



# Capital Allowances Act 2001

## 2001 CHAPTER 2

### PART 5

#### MINERAL EXTRACTION ALLOWANCES

#### CHAPTER 1

#### INTRODUCTION

#### **394 Mineral extraction allowances**

- (1) Allowances are available under this Part if a person carries on a mineral extraction trade and incurs qualifying expenditure.
- (2) In this Part “mineral extraction trade” means a trade which consists of, or includes, the working of a source of mineral deposits.
- (3) In this Part “mineral deposits” includes any natural deposits capable of being lifted or extracted from the earth, and for this purpose geothermal energy is to be treated as a natural deposit.
- (4) Any reference in this Part to mineral deposits is to mineral deposits of a wasting nature.
- (5) In this Part “source of mineral deposits” includes a mine, an oil well and a source of geothermal energy.

#### **395 Qualifying expenditure**

- (1) In this Part “qualifying expenditure” means—
  - (a) expenditure on mineral exploration and access which is qualifying expenditure under Chapter 2,
  - (b) expenditure on acquiring a mineral asset which is qualifying expenditure under Chapter 3,

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- (c) expenditure which is treated as qualifying expenditure on mineral exploration and access under section 407(5) or 408(2), and
- (d) expenditure which is qualifying expenditure under Chapter 5 (expenditure on works likely to become valueless and post-trading restoration expenditure).

But this is subject to subsections (2) and (3).

- (2) Expenditure is not qualifying expenditure if it is excluded from being qualifying expenditure by section 399.
- (3) Chapter 4 contains provisions limiting in certain cases the amount of expenditure which is qualifying expenditure.

### **396 Meaning of “mineral exploration and access”**

- (1) In this Part “mineral exploration and access” means—
  - (a) searching for or discovering and testing the mineral deposits of a source, or
  - (b) winning access to such deposits.
- (2) Expenditure on seeking planning permission necessary to enable—
  - (a) mineral exploration and access to be undertaken at any place, or
  - (b) any mineral deposits to be worked,
 is treated as expenditure on mineral exploration and access if planning permission is not granted.
- (3) “Seeking planning permission” includes pursuing an appeal against a refusal to grant planning permission.

### **397 Meaning of “mineral asset”**

In this Part “mineral asset” means—

- (a) any mineral deposits or land comprising mineral deposits, or
- (b) any interest in or right over such deposits or land.

### **398 Relationship between main types of qualifying expenditure**

Subject to Chapter 4, expenditure on—

- (a) the acquisition of, or of rights over, the site of a source of mineral deposits, or
- (b) the acquisition of, or of rights over, mineral deposits,

is to be treated as expenditure on acquiring a mineral asset and not as expenditure on mineral exploration and access.

### **399 Expenditure excluded from being qualifying expenditure**

- (1) Expenditure on the provision of plant or machinery is not qualifying expenditure except as provided by section 402 (pre-trading expenditure on plant or machinery).
- (2) Expenditure on works constructed wholly or mainly for subjecting the raw product of a source to any process is not qualifying expenditure, unless the process is designed for preparing the raw product for use as such.

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- (3) Expenditure on buildings or structures provided for occupation by, or for the welfare of, workers is not qualifying expenditure except as provided by section 415.
- (4) Expenditure on a building is not qualifying expenditure if the whole of the building was constructed for use as an office.
- (5) Subsection (6) applies if part of a building or structure has been constructed for use as an office.
- (6) The expenditure on the office part is not qualifying expenditure if it was more than 10% of the capital expenditure incurred on the construction of the whole.

## CHAPTER 2

### QUALIFYING EXPENDITURE ON MINERAL EXPLORATION AND ACCESS

#### **400 Qualifying expenditure on mineral exploration and access**

- (1) Expenditure on mineral exploration and access is qualifying expenditure if—
  - (a) it is capital expenditure, and
  - (b) it is incurred for the purposes of a mineral extraction trade.
- (2) Expenditure on mineral exploration and access incurred by a person in connection with a mineral extraction trade which that person carries on then or subsequently is to be treated as incurred for the purposes of that trade.
- (3) But pre-trading expenditure on mineral exploration and access is qualifying expenditure only to the extent provided by—
  - section 401 (pre-trading exploration expenditure), or
  - section 402 (pre-trading expenditure on plant or machinery).
- (4) Any pre-trading expenditure that is qualifying expenditure under either of those sections is to be treated as incurred on the first day of trading.
- (5) In this Chapter—
  - (a) “pre-trading expenditure” means capital expenditure incurred before the day on which a person begins to carry on a mineral extraction trade, and
  - (b) “the first day of trading”, in relation to a person’s pre-trading expenditure, means the day on which that person begins to carry on the mineral extraction trade.

#### **401 Pre-trading exploration expenditure**

- (1) This section applies if—
  - (a) a person incurs pre-trading expenditure on mineral exploration and access at a source, and
  - (b) the expenditure is not incurred on the provision of plant or machinery.
- (2) The amount of the expenditure (“pre-trading exploration expenditure”) that is qualifying expenditure depends on whether mineral exploration and access is continuing at the source on the first day of trading.

