



# Land Remediation Relief

## Background

Introduced in 2001, Land Remediation Relief (LRR) was devised as an incentive for companies seeking to bring contaminated land back into use. Following further research and consultations in 2009, the relief was extended to address market failures relating to long-term derelict land and land infested by Japanese Knotweed.

A company undertaking qualifying land remediation may claim an additional tax deduction equal to 150% of the qualifying expenditure in an accounting period.

The relief is available for companies subject to UK corporation tax, and is not available to individuals or partnerships, although a company which is a member of a partnership may claim with respect to its share of the expenditure. Real Estate Investment Trusts (REITS) may also claim LRR.

## Operation of the relief

The relief operates by allowing a company to:

- claim 150% tax relief for qualifying land remediation expenditure;
- elect that capitalised expenditure on qualifying land remediation is taken as a deduction in computing its profits and claim the 150% thereon; and
- receive a payable tax credit in exchange for any qualifying land remediation loss surrendered to the Exchequer – the rate of the payable tax credit is 16% of the loss surrendered. The credit is restricted to the lesser of 16% of the uplifted expenditure or 16% of the company's unrelieved loss for the period.

The company has four years from the end of its accounting period to make a claim for the relief and two years from the end of its accounting period to make a claim for a payable credit or an election to treat capital expenditure as deductible in computing profits. A claim for a payable credit must be made in a corporation tax return.

## Land Remediation Relief for accounting periods prior to 31 March 2009

From 10 May 2001 for accounting periods up to 31 March 2009, LRR is available for qualifying expenditure by companies remediating land in a contaminated state. The land must have been purchased by the company in that state and neither the company nor a connected party must have been involved in the original contamination.

Land or buildings are “in a contaminated state” where a substance is present that:

- is causing **harm** or could possibly cause harm, or
- is causing, or is likely to cause, pollution in the groundwater, streams, rivers or coastal waters.

“Harm” includes adverse impact on the health of humans or animals or damage to buildings.

A substance may be artificial or naturally occurring whether in solid, gas or liquid form. For periods up to 31 March 2009, LRR did not distinguish between naturally occurring processes or industrial activities.

Following consultations between H M Revenue and Customs and industry, expenditure to remediate land infested by Japanese Knotweed will qualify for LRR if present upon acquisition for open and in-date periods.



## Land Remediation Relief

### Conditions for the LRR qualification prior to 31 March 2009

Qualifying land remediation expenditure means expenditure that meets the following five conditions, namely that the expenditure:

- is incurred on land all or part of which is in a contaminated state,
- is incurred on relevant land remediation directly undertaken by the company or on its behalf,
- is incurred on employee costs and materials, or is qualifying expenditure on sub-contracted land remediation
- would not have been incurred had the land not been in a contaminated state,
- is not subsidised.

### Land Remediation Relief for accounting periods after 1 April 2009

In contrast to expenditure incurred in accounting periods prior to 31 March 2009, land or buildings are “in a contaminated state” from 1 April 2009 if there is contamination present as a result of industrial activity such that:

- it is causing **relevant harm**; or
- there is a **serious possibility** that it could cause **relevant harm**, or
- it is causing, or there is a serious possibility that it could cause, significant pollution in the groundwater, streams, rivers or coastal waters.

“Relevant harm” includes significant adverse impact on the health of humans or animals or damage to buildings that has a real impact on the way the building is used.

Land also affected by the presence of Japanese Knotweed, Radon or Arsenic is deemed to be contaminated. In addition to allowing LRR for land or buildings in a contaminated state, the relief was extended to include “**Long Term Derelict Land**”.

#### What is Long Term Derelict Land?

To be derelict, the land must be out of productive use and incapable of being brought back into productive use unless buildings or structures on it are removed.

The land must have been derelict since the earlier of:

- when the site was acquired by the claimant company, or a connected party; or
- 1 April 1998.

There are no restrictions on what the site was previously used for.

Examples of structures which may require removal include post-tensioned concrete construction, foundations and machinery bases, pile-caps and below ground redundant services.



## Land Remediation Relief

### Conditions for LRR qualification after 1 April 2009

Qualifying land remediation expenditure means expenditure on land in the UK acquired by a company for the purposes of a trade or property business carried on by the company that satisfies the following conditions:

- The expenditure is incurred on land all or part of which is in a contaminated or a derelict state.
- The expenditure would not have been incurred if the land had not been in a contaminated or derelict state.
- The expenditure is:
  - a) in the case of land in a contaminated state, expenditure on relevant contaminated land remediation undertaken by the company, or
  - b) in the case of land in a derelict state, expenditure on relevant derelict land remediation so undertaken.
- The expenditure is:
  - a) incurred on staffing costs,
  - b) incurred on materials,
  - c) incurred in respect of relevant land remediation contracted out by the company to another person with whom the company is not connected, or
  - d) qualifying expenditure on connected sub-contracted land remediation.

The expenditure is not subsidised.

The expenditure is not incurred on landfill tax.

### Special provisions for life assurance business

Where profits arising from a life assurance business are computed under Schedule D Case I, land remediation relief is not available.

However, a separate schedule of relief and tax credit is provided for insurance companies which do not compute profits under Schedule D Case I, i.e. where the "I minus E" basis is used.

Capitus can provide detailed advice on the implications of the legislation as it applies to life assurance companies.

### Accounting for Land Remediation

Unlike the operation of many tax reliefs and allowances, the taxation treatment is not dependent upon the accounting treatment.

Property developers will hold land and buildings as trading stock on the balance sheet and will expense the land remediation to the income statement in the period in which it was incurred. These developers will be able to obtain LRR for expenditure incurred for up to six accounting periods.

Owner occupiers or those holding property for investment purposes will most likely capitalise the land remediation expenditure in line with FRS 15 Property Plant and Equipment (IAS 16) or SSAP 19 Accounting for Investment Properties (IAS 40). The costs are therefore held on the balance sheet under tangible / non-current assets. These companies may make the aforementioned election to treat capitalised cost as a revenue tax deduction, though the time limit for making a claim is shortened to two years rather than six.



## Land Remediation Relief

### Maximisation of relief

Our mix of surveying, tax and accounting experience and expertise enables Capitus to maximise the available tax reliefs and prepare robust Land Remediation Relief claims for submission to H M Revenue and Customs.

We will analyse applicable expenditure, perform the required apportionments and calculations before preparing a fully disclosed claim document which sets out the legal basis and all components of the claim.

Our team will also advise on the practical taxation and accounting aspects of Land Remediation Relief ensuring our clients maximise the relief in an efficient manner in future periods.

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