



# Corporation Tax Act 2009

## 2009 CHAPTER 4

### PART 15 **U.K.**

#### FILM PRODUCTION

##### **Modifications etc. (not altering text)**

- C1** Pt. 15 applied (with modifications) by S.I. 2007/1050, regs. 3-12 (as amended (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), s. 1329(1), [Sch. 2 para. 131](#) (with [Sch. 2 Pts. 1, 2](#)))

### CHAPTER 1 **U.K.**

#### INTRODUCTION

##### *Introductory*

#### **1180 Overview of Part **U.K.****

- (1) This Part is about film production.
- (2) Sections 1181 to 1187 contain definitions and other provisions about interpretation that apply for the purposes of this Part.

See, in particular, section 1182 which explains how a company comes to be treated as the film production company in relation to a film.

- (3) Chapter 2 is about the taxation of the activities of a film production company and includes—
  - (a) provision for the company's activities in relation to its film to be treated as a separate trade, and
  - (b) provision about the calculation of the profits and losses of that trade.

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- (4) Chapter 3 is about relief (called “film tax relief”) which can be given to a film production company—
- (a) by way of additional deductions to be made in calculating the profits or losses of the company's separate trade, or
  - (b) by way of a payment (a “film tax credit”) to be made on the company's surrender of losses from that trade.
- (5) Chapter 4 is about the relief which can be given for losses made by a film production company in its separate trade including provision for certain such losses to be transferred to other separate trades.
- (6) Chapter 5 provides—
- (a) for relief under Chapters 3 and 4 to be given on a provisional basis, and
  - (b) for such relief to be withdrawn if it turns out that conditions that must be met for such relief to be given are not actually met.

### *Interpretation*

#### **1181 “Film” etc U.K.**

- (1) This section applies for the purposes of this Part.
- (2) “Film” includes any record, however made, of a sequence of visual images that is capable of being used as a means of showing that sequence as a moving picture.
- (3) Each part of a series of films is treated as a separate film, unless—
  - (a) the films form a series with not more than 26 parts,
  - (b) the combined playing time is not more than 26 hours, and
  - (c) the series constitutes a self-contained work or is a series of documentaries with a common theme,
 in which case the films are treated as a single film.
- (4) References to a film include the film soundtrack.
- (5) 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.

#### **1182 “Film production company” U.K.**

- (1) For the purposes of this Part “film production company” is to be read in accordance with this section.
- (2) There cannot be more than one film production company in relation to a film.
- (3) A company that (otherwise than in partnership)—
  - (a) is responsible—
    - (i) for pre-production, principal photography and post-production of the film, and
    - (ii) for delivery of the completed film,
  - (b) is actively engaged in production planning and decision-making during pre-production, principal photography and post-production, and

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- (c) directly negotiates, contracts and pays for rights, goods and services in relation to the film,  
is the film production company in relation to the film.
- (4) In relation to a qualifying co-production, a company that (otherwise than in partnership)—
  - (a) is a co-producer, and
  - (b) makes an effective creative, technical and artistic contribution to the film,  
is the film production company in relation to the film.
- (5) If there is more than one company meeting the description in subsection (3) or (4), the company that is most directly engaged in the activities referred to in that subsection is the film production company in relation to the film.
- (6) If there is no company meeting the description in subsection (3) or (4), there is no film production company in relation to the film.
- (7) A company may elect to be regarded as a company which does not meet the description in subsection (3) or (4).
- (8) The election—
  - (a) must be made by the company by being included in its company tax return for an accounting period (and may be included in the return originally made or by amendment), and
  - (b) may be withdrawn by the company only by amending its company tax return for that accounting period.
- (9) The election has effect in relation to films which commence principal photography in that or any subsequent accounting period.

### **1183 “Film-making activities” etc U.K.**

- (1) In this Part “film-making activities”, in relation to a film, means the activities involved in development, pre-production, principal photography and post-production of the film.
- (2) If all or any of the images in a film are generated by computer, references in this Part to principal photography are to be read as references to, or as including, the generation of those images.
- (3) The Treasury may by regulations—
  - (a) amend subsections (1) and (2),
  - (b) provide that specified activities are or are not to be regarded as film-making activities or as film-making activities of a particular description, and
  - (c) provide that, in relation to a specified description of film, references to film-making activities of a particular description are to be read as references to such activities as may be specified.

