Status: *Point in time view as at 21/07/2008.*
Changes to legislation: *There are currently no known outstanding effects for the Finance Act 2001, Part 3. (See end of Document for details)*

SCHEDULES

SCHEDULE 22

REMEDIATION OF CONTAMINATED LAND

PART 3

MANNER OF GIVING EFFECT TO RELIEF

Deduction in computing profits of Schedule A business or trade

13 Where—

(a) a company is entitled to land remediation relief for an accounting period,

(b) it is carrying on a Schedule A business or a trade in that period, and

(c) it has qualifying land remediation expenditure that is allowable as a deduction in computing for tax purposes the profits of the Schedule A business or the trade for that period,

it may (on making a claim) treat that qualifying land remediation expenditure as if it were an amount equal to 150% of the actual amount.

Entitlement to land remediation tax credit

14 (1) A company may claim a land remediation tax credit if in an accounting period it has a "qualifying land remediation loss".

(2) A company has a "qualifying land remediation loss" for this purpose if in an accounting period—

(a) paragraph 13 applies, and

(b) the company incurs a Schedule A loss or a trading loss in that period in the Schedule A business or the trade referred to in paragraph 13(b).

(3) The amount of the qualifying land remediation loss is equal to the lesser of—

(a) 150% of the related qualifying land remediation expenditure, and

(b) so much of the company's Schedule A loss or trading loss as is unrelieved.

(4) For this purpose the amount of a Schedule A loss or trading loss that is "unrelieved" is the amount of that loss reduced by the amount of—

(a) any relief that was or could have been obtained by the company making a claim under section 392A(1) or 393A(1)(a) of the Taxes Act 1988 to set the loss against profits of whatever description of the same accounting period,

(b) any other relief obtained by the company in respect of the loss, including relief under section 393A(1)(b) of that Act (losses set against profits of an earlier accounting period), and

(c) any loss surrendered under section 403(1) of that Act (surrender of relief to group or consortium members).

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(5) No account shall be taken for this purpose of—

(a) any Schedule A losses or trading losses brought forward from an earlier accounting period under section 392A(2) or 393(1) of the Taxes Act 1988, or

(b) any trading losses carried back from a later accounting period under section 393A(1)(b) of that Act.

(6) Sub-paragraphs (7) to (9) apply for the purpose of determining the amount of a Schedule A loss that is "unrelieved" in an accounting period in a case where the Schedule A loss is a loss treated under section 432AB(3) of the Taxes Act 1988 **[**[F1]for the purposes of section 76 of that Act as expenses payable which fall to be brought into account at Step 3 in subsection (7) of that section**]**.

(7) If in that accounting period no amount falls to be carried forward to a succeeding accounting period under **[**[F2]section 76(12) [F3]...**]** of the Taxes Act 1988 (carrying forward **[**[F4]unrelieved expenses**]**[F3]... where such expenses [F3]... exceed amount of profits from which deductible), no amount of the Schedule A loss is unrelieved.

(8) If in that accounting period an amount falls to be carried forward to a succeeding accounting period under **[**[F5]section 76(12) [F6]...**]** of that Act, the amount of the Schedule A loss that is unrelieved is equal to the lesser of—

(a) the amount of the Schedule A loss, and

(b) **[**[F7]the total amount**]** which so falls to be carried forward.

[[F8](9) In determining for the purposes of sub-paragraph (7) and (8) above whether there is an amount which falls to be carried forward under subsection (12) [F9]... of section 76 of Taxes Act 1988, there shall be disregarded any amounts brought forward from an earlier accounting period and treated for the purposes of that section as expenses payable which fall to be brought into account for that period in question—

(a) in accordance with **[**[F10]Step 7 **]** in subsection (7) of that section, by virtue of a previous application of subsection (12) or (13) of that section, or

(b) in accordance with Step 3 in subsection (7) of that section, by virtue of paragraph 4(4) of Schedule 11 to the Finance Act 1996 (loan relationships deficit carried forward and so brought into account).**]**

(10) If—

(a) the company is an insurance company, and

(b) it is treated under section 432AA of the Taxes Act 1988 as carrying on more than one Schedule A business,

references in this paragraph to a Schedule A loss shall be construed in accordance with section 432AB(4) [F11]... of that Act (aggregation of losses where an insurance company is treated under section 432AA as having more than one Schedule A business).