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- (3) If it is, so much of the pre-trading exploration expenditure as exceeds any relevant receipts is qualifying expenditure.
- (4) If it is not, only so much of the pre-trading exploration expenditure as—
  - (a) was incurred within 6 years ending on the first day of trading, and
  - (b) exceeds any relevant receipts,
 is qualifying expenditure.
- (5) “Relevant receipts” means capital sums received—
  - (a) by the person incurring the pre-trading exploration expenditure referred to in subsection (3) or (4), and
  - (b) before the first day of trading,
 so far as they are reasonably attributable to that expenditure.

#### **402 Pre-trading expenditure on plant or machinery**

- (1) This section applies if—
  - (a) a person incurs pre-trading expenditure on the provision of plant or machinery for mineral exploration and access,
  - (b) the plant or machinery was used in connection with mineral exploration and access at a source, and
  - (c) before the first day of trading, the plant or machinery is sold, demolished, destroyed or abandoned.
- (2) The amount of the expenditure (“pre-trading expenditure on plant or machinery”) that is qualifying expenditure depends on whether mineral exploration and access is continuing at the source on the first day of trading.
- (3) If it is, so much of the pre-trading expenditure on plant or machinery as exceeds any relevant receipts is qualifying expenditure.
- (4) If it is not, only so much of the pre-trading expenditure on plant or machinery as—
  - (a) was incurred within 6 years ending on the first day of trading, and
  - (b) exceeds any relevant receipts,
 is qualifying expenditure.
- (5) “Relevant receipts” means—
  - (a) if the plant or machinery is sold, the net proceeds to the person of the sale;
  - (b) if the plant or machinery is demolished or destroyed, the net amount received by the person for the remains of the plant or machinery, together with—
    - (i) any insurance money received by him in respect of the demolition or destruction, and
    - (ii) any other compensation of any description so received, so far as it consists of capital sums;
  - (c) if the plant or machinery is abandoned—
    - (i) any insurance money received by the person in respect of the abandonment, and
    - (ii) any other compensation of any description so received, so far as it consists of capital sums.

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## CHAPTER 3

### QUALIFYING EXPENDITURE ON ACQUIRING A MINERAL ASSET

#### 403 Qualifying expenditure on acquiring a mineral asset

- (1) Expenditure on acquiring a mineral asset is qualifying expenditure if—
  - (a) it is capital expenditure, and
  - (b) it is incurred for the purposes of a mineral extraction trade.
- (2) Subsection (1) is subject to—
  - section 404 (exclusion of undeveloped market value of land), and
  - section 406 (reduction where premium relief previously allowed).
- (3) In this Chapter “the buyer”, in relation to the acquisition of a mineral asset, means the person acquiring it.

#### 404 Exclusion of undeveloped market value of land

- (1) If the mineral asset is an interest in land, so much of the buyer’s expenditure on acquiring the asset as is equal to the undeveloped market value of the interest is not qualifying expenditure.
- (2) “The undeveloped market value of the interest” means the amount that, at the time of the acquisition, the interest might reasonably be expected to fetch on a sale in the open market on the assumptions in subsection (3).
- (3) The assumptions are that—
  - (a) there is no source of mineral deposits on or in the land, and
  - (b) it will only ever be lawful to carry out existing permitted development.
- (4) Development is existing permitted development if at the time of the acquisition—
  - (a) it has been, or had begun to be, lawfully carried out, or
  - (b) it could be lawfully carried out under planning permission granted by a general development order.
- (5) In applying subsection (4) in relation to land outside the United Kingdom—
  - (a) whether, at the time of the acquisition, development has been, or had begun to be, lawfully carried out is to be determined according to the law of the territory in which the land is situated, and
  - (b) whether, at that time, development could be lawfully carried out under planning permission granted by a general development order is to be determined as if the land were in England.
- (6) References in this section to the time of acquisition are not affected by section 434 (expenditure incurred before trade carried on).
- (7) This section does not apply to the buyer’s expenditure if an election under section 569 (election to treat sale as being for alternative amount) is made in relation to the acquisition.

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#### **405 Qualifying expenditure where buildings or structures cease to be used**

- (1) This section applies if—
- (a) section 404 (exclusion of undeveloped market value of land) applies to limit the buyer's qualifying expenditure on acquiring the mineral asset,
  - (b) the undeveloped market value of the interest in land includes the value of any buildings or structures on the land, and
  - (c) at the time of the acquisition, or at any later time, the buildings or structures permanently cease to be used for any purpose.
- (2) The buyer is to be treated—
- (a) as having incurred qualifying expenditure, on acquiring a mineral asset, of an amount equal to the unrelieved value of the buildings or structures, and
  - (b) as having incurred it when the buildings or structures permanently cease to be used for any purpose.
- (3) The unrelieved value of the buildings or structures is—

$$V - (A - B)$$

where—

V is the value of the buildings or structures at the date of the acquisition (disregarding any value properly attributable to the land on which they stand),

A is the amount of any allowances made to the buyer under the provisions of this Act other than Part 10 (assured tenancy allowances) in respect of—

- (a) the buildings or structures, or
- (b) assets in the buildings or structures, and

B is the amount of any balancing charges made on the buyer under those provisions in respect of those buildings or structures or assets in them.

- (4) References in this section to the time of acquisition are not affected by section 434 (time when expenditure incurred).

