

## SCHEDULES

### SCHEDULE 3

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

##### 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—
- “(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”.”

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- (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).
- (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.”
- (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.”

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- (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.

*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;
- “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

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(b) in relation to pre-announcement expenditure.