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## SCHEDULES

### SCHEDULE 3

Section 59

#### FILMS: RESTRICTIONS ON RELIEF FOR PRODUCTION AND ACQUISITION EXPENDITURE

##### PART 1

###### RESTRICTIONS ON CIRCUMSTANCES IN WHICH RELIEF MAY BE OBTAINED

###### *Section 42 of the Finance (No.2) Act 1992 (c. 48)*

- 1 (1) Section 42 of F(No.2)A 1992 (relief for production or acquisition expenditure) is amended as follows.
- (2) In subsection (2) omit “and” immediately before paragraph (b) and after that paragraph insert “, and
- (c) that version was owned by the claimant at the time the film was completed.”
- (3) In subsection (3) omit “and” immediately before paragraph (b) and after that paragraph insert “, and
- (c) that version has not previously been acquired by the claimant.”
- (4) After subsection (3) insert—
- “(3A) A claim under this section for a relevant period, in relation to the original master version of a film, may be made in respect of either expenditure to which subsection (2) applies or expenditure to which subsection (3) applies, but not both.
- (3B) Where, in relation to a trade or business, a company (“C”) makes a claim under this section (“the relevant claim”) for a deduction in respect of expenditure relating to the original master version of a film, C is not entitled to make that deduction if—
- (a) the relevant claim is in respect of expenditure to which subsection (2) applies and—
- (i) a previous claim under this section has been made in relation to the same trade or business for any relevant period, or
- (ii) in computing the profits of that trade or business of any relevant period, a deduction has been made under section 138, 138A or 140 of the Income Tax (Trading and Other Income) Act 2005,
- in respect of expenditure incurred on the acquisition of that version,
- (b) the relevant claim is in respect of expenditure to which subsection (3) applies and—

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- (i) a previous claim under this section has been made in relation to the same trade or business for any relevant period, or
- (ii) in computing the profits of that trade or business of any relevant period, a deduction has been made under section 138 or 139 of that Act,

in respect of expenditure incurred on the production of that version,

- (c) a previous claim under this section has been made in relation to another trade or business, for any relevant period, in respect of expenditure to which subsection (2) or (3) applies which relates to that version, or
- (d) a deduction has been made in respect of expenditure relating to that version under any of sections 138 to 140 of the Income Tax (Trading and Other Income) Act 2005 in computing the profits of another trade or business of any relevant period.

(3C) For the purposes of subsection (3B)—

- (a) it does not matter whether the previous claim was made before, or on or after, 2nd December 2004, and
- (b) “relevant period”, in relation to a deduction under the Income Tax (Trading and Other Income) Act 2005, means a relevant period within the meaning of section 133 of that Act.

(3D) Where, in relation to any particular film, more than one claim under this section is made at the same time, the Inland Revenue may determine which of the claims is to be regarded as made first for the purposes of subsection (3B).

In this subsection references to a claim under this section are to be read as including references to a deduction of a kind mentioned in that subsection.

(3E) In this section “the Inland Revenue” means any officer of the Board.”

(5) After subsection (5) insert—

“(5A) For the purposes of subsection (4) the total expenditure incurred by the claimant on the production or acquisition of the original master version of the film concerned is—

- (a) in the case of a deduction in respect of expenditure to which subsection (2) applies, the total expenditure incurred by the claimant on the production of the original master version of the film concerned, and
- (b) in the case of a deduction in respect of expenditure to which subsection (3) applies, the total expenditure incurred by the claimant on the acquisition of that original master version (“the claimant’s acquisition expenditure”).”

(6) Subject to sub-paragraphs (7) to (10), the amendments made by this paragraph are deemed to have come into force on 2nd December 2004.

(7) The amendments made by this paragraph do not have effect in relation to any claim for relief which—

- (a) is made before 2nd December 2004, or
- (b) is in respect of expenditure relating to a film which was in production on that date.

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- (8) The amendments made by sub-paragraphs (2) and (3) do not have effect in relation to pre-announcement expenditure.
- (9) Where the relevant claim within the meaning of subsection (3B) of section 42 of F(No.2)A 1992 is a claim in respect of pre-announcement expenditure only, the references in paragraphs (a) to (d) of that subsection to a previous claim, or a deduction, do not include a previous claim, or a deduction, in respect of pre-announcement expenditure only.
- (10) Section 42 of F(No.2)A 1992 (as amended by this Schedule) has effect, for income tax purposes, for the year 2004-05 and earlier years of assessment, as if in subsection (3B) for “company” there were substituted “person”.
- (11) For the purposes of this paragraph “claim for relief” means a claim for relief under section 42 of F(No.2)A 1992 (including a claim for relief under that section as modified by section 48 of F(No.2)A 1997).

