



Finance (No. 2) Act 1992

1992 CHAPTER 48

PART II

INCOME TAX, CORPORATION TAX AND CAPITAL GAINS TAX

CHAPTER I

GENERAL

Films

41 Relief for preliminary expenditure.

- (1) Subject to the following provisions of this section and any other provisions of the Tax Acts, in computing for tax purposes the profits or gains accruing to a person in a relevant period from a trade or business which consists of or includes the exploitation of films, that person shall (on making a claim) be entitled to deduct the amount of any expenditure of a revenue nature payable by him in that or an earlier relevant period—
 - (a) which is expenditure to which this section applies,
 - (b) in respect of which no deduction has previously been made (whether under this section or otherwise) in computing for tax purposes the profits or gains accruing from the trade or business, and
 - (c) in respect of which no election has been made under [^{F1}section 40D above].
- (2) This section applies to any expenditure that—
 - (a) can reasonably be said to have been incurred with a view to enabling a decision to be taken as to whether or not to make a film,
 - (b) is payable before the first day of principal photography (where the decision that is taken is to make the film), and
 - (c) is not payable under any contract or other arrangement whereby it may fall to be repaid if the film is not made.

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- (3) A deduction shall not be made in respect of a film that has been completed unless the master negative of the film or any master tape or master disc of the film is a qualifying film, tape or disc.
- (4) A deduction shall not be made in respect of a film that has not been completed unless it is reasonably likely that if the film were completed the master negative of the film or any master tape or master disc of the film would be a qualifying film, tape or disc.
- (5) The total amount deducted under this section in respect of a film shall not exceed 20 per cent. of the budgeted total expenditure on the film, as calculated at the first day of principal photography.
- [^{F2}(6) A claim under this section shall 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 in which the expenditure to which it relates becomes payable;
- (b) for the purposes of corporation tax, not later than two years after the end of the relevant period in which the expenditure to which it relates becomes payable.]
- (7) To the extent that a deduction has been made in respect of any expenditure under this section, no further deduction shall be made in respect of it in computing for tax purposes the profits or gains of the trade or business concerned.
- (8) This section shall have effect in relation to expenditure payable on or after 10th March 1992.

Textual Amendments

- F1** Words in s. 41(1)(c) substituted (22.3.2001 with effect as mentioned s. 579(1) of the amending Act) by 2001 c. 2, ss. 578, 579(1), **Sch. 2 para. 83**
- F2** S. 41(6) substituted (29.4.1996 with effect as mentioned in s. 135(2) of the substituting Act) by 1996 c. 8, s. 135, **Sch. 21 para. 45**

Modifications etc. (not altering text)

- C1** S. 41 restricted (24.7.2002 with application as mentioned in s. 99(3)-(6) of the amending Act) by 2002 c. 23, s. 99(1)(b)(2)(6)

42 Relief for production or acquisition expenditure.

- (1) Subject to the following provisions of this section and any other provisions of the Tax Acts, in computing for tax purposes the profits or gains accruing to a person in a relevant period from a trade or business which consists of or includes the exploitation of films, that person shall (on making a claim) be entitled to deduct an amount in respect of any expenditure—
- (a) which is expenditure to which subsection (2) or (3) below applies, and
- (b) in respect of which no deduction has been made by virtue of [^{F3}section 40B above] and no election has been made under [^{F3}section 40D above].
- (2) This subsection applies to any expenditure of a revenue nature incurred by the claimant on the production of a film—
- (a) which was completed in the relevant period to which the claim relates or an earlier relevant period, and

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- (b) the master negative of which or any master tape or master disc of which is a qualifying film, tape or disc.
- (3) This subsection applies to any expenditure of a revenue nature incurred by the claimant on the acquisition of the master negative of a film or any master tape or master disc of a film where—
- (a) the film was completed in the relevant period to which the claim relates or an earlier relevant period, and
- (b) the master negative, tape or disc is a qualifying film, tape or disc.
- (4) Any amount deducted for a relevant period under subsection (1) above shall not exceed—
- (a) one third of the total expenditure incurred by the claimant on the production of the film concerned or the acquisition of the master negative or any master tape or master disc of it,
- (b) one third of the sum obtained by deducting from the amount of that total expenditure the amount of so much of that total expenditure as has already been deducted by virtue of section 41 above, or
- (c) so much of that total expenditure as has not already been deducted by virtue of [^{F4}section 40B or], section 41 above or this section,
- whichever is less.
- (5) In relation to a relevant period of less than twelve months, the references to one third in subsection (4) above shall be read as references to a proportionately smaller fraction.
- [^{F5}(6) A claim under this section shall 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 to which the claim relates,
- (b) for the purposes of corporation tax, not later than two years after the end of the relevant period to which the claim relates,
- and shall be irrevocable.]
- (7) Where any expenditure is deducted by virtue of [^{F6}section 40B above] in computing the profits or gains of a trade or business for a relevant period, no deduction shall be made under this section for that relevant period in respect of expenditure incurred on the production or acquisition of the film concerned.
- (8) This section does not apply to the [^{F7}profits] of a trade in which the film concerned constitutes trading stock, as defined in section 100(2) of the Taxes Act 1988.
- [^{F8}(9) This section has effect in relation to expenditure incurred -
- (a) on the production of a film completed on or after 10th March 1992, or
- (b) on the acquisition of the master negative, master tape or master disc of a film completed on or after that date.]