“Specified” means specified in the regulations.

### **1184 “Production expenditure”, “core expenditure” and “limited-budget film” U.K.**

- (1) In this Part, in relation to a film—

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“production expenditure” means expenditure on film-making activities in connection with the film, and

“core expenditure” means production expenditure on pre-production, principal photography and post-production.

- (2) For the purposes of this Part a “limited-budget film” is a film whose core expenditure is £20 million or less.
- (3) In determining if a film is a limited-budget film, any core expenditure that—
- (a) is incurred by a person under or as a result of a transaction entered into directly or indirectly between that person and a connected person, and
  - (b) might have been expected to have been of a greater amount (“the arm's length amount”) if the transaction had been between independent persons dealing at arm's length,
- is treated as having been of an amount equal to the arm's length amount.

#### 1185 “UK expenditure” etc **U.K.**

- (1) In this Part “UK expenditure”, in relation to a film, means expenditure on goods or services that are used or consumed in the United Kingdom.
- (2) Any apportionment of expenditure as between UK expenditure and non-UK expenditure for the purposes of this Part is to be made on a just and reasonable basis.
- (3) The Treasury may by regulations amend subsection (1).

#### 1186 “Qualifying co-production” and “co-producer” **U.K.**

In this Part—

- (a) “qualifying co-production” means a film that falls to be treated as a national film in the United Kingdom as a result of an agreement between Her Majesty's Government in the United Kingdom and any other government, international organisation or authority, and
- (b) “co-producer” means a person who is a co-producer for the purposes of the agreement mentioned in paragraph (a).

#### 1187 “Company tax return” **U.K.**

In this Part “company tax return” has the same meaning as in Schedule 18 to FA 1998 (see paragraph 3(1)).

### **CHAPTER 2 U.K.**

#### TAXATION OF ACTIVITIES OF FILM PRODUCTION COMPANY

##### *Separate film trade*

#### 1188 Activities of film production company treated as a separate trade **U.K.**

- (1) This Chapter applies for corporation tax purposes to a company that is the film production company in relation to a film.

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- (2) The company's activities in relation to the film are treated as a trade separate from any other activities of the company (including any activities in relation to any other film).
- (3) In this Chapter the separate trade is called “the separate film trade”.
- (4) The company is treated as beginning to carry on the separate film trade—
  - (a) when pre-production begins, or
  - (b) if earlier, when any income from the film is received by the company.

### 1189 Calculation of profits or losses of separate film trade **U.K.**

- (1) This section applies for the purpose of calculating the profits or losses of the separate film trade.
- (2) For the first period of account the following are brought into account—
  - (a) as a debit, the costs of the film incurred (and represented in work done) to date, and
  - (b) as a credit, the proportion of the estimated total income from the film treated as earned at the end of that period.
- (3) For subsequent periods of account the following are brought into account—
  - (a) as a debit, the difference between the amount of the costs of the film incurred (and represented in work done) to date and the corresponding amount for the previous period, and
  - (b) as a credit, the difference between the proportion of the estimated total income from the film treated as earned at the end of that period and the corresponding amount for the previous period.
- (4) The proportion of the estimated total income treated as earned at the end of a period of account is given by—

$$\frac{C}{T} \times I$$

where—

C is the total to date of costs incurred (and represented in work done),

T is the estimated total cost of the film, and

I is the estimated total income from the film.

*Supplementary*

### 1190 Income from the film **U.K.**

- (1) References in this Chapter to income from the film are to any receipts by the company in connection with the making or exploitation of the film.

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- (2) This includes—
- (a) receipts from the sale of the film or rights in it,
  - (b) royalties or other payments for use of the film or aspects of it (for example, characters or music),
  - (c) payments for rights to produce games or other merchandise, and
  - (d) receipts by the company by way of a profit share agreement.
- (3) Receipts that (apart from this subsection) would be regarded as of a capital nature are treated as being of a revenue nature.

### 1191 Costs of the film **U.K.**

- (1) References in this Chapter to the costs of the film are to expenditure incurred by the company on—
- (a) film-making activities in connection with the film, or
  - (b) activities with a view to exploiting the film.
- (2) This is subject to any provision of the Corporation Tax Acts prohibiting the making of a deduction, or restricting the extent to which a deduction is allowed, in calculating the profits of a trade.
- (3) Expenditure that (apart from this subsection) would be regarded as of a capital nature only because it is incurred on the creation of an asset (the film) is treated as being of a revenue nature.