*Section 101 of the Finance Act 2002 (c. 23)*

- 2 (1) Section 101 of FA 2002 (restriction of relief for successive acquisitions of the same film) shall cease to have effect.
- (2) The repeal made by this paragraph is deemed to have come into force on 2nd December 2004.
- (3) But that repeal does not have effect in relation to—
  - (a) any claim for relief which was made before 2nd December 2004,
  - (b) any claim for relief which is in respect of expenditure relating to a film which was in production on that date, or
  - (c) any claim for relief—
    - (i) which is made on or after that date, and
    - (ii) in relation to which section 42(3B) of F(No.2)A 1992 (as inserted by paragraph 1) would operate to prevent a deduction being made, but for paragraph 1(9) (transitional provision in respect of pre-announcement expenditure).
- (4) For the purposes of sub-paragraph (3) “claim for relief” means a claim for relief under section 42 of F(No.2)A 1992 as modified by section 48 of F(No.2)A 1997.

*Section 138 of the Income Tax (Trading and Other Income) Act 2005 (c. 5)*

- 3 (1) For section 138 of ITTOIA 2005 (certified master versions: production or acquisition expenditure) substitute—

**“138 Certified master versions: production expenditure**

- (1) This section applies if—
  - (a) the person carrying on the trade has incurred production expenditure in respect of the original master version of a film in, or before, the relevant period,
  - (b) the film was completed in, or before, that period,
  - (c) the original master version is a certified master version,

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- (d) the original master version was owned by that person at the time the film was completed,
  - (e) the film is genuinely intended for theatrical release, and
  - (f) there has not already been a disqualifying deduction in respect of expenditure relating to the film (see section 140A).
- (2) A deduction is allowed for the amount of the expenditure allocated to the relevant period, but this is subject to the application of any prohibitive rule.
- (3) The person carrying on the trade may allocate up to the permissible amount of the expenditure to the relevant period.
- (4) The permissible amount of the expenditure is the smallest amount given by the following calculations.
- (5) The calculations are—

*Calculation 1*

Calculate one-third of the total production expenditure incurred by the person in respect of the original master version (“the total expenditure”).

*Calculation 2*

Calculate one-third of the sum obtained by deducting from the total expenditure—

- (a) any amount of the total expenditure already allocated under section 137,
- (b) any amount of the total expenditure already allocated under section 41 of F(No.2)A 1992, and
- (c) any amount of the total expenditure that has already been, or is capable of being, allocated under section 139 below or under section 42 of F(No.2)A 1992 as applied by section 48(1) to (3) of F(No.2)A 1997 (corresponding corporation tax provision).

*Calculation 3*

Calculate so much of the total expenditure as has not already been allocated to the relevant period or any other relevant period—

- (a) under this section or any other provision of this Chapter, or
  - (b) under any of sections 40B, 41 or 42 of F(No.2)A 1992.
- (6) If the relevant period is less than 12 months the above references to one-third are to be read as references to a proportionately smaller fraction.
- (7) If any production expenditure in respect of the original master version is allocated to the relevant period—
- (a) under section 135 above, or
  - (b) under section 40B of F(No.2)A 1992,
- no other production expenditure in respect of the original master version may be allocated to the relevant period under this section.

**138A Certified master versions: acquisition expenditure**

- (1) This section applies if—

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- (a) the person carrying on the trade has incurred acquisition expenditure in respect of the original master version of a film in, or before, the relevant period,
  - (b) the original master version has not previously been acquired by that person,
  - (c) the film was completed in, or before, that period,
  - (d) the original master version is a certified master version,
  - (e) the film is genuinely intended for theatrical release, and
  - (f) there has not already been a disqualifying deduction in respect of expenditure relating to the film (see section 140A).
- (2) A deduction is allowed for the amount of the expenditure allocated to the relevant period, but this is subject to the application of any prohibitive rule.
- (3) The person carrying on the trade may allocate up to the permissible amount of the expenditure to the relevant period.
- (4) The permissible amount of the expenditure is the smallest amount given by the following calculations.
- (5) The calculations are—

*Calculation 1*

Calculate one-third of the total acquisition expenditure incurred by the person in respect of the original master version (“the total expenditure”).

*Calculation 2*

Calculate one-third of the sum obtained by deducting from the total expenditure any amount of the total expenditure that has already been, or is capable of being, allocated under section 140 below or under section 42 of F(No.2)A 1992 as applied by section 48(1) to (3) of F(No.2)A 1997 (corresponding corporation tax provision).

*Calculation 3*

Calculate so much of the total expenditure as has not already been allocated to the relevant period or any other relevant period—

- (a) under this section or any other provision of this Chapter, or
  - (b) under any of sections 40B or 42 of F(No.2)A 1992.
- (6) If the relevant period is less than 12 months the above references to one-third are to be read as references to a proportionately smaller fraction.
- (7) If any acquisition expenditure in respect of the original master version is allocated to the relevant period—
- (a) under section 135 above, or
  - (b) under section 40B of F(No.2)A 1992,
- no other acquisition expenditure in respect of the original master version may be allocated to the relevant period under this section.”

- (2) Subject to sub-paragraphs (3) and (4), the amendments made by this paragraph have effect for the year 2005-06 and subsequent years of assessment.

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- (3) Those amendments do not have effect in relation to any film which was in production on 2nd December 2004.
- (4) In relation to pre-announcement expenditure—
  - (a) section 138 of ITTOIA 2005 (as substituted by this paragraph) has effect as if subsection (1)(d) of that section were omitted, and
  - (b) section 138A of that Act (as so substituted) has effect as if subsection (1)(b) of that section were omitted.