#### **406 Reduction where premium relief previously allowed**

- (1) This section applies if—
- (a) the mineral asset is or includes an interest in land, and
  - (b) for chargeable periods previous to the chargeable period for which the buyer first becomes entitled to an allowance under this Part in respect of the expenditure on acquiring the mineral asset, deductions are made under section 87 of ICTA (deductions in calculating trading profits where premiums etc. taxable).
- (2) The amount of the expenditure on the acquisition of the mineral asset that is qualifying expenditure is reduced by—

$$D \times \frac{E}{T}$$

where—

D is the total of the deductions made under section 87 of ICTA in the earlier chargeable periods mentioned in subsection (1)(b),

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E is the amount of the capital expenditure on the acquisition of the interest in land that would have been qualifying expenditure if the buyer had been entitled to allowances under this Part in those earlier periods, and

T is the total amount of the capital expenditure on the acquisition of the interest in land.

## CHAPTER 4

### QUALIFYING EXPENDITURE: SECOND-HAND ASSETS

#### *Assets reflecting expenditure on mineral exploration and access*

#### **407 Acquisition of mineral asset owned by previous trader**

- (1) This section applies if—
  - (a) a person carrying on a mineral extraction trade (“the buyer”) incurs capital expenditure on acquiring a mineral asset (“asset X”) for the purposes of that trade, and
  - (b) the conditions in subsection (3) are met.
- (2) In this section “the buyer’s expenditure” means the expenditure referred to in subsection (1)(a), less any amount which, under section 404 (exclusion of undeveloped market value of land), is not qualifying expenditure on the acquisition of the mineral asset.
- (3) The conditions are that—
  - (a) expenditure was previously incurred on acquiring asset X or bringing it into existence by—
    - (i) the person from whom the buyer acquired asset X, or
    - (ii) an earlier owner of asset X,in connection with a mineral extraction trade carried on by the person incurring that expenditure,
  - (b) part of the value of asset X is properly attributable to expenditure (“E1”) on mineral exploration and access by the previous trader, and
  - (c) it is just and reasonable to attribute part of the buyer’s expenditure (“E2”) to that part of the value of asset X.
- (4) In arriving at E1, any expenditure that is or has been deducted in calculating, for tax purposes, the profits of a trade carried on by the previous trader must be excluded.
- (5) If this section applies—
  - (a) so much of the buyer’s expenditure as is equal to the lesser of E1 and E2 is to be treated as qualifying expenditure on mineral exploration and access, and
  - (b) the buyer’s expenditure on acquiring the mineral asset is reduced by the same amount.
- (6) “The previous trader” means—
  - (a) the person incurring the expenditure mentioned in subsection (3)(a), or
  - (b) if there has been more than one such person, the last before the buyer acquired asset X.
- (7) In this section references to asset X include—

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- (a) two or more assets which together make up asset X, and
- (b) one asset from which, or two or more assets from the combination of which, asset X is derived.

#### **408 Acquisition of oil licence from non-trader**

- (1) This section applies if—
  - (a) a person carrying on a mineral extraction trade (“the buyer”) incurs capital expenditure on acquiring an interest in an oil licence for the purposes of that trade,
  - (b) the person from whom the interest was acquired (“the seller”) disposed of the interest without having carried on a mineral extraction trade,
  - (c) part of the value of the interest is attributable to expenditure (“E1”) on mineral exploration and access by the seller, and
  - (d) it is just and reasonable to attribute part of the buyer’s expenditure (“E2”) to that part of the value of the interest.
- (2) If this section applies—
  - (a) so much of the buyer’s expenditure as is equal to the lesser of E1 and E2 is to be treated as qualifying expenditure on mineral exploration and access, and
  - (b) the buyer’s expenditure on acquiring the interest in the oil licence is reduced by an amount equal to E2.
- (3) In this section “oil licence” and “interest in an oil licence” have the same meaning as in Chapter 3 of Part 12.

#### **409 Acquisition of other assets from non-traders**

- (1) This section applies if—
  - (a) a person carrying on a mineral extraction trade (“the buyer”) incurs capital expenditure on acquiring any assets for the purposes of that trade,
  - (b) the person from whom the assets were acquired (“the seller”) disposed of the assets without having carried on a mineral extraction trade,
  - (c) the assets represent expenditure on mineral exploration and access incurred by the seller, and
  - (d) section 408 (acquisition of oil licence from non-trader) does not apply in relation to the acquisition.
- (2) If this section applies, the buyer’s expenditure is qualifying expenditure only to the extent that it does not exceed the amount of the seller’s expenditure on mineral exploration and access that is represented by the assets.
- (3) The references in this section to assets representing expenditure on mineral exploration and access include any results obtained from any search, exploration or inquiry on which the expenditure was incurred.



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*Qualifying expenditure on assets limited by reference to historic costs*

**410 UK oil licence: limit is original licence payment**

- (1) This section applies if a person carrying on a mineral extraction trade (“the buyer”) incurs capital expenditure on acquiring a mineral asset which is a UK oil licence, or an interest in such a licence, for the purposes of that trade.
- (2) If this section applies, the buyer’s expenditure is qualifying expenditure only to the extent that it does not exceed—
  - (a) the original licence payment, or
  - (b) if the mineral asset is an interest in a UK oil licence, such part of the original licence payment as it is just and reasonable to attribute to the interest.
- (3) In this section “the original licence payment” means the amount paid to the relevant authority for the purpose of obtaining the licence by the person to whom the licence was granted.
- (4) This section does not affect any expenditure that is treated as qualifying expenditure on mineral exploration and access under—
  - section 407(5) (acquisition of mineral asset owned by previous trader), or
  - section 408(2) (acquisition of oil licence from non-trader).
- (5) In this section “UK oil licence” and “the relevant authority” have the same meaning as in Chapter 3 of Part 12.