Textual Amendments

F1 Words in Sch. 22 para. 14(6) substituted (with effect in accordance with art. 1(2) of the amending S.I.) by The Finance Act 2004, Sections 38 to 40 and 45 and Schedule 6 (Consequential Amendment of Enactments) Order 2004 (S.I. 2004/2310), art. 1(2), **Sch. para. 58(2)**

F2 Words in Sch. 22 para. 14(7) substituted (with effect in accordance with art. 1(2) of the amending S.I.) by The Finance Act 2004, Sections 38 to 40 and 45 and Schedule 6 (Consequential Amendment of Enactments) Order 2004 (S.I. 2004/2310), art. 1(2), **Sch. para. 58(3)(a)**

F3 Words in Sch. 22 para. 14(7) omitted (with effect in accordance with Sch. 17 para. 23(8) of the amending Act) by virtue of Finance Act 2008 (c. 9), **Sch. 17 para. 23(2)(a)**

F4 Words in Sch. 22 para. 14(7) substituted (with effect in accordance with art. 1(2) of the amending S.I.) by The Finance Act 2004, Sections 38 to 40 and 45 and Schedule 6 (Consequential Amendment of Enactments) Order 2004 (S.I. 2004/2310), art. 1(2), **Sch. para. 58(3)(b)**

F5 Words in Sch. 22 para. 14(8) substituted (with effect in accordance with art. 1(2) of the amending S.I.) by The Finance Act 2004, Sections 38 to 40 and 45 and Schedule 6 (Consequential Amendment of Enactments) Order 2004 (S.I. 2004/2310), art. 1(2), **Sch. para. 58(4)(a)**

F6 Words in Sch. 22 para. 14(8) omitted (with effect in accordance with Sch. 17 para. 23(8) of the amending Act) by virtue of Finance Act 2008 (c. 9), **Sch. 17 para. 23(2)(b)**

F7 Words in Sch. 22 para. 14(8)(b) substituted (with effect in accordance with art. 1(2) of the amending S.I.) by The Finance Act 2004, Sections 38 to 40 and 45 and Schedule 6 (Consequential Amendment of Enactments) Order 2004 (S.I. 2004/2310), art. 1(2), **Sch. para. 58(4)(b)**

F8 Sch. 22 para. 14(9) substituted (with effect in accordance with art. 1(2) of the amending S.I.) by The Finance Act 2004, Sections 38 to 40 and 45 and Schedule 6 (Consequential Amendment of Enactments) Order 2004 (S.I. 2004/2310), art. 1(2), **Sch. para. 58(5)**

F9 Words in Sch. 22 para. 14(9) omitted (with effect in accordance with Sch. 17 para. 23(8) of the amending Act) by virtue of Finance Act 2008 (c. 9), **Sch. 17 para. 23(2)(c)(ii)**

F10 Words in Sch. 22 para. 14(9) substituted (with effect in accordance with Sch. 17 para. 23(8) of the amending Act) by Finance Act 2008 (c. 9), **Sch. 17 para. 23(2)(c)(i)**

F11 Words in Sch. 22 para. 14(10) repealed (19.7.2007) by Finance Act 2007 (c. 11), **Sch. 27 Pt. 2(7)**

Amount of land remediation tax credit

15 (1) The amount of the land remediation tax credit to which a company is entitled for an accounting period is an amount equal to 16% of the amount of the qualifying land remediation loss for the period.

(2) The Treasury may by order substitute for the percentage for the time being specified in sub-paragraph (1) such other percentage as they think fit.

(3) An order under sub-paragraph (2) may make such incidental, supplemental, consequential or transitional provision as the Treasury think fit.

Payment in respect of land remediation tax credit

16 (1) Where—

(a) the company is entitled to a land remediation tax credit for an accounting period, and

(b) makes a claim,

the Inland Revenue shall pay to the company the amount of the credit.

(2) An amount payable in respect of—

(a) a land remediation tax credit, or

(b) interest on a land remediation tax credit under section 826 of the Taxes Act 1988,

may be applied in discharging any liability of the company's to pay corporation tax, and to the extent that it is so applied the Inland Revenue's obligation under sub-paragraph (1) is discharged.

(3) Where the company's company tax return for the accounting period is enquired into by the Inland Revenue, no payment in respect of a land remediation tax credit for

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that period need be made before the Inland Revenue's enquiries are completed (see paragraph 32 of Schedule 18 to the Finance Act 1998 (c. 36)).

In those circumstances the Inland Revenue may make a payment on a provisional basis of such amount as they think fit.

(4) No payment need be made in respect of a land remediation tax credit for an accounting period before the company has paid to the Inland Revenue any amount that it is required to pay for payment periods ending in that accounting period—

(a) under the PAYE regulations, or

(b) in respect of Class 1 national insurance contributions.

(5) In this paragraph—

[F12] . . . . . .

"payment period" means a period which ends on the 5th day of a month and for which the company is liable to account for income tax and national insurance contributions to the Inland Revenue.