*Section 139 of the Income Tax (Trading and Other Income) Act 2005 (c. 5)*

- 4 (1) Section 139 of ITTOIA 2005 (certified master versions: production expenditure on limited-budget films) is amended as follows.
  - (2) In subsection (1), after paragraph (c) insert—
    - “(ca) the original master version was owned by that person at the time the film was completed.”
  - (3) In that subsection omit “and” immediately before paragraph (e) and after that paragraph insert “, and
    - (f) there has not already been a disqualifying deduction in respect of expenditure relating to the film (see section 140A).”
  - (4) Subject to sub-paragraphs (5) and (6), the amendments made by this paragraph have effect for the year 2005-06 and subsequent years of assessment.
  - (5) Those amendments do not have effect in relation to any film which was in production on 2nd December 2004.
  - (6) The amendment made by sub-paragraph (2) does not have effect in relation to pre-announcement expenditure.

*Section 140 of the Income Tax (Trading and Other Income) Act 2005 (c. 5)*

- 5 (1) Section 140 of ITTOIA 2005 (certified master versions: acquisition expenditure on limited-budget films) is amended as follows.
  - (2) In subsection (1)—
    - (a) omit paragraph (b),
    - (b) before paragraph (c) insert—
      - “(ba) the original master version has not previously been acquired by that person,”, and
    - (c) omit “and” immediately before paragraph (f) and after that paragraph insert “, and
      - (g) there has not already been a disqualifying deduction in respect of expenditure relating to the film (see section 140A).”
  - (3) Omit subsection (2).
  - (4) Subject to sub-paragraphs (5) to (7), the amendments made by this paragraph have effect for the year 2005-06 and subsequent years of assessment.

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- (5) Those amendments do not have effect in relation to any film which was in production on 2nd December 2004.
- (6) The amendments made by sub-paragraphs (2)(a) and (3) do not have effect in a case where subsection (1)(g) of section 140 of ITTOIA 2005 (as inserted by this paragraph) would operate to prevent a deduction being made under that section, but for paragraph 6(3) of this Schedule (transitional provision in respect of pre-announcement expenditure).
- (7) The amendment made by sub-paragraph (2)(b) does not have effect in relation to pre-announcement expenditure.

*Meaning of “disqualifying deduction”*

- 6 (1) After section 140 of ITTOIA 2005 insert—

*“Interpretation of sections 138 to 140*

**140A “Disqualifying deduction”**

- (1) For the purposes of sections 138 and 139 a disqualifying deduction in respect of expenditure relating to the film occurs when—
  - (a) under sections 138, 138A or 140 a deduction is made in respect of acquisition expenditure in respect of the original master version of the film in calculating the profits of the trade of any relevant period,
  - (b) a claim under section 42 of F(No.2)A 1992 is made in relation to the trade, for any relevant period, in respect of expenditure incurred on the acquisition of that version,
  - (c) under any of sections 138 to 140 a deduction is made in respect of production or acquisition expenditure in respect of that version in calculating the profits of another trade or business of any relevant period, or
  - (d) a claim under section 42 of F(No.2)A 1992 is made in relation to another trade or business, for any relevant period, in respect of expenditure incurred on the production or acquisition of that version.
- (2) For the purposes of sections 138A and 140 a disqualifying deduction in respect of expenditure relating to the film occurs when—
  - (a) under section 138 or 139 a deduction is made in respect of production expenditure in respect of the original master version of the film in calculating the profits of the trade of any relevant period,
  - (b) a claim under section 42 of F(No.2)A 1992 is made in relation to the trade, for any relevant period, in respect of expenditure incurred on the production of that version,
  - (c) under any of sections 138 to 140 a deduction is made in respect of production or acquisition expenditure in respect of that version in calculating the profits of another trade or business of any relevant period, or
  - (d) a claim under section 42 of F(No.2)A 1992 is made in relation to another trade or business, for any relevant period, in respect of expenditure incurred on the production or acquisition of that version.

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- (3) For the purposes of subsections (1) and (2)—
  - (a) it does not matter whether a claim under section 42 of F(No.2)A 1992 was made before, or on or after, 2nd December 2004, and
  - (b) references to a relevant period in relation to such a claim are to a relevant period within the meaning of section 40B of that Act.
- (4) Where more than one deduction is made at the same time, the Inland Revenue may determine which of those deductions is to be regarded as made first for the purposes of determining, for the purposes of sections 138 to 140, whether a disqualifying deduction has already been made.
- (5) In subsection (4) references to a deduction are to be read as including references to a claim under section 42 of F(No.2)A 1992.”
- (2) Subject to sub-paragraphs (3) and (4), the amendment made by this paragraph has effect for the year 2005-06 and subsequent years of assessment.
- (3) When determining whether a deduction under any of sections 138 to 140 of ITTOIA 2005 in respect of pre-announcement expenditure only is allowed, any other deduction under any of those sections, or previous claim under section 42 of F(No.2)A 1992, in respect of pre-announcement expenditure only is to be ignored for the purposes of determining whether there has already been a disqualifying deduction.
- (4) In sub-paragraph (3) “disqualifying deduction” is to be construed in accordance with section 140A of ITTOIA 2005.

