYMENT OF ROYALTY

Amount of royalty payable and time for payment

3. In pursuance of section 7 of the Act, the Joint Authority shall, upon receiving the monies earned from the disposal of ten per centum of gross production of petroleum received as royalty in accordance with the terms of the production sharing contract, pay on a monthly basis, such monies to the Governments in equal amounts from the Fund, within twenty days from the last day of the month in which the monies are received by the Joint Authority.

Joint Authority to submit form containing details of payments of royalty

4. (1) The Joint Authority shall, concurrently with the payment of royalty under regulation 3, submit a form, as may be determined by the Joint Authority, to the Economic Planning Unit of the Prime Minister's Department in the case of Malaysia, and to the Department of Mineral Fuels of the Ministry of Energy in the case of Thailand.

(2) The form shall contain the following particulars:

- (a) the type of petroleum and the contract area from which it is produced;
- (b) the period for which payments of royalty are made;
- (c) the gross production of petroleum during the period as mentioned in paragraph (b);
- (d) the applicable prices for the calculation of royalty paid to each of the Governments;
- (e) the currency in which the payments of royalty are made to the Governments;
- (f) the amount of royalty received in kind or in cash by the Joint Authority calculated in accordance with the production sharing contract;
- (g) the amount of royalty paid to each of the Governments for the period as mentioned in paragraph (b);
- (h) the cumulative amount of royalty paid to each of the Governments in each quarter of the financial year;
- (i) the calculation in respect of the quantity of the gross production of petroleum taken by the Joint Authority as royalty in accordance with the terms of the production sharing contract;
- (j) reconciliation of royalty, if any, after verification of calculation of the payment made in any preceding month; and
- (k) any other particulars or information as the Joint authority deems necessary.

PART III

PAYMENT OF PROFIT PETROLEUM, ECT.

Payment of profit petroleum, etc.

5. Subject to regulations 13 and 15, the Joint Authority shall pay, on a quarterly basis, the following monies to the Governments in equal amounts from the Fund:

(a) any proceeds received by the Joint Authority from the sale or disposal of its portion of profit petroleum;

(b) any cash payment made by the contractor to the Joint Authority in respect of the contractor's portion of profit oil; and

(c) any proceeds, other than research cess and bonus payment, from the sale or disposal of any other petroleum production which the Joint Authority is entitled to receive,

in accordance with the terms of the production sharing contract, within twenty days from the last day of the month following each quarter of the financial year for which such proceeds or cash payment is calculated.

Joint Authority to submit form containing details of payments of profit petroleum, etc.

6. (1) The Joint Authority shall, concurrently with the payments made in accordance with regulation 5, submit a form as may be determined by the Joint Authority to the Economic Planning Unit of the Prime Minister's Department in the case of Malaysia, and to the Department of Mineral Fuels of the Ministry of Energy in the case of Thailand.

(2) The form shall contain the following particulars:

(a) the type of petroleum and the contract area from which it is produced;

(b) the quarterly period of the financial year for which the profit petroleum payment, cash payments and payments, other than research cess and bonus payment, from the sale or disposal of any other petroleum production are made;

(c) the gross production of petroleum during the period as mentioned in paragraph (b);

(d) the applicable prices for the calculation of the amounts as specified in paragraphs (f), (g), (h) and (i);

(e) the currency in which payments are made to the Governments;

(f) the amount of gross production of petroleum, the amount of royalty paid, the amount of petroleum applied for the purpose of recovery by the contractor of allowable costs expended in the quarter of the financial year, and the amount of profit petroleum calculated in accordance with the terms of the production sharing contract;

(g) the amount of proceeds from profit petroleum earned or received by the Joint authority;

(h) the amount of cash payments received by the Joint Authority under paragraph 5(b) calculated in accordance with the terms of the production sharing contract;

(i) the amount of proceeds earned or received by the Joint Authority under paragraph 5(c) from the sale or disposal of any other petroleum production which the Joint Authority is entitled to receive;

(j) the amount of income, if any, retained pursuant to regulation 13;

(k) the amount of petroleum income tax adjustment, if any, made pursuant to regulation 15;

(l) the net proceeds paid, or cash payments made, to each of the Governments during the period as mentioned in paragraph (b);

(m) the cumulative net proceeds paid, or cumulative cash payments made to each of the Governments in each quarter of the financial year;

(n) reconciliation of profit petroleum or other payments, if any, after verification of calculation of the payments made in any preceding quarter; and

(o) any other particulars or information as the Joint Authority deems necessary.

PART IV

RESEARCH CESS AND BONUS PAYMENT

Research cess

7. (1) Any research cess received by the Joint Authority from the contractor in accordance with the terms of the production sharing contract shall be paid into the reserve fund.

(2) The research cess shall be expended for the purpose of supporting any research and development in the fields of science and technology relating to exploration or exploitation of petroleum or natural resources for the Joint Development Area.

