



Capital Allowances Act 2001

2001 CHAPTER 2

PART 5

MINERAL EXTRACTION ALLOWANCES

CHAPTER 5

OTHER KINDS OF QUALIFYING EXPENDITURE

414 Expenditure on works likely to become valueless

- (1) Expenditure is qualifying expenditure if—
- (a) it is capital expenditure on constructing works in connection with the working of a source of mineral deposits,
 - (b) it is incurred for the purposes of a mineral extraction trade, and
 - (c) the works—
 - (i) are likely to be of little or no value, when the source is no longer worked, to the last person working the source, or
 - (ii) if the source is worked under a foreign concession, are likely to become valueless, when the concession ends, to the last person working the source under the concession.
- (2) For the purposes of subsection (1), expenditure on constructing works does not include expenditure on acquiring the site of the works or any right in or over the site.
- (3) In subsection (1)(c) “foreign concession” means a right or privilege granted by the government of, or any municipality or other authority in, a territory outside the United Kingdom.

415 Contribution to buildings or works for benefit of employees abroad

- (1) Subject to subsection (3), expenditure is qualifying expenditure if—

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- (a) it is incurred by a person carrying on a mineral extraction trade outside the United Kingdom and for the purposes of that trade,
 - (b) it is a contribution consisting of a capital sum to the cost of buildings or works to which this section applies, and
 - (c) the buildings or works are likely to be of little or no value, when the source is no longer worked, to the last person working the source.
- (2) The buildings or works to which this section applies are—
- (a) buildings to be occupied by persons employed at or in connection with the working of a source outside the United Kingdom;
 - (b) works for the supply of water, gas or electricity wholly or mainly to buildings occupied or to be occupied by persons so employed;
 - (c) works to be used to provide other services or facilities wholly or mainly for the welfare of persons so employed or their dependants.
- (3) Expenditure is not qualifying expenditure if the person making the contribution—
- (a) acquires an asset as a result of the expenditure, or
 - (b) is entitled to an allowance for the expenditure under any other provision of the Tax Acts.
- 416 [F1Non-ring fence trades: expenditure on restoration within 3 years of ceasing to trade]**
- (1) If—
- (a) a person who has ceased to carry on a [F2relevant] mineral extraction trade incurs expenditure on the restoration of a relevant site, and
 - (b) the expenditure is incurred within 3 years from the last day of trading and meets the further conditions in subsection (3),
- the net cost of the restoration is qualifying expenditure.
- (2) The qualifying expenditure is treated as incurred on the last day of trading.
- (3) The further conditions are that the expenditure—
- (a) has not been deducted in calculating for tax purposes the profits of any trade carried on by that person, and
 - (b) would have been—
 - (i) deductible in calculating the profits of the trade, or
 - (ii) capable of being qualifying expenditure under this Chapter, if the expenditure had been incurred while the trade was being carried on.
- (4) If any expenditure incurred by a person is qualifying expenditure under this section—
- (a) the whole of the expenditure on the restoration (not just the net cost) is not deductible in calculating the person’s income for any tax purposes, and
 - (b) none of the amounts subtracted to produce the net cost is to be treated as the person’s income for any tax purposes.
- (5) “Restoration” includes—
- (a) landscaping,
 - (b) in relation to land in the United Kingdom, the carrying out of any works required as a condition of granting planning permission for development consisting of the winning and working of minerals, and

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- (c) in relation to land outside the United Kingdom, the carrying out of any works required by any equivalent condition imposed under the law of the territory in which the land is situated.

[^{F3}But it does not include decommissioning any plant or machinery (within the meaning of section 163).]

- (6) A “relevant site” means—
- (a) the site of a source to the working of which the [^{F4}relevant] mineral extraction trade related, or
 - (b) land used in connection with working such a source.
- (7) “The net cost of the restoration” means the expenditure incurred on the restoration less any amounts—
- (a) received within 3 years from the last day of trading, and
 - (b) attributable to the restoration of the relevant site (for instance, amounts for spoil or other assets removed from the site or for tipping rights).

[^{F5}(7A) Relevant mineral extraction trade” means a mineral extraction trade that is not a ring fence trade within the meaning of Part 8 of CTA 2010 (see section 277 of that Act).]