*Transitional provision for films in production*

- 7 (1) This paragraph applies in relation to any claim for relief under section 42 of F(No.2)A 1992 (other than any claim for relief under that section as modified by section 48 of F(No.2)A 1997) which is in respect of expenditure incurred on the acquisition of the original master version of a film which was in production on 2nd December 2004.
- (2) No relief is available under section 42 of F(No.2)A 1992 in respect of that expenditure if—
  - (a) the acquisition is not the first acquisition by the claimant of the original master version of the film, or
  - (b) a claim has already been made under that section, or a deduction has already been made under section 138, 138A or 140 of ITTOIA 2005, in respect of expenditure incurred on another acquisition of that version.
- (3) Where, in relation to any particular film, more than one claim under section 42 of F(No.2)A 1992 is made at the same time, the Inland Revenue may determine which of the claims is to be regarded as made first for the purposes of this paragraph.  
  
 In this sub-paragraph references to a claim under section 42 of F(No.2)A 1992 are to be read as including references to a deduction of the kind mentioned in sub-paragraph (2)(b).
- (4) For the purposes of this paragraph “the Inland Revenue” means any officer of the Board.
- (5) This paragraph is deemed to have come into force on 2nd December 2004.



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- 8 (1) This paragraph applies in relation to relief under section 138 of ITTOIA 2005 in respect of any expenditure incurred on the acquisition of the original master version of a film which was in production on 2nd December 2004.
- (2) No deduction is allowed under that section in respect of expenditure incurred by a person on the acquisition of that version if—
- (a) the acquisition is not the first acquisition by that person of the original master version of the film, or
  - (b) a deduction has already been made under section 138, 138A or 140 of ITTOIA 2005, or a claim has already been made under section 42 of F(No.2)A 1992, in respect of expenditure incurred on another acquisition of that version.
- (3) Where, in relation to any particular film, more than one deduction of the kind mentioned in sub-paragraph (2)(b) is made at the same time, the Inland Revenue may determine which of the deductions is to be regarded as made first for the purposes of this paragraph.
- In this sub-paragraph references to a deduction of the kind mentioned in sub-paragraph (2)(b) are to be read as including references to a claim under section 42 of F(No.2)A 1992.
- (4) For the purposes of this paragraph “the Inland Revenue” means any officer of the Board.
- (5) This paragraph has effect for the year 2005-06 and subsequent years of assessment.

## PART 2

### RESTRICTIONS ON AMOUNT OF RELIEF WHICH MAY BE OBTAINED

#### *Section 42 of the Finance (No.2) Act 1992 (c. 48)*

- 9 (1) Section 42 of F(No.2)A 1992 (relief for production or acquisition expenditure) is amended as follows.
- (2) After subsection (3) (and before subsection (3A) inserted by paragraph 1(4) of this Schedule) insert—
- “(3ZA) Subsection (3) does not apply to so much of that expenditure as exceeds the total production expenditure in respect of the film concerned.
- (3ZB) For the purposes of this section the “total production expenditure” in respect of a film means the total of all the expenditure incurred on the production of the original master version of the film.”
- (3) After subsection (5A) (inserted by paragraph 1(5) of this Schedule) insert—
- “(5B) Where the claimant's acquisition expenditure exceeds the total production expenditure in respect of the film, paragraph (b) of subsection (5A) has effect as if the claimant's acquisition expenditure were an amount equal to that total production expenditure.”
- (4) After subsection (8) insert—

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- “(8A) For the purposes of this section the expenditure incurred on the production of the original master version of a film does not include any amount that at the time the film is completed—
- (a) has not been paid, and
  - (b) is not the subject of an unconditional obligation to pay within 4 months after the date of completion.
- (8B) Subsections (1) to (5) of section 5 of the Capital Allowances Act 2001 (when capital expenditure is incurred) apply for determining when for the purposes of this section any expenditure is incurred as they apply for determining when for the purposes of that Act any capital expenditure is incurred, but as if, in subsection (6) of that section, “at an earlier time” were substituted for “in an earlier chargeable period”.”
- (5) Subject to sub-paragraphs (6) to (9), the amendments made by this paragraph are deemed to have come into force on 2nd December 2004.
- (6) Those amendments do not have effect in relation to any claim for relief which is in respect of expenditure which relates to a film which had its first day of principal photography before that date.
- (7) Where, in relation to a film—
- (a) disregarding subsection (3ZA) of section 42 of F(No.2)A 1992, a claimant under that section has incurred pre-announcement expenditure to which subsection (3) of that section applies, and
  - (b) the total amount of that pre-announcement expenditure exceeds the total production expenditure in respect of the film (within the meaning of subsection (3ZB) of that section),
- the references in subsections (3ZA) and (5B) of that section to the total production expenditure in respect of the film are to be read as references to the total amount of that pre-announcement expenditure.
- (8) Subject to sub-paragraph (9), the amendment made by sub-paragraph (4) does not have effect in relation to pre-announcement expenditure.
- (9) For the purposes of section 42(3ZB) of F(No.2)A 1992 (definition of “total production expenditure” in respect of a film) the amendment made by sub-paragraph (4) also has effect in relation to expenditure incurred on the production of an original master version which is pre-announcement expenditure.
- (10) In this paragraph “claim for relief” means a claim for relief under section 42 of F(No.2)A 1992 (including a claim for relief under that section as modified by section 48 of F(No.2)A 1997).

