

# Reclaim the land (and the tax)

Booming property prices and government demands for more space for new homes are making the reclamation of contaminated land a hot issue. **Julie Butler** reports on the tax reliefs available

**T**he UK government likes environmentally-friendly projects, and cleaning up contaminated land can bring tax advantages. However, these are restricted to companies and are not available to the people who contaminated the land – and naturally, there are restrictions on the definition of the expenditure.

Capital expenditure incurred in cleaning up land for use in trade or schedule A business may be allowed as a deduction in computing profits – you can claim land remediation relief of 150 per cent of qualifying expenditure on remediation of contaminated land. Revenue expenditure by a dealer or developer, however, will probably form part of its trading stock. It only becomes deductible when the land is sold or if a loss is anticipated and written down to net realisable value.

Details are contained in Schedules 22 and 23 to the Finance Act 2001. Companies are entitled to the relief if the land is in the UK and was acquired for the purposes of a trade or Schedule A business carried on by a company, if all or part of the land was contaminated at the time of the acquisition and if the expenditure incurred was capital expenditure on qualifying land remediation.

Land is contaminated if it has a substance in, on or under it that might cause harm or if there is a danger of pollution in controlled waters. Schedule 22 defines 'substance', 'harm' and 'pollution in controlled waters', though there are grey areas: do harmful plants, such as knotweed, or animals, such as termites, count as substances?

The claimant must satisfy the Revenue that the expenditure was incurred on employees and materials or on a qualified contractor. The advantages of using an unconnected subcontractor should not be overlooked. If the work is undertaken in-house, relief is restricted to the costs of employees and materials, so it is necessary to apportion wage costs and track materials used – a record-keeping

headache. Using a connected subcontractor involves less tracking but similar restrictions. If an unconnected subcontractor is used, the whole payment for qualifying remediation work is allowed, which often makes contracting out more cost effective and saves a mountain of paperwork.

Since the relief is not available to anyone who has contributed to the contamination, by action or inaction, the vendor may not qualify. Where possible, the purchaser should undertake the remediation, though care is needed when wording the contract if the additional cost is reflected in the price of the land. Schedule 22 (para 8) precludes relief for expenditure that is 'met directly or indirectly by any person other than the company' and this could apply if the price is shown to be specifically discounted for remediation, or if the vendor provides a warranty or indemnity and later has to meet remediation costs.

Times are changing for landowners, but with the recent increase in property prices, land is still a valuable commodity. Tax reliefs on rectifying contaminated land are a drop in the ocean of environmental issues, but an interesting starting point.

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