- (8) All such adjustments are to be made, by way of discharge or repayment of tax or otherwise, as are necessary to give effect to this section.

Textual Amendments

- F1** S. 416 heading substituted (with effect in accordance with s. 92(10) of the amending Act) by [Finance Act 2013 \(c. 29\), s. 92\(4\)\(d\)](#)
- F2** Word in s. 416(1)(a) inserted (with effect in accordance with s. 92(10) of the amending Act) by [Finance Act 2013 \(c. 29\), s. 92\(4\)\(a\)](#)
- F3** Words in s. 416(5) inserted (with effect in accordance with s. 92(10) of the amending Act) by [Finance Act 2013 \(c. 29\), s. 92\(4\)\(b\)](#)
- F4** Word in s. 416(6)(a) inserted (with effect in accordance with s. 92(10) of the amending Act) by [Finance Act 2013 \(c. 29\), s. 92\(4\)\(a\)](#)
- F5** S. 416(7A) inserted (with effect in accordance with s. 92(10) of the amending Act) by [Finance Act 2013 \(c. 29\), s. 92\(4\)\(c\)](#)

[^{F6}416Z] Ring fence trades: expenditure on site restoration

- (1) If—
- (a) a person who is carrying on, or has ceased to carry on, a ring fence trade incurs expenditure on the restoration of a relevant site,
 - (b) that part of the restoration work to which the expenditure relates has been carried out, and
 - (c) the expenditure has not been deducted in calculating for tax purposes the profits of any trade carried on by the person,
- the net cost of the restoration is qualifying expenditure for the relevant period in which that part of the work to which the expenditure relates was carried out.
- (2) “Relevant period” means—
- (a) in the case of restoration work carried out while the person is carrying on the trade, a chargeable period, and

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- (b) in the case of restoration work carried out after the person has ceased to carry on the trade, a notional accounting period.

For the meaning of “notional accounting period”, see section 416ZB.

- (3) The qualifying expenditure for a notional accounting period is treated as incurred on the last day of trading.
- (4) If the amount of expenditure incurred on any part of the restoration work carried out in a relevant period is disproportionate to that part of the restoration work, only so much of the net cost of the restoration as is proportionate to that part of the restoration work (the “allowable expenditure for the period”) is to be treated as qualifying expenditure for that period.
- (5) But subsection (4) does not prevent that part of the expenditure that is not allowable expenditure for the period from being treated as qualifying expenditure for a subsequent relevant period.
- (6) If any expenditure incurred by a person is qualifying expenditure under this section—
 - (a) the whole of the expenditure on the restoration (not just the net cost) is not deductible in calculating the person's income for any tax purposes, and
 - (b) none of the amounts subtracted to produce the net cost is to be treated as the person's income for any tax purposes.
- (7) “Restoration” includes—
 - (a) landscaping,
 - (b) in relation to land in the United Kingdom, the carrying out of any works required as a condition of granting planning permission for development relating to the winning of oil from an oil field,
 - (c) in relation to land in the UK marine area, the carrying out of any works required in order to comply with—
 - (i) an approved abandonment programme,
 - (ii) a condition to which the approval of an abandonment programme is subject, or
 - (iii) a requirement imposed by the Secretary of State, or an agreement made with the Secretary of State, in relation to a relevant site, and
 - (d) in relation to land in a foreign sector of the continental shelf, the carrying out of any works required in order to comply with anything corresponding to a matter within paragraph (c)(i), (ii) or (iii) under the law of a territory outside the United Kingdom.

But it does not include decommissioning any plant or machinery (within the meaning of section 163).

- (8) A “relevant site” means—
 - (a) the site of a source to the working of which the ring fence trade relates (or related), or
 - (b) land used in connection with working such a source.
- (9) “The net cost of the restoration” means the expenditure incurred on the restoration less any amounts that—
 - (a) are received, or are to be received, by the person, and
 - (b) are attributable to the restoration of the relevant site.