*Section 48 of the Finance (No.2) Act 1997 (c. 58)*

- 10 (1) In section 48 of F(No.2)A 1997 (which modifies section 42 of F(No.2)A 1992 as it applies in relation to certain expenditure)—
- (a) in subsection (2), for “Subject to subsection (3) below, this” substitute “ This ”,
  - (b) omit subsection (3), and
  - (c) omit subsections (4) and (5).

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- (2) Subject to sub-paragraphs (3) and (4), the amendments made by this paragraph are deemed to have come into force on 2nd December 2004.
- (3) The amendments made by this paragraph do not have effect in relation to any claim for relief which is in respect of expenditure which relates to a film which had its first day of principal photography before that date.
- (4) Those amendments also do not have effect in relation to any claim for relief which is in respect of pre-announcement expenditure only or expenditure which includes pre-announcement expenditure.
- (5) In this paragraph “claim for relief” means a claim for relief under section 42 of F(No.2)A 1992 as modified by section 48 of F(No.2)A 1997.

*Section 138 of the Income Tax (Trading and Other Income) Act 2005 (c. 5)*

- 11 (1) Section 138 of ITTOIA 2005 (certified master versions: production expenditure) (as substituted by paragraph 3 of this Schedule) is amended as follows.
  - (2) In subsection (1), after paragraph (a) insert—

“(aa) section 139 does not apply in relation to that film.”
  - (3) After subsection (1) insert—

“(1A) Any expenditure which—
    - (a) has not been paid at the time the film is completed, and
    - (b) is not, at that time, the subject of an unconditional obligation to pay within 4 months after the date of completion,is not regarded as production expenditure for the purposes of this section.”
  - (4) In subsection (5), in Calculation 2—
    - (a) at the end of paragraph (a) insert “ and ”, and
    - (b) omit paragraph (c) and the word “and” immediately before it.
  - (5) Subject to sub-paragraphs (6) to (8), the amendments made by this paragraph have effect for the year 2005-06 and subsequent years of assessment.
  - (6) Those amendments do not have effect in relation to expenditure relating to films which had their first day of principal photography before 2nd December 2004.
  - (7) The amendments made by sub-paragraphs (2) and (4) do not have effect in relation to cases to which section 138 of ITTOIA 2005 applies in which any of the expenditure within subsection (1)(a) of that section is pre-announcement expenditure.
  - (8) The amendment made by sub-paragraph (3) does not have effect in relation to pre-announcement expenditure.

*Section 138A of the Income Tax (Trading and Other Income) Act 2005 (c. 5)*

- 12 (1) Section 138A of ITTOIA 2005 (certified master versions: acquisition expenditure) (as substituted by paragraph 3 of this Schedule) is amended as follows.
  - (2) In subsection (1), after paragraph (a) insert—

“(aa) section 140 does not apply in relation to that film.”

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(3) After subsection (3) insert—

“(3A) But the total amount allocated under this section may not exceed the total production expenditure in respect of the original master version.”

(4) In subsection (5), omit Calculation 2.

(5) After subsection (6) insert—

“(6A) Where the total acquisition expenditure incurred by the person in respect of the original master version exceeds the total production expenditure in respect of the original master version, the calculations in subsection (5) have effect as if that total acquisition expenditure were an amount equal to that total production expenditure.”

(6) Subject to sub-paragraphs (7) to (9), the amendments made by this paragraph have effect for the year 2005-06 and subsequent years of assessment.

(7) Those amendments do not have effect in relation to expenditure relating to films which had their first day of principal photography before 2nd December 2004.

(8) The amendments made by sub-paragraphs (2) and (4) do not have effect in relation to cases to which section 138A of ITTOIA 2005 applies in which any of the expenditure within subsection (1)(a) of that section is pre-announcement expenditure.

(9) Where, in a case to which section 138A of ITTOIA 2005 applies—

(a) the total acquisition expenditure incurred by the person in respect of the original master version consists of or includes an amount of pre-announcement expenditure, and

(b) the total amount of that pre-announcement expenditure exceeds the total production expenditure in respect of the original master version of the film in question (as defined for the purposes of that section by section 141 of that Act),

the references in subsections (3A) and (6A) of that section to that total production expenditure are to be read as references to the total amount of that pre-announcement expenditure.

*Section 139 of the Income Tax (Trading and Other Income) Act 2005 (c. 5)*

13 (1) In section 139 of ITTOIA 2005 (certified master versions: production expenditure on limited-budget films), in subsection (5)(d) omit “, or section 42 of that Act (but not as applied by section 48(1) and (2) of F(No.2)A 1997),”.

