



Capital Allowances Act 1990

1990 CHAPTER 1

PART IV

MINERAL EXTRACTION

CHAPTER II

QUALIFYING EXPENDITURE

105 General provisions

- (1) Subject to subsections (2) to (5) below, in relation to a person carrying on a trade of mineral extraction, the following capital expenditure is qualifying expenditure, namely—
 - (a) expenditure on mineral exploration and access;
 - (b) expenditure on the acquisition of a mineral asset;
 - (c) expenditure on the construction of any works in connection with the working of a source of mineral deposits, being works which, when the source is no longer worked, are likely to be of little or no value to the person working it immediately before that time; and
 - (d) where a source of mineral deposits is worked under a foreign concession, expenditure on the construction of works which, when the concession comes to an end, are likely to become valueless to the person working it immediately before that time.
- (2) Where expenditure falling within subsection (1)(a) above is incurred by any person before he begins to carry on a trade of mineral extraction, it shall not be qualifying expenditure except to the extent that section 106 or 107 provides.
- (3) Chapter III of this Part shall have effect to limit in certain cases the amount of expenditure which is qualifying expenditure.

Status: This is the original version (as it was originally enacted).

- (4) Except as provided by section 106, expenditure on the provision of machinery or plant or on any asset which has been treated for any chargeable period as machinery or plant is not qualifying expenditure.
- (5) The following is not qualifying expenditure by virtue of this section—
- (a) any expenditure on the acquisition of the site of any such works as are referred to in subsection (1) above, or of rights in or over any such site;
 - (b) any expenditure on works constructed wholly or mainly for subjecting the raw product of a source to any process, except a process designed for preparing the raw product for use as such;
 - (c) any expenditure on buildings or structures provided for occupation by or for the welfare of workers;
 - (d) any expenditure on a building where the whole of the building was constructed for use as an office; and
 - (e) any expenditure on so much of a building or structure as was constructed for use as an office, unless the capital expenditure on the construction of the part of the building or structure constructed for use as an office was not more than one-tenth of the capital expenditure incurred on the construction of the whole building or structure.
- (6) Where a person carrying on a trade of mineral extraction incurs expenditure on seeking any planning permission necessary to enable any mineral exploration and access to be undertaken at any place or any mineral deposits to be worked and that permission is not granted, the expenditure shall be treated for the purposes of this Part as expenditure on mineral exploration and access; and in this subsection “seeking”, in relation to planning permission, includes not only making any necessary application but also pursuing any appeal against a refusal of permission.
- (7) In so far as any provision of this Part or any other enactment is expressed to be about expenditure falling within subsection (1)(a) or (b) above—
- (a) expenditure on the acquisition of, or of rights in or over, the site of a source, and
 - (b) expenditure on the acquisition of, or of rights in or over, mineral deposits,
- shall be treated as falling within subsection (1)(b) and not within subsection (1)(a).

106 Pre-trading expenditure on machinery or plant which is sold etc

- (1) This section applies where—
- (a) capital expenditure is incurred by any person on the provision of machinery or plant; and
 - (b) that expenditure falls within section 105(1)(a); and
 - (c) that expenditure is so incurred before he begins to carry on a trade of mineral extraction; and
 - (d) before he begins to carry on that trade, the machinery or plant is sold, demolished, destroyed or abandoned.
- (2) Where this section applies and there is such an excess of expenditure as is referred to in subsection (3) below, then, for the purposes of this Part, the person concerned shall be treated as incurring qualifying expenditure equal to that excess on the first day on which he begins to carry on a trade of mineral extraction; and that qualifying expenditure is in this Part referred to as pre-trading expenditure on machinery or plant.

- (3) Subject to subsection (4) below, the excess referred to in subsection (2) above is the amount by which the capital expenditure referred to in subsection (1) above exceeds any sale, insurance, salvage or compensation moneys resulting from the event mentioned in subsection (1)(d) above.
- (4) If, in a case where this section applies, the mineral exploration and access at the source in connection with which the machinery or plant was used ceased before the first day referred to in subsection (2) above, any capital expenditure which was incurred more than six years before that day shall be left out of account in determining the amount of any excess under subsection (3) above.