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- (10) All such adjustments are to be made, by way of discharge or repayment of tax or otherwise, as are necessary to give effect to this section.
- (11) In this section—
- “abandonment programme”, “approval” and “approved” (in relation to an abandonment programme) have the same meaning as in Part 4 of the Petroleum Act 1998,
 - “foreign sector of the continental shelf” means an area within which rights are exercisable with respect to the sea bed and subsoil and their natural resources by a territory outside the United Kingdom,
 - “oil” and “oil field” have the same meaning as in Part 1 of OTA 1975,
 - “ring fence trade” has the same meaning as in Part 8 of CTA 2010 (see section 277 of that Act), and
 - “UK marine area” has the meaning given by section 42 of the Marine and Coastal Access Act 2009.

Textual Amendments

- F6** Ss. 416ZA, 416ZB inserted (with effect in accordance with s. 92(10) of the amending Act) by [Finance Act 2013 \(c. 29\), s. 92\(5\)](#)

416ZB “Notional accounting period”

- (1) For the purposes of section 416ZA “notional accounting period”, in relation to a person (“the former trader”) who has ceased to carry on a ring fence trade, means each of the following periods—
- (a) the period that—
 - (i) begins with the day following the last day on which the former trader carried on the ring fence trade, and
 - (ii) ends with the day on which the first termination event subsequently occurs, and
 - (b) each period that—
 - (i) begins with the day following the last day of a period determined under paragraph (a) or this paragraph, and
 - (ii) ends with the day on which the first termination event subsequently occurs.
- (2) But there are to be no notional accounting periods after the end of the post-cessation period (see subsection (4)).
- (3) “Termination event”, in relation to a notional accounting period, means each of the following—
- (a) the end of the period of 12 months beginning with the first day of the notional accounting period,
 - (b) the occurrence of an accounting date of the former trader or, if there is a period for which the former trader does not make up accounts, the end of that period (but see subsections (6) and (7)), and
 - (c) the end of the post-cessation period.
- (4) “The post-cessation period” means the period that—

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- (a) begins with the day following the last day on which the former trader carried on the ring fence trade, and
 - (b) ends with the day on which the appropriate authority is satisfied that the restoration of the relevant site has been completed.
- (5) In subsection (4) “the appropriate authority” means—
- (a) in the case of restoration falling within section 416ZA(7)(c), the Secretary of State, and
 - (b) in any other case, such person or body as the Commissioners for Her Majesty's Revenue and Customs may specify.
- (6) If the former trader—
- (a) carries on more than one trade,
 - (b) makes up accounts of any of them to different dates, and
 - (c) does not make up general accounts for the whole of the former trader's activities,
- subsection (3)(b) applies with reference to the accounting date of such one of the trades as the former trader may determine.
- (7) If the Commissioners for Her Majesty's Revenue and Customs are of the opinion, on reasonable grounds, that a date determined by the former trader for the purposes of subsection (6) is inappropriate, the Commissioners may by notice direct that the accounting date of such other of the trades referred to in that subsection as appears to the Commissioners to be appropriate is to be used instead.
- (8) Expressions used in this section and in section 416ZA have the same meaning in this section as they do in that section.]

Textual Amendments

F6 Ss. 416ZA, 416ZB inserted (with effect in accordance with s. 92(10) of the amending Act) by [Finance Act 2013 \(c. 29\), s. 92\(5\)](#)

[^{F7}416ZC] Site restoration services supplied by connected person

- (1) Where—
- (a) a person (“R”) who is carrying on, or has ceased to carry on, a ring fence trade enters into an arrangement,
 - (b) under the arrangement, a person (“S”) who is connected with R provides a service to R in connection with work on the restoration of a relevant site, and
 - (c) (in the absence of this section) all or part of the consideration for the service would be qualifying expenditure of R under section 416ZA,
- the amount of the expenditure which is qualifying expenditure is restricted under section 416ZD(1).
- (2) Subsection (1)(b) may be satisfied whether the service is provided to R directly or indirectly; and in particular it does not matter—
- (a) whether R and S are parties to the same contract, or
 - (b) whether payments are made by R directly to S.

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- (3) Subsections (4) and (5) apply for the purposes of this section and sections 416ZD and 416ZE.
- (4) “Relevant site” has the meaning given by section 416ZA(8).
- (5) References to providing a service include—
 - (a) letting a ship on charter or any other asset on hire, and
 - (b) providing goods which are to be used up in the course of providing a service.

