HMRC - OT28205 - Relief For Expenditure Incurred After Cessation Of Ring Fence Trade And On Or After 22 April 2009

CAA2001\S165

CAA2001\S165 provides for relief for general decommissioning expenditure where a ring fence trade has ceased on or after 12 March 2008. FA08 replaced the existing three year time limit with a period based on the time limits and requirements imposed by the Secretary of State for the Department of Energy and Climate Change (see OT28200).

For expenditure incurred on or after 22 April 2009 the conditions for relief were amended to ensure that companies cannot obtain relief for decommissioning costs prior to the work being actually carried out.

The changes made are similar to those introduced for relief for expenditure incurred before the cessation of a ring fence trade (see OT28085).

The changes introduce the concepts of ‘decommissioning condition’, ‘notional accounting period’ (the ‘relevant period’) and ‘termination event’ and impose a new condition. They also replace the previous condition that the former trader incurs general decommissioning expenditure within the post-cessation period with a requirement that the decommissioning condition is met in relation to a notional accounting period.

The requirement is fulfilled if one or more of the following applies:

The former trader incurs general decommissioning expenditure in the relevant period in respect of decommissioning carried out in that period,

a previous notional accounting period, or

a chargeable period falling before the first notional accounting period,

a previous notional accounting period, or

a chargeable period falling before the first notional accounting period,

in respect of decommissioning that has not been carried out until the relevant period.

The ‘notional accounting period’ is each of the following:

the period that begins with the day following the last day on which the former trader carried on the ring fence trade, and ends with the day on which the first termination event subsequently occurs,

each period that begins with the day following the last day of a period determined under the bullet above or under this bullet, and ends with the day on which the first termination event subsequently occurs.

But there are to be no notional accounting periods after the end of the post-cessation period (see OT28210).

‘Termination event’ in relation to a notional accounting period is each of the following:

the end of the period of 12 months beginning with the first day of the notional accounting period,

the occurrence of an accounting date of the former trader or, if there is a period for which the former trader does not make up accounts, the end of that period (but see below),

the end of the post-cessation period.

If an amount of general decommissioning expenditure is disproportionate to the relevant decommissioning carried out in the decommissioning period, then for the purposes of this section, only the allowable expenditure is to be taken to have been incurred in the expenditure period. The application of this rule does not prevent the non-allowable expenditure from being taken into account under this rule in relation to a subsequent notional accounting period.

The reference to the accounting date in the definition of termination event in circumstances where the former trader:

carries on more than one trade,

makes up accounts of any of them to different dates, and

does not make up general accounts for the whole of the company’s activities

is the accounting date of whichever of these trades the former trader determines, although if the Commissioners for HMRC consider the date so determined is inappropriate they can give notice that one of the other accounting dates is to be used instead.

The relief is given by adding the general decommissioning expenditure that meets the decommissioning condition for the notional accounting period (less any proceeds from the disposal of the remains of the plant and equipment received before or during that period) to the qualifying expenditure for plant and machinery capital allowance purposes for the chargeable period related to the cessation of the ring fence trade.

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