**411 Assets generally: limit is residue of previous trader’s qualifying expenditure**

- (1) This section applies if—
  - (a) a person carrying on a mineral extraction trade (“the buyer”) incurs capital expenditure on acquiring an asset (“asset X”) for the purposes of that trade, and
  - (b) expenditure was previously incurred on acquiring asset X or bringing it into existence by—
    - (i) the person from whom the buyer acquired asset X, or
    - (ii) an earlier owner of asset X,in connection with a mineral extraction trade carried on by the person incurring that expenditure.
- (2) In this section “the buyer’s expenditure” means the expenditure referred to in subsection (1)(a) less any amount which, under section 404 (exclusion of undeveloped market value of land), is not qualifying expenditure on the acquisition of the mineral asset.
- (3) If this section applies, the buyer’s expenditure is qualifying expenditure only to the extent that it does not exceed the residue of the previous trader’s qualifying expenditure.
- (4) The residue of the previous trader’s qualifying expenditure is—

$$QE - (A - B)$$

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where—

QE is so much of the expenditure incurred by the previous trader on the acquisition or bringing into existence of asset X as constitutes qualifying expenditure for the purposes of this Part,

A is the total of any allowances made under this Part in respect of the previous trader's qualifying expenditure, and

B is the total of any balancing charges made under this Part in respect of the previous trader's qualifying expenditure.

- (5) “The previous trader” means—
  - (a) the person incurring the expenditure mentioned in subsection (1)(b), or
  - (b) if there has been more than one such person, the last before the buyer acquired asset X.
- (6) In this section references to asset X include—
  - (a) two or more assets which together make up asset X, and
  - (b) one asset from which, or two or more assets from the combination of which, asset X is derived.
- (7) For the purposes of subsection (4), if the previous trader incurred expenditure on the acquisition or bringing into existence of one or more assets from which asset X is derived, QE is so much of that expenditure as—
  - (a) was qualifying expenditure for the purposes of this Part, and
  - (b) is just and reasonable to attribute to asset X;
 and a similar apportionment is to be made to arrive at A and B.
- (8) This section does not affect any expenditure that is treated as qualifying expenditure on mineral exploration and access under—
  - section 407(5) (acquisition of mineral asset owned by previous trader), or
  - section 408(2) (acquisition of oil licence from non-trader).

#### **412 Transfers of mineral assets within group: limit is initial group expenditure**

- (1) Subject to section 413, this section applies if—
  - (a) a company (“the buyer”) incurs capital expenditure on acquiring a mineral asset (“asset X”) from another company (“the seller”), and
  - (b) the seller is a group company in relation to the buyer at the time of the acquisition.
- (2) The buyer's expenditure on acquiring asset X is to be left out of account for the purposes of this Part to the extent that it exceeds—
  - (a) the capital expenditure incurred by the seller on acquiring asset X, or
  - (b) if asset X is an interest or right granted by the seller in a mineral asset acquired by the seller (“asset Y”), so much of the capital expenditure incurred by the seller on asset Y as on a just and reasonable apportionment is referable to asset X.
- (3) If there is a sequence of acquisitions within subsection (1), apply subsection (2) in the same sequence (starting with the first acquisition in the sequence).
- (4) Subsections (5) to (7) apply if—
  - (a) the buyer is carrying on a mineral extraction trade, and

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- (b) the asset is an interest in land.
- (5) Section 404 (exclusion of undeveloped market value of land) applies to the buyer as if the time of the buyer's acquisition of the interest in land were—
  - (a) the time of the seller's acquisition of the interest, or
  - (b) if there is a sequence of acquisitions within subsection (1), the time when the interest was acquired by the company which is the seller in the first acquisition in the sequence.
- (6) Subject to subsection (7), section 405 (qualifying expenditure where buildings or structures cease to be used) applies to the buyer as if the time of the buyer's acquisition of the interest in land were the time of the seller's acquisition of the interest.
- (7) If there is a sequence of acquisitions within subsection (1), section 405 applies as if—
  - (a) the time of the acquisition were the time when the interest was acquired by the company which is the seller in the first acquisition in the sequence, but
  - (b) the allowances and balancing charges to be taken into account in calculating (under section 405(3)) the unrelieved value of the buildings or structures included any allowances or charges made to or on any seller in the sequence.

#### **413 Transfers of mineral assets within group: supplementary**

- (1) For the purposes of section 412, a company is a group company in relation to another company if—
  - (a) it controls, or is controlled by, the other company, or
  - (b) both companies are under the control of another person.
- (2) Section 412 does not apply if—
  - (a) section 410 (UK oil licences: limit is original licence payment) applies to the acquisition, or
  - (b) the acquisition is a sale in respect of which an election is made under section 569 (election to treat sale as being for an alternative amount).
- (3) Section 412 applies regardless of section 568 (sales between connected persons etc., or to obtain tax advantage, treated as at market value).
- (4) Section 412 does not affect any expenditure that is treated as qualifying expenditure on mineral exploration and access under—
  - section 407(5) (acquisition of mineral asset owned by previous trader), or
  - section 408(2) (acquisition of oil licence from non-trader).