### 1192 When costs are taken to be incurred **U.K.**

- (1) For the purposes of this Chapter costs are incurred when they are represented in the state of completion of the work in progress.
- (2) Accordingly—
- (a) payments in advance of work to be done are ignored until the work has been carried out, and
  - (b) deferred payments are recognised to the extent that the work is represented in the state of completion.
- (3) The costs incurred on the film are taken to include an amount that has not been paid only if it is the subject of an unconditional obligation to pay.
- (4) If an obligation is linked to income being earned from the film, no amount is to be brought into account in respect of the costs of the obligation unless an appropriate amount of income is or has been brought into account.

### 1193 Pre-trading expenditure **U.K.**

- (1) This section applies if, before the company began to carry on the separate film trade, it incurred expenditure on development of the film.
- (2) The expenditure may be treated as expenditure of the separate film trade and as if incurred immediately after the company began to carry on that trade.
- (3) If expenditure so treated has previously been taken into account for other tax purposes, the company must amend any relevant company tax return accordingly.

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- (4) Any amendment or assessment necessary to give effect to subsection (3) may be made despite any limitation on the time within which an amendment or assessment may normally be made.

#### **1194 Estimates** **U.K.**

Estimates for the purposes of this Chapter must be made as at the balance sheet date for each period of account, on a just and reasonable basis taking into consideration all relevant circumstances.

### **CHAPTER 3** **U.K.**

#### FILM TAX RELIEF

##### *Introductory*

#### **1195 Availability and overview of film tax relief** **U.K.**

- (1) This Chapter applies for corporation tax purposes to a company that is the film production company in relation to a film.
- (2) Relief under this Chapter (“film tax relief”) is available to the company if the conditions specified in the following sections are met in relation to the film—
- (a) section 1196 (intended theatrical release),
  - (b) section 1197 (British film), and
  - (c) section 1198 (UK expenditure).
- (3) Film tax relief is given by way of—
- (a) additional deductions (see sections 1199 and 1200), and
  - (b) film tax credits (see sections 1201 to 1203).
- (4) Sections 1204 to 1207 contain provision about unpaid costs, artificially inflated claims and confidentiality of information.
- (5) In this Chapter “the separate film trade” means the company's separate trade in relation to the film (see section 1188).
- (6) See Schedule 18 to FA 1998 (in particular, Part 9D) for information about the procedure for making claims for film tax relief.

##### *Conditions of relief*

#### **1196 Intended theatrical release** **U.K.**

- (1) The film must be intended for theatrical release.
- (2) For this purpose—
- (a) “theatrical release” means exhibition to the paying public at the commercial cinema, and

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- (b) a film is not regarded as intended for theatrical release unless it is intended that a significant proportion of the earnings from the film should be obtained by such exhibition.
- (3) Whether this condition is met is determined for each accounting period of the company during which film-making activities are carried on in relation to the film, in accordance with the following rules.
- (4) If at the end of an accounting period the film is intended for theatrical release, the condition is treated as having been met throughout that period (subject to subsection (5)(b)).
- (5) If at the end of an accounting period the film is not intended for theatrical release, the condition—
  - (a) is treated as having been not met throughout that period, and
  - (b) cannot be met in any subsequent accounting period.

This does not affect any entitlement of the company to relief in an earlier accounting period for which the condition was met.

#### 1197 **British film** **U.K.**

The film must be certified by the Secretary of State as a British film under Schedule 1 to the Films Act 1985 (c. 21).

#### 1198 **UK expenditure** **U.K.**

- (1) At least 25% of the core expenditure on the film incurred—
  - (a) in the case of a British film other than a qualifying co-production, by the company, and
  - (b) in the case of a qualifying co-production, by the co-producers, must be UK expenditure.
- (2) The Treasury may by regulations amend the percentage specified in subsection (1).

#### *Additional deductions*

#### 1199 **Additional deduction for qualifying expenditure** **U.K.**

- (1) If film tax relief is available to the company, it may (on making a claim) make an additional deduction in respect of qualifying expenditure on the film.
- (2) The deduction is made in calculating the profit or loss of the separate film trade.
- (3) In this Chapter “qualifying expenditure” means core expenditure on the film that falls to be taken into account under Chapter 2 in calculating the profit or loss of the separate film trade for tax purposes.
- (4) The Treasury may by regulations—
  - (a) amend subsection (3), and
  - (b) provide that expenditure of a specified description is or is not to be regarded as qualifying expenditure.