107 Pre-trading exploration expenditure

- (1) This section applies to capital expenditure which—
 - (a) is incurred by any person on mineral exploration and access at any source, and
 - (b) is so incurred before he begins to carry on a trade of mineral extraction, and
 - (c) is not incurred on the provision of machinery or plant.
- (2) Where this section applies to any capital expenditure and the mineral exploration and access is continuing at the source in question at the time when the person concerned begins to carry on a trade of mineral extraction, so much of the expenditure as exceeds any relevant capital sum received by him is qualifying expenditure.
- (3) Where this section applies to any capital expenditure and the mineral exploration and access has ceased at the source in question before the time when the person concerned begins to carry on a trade of mineral extraction, so much of that expenditure as was incurred within the six years ending at that time and exceeds any relevant capital sum received by him shall be treated as qualifying expenditure incurred on the first day on which he begins to carry on that trade.
- (4) In relation to capital expenditure to which this section applies, a relevant capital sum is a capital sum—
 - (a) which is received by the person incurring the expenditure before he begins to carry on a trade of mineral extraction; and
 - (b) which is or, as the case may be, to the extent to which it is reasonably attributable to the incurring of the expenditure at the source in question.
- (5) Expenditure which is qualifying expenditure by virtue of subsection (2) or (3) above is in this Part referred to as pre-trading exploration expenditure.

108 Contributions by mining concerns to public services etc. outside the United Kingdom

- (1) Subject to subsections (2) and (3) below, expenditure incurred by a person carrying on a trade of mineral extraction outside the United Kingdom and consisting of contributions of capital sums to the cost of—
 - (a) buildings to be occupied by persons employed at or in connection with the working of a source outside the United Kingdom, or
 - (b) works for the supply of water, gas or electricity wholly or mainly to buildings occupied or to be occupied by persons so employed, or
 - (c) works to be used in providing other services or facilities wholly or mainly for the welfare of persons so employed or their dependants,

Status: This is the original version (as it was originally enacted).

is by virtue of this section qualifying expenditure.

- (2) Expenditure incurred by any person as mentioned in subsection (1) above is not qualifying expenditure unless—
 - (a) it is incurred for the purposes of his trade of mineral extraction; and
 - (b) when the source in question is no longer worked, the buildings or works concerned are likely to be of little or no value to the person working the source immediately before that time.
- (3) Subsection (1) does not apply—
 - (a) to expenditure resulting in the acquisition of an asset by the person incurring the expenditure; nor
 - (b) to expenditure in respect of which an allowance may be made under any provision of the Tax Acts (other than this Part).

109 Restoration expenditure

- (1) Where a person who has ceased to carry on a trade of mineral extraction incurs expenditure on the restoration of the site of a source to the working of which that trade related and all or any of that expenditure—
 - (a) is incurred within the period of three years immediately following the last day on which he carried on that trade, and
 - (b) has not been deducted for the purposes of corporation tax or income tax in relation to that or any other trade carried on by him, and
 - (c) is expenditure which, if it had been incurred while that trade was being carried on, either would have been qualifying expenditure by virtue of any provision of sections 105 to 108 or would have been allowable as a deduction in computing the profits or gains from that trade,

so much of that expenditure as falls within paragraphs (a) to (c) above and does not exceed the net cost of the restoration of the site shall be qualifying expenditure by virtue of this section and shall be treated as incurred by him on the last day on which he carried on that trade.
- (2) Any reference in this section to the site of a source includes a reference to land used in connection with the working of the source.
- (3) In this section “restoration” includes landscaping and—
 - (a) in relation to land in the United Kingdom, the carrying out of any works required by a condition subject to which planning permission for development consisting of the winning and working of minerals was granted; and
 - (b) 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.
- (4) For the purposes of this section, the net cost to any person of the restoration of the site of a source is the excess, if any, of expenditure falling within subsection (1)(a) to (c) above over any receipts which—
 - (a) are attributable to the restoration (whether for spoil or other assets removed from the site or for tipping rights or otherwise); and
 - (b) are received within the period of three years immediately following the last day on which the person concerned carried on a trade of mineral extraction.

Status: This is the original version (as it was originally enacted).

- (5) As respects the person who incurs any expenditure which is qualifying expenditure by virtue of this section—
- (a) expenditure falling within subsection (1)(a) to (c) above (not only so much of it as constitutes qualifying expenditure) shall not be deductible in computing his income for any purpose of income tax or corporation tax; and
 - (b) to the extent that any receipts are, under subsection (4) above, taken into account to determine the net cost of the restoration of the site of a source, those receipts shall not constitute income of his for any purpose of income tax or corporation tax.
- (6) All such adjustments shall be made, whether by way of discharge or repayment of tax or otherwise, as may be required in consequence of subsections (1) to (5) above.