## **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

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- (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—
  - (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 Expenditure on restoration within 3 years of ceasing to trade**

- (1) If—
  - (a) a person who has ceased to carry on a 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—

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- (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
  - (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.
- (6) A “relevant site” means—
- (a) the site of a source to the working of which the 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).
- (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.

## [<sup>F1</sup>CHAPTER 5A

### FIRST-YEAR QUALIFYING EXPENDITURE

#### Textual Amendments

- F1** Pt. 5 Ch. 5A inserted (with effect as mentioned in s. 63 of the amending Act) by [Finance Act 2002](#) (c. 23), s. 63, [Sch. 21 para. 9](#)

#### *General*

#### **416A First-year allowances available for certain types of qualifying expenditure**

A first-year allowance is not available unless the qualifying expenditure is first-year qualifying expenditure under section 416B (expenditure incurred wholly for purposes of a ring fence trade).

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*Types of expenditure which may qualify for first year allowances*

**416B Expenditure incurred by company for purposes of a ring fence trade**

- (1) Expenditure is first-year qualifying expenditure if—
  - (a) it is incurred on or after 17th April 2002,
  - (b) it is incurred by a company,
  - (c) it is incurred wholly for the purposes of a ring fence trade, and
  - (d) it is not excluded by—
    - (i) subsection (2) (acquisition of mineral asset), or
    - (ii) subsection (3) (acquisition of asset representing expenditure of connected company).
- (2) Expenditure is not first-year qualifying expenditure under this section if it is expenditure on acquiring a mineral asset.
- (3) Expenditure is not first-year qualifying expenditure under this section if it is expenditure incurred by a company on the acquisition of an asset representing expenditure incurred by a company connected with that company.
- (4) To the extent that references in this section to an asset representing expenditure incurred by a company include a reference to an asset representing expenditure on mineral exploration and access, they also include a reference to any results obtained from any search, exploration or inquiry on which any such expenditure was incurred.
- (5) In this section “ring fence trade” means a ring fence trade in respect of which tax is chargeable under section 501A of the Taxes Act 1988 (supplementary charge in respect of ring fence trades).

*Supplementary*

**416C Time when expenditure is incurred**

- (1) In determining whether expenditure is first-year qualifying expenditure under this Chapter, any effect of the provisions specified in subsection (2) on the time at which the expenditure is to be treated as incurred is to be disregarded.
- (2) The provisions are—
  - (a) section 400(4) (which treats certain pre-trading expenditure as incurred on the first day of trading), and
  - (b) section 434 (which treats certain other expenditure incurred for the purposes of a trade about to be carried on as incurred on that day).]

*Status: Point in time view as at 24/07/2002.*

*Changes to legislation: There are currently no known outstanding effects for the Capital Allowances Act 2001, Part 5. (See end of Document for details)*

## CHAPTER 6

### ALLOWANCES AND CHARGES

#### *F2* First-year allowances

##### Textual Amendments

- F2** S. 416D and preceding crossheading inserted (with effect as mentioned in s. 63(3) of the amending Act) by [Finance Act 2002 \(c. 23\)](#), s. 63, [Sch. 21 para. 10](#)

#### **416D** First-year allowances

- (1) A person is entitled to a first-year allowance in respect of first-year qualifying expenditure if the expenditure is incurred in a chargeable period to which this Act applies.
- (2) Any first-year allowance is made for the chargeable period in which the first-year qualifying expenditure is incurred.
- (3) The amount of the allowance is a percentage of the first-year qualifying expenditure in respect of which the allowance is made, as shown in the Table—

TABLE

##### AMOUNT OF FIRST-YEAR ALLOWANCES

<i>Type of first-year qualifying expenditure</i>	<i>Amount</i>
Expenditure qualifying under section 416B (expenditure incurred wholly for the purposes of a ring fence trade)	100%

- (4) A person who is entitled to a first-year allowance may claim the allowance in respect of the whole or a part of the first-year qualifying expenditure.
- (5) This section is subject to section 416E (artificially inflated claims for first-year allowances).

#### **F3** **416E** Artificially inflated claims for first-year allowances

- (1) To the extent that a transaction is attributable to arrangements entered into wholly or mainly for a disqualifying purpose, it shall be disregarded in determining for a chargeable period the amount of any first-year allowance to which a person is entitled.
- (2) For the purposes of this section, arrangements are entered into wholly or mainly for a “disqualifying purpose” if their main object, or one of their main objects, is to enable a person to obtain—
  - (a) a first-year allowance to which he would not otherwise be entitled, or
  - (b) a first-year allowance of a greater amount than that to which he would otherwise be entitled.

*Status: Point in time view as at 24/07/2002.*

*Changes to legislation: There are currently no known outstanding effects for the Capital Allowances Act 2001, Part 5. (See end of Document for details)*

- (3) In this section “arrangements” includes any scheme, agreement or understanding, whether or not legally enforceable.]]

