



Finance (No. 2) Act 1992

1992 CHAPTER 48

PART II

INCOME TAX, CORPORATION TAX AND CAPITAL GAINS TAX

CHAPTER I

GENERAL

Business expansion scheme

F138

Textual Amendments

F1 S. 38 repealed (3.5.1994 with effect in relation to shares issued on or after 1.1.1994) by 1994 c. 9, s. 258, [Sch. 26 Pt. V\(17\)](#), Note

F239

Textual Amendments

F2 S. 39 repealed (3.5.1994 with effect in relation to shares issued on or after 1.1.1994) by 1994 c. 9, s. 258, [Sch. 26 Pt. V\(17\)](#), Note

F340

Status: Point in time view as at 01/07/1997. This version of this cross heading contains provisions that are not valid for this point in time.

Changes to legislation: There are currently no known outstanding effects for the Finance (No. 2) Act 1992, Cross Heading: Business expansion scheme. (See end of Document for details)

Textual Amendments

- F3** S. 40 repealed (3.5.1994 with effect in relation to shares issued on or after 1.1.1994) by 1994 c. 9, s. 258, **Sch. 26 Pt. V(17)**, Note

VALID FROM 22/03/2001

[40A ^{F4} **Revenue nature of expenditure on master versions of films**

- (1) Expenditure incurred on the production or acquisition of a master version of a film is to be regarded for the purposes of the Tax Acts as expenditure of a revenue nature unless an election under section 40D below has effect with respect to it.
- (2) If expenditure on the master version of a film is regarded as expenditure of a revenue nature under subsection (1) above, sums received from the disposal of the master version are to be regarded for the purposes of the Tax Acts as receipts of a revenue nature (if they would not be so regarded apart from this subsection).
- (3) For the purposes of subsection (2) above sums received from the disposal of a master version of a film include—
 - (a) sums received from the disposal of any interest or right in or over the master version, including an interest or right created by the disposal, and
 - (b) insurance, compensation or similar money derived from the master version.
- (4) In this section—
 - (a) “expenditure of a revenue nature” means expenditure which, if it were incurred in the course of a trade the profits of which are chargeable to tax under Case I of Schedule D, would be taken into account for the purpose of computing the profits or losses of the trade, and
 - (b) “receipts of a revenue nature” means receipts which, if they were receipts of such a trade, would be taken into account for that purpose.
- (5) For the purposes of this section and sections 40B to 40D below, a “master version” of a film means a master negative, master tape or master audio disc of the film and includes any rights in the film (or its soundtrack) that are held or acquired with the master negative, master tape or master audio disc.]

Textual Amendments

- F4** S. 40A inserted (22.3.2001 with effect as mentioned in s. 579(1) of the amending Act) by 2001 c. 2, ss. 578, 579(1), **Sch. 2 para. 82**

Modifications etc. (not altering text)

- C1** S. 40A applied (with modifications) (22.3.2001 with effect as mentioned in s. 579(1) of the amending Act) by 2001 c. 2, s. 579, **Sch. 3 Pt. XIII para. 116**

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VALID FROM 22/03/2001

40B ^{F5} **Allocation of expenditure to periods**

- (1) In computing the profits or gains accruing to any person from a trade or business which consists of or includes the exploitation of master versions of films, expenditure which is—
 - (a) incurred on the production or acquisition of a master version of a film, and
 - (b) expenditure of a revenue nature (whether as a result of section 40A above or otherwise),must be allocated to relevant periods in accordance with this section.
- (2) Subsection (1) above does not apply if an election under section 40D below has effect with respect to the expenditure.
- (3) In this section “relevant period” means—
 - (a) a period for which the accounts of the trade or business concerned are made up, or
 - (b) if no accounts of the trade or business concerned are made up for a period—
 - (i) if the profits or gains accrue to a company within the charge to corporation tax, the accounting period of the company;
 - (ii) in any other case, the period the profits or gains of which are taken into account in assessing the income of the trade or business for a year of assessment.
- (4) The amount of expenditure falling within subsection (1) above which falls to be allocated to any relevant period is so much as is just and reasonable, having regard to—
 - (a) the amount of that expenditure which remains unallocated at the beginning of that period,
 - (b) the proportion which the estimated value of the master version of the film which is realised in that period (whether by way of income or otherwise) bears to the aggregate of the value so realised and the estimated remaining value of the master version at the end of that period, and
 - (c) the need to bring the whole of the expenditure falling within subsection (1) above into account over the time during which the value of the master version is expected to be realised.
- (5) In addition to any expenditure which is allocated to a relevant period in accordance with subsection (4) above, if a claim is made, there must also be allocated to that period so much of the unallocated expenditure as is specified in the claim and does not exceed the difference between—
 - (a) the amount allocated to that period in accordance with subsection (4) above, and
 - (b) the value of the master version of the film which is realised in that period (whether by way of income or otherwise).
- (6) A claim under subsection (5) above must be made—
 - (a) for the purposes of income tax, on or before the first anniversary of the 31st January next following the year of assessment in which ends the relevant period mentioned in that subsection;