(2) The amendment made by this paragraph has effect for the year 2005-06 and subsequent years of assessment.

(3) But that amendment does not have effect—

(a) in relation to expenditure relating to films which had their first day of principal photography before 2nd December 2004, or

(b) in any case to which section 139 of ITTOIA 2005 applies where any of the expenditure within subsection (1)(a) of that section is pre-announcement expenditure.

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*Section 140 of the Income Tax (Trading and Other Income) Act 2005 (c. 5)*

- 14 (1) In section 140 of ITTOIA 2005 (certified master versions: acquisition expenditure on limited-budget films), in subsection (6)(d) omit “, or section 42 of that Act (but not as applied by section 48(1) to (3) of F(No.2)A 1997),”.
- (2) The amendment made by this paragraph has effect for the year 2005-06 and subsequent years of assessment.
- (3) But that amendment does not have effect—
- (a) in relation to expenditure relating to films which had their first day of principal photography before 2nd December 2004, or
  - (b) in any case to which section 140 of ITTOIA 2005 applies where any of the expenditure within subsection (1)(a) of that section is pre-announcement expenditure.

*Section 141 of the Income Tax (Trading and Other Income) Act 2005 (c. 5)*

- 15 (1) Section 141 of ITTOIA 2005 (“total production expenditure in respect of the original master version”) is amended as follows.
- (2) In subsection (1) after “sections” insert “ 138A, ”.
- (3) In subsection (4) for “Any” substitute “ For the purposes of sections 139(1)(e) and 140(1)(f) only, any ”.
- (4) Subject to sub-paragraphs (5) to (7), the amendments made by this paragraph have effect for the year 2005-06 and subsequent years of assessment.
- (5) Those amendments do not have effect in relation to expenditure relating to films which had their first day of principal photography before 2nd December 2004.
- (6) Sub-paragraph (7) applies where, in a case to which section 140 of ITTOIA 2005 applies—
- (a) the film in question had its first day of principal photography on or after 2nd December 2004,
  - (b) any or all of the expenditure within subsection (1)(a) of that section is pre-announcement expenditure,
  - (c) the amount of that pre-announcement expenditure exceeds the new expenditure cap, and
  - (d) the amount of the original expenditure cap exceeds the amount of the new expenditure cap.
- (7) Where this sub-paragraph applies, the reference in subsection (5) of section 140 of that Act to “the total production expenditure in respect of the original master version” is to be read as a reference to the lower of—
- (a) the amount of that pre-announcement expenditure, and
  - (b) the amount of the original expenditure cap.
- (8) For the purposes of sub-paragraphs (6) and (7), in a case to which section 140 of that Act applies—
- “the new expenditure cap” means the amount of “the total production expenditure in respect of the original master version” as defined for the purposes of subsection (5) of that section by section 141 of that Act as amended by this paragraph;

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“the original expenditure cap” means the amount of “the total production expenditure in respect of the original master version” as defined for those purposes by section 141 of that Act disregarding the amendments made by this paragraph.

*Section 142 of the Income Tax (Trading and Other Income) Act 2005 (c. 5)*

- 16 (1) In section 142 of ITTOIA 2005 (when expenditure is incurred), in subsection (1) for “139 and” substitute “ 138 to ”.
- (2) The amendment made by this paragraph has effect for the year 2005-06 and subsequent years of assessment.
- (3) But that amendment does not have effect—
- (a) in relation to films which had their first day of principal photography before 2nd December 2004, or
  - (b) in relation to pre-announcement expenditure.

### PART 3

#### MINOR AND CONSEQUENTIAL AMENDMENTS

*Income and Corporation Taxes Act 1988 (c. 1)*

- 17 Section 118ZM of ICTA (partnerships exploiting films: supplementary), as that section has effect for years of assessment before the year 2005-06, has effect as if for subsection (4) there were substituted—

“(4) The reference in section 118ZL(6) to the acquisition of a film is a reference to the acquisition of the original master version of the film; and this subsection is to be construed in accordance with section 43 of the Finance (No.2) Act 1992.”

*Finance (No.2) Act 1992 (c. 48)*

- 18 (1) Section 40A of F(No.2)A 1992 (revenue nature of expenditure on master versions of films) is amended as follows.
- (2) In subsection (1) for “a master” substitute “ the original master ”.
- (3) In subsection (2) for “the master” in both places substitute “ the original master ”.
- (4) In subsection (3)—
- (a) for “a master” substitute “ the original master ”, and
  - (b) for “the master” in both places substitute “ the original master ”.
- (5) Omit subsection (5).
- 19 (1) Section 40B of F(No.2)A 1992 (allocation of expenditure to periods) is amended as follows.
- (2) In subsection (1)—
- (a) after “exploitation of” insert “ original ”, and
  - (b) in paragraph (a) for “a master” substitute “ the original master ”.