#### **Textual Amendments**

- F3** S. 416E inserted (with effect as mentioned in s. 63(3) of the amending Act) by [Finance Act 2002 \(c. 23\)](#), s. 63, [Sch. 21 para. 11](#)

### *Writing-down and balancing allowances and balancing charges*

#### **417 Determination of entitlement or liability**

- (1) Whether a person who has incurred qualifying expenditure is entitled to a writing-down allowance or a balancing allowance, or liable to a balancing charge, for a chargeable period depends on—
  - (a) how much of the expenditure is unrelieved qualifying expenditure for that period (“UQE”), and
  - (b) the total of any disposal receipts to be brought into account for that period (“TDR”) by reference to the expenditure.
- (2) If UQE exceeds TDR, the person is entitled to a writing-down allowance or a balancing allowance for the period.
- (3) If TDR exceeds UQE, the person is liable to a balancing charge for the period.
- (4) The entitlement under subsection (2) is to a writing-down allowance except in cases for which sections 426 to 431 provide for the entitlement to be to a balancing allowance.

#### **418 Amount of allowances and charges**

- (1) The amount of the writing-down allowance to which a person is entitled for any chargeable period in respect of qualifying expenditure is—
  - (a) in the case of qualifying expenditure on the acquisition of a mineral asset, 10% of the amount by which UQE exceeds TDR;
  - (b) in the case of other qualifying expenditure, 25% of the amount by which UQE exceeds TDR.
- (2) If the chargeable period is more or less than a year, the amount of the writing-down allowance is proportionately increased or reduced.
- (3) If the mineral extraction trade has been carried on for part only of the chargeable period, the amount of the writing-down allowance is proportionately reduced.
- (4) The amount of the balancing charge to which a person is liable for a chargeable period in respect of qualifying expenditure is—
  - (a) the amount by which TDR exceeds UQE, or
  - (b) if less, the allowances for earlier chargeable periods in respect of the expenditure less the total of any balancing charges for those periods in respect of the expenditure.

[<sup>F4</sup>Where a person is liable to a balancing charge in respect of first-year qualifying expenditure for the chargeable period in which he incurred the expenditure, any first-



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year allowance made in respect of the expenditure shall be treated for the purposes of paragraph (b) as if it were an allowance for an earlier chargeable period.]

- <sup>F4</sup>(5) The amount of the balancing allowance to which a person is entitled for a chargeable period in respect of qualifying expenditure is the amount by which UQE exceeds TDR.
- (6) A person claiming a writing-down allowance or a balancing allowance may require the allowance to be reduced to a specified amount.

#### Textual Amendments

- F4** Words in s. 418(4) inserted (with effect as mentioned in s. 63(3) of the amending Act) by [Finance Act 2002 \(c. 23\), s. 63, Sch. 21 para. 12](#)

### *Unrelieved qualifying expenditure*

#### **419 Unrelieved qualifying expenditure**

- (1) A person's unrelieved qualifying expenditure for the chargeable period in which the qualifying expenditure is incurred is
- <sup>F5</sup>(a) the whole of it, unless the expenditure is first-year qualifying expenditure, or
  - (b) if the expenditure is first-year qualifying expenditure, none of it, but paragraph (b) is subject to subsections (3) to (5).<sup>F5</sup>
- (2) A person's unrelieved qualifying expenditure for a chargeable period after that in which the qualifying expenditure is incurred is the amount, if any, by which it exceeds the aggregate of—
- (a) the allowances made in respect of the expenditure for earlier chargeable periods, and
  - (b) the total of any disposal receipts for earlier chargeable periods.
- <sup>F6</sup>(3) If, in the case of expenditure which is first-year qualifying expenditure, a disposal receipt falls to be brought into account for the chargeable period in which the expenditure is incurred (“the initial period”), subsection (4) below applies.
- (4) Where this subsection applies, the unrelieved balance of the expenditure shall be taken to be unrelieved qualifying expenditure for the initial period, but only for the purpose specified in subsection (5).
- (5) The purpose is that of determining in accordance with sections 417 and 418—
- (a) any question whether the person who incurred the expenditure—
    - (i) is entitled to a balancing allowance for the initial period, or
    - (ii) is liable to a balancing charge for that period, and
  - (b) if so, the amount of that balancing allowance or balancing charge.
- (6) In this section “the unrelieved balance of the expenditure” means so much of the first-year qualifying expenditure in question as remains after deducting the amount of any first-year allowance given in respect of the whole or any part of that expenditure.<sup>F6</sup>]

*Status: Point in time view as at 24/07/2002.*

*Changes to legislation: There are currently no known outstanding effects for the Capital Allowances Act 2001, Part 5. (See end of Document for details)*

### **Textual Amendments**

- F5** Words in s. 419(1) substituted (with effect as mentioned in s. 63 of the amending Act) by [Finance Act 2002 \(c. 23\)](#), s. 63, [Sch. 21 para. 13\(2\)](#)
- F6** S. 419(3)-(6) inserted (with effect as mentioned in s. 63 of the amending Act) by [Finance Act 2002 \(c. 23\)](#), s. 63, [Sch. 21 para. 13\(3\)](#)

## *Disposal values*

### **420 Meaning of “disposal receipt”**

In sections 417 to 419 “disposal receipt” means a disposal value that a person is required to bring into account in accordance with—

- (a) sections 421 to 425, or
- (b) paragraph 11 of Schedule 12 to FA 1997 (finance lease or loan: receipt of major lump sum) or any other enactment.

