



Capital Allowances Act 2001

2001 CHAPTER 2

PART 5

MINERAL EXTRACTION ALLOWANCES

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,

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- (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—
- (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,

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- (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.

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,

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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—

$$QE - (A - B)$$

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

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- (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
 - (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).

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- (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).

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