

CORPORATION TAX ACT 2009

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 14: Remediation of contaminated land

Overview

Chapter 3: Land remediation tax credit

Section 1151: Entitlement to and payment of tax credit

2957. This section allows a company to claim a land remediation tax credit if it has a “qualifying land remediation loss”. It is based on paragraphs 14 and 16 of Schedule 22 to FA 2001.
2958. The section clarifies that a company may make part claims (*subsection (2)*). This is in line with current HMRC policy and is supported by paragraph 17(5)(b) of Schedule 22 to FA 2001.

Section 1152: Meaning of “qualifying land remediation loss”

2959. This section defines “qualifying land remediation loss”. It is based on paragraph 14 of Schedule 22 to FA 2001.
2960. *Subsection (2)* limits the amount of the qualifying land remediation loss to the lesser of two amounts.

Section 1153: Amount of a loss which is “unrelieved”

2961. This section explains what is meant by the amount of a UK property business loss or trading loss that is “unrelieved”. It is based on paragraph 14 of Schedule 22 to FA 2001.

Section 1154: Amount of tax credit

2962. This section gives the amount of the cash payment the company will receive. It is based on paragraph 15 of Schedule 22 to FA 2001.

Section 1155: Payment of tax credit

2963. This section gives a number of administrative rules that affect the payment of a land remediation tax credit. It is based on paragraph 16 of Schedule 22 to FA 2001.

Section 1156: Tax credit payment not income of company

2964. This section states that the payment of a land remediation tax credit is not income of the company for any tax purposes. It is based on paragraph 18 of Schedule 22 to FA 2001.

Section 1157: Exclusion for capital gains purposes of certain expenditure

2965. This section prevents any expenditure for which a land remediation tax credit has been claimed from also being deducted in the calculation of any chargeable gain on the disposal of the land. It is based on paragraph 19 of Schedule 22 to FA 2001.
2966. Section 39 of TCGA prevents expenditure that is allowable as a deduction in calculating income tax profits from being deducted again in the calculation of the chargeable gain. Section 8(3) and (4) of TCGA applies this principle to the calculation of a company's income and chargeable gains.
2967. The ordinary operation of section 39 of TCGA will prevent a double deduction for expenditure which attracts relief under sections 1147 and 1149. Amounts allowed under those sections are deducted in calculating the company's profits charged to corporation tax. But it is arguable that a loss surrendered in return for the payment of a land remediation tax credit falls outside this rule as the loss is not used in the ordinary calculation of the company's profits.
2968. This section makes clear that expenditure that contributed to the surrendered qualifying land remediation loss is not deductible in calculating the chargeable gain or allowable loss on the disposal of the land. It is not necessary to apply the rule to the 50% additional deduction itself as it is a notional figure and not an amount of actual expenditure.

Section 1158: Restriction on losses carried forward where tax credit claimed

2969. This section ensures that the amount of any qualifying land remediation loss surrendered in return for the payment of a land remediation tax credit is not available for carry forward for set-off against future profits. It is based on paragraph 17 of Schedule 22 to FA 2001.