### **421 Disposal of, or ceasing to use, asset**

- (1) This section applies if—
  - (a) a person has incurred qualifying expenditure on providing assets (including the construction of works), and
  - (b) any of those assets—
    - (i) is disposed of, or
    - (ii) permanently ceases to be used by him for the purposes of a mineral extraction trade (whether because of the discontinuance of the trade or for any other reason).
- (2) The person is required to bring the disposal value of the asset into account for the chargeable period in which the disposal or cessation occurs.

### **422 Use of asset otherwise than for permitted development etc.**

- (1) This section applies if—
  - (a) a person has acquired a mineral asset,
  - (b) at any time after the acquisition, the asset begins to be used (by him or another person) in a way which constitutes development, and
  - (c) the development is not—
    - (i) existing permitted development, or
    - (ii) development for the purposes of a mineral extraction trade carried on by the person.
- (2) The person is required to bring the disposal value of the mineral asset into account for the chargeable period in which the use begins.
- (3) Development is existing permitted development if at the time of the acquisition—
  - (a) it has been, or had begun to be, lawfully carried out, or
  - (b) it could be lawfully carried out under planning permission granted by a general development order.

*Status: Point in time view as at 24/07/2002.*

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- (4) In applying subsection (3) in relation to land outside the United Kingdom—
- (a) whether, at the time of the acquisition, development has been, or had begun to be, lawfully carried out is to be determined according to the law of the territory in which the land is situated, and
  - (b) whether, at that time, development could be lawfully carried out under planning permission granted by a general development order is to be determined as if the land were in England.

### **423 Sections 421 and 422: amount of disposal value to be brought into account**

- (1) The disposal value to be brought into account under section 421 or 422 depends on the event requiring it to be brought into account, as shown in the Table—

Table

Disposal value for sections 421 and 422

<i>1. Event</i>	<i>2. Disposal value</i>
1. Sale of the asset, except in a case where item 2 applies.	The net proceeds of the sale, together with— <ul style="list-style-type: none"><li>(a) any insurance money received in respect of the asset as a result of an event affecting the price obtainable on the sale, and</li><li>(b) any other compensation of any description so received, so far as it consists of capital sums.</li></ul>
2. Sale of the asset where— <ul style="list-style-type: none"><li>(a) the sale is at less than market value,</li><li>(b) there is no charge to tax under Schedule E, and</li><li>(c) the condition in subsection (3) is met by the buyer.</li></ul>	The market value of the asset at the time of the sale.
3. Demolition or destruction of the asset.	The net amount received for the remains of the asset, together with— <ul style="list-style-type: none"><li>(a) any insurance money received in respect of the demolition or destruction, and</li><li>(b) any other compensation of any description so received, so far as it consists of capital sums.</li></ul>
4. Permanent loss of the asset otherwise than as a result of its demolition or destruction.	Any insurance money received in respect of the loss and, so far as it consists of capital sums, any other compensation of any description so received.
5. Permanent discontinuance of the trade followed by the occurrence of an event within any of items 1 to 4.	The disposal value for the item in question.

*Status: Point in time view as at 24/07/2002.*

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6. Any event not falling within any of items 1 to 5.	The market value of the asset at the time of the event.
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- (2) The amounts referred to in column 2 of the Table are those received by the person required to bring the disposal value into account.
- (3) The condition referred to in item 2 of the Table is met by the buyer if—
- (a) the buyer's expenditure on the acquisition of the asset cannot be qualifying expenditure under Part 2 or 6 (plant and machinery and research and development allowances), or
  - (b) the buyer is a dual resident investing company which is connected with the seller.

#### **424 Disposal value restricted in case of interest in land**

- (1) If the asset in relation to which a disposal value is required to be brought into account under section 421 or 422 is an interest in land, the disposal value is restricted by excluding the undeveloped market value of the interest.
- (2) "The undeveloped market value of the interest" means the amount that, at the time of the disposal, the interest might reasonably be expected to fetch on a sale in the open market on the assumptions in subsection (3).
- (3) The assumptions are that—
- (a) there is no source of mineral deposits on or in the land, and
  - (b) it will only ever be lawful to carry out existing permitted development.
- (4) Development is existing permitted development if at the time of the disposal—
- (a) it has been, or had begun to be, lawfully carried out, or
  - (b) it could be lawfully carried out under planning permission granted by a general development order.
- (5) In applying subsection (4) in relation to land outside the United Kingdom—
- (a) whether, at the time of the disposal, development has been, or had begun to be, lawfully carried out is to be determined according to the law of the territory in which the land is situated, and
  - (b) whether, at that time, development could be lawfully carried out under planning permission granted by a general development order is to be determined as if the land were in England.

#### **425 Receipt of capital sum**

- (1) This section applies if a person—
- (a) has incurred qualifying expenditure, and
  - (b) receives a capital sum which, in whole or in part, it is reasonable to attribute to that expenditure.
- (2) The person is required to bring into account as a disposal value for the chargeable period in which the capital sum is received so much of the capital sum as is reasonably attributable to the qualifying expenditure.
- (3) This section does not apply if the capital sum falls to be brought into account under section 421 or 422.