Textual Amendments

- F7** Ss. 416ZC-416ZE inserted (with effect in accordance with Sch. 32 para. 11 of the amending Act) by Finance Act 2013 (c. 29), **Sch. 32 para. 9**

416ZD Restriction on allowance available

- (1) In determining how much of the consideration for the service is qualifying expenditure, there is to be left out of account the amount (if any) by which that consideration exceeds D.
- (2) D is the cost to S of providing the service or, if the qualifying expenditure relates to only part of the service, that part.
- (3) Subsection (2) is subject to—
 - (a) subsection (4), and
 - (b) section 416ZE,which provide for D to be calculated differently in certain circumstances.
- (4) The following provisions apply in relation to an amount restricted under subsection (1) as they apply in relation to an amount restricted under section 165B(1)—
 - (a) section 165C;
 - (b) section 165E, subject to the modifications in subsection (5).
- (5) The modifications are that—
 - (a) the references to Part 2 are to be read as references to this Part,
 - (b) in subsection (1)(c), the reference to decommissioning expenditure is to be read as a reference to qualifying expenditure under section 416ZA, and
 - (c) in subsection (5), the reference to R's available qualifying expenditure is to be read as a reference to R's qualifying expenditure on the restoration of the site.
- (6) But if, under the arrangement, a particular service or part of a service is provided by more than one person who is connected with R (so that without this subsection there would be more than one amount for D in relation to that service or part), D is the lowest of those amounts.

Textual Amendments

- F7** Ss. 416ZC-416ZE inserted (with effect in accordance with Sch. 32 para. 11 of the amending Act) by Finance Act 2013 (c. 29), **Sch. 32 para. 9**

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416ZE Allowance where site restoration undertaken for other participators in oil field

- (1) This section applies where—
- (a) S carries out the restoration of a relevant site,
 - (b) there are, in addition to R, one or more other participators in the relevant field, and
 - (c) the expenditure incurred in carrying out the restoration is apportioned between the participators (including R) in accordance with their shares in the oil won from the relevant field or their shares in the equity of that field.
- (2) D is the part of the expenditure referred to in subsection (1)(c) which is incurred by R.
- (3) Where—
- (a) a relevant site has been used in connection with the winning of oil from more than one relevant field, and
 - (b) the expenditure incurred in respect of the restoration is apportioned between those fields in accordance with the contribution from each field to the total of the oil won using that site,
- subsections (1) and (2) apply to each such field as if subsection (1)(c) referred to the expenditure apportioned to that field.
- (4) But subsections (2) and (3) do not apply (and section 416ZD(2) applies instead) if—
- (a) the amount of consideration, or the method of determining the amount of consideration, to be received by S under the arrangement or arrangements, or
 - (b) the apportionment of the liability for that consideration (whether between the participators as mentioned in subsection (1)(c) or between the fields as mentioned in subsection (3)(b)),
- has been agreed as, or as part of, an avoidance scheme.
- (5) A scheme is an “avoidance scheme” if the main purpose, or one of the main purposes, of a party in entering into the scheme is to enable a person to obtain a tax advantage under this Part that would not otherwise be obtained.
- (6) The reference in subsection (5) to obtaining a tax advantage that would not otherwise be obtained includes obtaining an allowance that is in any way more favourable to a person than the one that would otherwise be obtained.
- (7) In relation to the restoration of a relevant site, “relevant field” means any of the following—
- (a) the oil field in which the site is located;
 - (b) if the site is the site of a source to the working of which a ring fence trade relates (or related), an oil field from which oil is or has been won by means of working the source;
 - (c) if the site is land used in connection with working such a source, an oil field from which oil is or has been won by means of working the source.
- (8) In this section—
- “licensee”, “oil” and “oil field” have the same meaning as in Part 1 of OTA 1975, and
- “other participator” means a person, not connected with R, who is a licensee in respect of any licensed area wholly or partly included in the oil field in question.]

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Textual Amendments

- F7** Ss. 416ZC-416ZE inserted (with effect in accordance with Sch. 32 para. 11 of the amending Act) by Finance Act 2013 (c. 29), **Sch. 32 para. 9**

Changes to legislation:

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