



Land Remediation & Asbestos Removal

Under the Finance Act 2001, the Government as part of its urban regeneration scheme, introduced a 150% tax relief for companies incurring expenditure on the remediation of contaminated land, including the removal of asbestos.

The relief is available to both investors in the year of expenditure, and developers on the sale of an asset in accordance with Schedules 22 and 23 of the Finance Act 2001, on capital and revenue expenditure incurred on or after 11th May 2001.

Definition of Contaminated Land & Remediation

Contaminated land is that which is in such a condition due to substances in, on or under the land where:-

- Harm is being caused, or there is a possibility of harm being caused.
- Pollution of controlled waters is being, or is likely to be caused.

Schedule 22, section 31 defines "harm" as follows:-

- Harm to the health of living organisms.
- Interference with the ecological systems of which any living organisms form part.
- Offence to the senses of human beings.
- Damage to property.

Relevant land remediation is defined in the Finance Act 2001 and in summary comprises the carrying out of the remediation works, which can include preparatory activities and professional fees associated with the remediation works, to the land in a contaminated state, any controlled waters affected by the contaminated land and any land adjacent or adjoining the contaminated land.

The land remediation works must be for the purpose of (as defined in the Finance Act 2001 Schedule 22 part 1 paragraph 4):-

- Preventing or minimizing, or remedying or mitigating the effects of, any harm, or any pollution of controlled waters, by reason of which the land is in a contaminated state; or
- Restoring the land or waters to their former state

Qualification Conditions

In order to qualify for the relief, there are certain conditions that must be satisfied, a basic outline of which are as follows:-

- The claimant must be a UK company within the charge to corporation tax.
- The land (including buildings) must be in the UK, and must already have been in a contaminated state when it was purchased and must not have been contaminated by the company or a connected party.
- Expenditure on the remediation will only qualify if it is incurred on the following costs:
 - Employee costs (the levels of which will depend upon the working time engaged).
 - Materials employed directly in that land remediation.
 - Sub-contracted land remediation.
- The expenditure would not have been incurred if the land had not been in a contaminated state.
- The expenditure must not be subsidised.
- The expenditure must not be capital expenditure that qualifies for capital allowances.

For further information or a capital allowances assessment without obligation

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Potential Value of Relief

Providing these conditions are met, a valid claim will result in additional relief equal to 50% of the qualifying land remediation expenditure in the year in which the expenditure is incurred.

A development company which acquires contaminated land as trading stock will treat the expenditure on the remediation as a revenue deduction in its profit and loss account. The additional 50% relief that is allowable will therefore be equivalent to 15% of its expenditure, assuming it is a 30% corporation taxpayer. It is important to note that a developer must have an interest in the land.

An investment company which acquires contaminated land as a fixed capital asset of its trade or Schedule A business will incur capital expenditure on the remediation. Providing it makes an election to the Inland Revenue in writing for the capital expenditure to be allowed as a deduction for tax purposes within 2 years of the end of the accounting period, it can claim an additional 50% relief, which will be equivalent to 45% of its expenditure, assuming it is a 30% corporation taxpayer.

Tax Credits

If a company has a Schedule A or trading loss, it will be able to claim a tax credit on its "qualifying land remediation loss" which equates to the lesser of 150% of the qualifying land remediation expenditure, or the unrelieved Schedule A or trading loss (subject to certain conditions concerning other reliefs and losses brought forward). The tax credit is equal to 16% of the "qualifying land remediation loss" and could therefore equate to a maximum of 24% of the qualifying land remediation expenditure.

Examples of Qualifying Works

Below is an example of some works that typically qualify for land remediation relief, the list is by no means exhaustive and projects should be considered on a case by case basis:-

- The excavation and removal off-site of contaminated materials, including the backfilling of voids left by such excavation.
- Stripping out of asbestos and its removal off site, including any necessary precautionary works.
- Removal of fuel storage tanks and associated backfilling.
- Additional foundations and external works costs incurred as a result of the contamination, i.e. gas membranes, capping layers, sulphate resisting concrete.
- The treatment of, and measures to prevent contaminated groundwater.
- Employee costs where 20% or more of total working time is spent carrying out relevant land remediation works including the management of works.
- Associated professional fees, including site investigation and validation reporting, design, quantity surveyors etc.

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The information contained in the DATASHEET is believed to be correct, but there may be errors or omissions for which PJB cannot be responsible. It is therefore essential to take advice on specific issues.