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- (b) for the purposes of corporation tax, not later than two years after the end of the relevant period to which the claim relates.
- (7) In subsection (5) above “the unallocated expenditure”, in relation to a relevant period, is any expenditure falling within subsection (1) above—
- (a) which does not fall to be allocated to that period in accordance with subsection (4) above, and
- (b) which has not been allocated to any earlier relevant period in accordance with subsection (4) or (5) above.

Textual Amendments

F5 S. 40B inserted (22.3.2001 with effect as mentioned in s. 579(1) of the amending Act) by 2001 c. 2, ss. 578, 579(1), **Sch. 2 para. 82**

Modifications etc. (not altering text)

C2 S. 40B applied (with modifications) (22.3.2001 with effect as mentioned in s. 579(1) of the amending Act) by 2001 c. 2, s. 579, **Sch. 3 Pt. XIII para. 116**

VALID FROM 22/03/2001

40C ^{F6} **Cases where section 40B does not apply**

- (1) To the extent that a deduction has been made in respect of any expenditure for a relevant period under section 42 below—
- (a) that expenditure must not be allocated under section 40B above, and
- (b) no other expenditure incurred on the production or acquisition of the master version of the film is to be allocated under section 40B above to the relevant period.
- (2) Section 40B above does not apply to the profits of a trade in which the master version of the film constitutes trading stock, as defined by section 100(2) of the Taxes Act 1988.

Textual Amendments

F6 S. 40C inserted (22.3.2001 with effect as mentioned in s. 579(1) of the amending Act) by 2001 c. 2, ss. 578, 579(1), **Sch. 2 para. 82**

Modifications etc. (not altering text)

C3 S. 40C applied (with modifications) (22.3.2001 with effect as mentioned in s. 579(1) of the amending Act) by 2001 c. 2, s. 579, **Sch. 3 Pt. XIII para. 116**

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VALID FROM 22/03/2001

40D ^{F7} **Election for sections 40A and 40B not to apply**

- (1) Sections 40A and 40B above do not apply to expenditure—
 - (a) in relation to which an election is made under this section, and
 - (b) which meets the conditions in subsection (2) below.
- (2) The conditions are that—
 - (a) the expenditure is incurred—
 - (i) by a person who carries on a trade or business which consists of or includes the exploitation of master versions of films, and
 - (ii) on the production or acquisition of a master version of a film,
 - (b) the master version is certified by the Secretary of State under paragraph 3 of Schedule 1 to the Films Act 1985 as a qualifying film, tape or disc for the purposes of this section, and
 - (c) the value of the master version is expected to be realisable over a period of not less than two years.
- (3) An election under this section—
 - (a) must relate to all expenditure incurred (or to be incurred) on the production or acquisition of the master version in question,
 - (b) must be made by giving notice to the Inland Revenue, in such form as the Board of Inland Revenue may determine, and
 - (c) is irrevocable.
- (4) Notice under subsection (3)(b) above must be given—
 - (a) for the purposes of income tax, on or before the first anniversary of the 31st January next following the year of assessment in which ends the relevant period in which the master version of the film is completed;
 - (b) for the purposes of corporation tax, not later than two years after the end of the relevant period in which the master version of the film is completed.
- (5) In subsection (4) above “relevant period” has the same meaning as in section 40B above.
- (6) For the purposes of subsection (4) above, the master version of a film is completed—
 - (a) at the time 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 public, or
 - (b) if the expenditure in question was incurred on the acquisition of the master version and it was acquired after the time mentioned in paragraph (a) above, at the time it was acquired.
- (7) An election may not be made under this section in relation to expenditure on a master version of a film if a claim has been made in respect of any of that expenditure under section 41 or 42 below.

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Textual Amendments

- F7** S. 40D inserted (22.3.2001 with effect as mentioned in s. 579(1) of the amending Act) by 2001 c. 2, ss. 578, 579(1), **Sch. 2 para. 82**

Modifications etc. (not altering text)

- C4** S. 40D applied (with modifications) (22.3.2001 with effect as mentioned in s. 579(1) of the amending Act) by 2001 c. 2, s. 579, Sch. 3 Pt. XIII paras. 116, **117**
S. 40D restricted (24.7.2002 with application as mentioned in s. 99(3)-(6) of the amending Act) by 2002 c. 23, **s. 99(1)(a)(2)(6)**

Status:

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