These notes refer to the Corporation Tax Act 2009 (c.4) which received Royal Assent on 26 March 2009

CORPORATION TAX ACT 2009

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 14: Remediation of contaminated land

Overview

Chapter 3: Land remediation tax credit

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.