Textual Amendments

F12 Words in Sch. 22 para. 16(5) repealed (with effect in accordance with s. 723(1)(a)(b) of the amending Act) by Income Tax (Earnings and Pensions) Act 2003 (c. 1), s. 723, **Sch. 8 Pt. 1** (with Sch. 7)

Restriction on losses carried forward

17 (1) For the purposes of section 392A of the Taxes Act 1988 (relief of Schedule A losses against future Schedule A losses), a company's Schedule A loss for a period in which it claims a land remediation tax credit is treated as reduced by the amount of the loss surrendered.

(2) For the purposes of section 393 of the Taxes Act 1988 (relief of trading losses against future trading profits), a company's trading loss for a period for which it claims a land remediation tax credit is treated as reduced by the amount of the loss surrendered.

(3) Sub-paragraph (4) applies if in an accounting period—

(a) a company's Schedule A loss is a loss treated under section 432AB(3) of the Taxes Act 1988 **[**[F13]for the purposes of section 76 of that Act as expenses payable which fall to be brought into account at Step 3 in subsection (7) of that section**]**,

(b) an amount falls to be carried forward to a succeeding accounting period under **[**[F14]section 76(12) [F15]...**]** of that Act (carrying forward **[**[F16]unrelieved expenses**]**[F15]... where such expenses [F15]... exceed amount of profits from which deductible), and

(c) the company claims a land remediation tax credit for the accounting period.

(4) Where this sub-paragraph applies, **[**[F17]the total amount which**]** falls to be carried forward to a succeeding accounting period under **[**[F18]section 76(12) [F19]...**]** of the Taxes Act 1988 is treated as reduced by the amount of the loss surrendered.

(5) For the purposes of this paragraph the amount of the loss surrendered is—

(a) where the maximum amount of land remediation tax credit was claimed, the whole of the qualifying land remediation loss for that period;

(b) where less than the maximum amount was claimed, a corresponding proportion of the qualifying land remediation loss for that period.

The "maximum amount" here means the amount specified in paragraph 15(1).

Textual Amendments

F13 Words in Sch. 22 para. 17(3)(a) substituted (with effect in accordance with art. 1(2) of the amending S.I.) by The Finance Act 2004, Sections 38 to 40 and 45 and Schedule 6 (Consequential Amendment of Enactments) Order 2004 (S.I. 2004/2310), art. 1(2), **Sch. para. 59(2)(a)**

F14 Words in Sch. 22 para. 17(3)(b) substituted (with effect in accordance with art. 1(2) of the amending S.I.) by The Finance Act 2004, Sections 38 to 40 and 45 and Schedule 6 (Consequential Amendment of Enactments) Order 2004 (S.I. 2004/2310), art. 1(2), **Sch. para. 59(2)(b)(i)**

F15 Words in Sch. 22 para. 17(3)(b) omitted (with effect in accordance with Sch. 17 para. 23(8) of the amending Act) by virtue of Finance Act 2008 (c. 9), **Sch. 17 para. 23(3)(a)**

F16 Words in Sch. 22 para. 17(3)(b) substituted (with effect in accordance with art. 1(2) of the amending S.I.) by The Finance Act 2004, Sections 38 to 40 and 45 and Schedule 6 (Consequential Amendment of Enactments) Order 2004 (S.I. 2004/2310), art. 1(2), **Sch. para. 59(2)(b)(ii)**

F17 Words in Sch. 22 para. 17(4) substituted (with effect in accordance with art. 1(2) of the amending S.I.) by The Finance Act 2004, Sections 38 to 40 and 45 and Schedule 6 (Consequential Amendment of Enactments) Order 2004 (S.I. 2004/2310), art. 1(2), **Sch. para. 59(3)(a)**

F18 Words in Sch. 22 para. 17(4) substituted (with effect in accordance with art. 1(2) of the amending S.I.) by The Finance Act 2004, Sections 38 to 40 and 45 and Schedule 6 (Consequential Amendment of Enactments) Order 2004 (S.I. 2004/2310), art. 1(2), **Sch. para. 59(3)(b)**

F19 Words in Sch. 22 para. 17(4) omitted (with effect in accordance with Sch. 17 para. 23(8) of the amending Act) by virtue of Finance Act 2008 (c. 9), **Sch. 17 para. 23(3)(b)**

Tax credit not income

18 A payment in respect of a land remediation tax credit is not income of the company for any tax purpose.

Certain qualifying land remediation expenditure excluded for purposes of capital gains

19 If in an accounting period—

(a) a company has a qualifying land remediation loss, and

(b) by virtue of that qualifying land remediation loss, a payment is made to the company in respect of a land remediation tax credit,

the related qualifying land remediation expenditure shall be treated as if it were expenditure excluded for the purposes of capital gains tax under section 39 of the Taxation of Chargeable Gains Act 1992 (c. 12).

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