(3) Any project or programme for the use of research cess under subregulation (2) shall be determined by the Joint Authority, or may be recommended or proposed from time to time by the Director General of the Economic Planning Unit of the Prime Minister's Department of Malaysia,

or by the Director General of the Department of Mineral Fuels of the Ministry of Energy of Thailand to the Joint Authority for its approval.

Joint Authority to furnish details of use of research cess

8. Any use of the research cess by the Joint Authority in accordance with regulation 7 in respect of a financial year shall be reported yearly with appropriate details in an annual report and audited accounts of the Joint Authority, to be submitted to the Governments.

Bonus payment

9. (1) any bonus payment made by the contractor to the Joint Authority in accordance with the terms of the production sharing contract shall be paid to the Governments in equal amounts from the Fund, within twenty days from the last day of the month in which the bonus money is received by the Joint Authority.

(2) The payment made under subregulation (1) shall be accompanied by a notification from the Joint Authority to the Economic Planning Unit of the Prime Minister's Department in the case of Malaysia, and to the Department of Mineral Fuels of the Ministry of Energy in the case of Thailand.

PART V

METHOD OF REMITTANCE AND CURRENCY

Method of remittance

10. (1) Any remittance transaction by the Joint Authority as revenue to the Governments under these Regulations shall be made by a telegraphic-transfer method, or by any other method as may be notified to the Joint Authority from time to time by the Economic Planning Unit of the Prime Minister's Department in the case of Malaysia, and the Department of Mineral Fuels of the Ministry of Energy in the case of Thailand.

(2) Such remittance transactions shall be made to the bank account of the Accountant-General, Malaysia as may be notified by the Economic Planning Unit of the Prime Minister's Department in the case of Malaysia, and to the bank account of the Department of Mineral Fuels as may be notified by the Department of Mineral Fuels of the Ministry of Energy in the case of Thailand.

(3) For the purposes of this regulation, "revenue" means all proceeds and cash payments received by the Governments under these Regulations.

Currency

11. All payments to the Governments under these Regulations shall be made in United States Dollars, or in any other currency as may be agreed by the Governments.

Charges

12. All banking and financial charges arising from any remittance transactions to the Governments under these Regulations shall be borne by the Joint Authority.

PART VI

ANNUAL EXPENDITURE

Retention of income to finance annual operation expenditure

13. (1) Subject to regulation 14, the Joint Authority shall retain within the Fund part of the income derived from the profit petroleum that is received by the Joint Authority, to defray its annual operational expenditure in a financial year in accordance with the budgetary provisions of the approved annual budget of the Joint Authority for that financial year.

(2) The portion of the income of the Joint Authority to be retained for the purpose of subregulation (1) shall be taken from the income derived from profit petroleum received in the last quarter of the financial year preceding such financial year.

(3) Where the profit petroleum received in the last quarter of the financial year preceding such financial year is not sufficient for the purpose of subregulation (1), the balance of the income to be retained under subregulation (2) may be taken from the income of the following quarter of the subsequent financial year.

Income to be retained not to exceed total cash requirement

14. The income to be retained by the Joint Authority for the purpose of regulation 13 shall not exceed the total cash requirement of the Joint Authority during such financial year as off set by other non-petroleum income as specified in the approved budgetary provisions of the Joint Authority for that financial year.

PART VII

ADJUSTMENT FOR PETROLEUM INCOME TAX

Petroleum income tax adjustment

15. For the purpose of fulfilling obligations under Article 17 of the Agreement, where the petroleum income tax chargeable by one of the Governments in any financial year exceeds the petroleum income tax chargeable by the other Government, the Joint Authority shall, before remitting to the Governments the profit petroleum payment received from every contractor in the first quarter of the following financial year, deduct from the amount to be remitted to the Government whose petroleum income tax chargeable has exceeded that chargeable by the other Government, a sum equivalent to fifty per centum of the excess amount, and remit such sum so deducted to the other Government.

Communication of information

16. (1) For the purposes of this Part, the Joint Authority shall communicate and exchange necessary information with the revenue authorities of the respective Governments in order to effect equal collections by the Governments of an annual petroleum income tax from every contractor.

(2) For the purpose of subregulation (1), such necessary information shall include—

(a) the amount of the petroleum income tax payment made by every contractor in the financial year;

(b) the date of payment;

(c) the exchange rate as specified in regulation 17; and

(d) the amount of adjustment payment made by the Joint Authority to effect equal collection of petroleum income tax to the Governments in the financial year.

Conversion of currency

17. For the purposes of this Part, the Thai Baht and the Malaysian Ringgit shall be converted into the United States Dollars or vice versa at the average exchange rate, of the Bank of Thailand in the case of Thailand and the Central Bank of Malaysia in the case of Malaysia, respectively, of the month in which the tax payment had been made.

PART VIII

GENERAL

Power of the Governments to require information

18. The Joint Authority shall furnish the respective Governments with such accounts, records or information with respect to any money paid to or proceeds received by the Joint Authority, or any other matters as each of the Governments may from time to time require.

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