HMRC - OT30101 - Drilling Expenditure - Amount Of Deduction

TGCA92\S195(1)

TCGA92\S195(1) provides that the amount qualifying for deduction is restricted to expenditure incurred by the person making the disposal -

In searching for oil anywhere in the licensed areas, or

In ascertaining the extent or characteristics of any oil-bearing area, the whole or part of which lies in the licensed area, or what the reserves of oil of any such oil-bearing area are.

Qualifying expenditure “incurred by the person making the disposal” can include “inherited” expenditure. Company A may have acquired a licence from group company B in circumstances where either

CTA10\S939 + applied (company reconstruction without a change of ownership), or

CAA01\S569 applies (election to treat sales as being for an alternative amount between connected persons).

In both cases company A will “inherit” the capital allowances written down values of company B, but will be subject to an capital allowances claw back on a later sale outside the group, with reference to the allowances of both companies.

The words “incurred by the person making the disposal” in TCGA92\S195(1) should in these circumstances be construed in conjunction with CAA01\S569(3) so that the expenditure of both A and B is included to the extent that such expenditure is subject to a clawback on A.

In similar circumstances company A, instead of on selling the licence outside the group, may leave the group whilst still holding the licence. The de-grouping charge in TCGA92\S179 might be triggered. In calculating the chargeable gain TCGA92\S195 will have limited effect since there will be no research and development allowance claw back (see TCGA92\S195(2)).

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