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- (3) In subsections (4) and (5) for “the master”, in each place, substitute “ the original master ”.
- 20 In section 40C of F(No.2)A 1992 (cases where section 40B does not apply), for “the master” in both places substitute “ the original master ”.
- 21 (1) Section 40D of F(No.2)A 1992 (election for sections 40A and 40B not to apply) is amended as follows.
- (2) In subsection (2)—
- (a) in paragraph (a)—
- (i) in sub-paragraph (i) after “exploitation of” insert “ original ”, and
- (ii) in sub-paragraph (ii) for “a master” substitute “ the original master ”, and
- (b) in paragraphs (b) and (c) for “the master” substitute “ the original master ”.
- (3) In each of the following provisions for “the master”, in each place it occurs, substitute “ the original master ”
- subsection (3)(a);
- subsection (4) as it has effect, after 5th April 2005, for corporation tax purposes for accounting periods ending after that date;
- subsection (4) as it has effect in any other case;
- subsection (6).
- (4) In subsection (7) for “a master” substitute “ the original master ”.
- 22 (1) Section 41 of F(No.2)A 1992 (relief for preliminary expenditure) is amended as follows.
- (2) In subsection (1) after “exploitation of” insert “ original master versions of ”.
- (3) In subsections (3) and (4) for “master negative of the film or any master tape or master disc” substitute “ original master version ”.
- (4) In subsection (5) after “expenditure on” insert “ the original master version of ”.
- 23 (1) Section 42 of F(No.2)A 1992 (relief for production or acquisition expenditure) is amended as follows.
- (2) In subsection (1) after “exploitation” insert “ of original master versions ”.
- (3) In subsection (2)—
- (a) for “of a film—” substitute “ of the original master version of a film where — ”,
- (b) in paragraph (a) for first “which” substitute “ the film ”, and
- (c) in paragraph (b) for “master negative of which or any master tape or master disc of which” substitute “ original master version of the film ”.
- (4) In subsection (3)—
- (a) for “master negative of a film or any master tape or master disc” substitute “ original master version ”, and
- (b) in paragraph (b) for “master negative, tape or disc” substitute “ original master version of the film ”.

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- (5) In subsection (4)(a) for the words from “of the film” to the end substitute “ or acquisition of the original master version of the film concerned ”.
- (6) In subsection (7) after “acquisition” insert “ of the original master version ”.
- (7) In subsection (8) for “the film” substitute “ the original master version of the film ”.
- (8) In subsection (9)—
- (a) in paragraph (a), after “production” insert “ of the original master version ”, and
  - (b) in paragraph (b), for “master negative, master tape or master disc” substitute “ original master version ”.
- 24 (1) Section 43 of F(No.2)A 1992 (interpretation of provisions relating to films) is amended as follows.
- (2) In subsection (1)—
- (a) insert the following definitions at the appropriate place—
 

““film” is to be construed in accordance with paragraph 1 of Schedule 1 to the Films Act 1985;”

““original master version”, in relation to a film, means the original master negative, tape or disc (but see subsections (2) and (2A));”,
  - (b) omit the following definitions—
 

“master disc”

“master negative”

“master tape”, and
  - (c) in the definition of “qualifying disc”, “qualifying film” and “qualifying tape” for “a master” substitute “ the original master ”.
- (3) For subsection (2) substitute—
- “(2) In sections 40A to 42 and this section, references to the original master version of a film include the original master version of the film soundtrack (if any).
- (2A) In those provisions, references to the original master version also include any rights in the original master version that are held or acquired with it.”

*Finance Act 1997 (c. 16)*

- 25 In Schedule 12 to FA 1997 (leasing arrangements: finance leases and loans) (as amended by Schedule 1 to ITTOIA 2005), in paragraph 11(9) after “138,” insert “ 138A, ”.

*Finance (No. 2) Act 1997 (c. 58)*

- 26 (1) Section 48 of F(No. 2)A 1997 (which modifies section 42 of F(No. 2)A 1992 as it applies in relation to certain expenditure) is amended as follows.
- (2) In subsection (1), in the inserted subsection (4), for the words from “on—” to the end of paragraph (b) substitute “ on the production or acquisition of the original master version of the film concerned, ”.



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(3) For subsection (6) substitute—

“(6) In this section “total production expenditure” on a film, in relation to a claim for relief under section 42 of the Finance (No.2) Act 1992, means (subject to subsections (6A) and (7) below) the total of all expenditure incurred on the production of the original master version of the film, including expenditure incurred before 2nd July 1997 and whether or not incurred by the claimant.”

(4) In subsection (6A) for “the production expenditure on” substitute “ the expenditure incurred on the production of the original master version of ”.

(5) In subsection (7), in paragraph (a) after “production of” insert “ the original master version of ”.

(6) After subsection (7) insert—

“(7A) In this section—

“film” has the meaning given by section 43 of the Finance (No. 2) Act 1992;

“original master version” is to be construed in accordance with that section.”

*Capital Allowances Act 2001 (c. 2)*

27 (1) Paragraph 116 of Schedule 3 to CAA 2001 (transitional provision relating to sections 40A to 40D of F(No.2)A 1992 (films)) is amended as follows.

(2) In sub-paragraph (2)(b), for “master” in both places substitute “ original master ”.

(3) In sub-paragraph (2)(c)—

(a) for ““film,” substitute “ “a film, ”,

(b) for first “master” substitute “ the original master ”, and

(c) for second “master” substitute “ original master ”.

