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UPDATE 1-Shell takes sacked UK workers overseas service tax breaks



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Tom Bergin
4 Hours Ago

(Adds employee reaction, website link)

LONDON, July 7 (Reuters) - Royal Dutch Shell has changed its redundancy terms so it can claim tax refunds that some UK workers would otherwise have been able to claim on redundancy payments, internal documents seen by Reuters show.

The move comes as the Hague-based oil giant is slashing 5,000 jobs this year following the collapse in oil prices and its merger with smaller UK rival BG Group.

The UK government allows employees who have worked part of their career overseas to reclaim some, or in some cases all, of the tax due on severance payments.

On April 1 this year, however, Shell introduced "targeted tax equalization of severance payments", whereby "Shell will claim any tax reliefs or tax refunds on the severance payment that are available," according to a presentation to staff.

The tax refunds in question can be claimed in relation to ex-gratia lump sum severance payments, rather than legal minimum redundancy. This means that Shell can include the right to claim any tax refund linked to the employee's overseas service as a term of the ex-gratia severance package.

Shell said the change was consistent with its policy of smoothing out the impact of tax on employees moving overseas, aimed at ensuring staff face the effective tax rates of their home country no matter where they work.

The equalisation policy means Shell incurs higher costs when an employee goes on assignment to a higher tax jurisdiction and receives

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a saving when one moves to a lower tax jurisdiction.

The company declined to say whether the application of the equalisation policy to redundancy payments would save money. Spokesman Jonathan French said Shell's severance packages were "currently among the most generous in the sector".

"The policy is designed to promote equal treatment of employees with the same home country," he said.

One Shell employee facing redundancy told Reuters he believed the measure was driven by costs rather than fairness.

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"If my tax went to the government I probably wouldn't complain," he said.

Ude Adigwe, an organiser with the GMB labour union in Scotland, said the measure was unacceptable.

"It would seem that companies are trying to defray or offset the impact on their finances by putting the burden on the ordinary worker," he said.

POLICY CHANGE

The cost to British workers of Shell's policy change could be significant.

In an example cited in one Shell presentation, an employee entitled to 100,000 pounds (\$129,410) severance, who faces a marginal tax rate of 45 percent and has spent half their career abroad, would receive 68,500 pounds after tax and equalisation.

If an employee enjoyed the full benefit of the foreign service tax relief, they would receive almost 16,000 pounds more. If they had spent 75 percent of their career abroad the payment would be tax free.

Shell declined to say how many people might be affected by the policy change which should mostly affect UK employees.

Shell said in December it planned to cut 2,800 jobs after its takeover of

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BG but did not say how many UK workers would lose jobs. Shell completed the deal in February and announced another 2,200 cuts in May, 475 of which would be from its oil and gas production division in the United Kingdom and Ireland.

Usually companies don't take account of the foreign service tax break when calculating employees' payoffs as part of large scale redundancies, said David Whincup, employment partner at law firm Squire Patton Boggs.

This means it is up to the departing worker to claim back a refund in respect of the Foreign Service Relief, but following its policy change Shell will claim the benefit instead.

Employment experts said Shell's approach was not common, although Alain Cohen, director at employment law firm Ashby Cohen, said he had heard of another oil company doing the same.

According to a report produced by law firm Mayer Brown in 2013, a company needs to reach agreement with the UK tax authority, Her Majesty's Revenue & Customs, before it can begin such a scheme.

The UK tax authority declined to comment on the Shell case, citing taxpayer confidentiality.

Copies of one presentation have been published on Shell protest site: <http://royaldutchshellplc.com/>

(\$1 = 0.7727 pounds)

(Editing by David Clarke)

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