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*Changes to legislation: There are currently no known outstanding effects for the Capital Allowances Act 2001, Part 8. (See end of Document for details)*

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## SCHEDULES

### SCHEDULE 3

#### TRANSITIONALS AND SAVINGS

#### PART 8

##### RESEARCH AND DEVELOPMENT ALLOWANCES

###### *Expenditure incurred partly on research and development*

89 Section 439(4) does not apply to expenditure incurred before 27th July 1989.

###### *References to research and development in relation to new trades*

- 90 (1) Where—
- (a) a trade is set up and commenced in the year of assessment 1999-00, and
  - (b) its first period of account ends after 6th April 2001,
- Part 6 of this Act has effect in relation to that year as if references to research and development were references to scientific research.
- (2) In this paragraph “scientific research” means any activities in the fields of natural or applied science for the extension of knowledge.

###### *Disposal of oil licences*

- 91 (1) Sub-paragraphs (2) and (3) apply where—
- (a) a person (“the transferor”) disposes of any interest in an oil licence to another (“the transferee”) during the transitional period,
  - (b) part of the value of the interest is attributable to allowable exploration expenditure incurred by the transferor, and
  - (c) an election is made in accordance with this paragraph specifying an amount as the amount to be treated as so attributable.
- (2) Chapter 3 of Part 6 has effect in relation to the disposal as if—
- (a) the disposal were a disposal by which an asset representing the allowable exploration expenditure ceases to belong to the transferor, and
  - (b) the disposal value of that asset were an amount equal to the amount specified in the election.
- (3) For the purposes of Part 5 of this Act, the amount of any expenditure incurred—
- (a) by the transferee in acquiring the interest from the transferor, or
  - (b) by any person subsequently acquiring the interest (or an interest deriving from the interest),

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which is taken to be attributable to expenditure incurred, before the disposal to the transferee, on mineral exploration and access is the lesser of the amount specified in the election and the amount which, apart from this sub-paragraph, would be taken to be so attributable.

- (4) An election—
- (a) must be made by notice to [<sup>F1</sup>the Commissioners for Her Majesty’s Revenue and Customs] given by the transferor, and
  - (b) subject to sub-paragraph (5), does not have effect unless a copy of it is served on the transferee and the transferee consents to it.
- (5) If [<sup>F2</sup>the tribunal is] satisfied—
- (a) that the disposal was made under or in pursuance of an agreement entered into by the transferor and the transferee on the mutual understanding that a quantified (or quantifiable) part of the value of the interest disposed of was attributable to allowable exploration expenditure, and
  - (b) that the part quantified in accordance with that understanding and the amount specified in the election are the same,
- [<sup>F3</sup>the tribunal] may dispense with the need for the transferee to consent to the election.
- [<sup>F4</sup>(6) An application for the tribunal to determine the question is to be subject to the relevant provisions of Part 5 of the Taxes Management Act 1970 (see, in particular, section 48(2)(b) of that Act), and each of the persons concerned is entitled to be a party to the proceedings on the application.]
- (7) Subject to sub-paragraph (8), an election may specify any amount, including a nil amount, as the amount to be treated as mentioned in sub-paragraph (1)(c).
- (8) Where—
- (a) a return has been made for a chargeable period of the transferor, and
  - (b) the return includes, at the time when it is made, an amount which, disregarding the provisions of this paragraph, would be treated under Chapter 3 of Part 6 as a trading receipt accruing in that period,
- the election must not specify an amount less than the amount included in the return unless [<sup>F1</sup>the Commissioners for Her Majesty’s Revenue and Customs] agrees the lesser amount in question.
- (9) An election made in accordance with this paragraph—
- (a) is irrevocable, and
  - (b) may not be varied after it is made.
- (10) For the purposes of this paragraph a disposal is a disposal made during the transitional period if it is one made—
- (a) before 13th September 1995, or
  - (b) on or after that date in pursuance of any obligation to make the disposal which, immediately before that date, was an unconditional obligation.
- (11) For the purposes of sub-paragraph (10), the fact that a third party who is not connected with the transferor or the transferee may, by exercising any right or withholding any permission, prevent the fulfilment of an obligation does not prevent the obligation from being treated as unconditional.

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- (12) In sub-paragraph (11) the reference to a third party is a reference to any person, body, government or public authority, whether within or outside the United Kingdom.
- (13) In this paragraph—  
“allowable exploration expenditure” has the same meaning as in section 555;  
“mineral exploration and access” has the same meaning as in Part 5.
- (14) All such assessments and adjustments of assessments are to be made as are necessary to give effect to this paragraph.

#### **Textual Amendments**

- F1** Words in Act substituted (18.4.2005) by [Commissioners for Revenue and Customs Act 2005 \(c. 11\)](#), s. 53(1), [Sch. 4 para. 83\(2\)](#); S.I. 2005/1126, art. 2(2)(h)
- F2** Words in Sch. 3 para. 91(5) substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), [Sch. 1 para. 301\(2\)\(a\)](#)
- F3** Words in Sch. 3 para. 91(5) substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), [Sch. 1 para. 301\(2\)\(b\)](#)
- F4** Sch. 3 para. 91(6) substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), [Sch. 1 para. 301\(3\)](#)

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