(4) In sub-paragraph (2)(d) for “substitution for section 40A(5)” substitute “ insertion after section 40A(4) ”.

(5) In sub-paragraph (2)(e)—

(a) for first “master” substitute “ original master ”,

(b) for ““film,” substitute “ “a film, ”, and

(c) for second “master” substitute “ the original master ”.

(6) In sub-paragraph (2)(f) to (i) for “master” in each place substitute “ original master ”.

(7) In sub-paragraph (2)(j) for the words from first “for” to the end substitute “for “original master versions of films”, of “a film, tape or disc

for “the original master version of a film” and of “film, tape or disc

for “original master version” (in both places);” ”.

(8) In sub-paragraph (2)(k) to (m) for “master” in each place substitute “ original master ”.

(9) In sub-paragraph (2)(n)—

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- (a) for ““film,” substitute “ “a film,” and
- (b) for “master” substitute “ the original master ”.

*Finance Act 2002 (c. 23)*

- 28 Section 99 of FA 2002 (restriction of relief to films genuinely intended for theatrical release) in subsection (3) for “master version of the film” substitute “ original master version of the film (within the meaning given by section 43 of the Finance (No.2) Act 1992) ”.
- 29 In Schedule 29 to that Act (gains and losses of a company from intangible fixed assets), in paragraph 80(2)(a) for “has the meaning” to “films)” substitute “ means an original master version of the film (within the meaning given by section 43 of the Finance (No.2) Act 1992) ”.

*Income Tax (Trading and Other Income) Act 2005 (c. 5)*

- 30 (1) ITTOIA 2005 is amended as follows.
  - (2) In section 139 (certified master versions: production expenditure on limited-budget films), in subsection (1), after paragraph (a) insert—
    - “(aa) the film was completed in, or before, that period,”.
  - (3) In section 140 (certified master version: acquisition expenditure on limited-budget films), in subsection (1), after paragraph (a) insert—
    - “(aa) the film was completed in, or before, that period,”.
  - (4) In Schedule 2 (transitionals and savings etc), in paragraph 34 for “Section 138 does” substitute “ Sections 138 and 138A do ”.

*Commencement of Part 3 amendments*

- 31 (1) The amendment made by paragraph 21(3), so far as it relates to section 40D(4) of F(No.2)A 1992 as amended by Schedule 1 to ITTOIA 2005, has effect for accounting periods ending after 5th April 2005.
- (2) The amendments made by paragraphs 25 and 30 have effect for the year 2005-06 and subsequent years of assessment.
- (3) The amendments made by the remaining provisions of this Part of this Schedule are deemed to have come into force on 2nd December 2004.

**PART 4**

INTERPRETATION

*Meaning of “pre-announcement expenditure”*

- 32 (1) For the purposes of this Schedule “pre-announcement expenditure” means expenditure incurred—
  - (a) before 2nd December 2004, or
  - (b) on or after that date in pursuance of an obligation to incur the expenditure which immediately before that date was an unconditional obligation.

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- (2) In determining, for the purposes of sub-paragraph (1), whether an obligation in pursuance of which expenditure was incurred was an unconditional obligation immediately before 2nd December 2004, the obligation is not to be regarded as a conditional obligation at that time by reason only that it was contingent on one or more of the following conditions—
- (a) a condition the fulfilment of which was outside the control of the person by whom the expenditure was incurred;
  - (b) a condition that the original master version of the film concerned is certified under Schedule 1 to the Films Act 1985 (c. 21) as a qualifying film, tape or disc for the purposes of section 40D of F(No.2)A 1992.
- (3) For the purposes of this Schedule—
- (a) a claim under section 42 of F(No.2)A 1992 in respect of expenditure incurred on the production or acquisition of the original master version of a film is a “claim in respect of pre-announcement expenditure only” if, and only if, all of the expenditure incurred by the claimant on the production or, as the case may be, acquisition of that version is pre-announcement expenditure, and
  - (b) a deduction under any of sections 138 to 140 of ITTOIA 2005 in respect of expenditure incurred on the production or acquisition of the original master version of a film is a “deduction in respect of pre-announcement expenditure only” if, and only if, all of the expenditure within subsection (1)(a) of the section under which the deduction is made is pre-announcement expenditure.

*Meaning of film “in production”*

- 33 (1) For the purposes of this Schedule a film was “in production” on 2nd December 2004 if it—
- (a) had its first day of principal photography before that date, and
  - (b) was completed on or after that date.
- (2) For this purpose a film is completed when it is first in a form in which it can reasonably be regarded as ready for copies of it to be made and distributed for presentation to the general public.

*Meaning of “film” and “original master version”*

- 34 For the purposes of this Schedule—
- “film” is to be construed in accordance with paragraph 1 of Schedule 1 to the Films Act 1985 (c. 21);
  - “original master version” is to be construed in accordance with section 43 of F(No.2)A 1992.

**Status:**

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**Changes to legislation:**

There are currently no known outstanding effects for the Finance Act 2005, SCHEDULE 3.