Textual Amendments

- F3** Words in s. 42(1)(b) substituted (22.3.2001 with effect as mentioned s. 579(1) of the amending Act) by 2001 c. 2, ss. 578, 579(1), **Sch. 2 para. 84(1)(a)**
- Words in s. 41(1)(b) substituted (22.3.2001 with effect as mentioned s. 579(1) of the amending Act) by 2001 c. 2, ss. 578, 579(1), **Sch. 2 para. 84(1)(b)**

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- F4** Words in s. 42(4)(c) substituted (22.3.2001 with effect as mentioned s. 579(1) of the amending Act) by 2001 c. 2, ss. 578, 579(1), **Sch. 2 para. 84(2)**
- F5** S. 42(6) substituted (29.4.1996 with effect as mentioned in s. 135(2) of the substituting Act) by 1996 c. 8, s. 135, **Sch. 21 para. 46**
- F6** Words in s. 42(7) substituted (22.3.2001 with effect as mentioned s. 579(1) of the amending Act) by 2001 c. 2, ss. 578, 579(1), **Sch. 2 para. 84(3)**
- F7** Word in s. 42(8) substituted (31.7.1998) by 1998 c. 36, s. 46(3), **Sch. 7 para. 8**
- F8** S. 42(9) substituted (28.7.2000 with application as mentioned in s. 113(5)(6) of the amending Act) by 2000 c. 17, s. 113(3)

Modifications etc. (not altering text)

- C2** S. 42 modified (31.7.1997) by 1997 c. 58, s. 48(1)(2)(11) and restricted (31.7.1997) by 1997 c. 58, s. 48(4)(11) (as amended (retrospective to 2.12.2004) by Finance Act 2005 (c. 7), **Sch. 3 paras. 26, 31(3)**)
- S. 42 restricted (24.7.2002 with application as mentioned in s. 99(3)-(6) of the amending Act) by 2002 c. 23, s. 99(1)(c)(2)(6)

43 Interpretation of sections 41 and 42.

- (1) In sections [F⁹40A to 42] above and this section—
- “expenditure of a revenue nature” has the meaning given in [F¹⁰section 40A(4) above],
- “master disc”, in relation to a film, means the original master film disc or the original master audio disc of the film,
- “master negative”, in relation to a film, means the original master negative of the film and its soundtrack (if any),
- “master tape”, in relation to a film, means the original master film tape or the original master audio tape of the film,
- “qualifying disc” means a master disc of a film certified by the Secretary of State under Schedule 1 to the ^{M1}Films Act 1985 as a qualifying disc for the purposes of [F¹¹section 40D above],
- “qualifying film” means a master negative of a film certified by the Secretary of State under Schedule 1 to the ^{M2}Films Act 1985 as a qualifying film for the purposes of [F¹¹section 40D above],
- “qualifying tape” means a master tape of a film certified by the Secretary of State under Schedule 1 to the ^{M3}Films Act 1985 as a qualifying tape for the purposes of section 68 of the 1990 Act,
- “relevant period” has the meaning given in [F¹²section 40B(3) above], and
- F¹³
 . . .
- (2) In sections 41 and 42 above and this section—
- (a) any reference to a film shall be construed in accordance with paragraph 1 of Schedule 1 to the Films Act 1985, and
- (b) any reference to the acquisition of a master negative, master tape or master disc of a film includes a reference to the acquisition of [F¹⁴any rights in the film (or its soundtrack) that are held or acquired with the master negative, master tape or master audio disc].
- (3) For the purposes of sections 41 and 42 above a film is completed—

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- (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 general public,^{F15} . . .
- ^{F15}(b)

Textual Amendments

- F9** Words in s. 43(1) substituted (22.3.2001 with effect as mentioned s. 579(1) of the amending Act) by 2001 c. 2, ss. 578, 579(1), **Sch. 2 para. 85(a)**
- F10** Words in s. 43(1) substituted (22.3.2001 with effect as mentioned s. 579(1) of the amending Act) by 2001 c. 2, ss. 578, 579(1), **Sch. 2 para. 85(b)**
- F11** Words in s. 43(1) substituted (22.3.2001 with effect as mentioned s. 579(1) of the amending Act) by 2001 c. 2, ss. 578, 579(1), **Sch. 2 para. 85(c)**
- F12** Words in s. 43(1) substituted (22.3.2001 with effect as mentioned s. 579(1) of the amending Act) by 2001 c. 2, ss. 578, 579(1), **Sch. 2 para. 85(d)**
- F13** S. 43(1): definition of “the 1990 Act”
repealed (22.3.2001 with effect as mentioned s. 579(1) of the amending Act) by 2001 c. 2, ss. 578, 579(1), 580, **Sch. 2 para. 85(e)**; Sch. 4
- F14** Words in s. 43(2)(b) substituted (28.7.2000 with application as mentioned in s. 113(5)(6) of the amending Act) by 2000 c. 17, s. **113(4)(a)**
- F15** S. 43(3)(b) and the preceding word “or” repealed (28.7.2000 with application as mentioned in s. 113(5)(6) of the amending Act) by 2000 c. 17, ss. 113(4)(b), 156, **Sch. 40 Pt. II(18)**

Modifications etc. (not altering text)

- C3** S. 43(3) applied with modifications (31.7.1997) by 1997 c. 58, s. **48(8)(11)**

Marginal Citations

- M1** 1985 c. 21.
M2 1985 c. 21.
M3 1985 c. 21.

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