



Income Tax (Trading and Other Income) Act 2005

2005 CHAPTER 5

PART 2

TRADING INCOME

CHAPTER 9

TRADE PROFITS: FILMS AND SOUND RECORDINGS

Certified master versions: special rules for allocating expenditure

136 Application of provisions about certified master versions

Sections 137 to 140 (certified master versions: certain expenditure) apply for the purpose of calculating the profits of a trade of a relevant period if—

- (a) the trade consists of or includes the exploitation of films,
- (b) the films do not constitute trading stock of the trade (within the meaning of section 174),
- (c) the expenditure in question is of a revenue nature (whether as a result of section 134 or otherwise), and
- (d) no election under section 143 below or section 40D of F(No.2)A 1992 has effect in relation to the expenditure.

137 Certified master versions: preliminary expenditure

(1) This section applies if—

- (a) the person carrying on the trade has incurred preliminary expenditure in connection with a film in, or before, the relevant period,
- (b) the certified master version condition is met (see subsection (2)), and

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- (c) the film is genuinely intended for theatrical release.
- (2) The certified master version condition is—
- (a) if the film is completed, that the original master version of it is a certified master version, or
 - (b) if the film is not completed, that it is reasonably likely that, if the film were completed, the original master version of it would be a certified master version.
- (3) A deduction is allowed for the amount of the preliminary expenditure allocated to the relevant period, but this is subject to the application of any prohibitive rule.
- (4) The person carrying on the trade may allocate up to 100% of the preliminary expenditure to the relevant period.
- (5) But the total amount allocated under this section must not exceed 20% of the budgeted total expenditure on the film, calculated as at the first day of principal photography.
- (6) Expenditure may not be allocated to the relevant period under this section if—
- (a) it is allocated under this section to any other relevant period,
 - (b) it is allocated under any other provision of this Chapter to the relevant period or any other relevant period,
 - (c) it is allocated under section 41 of F(No.2)A 1992 to any other relevant period,
 - (d) it is allocated under section 40B or 42 of that Act to the relevant period or any other relevant period, or
 - (e) a deduction in respect of it has otherwise been made in calculating the profits of the trade for income or corporation tax purposes.
- (7) If any preliminary expenditure in connection with the film is allocated to the relevant period—
- (a) under section 135 above, or
 - (b) under section 40B of F(No.2)A 1992,
- no other preliminary expenditure in connection with the film may be allocated to the relevant period under this section.
- (8) So far as a deduction is given in respect of any expenditure—
- (a) under this section, or
 - (b) under section 41 of F(No.2)A 1992,
- no further deduction is allowed in respect of that expenditure in calculating the profits of the trade for income tax purposes.

[^{F1}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,
 - [^{F2}(aa) section 139 does not apply in relation to that film,]
 - (b) the film was completed in, or before, that period,
 - (c) the original master version is a certified master version,
 - (d) the original master version was owned by that person at the time the film was completed,

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- (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).

[^{F3}(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.]

- (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,
[^{F4}and]
- (b) any amount of the total expenditure already allocated under section 41 of F(No.2)A 1992,
- (c) ^{F5}

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.]

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Textual Amendments

- F1** Ss.138 138A substituted for s. 138 (with effect as mentioned in Sch. 3 para. 3(2)(3) of the amending Act) by Finance Act 2005 (c. 7), s. 59, Sch. 3 para. 3(1)(4)
- F2** S.138(1)(aa) inserted (with effect as mentioned in Sch. 3 para. 11(5)-(7) of the amending Act) by Finance Act 2005 (c. 7), s. 59, Sch. 3 para. 11(2)
- F3** S.138(1A) inserted (with effect as mentioned in Sch. 3 para. 11(5)(6)(8) of the amending Act) by Finance Act 2005 (c. 7), s. 59, Sch. 3 para. 11(3)
- F4** Word in s.138((5) inserted (with effect as mentioned in Sch. 3 para. 11(5)-(7) of the amending Act) by Finance Act 2005 (c. 7), s. 59, Sch. 3 para. 11(4)(a)
- F5** Words in s.138(5) repealed (with effect as mentioned in Sch. 3 para. 11(5)-(7) of the amending Act) by Finance Act 2005 (c. 7), ss. 59, 104, Sch. 3 para. 11(4)(b), Sch. 11 Pt. 2(3)

Modifications etc. (not altering text)

- C1** S.138 restricted (with effect as mentioned in Sch. 3 para. 8(5) of the amending Act) by Finance Act 2005 (c. 7), s. 59, Sch. 3 para. 8(1)-(4)

[^{F6}138A Certified master versions: acquisition expenditure

- (1) This section applies if—
- (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,
[section 140 does not apply in relation to that film,]
 - ^{F7}(aa) 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.

[But the total amount allocated under this section may not exceed the total production ^{F8}(3A) expenditure in respect of the original master version.]

- (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”).

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Calculation 3

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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.

[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.]

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(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.]

Textual Amendments

- F6** Ss.138, 138A substituted for s. 138 (with effect as mentioned in Sch. 3 para. 3(2)(3) of the amending Act) by Finance Act 2005 (c. 7), s. 59, Sch. 3 para. 3(1)(4)
- F7** S.138A(1)(aa) inserted (with effect as mentioned in Sch. 3 para. 12(6)-(8) of the amending Act) by Finance Act 2005 (c. 7), s. 59, Sch. 3 para. 12(2)
- F8** S.138A(3A) inserted (with effect as mentioned in Sch. 3 para. 12(6)(7)(9) of the amending Act) by Finance Act 2005 (c. 7), s. 59, Sch. 3 para. 12(3)
- F9** Words in s.138A(5) repealed (with effect as mentioned in Sch. 3 para. 12(6)-(8) of the amending Act) by Finance Act 2005 (c. 7), ss. 59, 104, Sch. 3 para. 12(4), Sch. 11 Pt. 2(3)
- F10** S.138A(6A) inserted (with effect as mentioned in Sch. 3 para. 12(6)(7)(9) of the amending Act) by Finance Act 2005 (c. 7), s. 59, Sch. 3 para. 12(5)

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