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HMRC internal manual

Corporate Intangibles Research and Development Manual

From: [HM Revenue & Customs](#)
([/government/organisations/hm-revenue-customs](#))

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CIRD60135 - Land Remediation Relief: Exclusions: Polluter Pays: Who is the polluter - acquiring land in a contaminated state

[FA01/Sch22/Para12 \(4\)](#)

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If a company acquires a site and, subsequent to their acquisition:

- existing contamination is spread by movement in the groundwater, or
- a change in the law, or of recommended accepted levels of contamination, means that the site is deemed to be contaminated; or
- previously unsuspected contamination is identified on the site

then they are not automatically treated as the polluter. The contamination was already present when they acquired the site. But you have to consider whether they have caused additional contamination or, knowing that the pollution was present, have failed to take sufficient steps to contain the pollution.

A company may acquire a site in a contaminated state and not qualify for relief as it is itself partly responsible for the contamination (for example by continuing the process that causes the pollution whether or not it was accepted practice at the time; or, for example, by failing to take steps to prevent the spread of pollution).

- If a company acquires a site and continues a process that causes contamination then it is partly responsible for the contamination and cannot claim relief.
- If a company acquires a site where there is contamination due to inadequate maintenance then the company will be the polluter unless it takes steps to carry out the necessary repairs within a reasonable time. How quickly they need to be carried out will depend upon the facts of the individual case.

Not knowing that contamination was present when the site was acquired does not make the company responsible for that contamination when it is later discovered. The site was contaminated at acquisition, even if it was not recognised at the time. The company will be entitled to relief on the subsequent clean up provided it has not added to the contamination in the interim.

A company is not excluded from the relief because there is a change in the legislation or in the recommended levels of contamination. The question is whether the company is responsible for the land being contaminated.

If the site was contaminated at acquisition (but at a level that did not require action under the then prevailing rules or practice) a clear up consequent upon a tightening of those rules or practice will attract relief provided that the company has not added to the contamination (either by action or inaction) during its period of ownership.

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