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### *Cases in which a person is entitled to a balancing allowance*

#### **426 Pre-trading expenditure**

A person's entitlement to an allowance for a chargeable period is to a balancing allowance if—

- (a) the expenditure is qualifying expenditure under—
  - (i) section 401(4) (pre-trading exploration expenditure where exploration etc. has ceased before first day of trading), or
  - (ii) section 402 (pre-trading expenditure on plant or machinery), and
- (b) the first day of trading occurs in that chargeable period.

#### **427 Giving up exploration, search or inquiry**

A person's entitlement to an allowance for a chargeable period is to a balancing allowance if—

- (a) the qualifying expenditure is expenditure on mineral exploration and access,
- (b) he gives up the exploration, search or inquiry to which the expenditure related in that chargeable period, and
- (c) he does not then or later carry on a mineral extraction trade which consists of or includes the working of mineral deposits to which the expenditure related.

#### **428 Ceasing to work mineral deposits**

(1) A person's entitlement to an allowance for a chargeable period is to a balancing allowance if—

- (a) in that chargeable period he permanently ceases to work particular mineral deposits, and
- (b) the qualifying expenditure is expenditure incurred—
  - (i) on mineral exploration and access relating solely to those deposits, or
  - (ii) on acquiring a mineral asset consisting of those deposits or part of them.

(2) If the person carrying on the mineral extraction trade is entitled to two or more mineral assets which at any time were—

- (a) comprised in a single mineral asset, or
- (b) otherwise derived from a single mineral asset,

subsection (1) does not apply until such time as the person permanently ceases to work the deposits comprised in all the mineral assets concerned taken together.

(3) For the purposes of subsection (2), if a mineral asset relates to, but does not actually consist of, mineral deposits, the deposits to which the asset relates are to be treated as comprised in the asset.

#### **429 Buildings etc. for benefit of employees abroad ceasing to be used**

A person's entitlement to an allowance for a chargeable period is to a balancing allowance if—

- (a) the expenditure is qualifying expenditure under section 415 (contributions to buildings or works for benefit of employees abroad), and

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- (b) in that chargeable period the buildings or works permanently cease to be used for the purposes of or in connection with the mineral extraction trade.

#### **430 Disposal of asset, etc.**

- (1) A person's entitlement to an allowance for a chargeable period is to a balancing allowance if—
  - (a) the qualifying expenditure was incurred on the provision of any assets, and
  - (b) in that chargeable period any of those assets—
    - (i) is disposed of, or
    - (ii) otherwise permanently ceases to be used by him for the purposes of the mineral extraction trade.
- (2) A person's entitlement to an allowance for a chargeable period is to a balancing allowance if any of the following events occurs in that chargeable period in relation to assets representing the qualifying expenditure—
  - (a) the person loses possession of the assets in circumstances where it is reasonable to assume that the loss is permanent;
  - (b) the assets cease to exist as such (as a result of destruction, dismantling or otherwise);
  - (c) the assets begin to be used wholly or partly for purposes other than those of the mineral extraction trade carried on by the person.

#### **431 Discontinuance of trade**

A person's entitlement to an allowance for a chargeable period is to a balancing allowance if in that chargeable period the mineral extraction trade is permanently discontinued.

## **CHAPTER 7**

### SUPPLEMENTARY PROVISIONS

#### **432 Giving effect to allowances and charges**

An allowance or charge to which a person is entitled or liable under this Part is to be given effect in calculating the profits of that person's mineral extraction trade, by treating—

- (a) the allowance as an expense of the trade, and
- (b) the charge as a receipt of the trade.

#### **433 Treatment of demolition costs**

- (1) The net cost to a person of demolishing an asset which represents qualifying expenditure is added to that qualifying expenditure in determining the amount of any balancing allowance or balancing charge for the chargeable period in which the demolition occurs.
- (2) "The net cost of the demolition" means the amount, if any, by which the cost of the demolition exceeds any money received for the remains of the asset.

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- (3) If this section applies, the net cost of the demolition is not treated as expenditure incurred on any other asset which replaces the demolished asset.

#### **434 Time when expenditure incurred**

- (1) For the purposes of this Part, expenditure incurred for the purposes of a mineral extraction trade by a person about to carry it on is treated as incurred by that person on the first day on which that person does carry it on.
- (2) Subsection (1) does not apply to pre-trading expenditure on mineral exploration and access (for which specific provision is made by section 400(4)).

#### **435 Shares in assets**

- (1) This Part applies in relation to a share in an asset as it applies (under section 571) in relation to a part of an asset.
- (2) For the purposes of those provisions, a share in an asset is treated as used for the purposes of a trade so long as, and only so long as, the asset is used for the purposes of the trade.

#### **436 Meaning of “development” etc.**

- (1) In this Part—  
“development”  
“development order”,  
“general development order”, and  
“planning permission”,  
have the meaning given by the relevant planning enactment.
- (2) “The relevant planning enactment” means—  
(a) in relation to land in England or Wales, section 336(1) of the Town and Country Planning Act 1990 (c. 8);  
(b) in relation to land in Scotland, section 277(1) of the Town and Country Planning (Scotland) Act 1997 (c. 8);  
(c) in relation to land in Northern Ireland, Article 2(2) of the Planning (Northern Ireland) Order 1991 (S.I.1991/1220 (N.I.11)).

**Status:**

Point in time view as at 24/07/2002.

**Changes to legislation:**

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