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## 1200 Amount of additional deduction **U.K.**

- (1) For the first period of account during which the separate film trade is carried on, the amount of the additional deduction is given by—

$$E \times R$$

where—

E is—

- (a) so much of the qualifying expenditure as is UK expenditure, or
- (b) if less, 80% of the total amount of qualifying expenditure, and

R is the rate of enhancement (see subsection (3)).

- (2) For any period of account after the first, the amount of the additional deduction is given by—

$$(E \times R) - P$$

where—

E is—

- (a) so much of the qualifying expenditure incurred to date as is UK expenditure,  
or
- (b) if less, 80% of the total amount of qualifying expenditure incurred to date,

R is the rate of enhancement (see subsection (3)), and

P is the total amount of the additional deductions given for previous periods.

- (3) The rate of enhancement is—

- (a) for a limited-budget film, 100%, and
- (b) for any other film, 80%.

- (4) The Treasury may by regulations amend the percentage specified in subsection (1) or (2).

### *Film tax credits*

## 1201 Film tax credit claimable if company has surrenderable loss **U.K.**

- (1) If film tax relief is available to the company, it may claim a film tax credit for an accounting period in which it has a surrenderable loss.

- (2) The company's surrenderable loss in any period is—

- (a) the company's loss for the period in the separate film trade, or
- (b) if less, the available qualifying expenditure for the period.

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- (3) For the first period of account during which the separate film trade is carried on, the available qualifying expenditure is the amount that is E for that period for the purposes of section 1200(1).
- (4) For any period of account after the first, the available qualifying expenditure is given by—

$$E - S$$

where—

E is the amount that is E for that period for the purposes of section 1200(2), and  
S is the total amount surrendered in previous periods under section 1202(1).

## 1202 Surrendering of loss and amount of film tax credit **U.K.**

- (1) The company may surrender the whole or part of its surrenderable loss in an accounting period.
- (2) If the company surrenders the whole or part of that loss, the amount of the film tax credit to which it is entitled for the accounting period is given by—

$$L \times R$$

where—

L is the amount of the loss surrendered, and  
R is the payable credit rate (see subsection (3)).

- (3) The payable credit rate is—
- (a) for a limited-budget film, 25%, and
  - (b) for any other film, 20%.
- (4) The company's loss in the separate film trade for the accounting period is reduced by the amount surrendered.

## 1203 Payment in respect of film tax credit **U.K.**

- (1) If the company—
- (a) is entitled to a film tax credit for an accounting period, and
  - (b) makes a claim,
- the Commissioners for Her Majesty's Revenue and Customs (“the Commissioners”) must pay to the company the amount of the credit.
- (2) An amount payable in respect of—

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- (a) a film tax credit, or
  - (b) interest on a film tax credit under section 826 of ICTA,
- may be applied in discharging any liability of the company to pay corporation tax.

To the extent that it is so applied the Commissioners' liability under subsection (1) is discharged.

- (3) If the company's company tax return for the accounting period is enquired into by the Commissioners, no payment in respect of a film tax credit for that period need be made before the Commissioners' enquiries are completed (see paragraph 32 of Schedule 18 to FA 1998).

In those circumstances the Commissioners may make a payment on a provisional basis of such amount as they consider appropriate.

- (4) No payment need be made in respect of a film tax credit for an accounting period before the company has paid to the Commissioners any amount that it is required to pay for payment periods ending in that accounting period—
- (a) under PAYE regulations,
  - (b) under section 966 of ITA 2007 (visiting performers), or
  - (c) in respect of Class 1 contributions under Part 1 of the Social Security Contributions and Benefits Act 1992 (c. 4) or Part 1 of the Social Security Contributions and Benefits (Northern Ireland) Act 1992 (c. 7).
- (5) A payment in respect of a film tax credit is not income of the company for any tax purpose.

#### *Miscellaneous*

### **1204 No account to be taken of amount if unpaid U.K.**

- (1) In determining for the purposes of this Chapter the amount of costs incurred on a film at the end of a period of account, ignore any amount that has not been paid 4 months after the end of that period.
- (2) This is without prejudice to the operation of section 1192.

### **1205 Artificially inflated claims for additional deduction or film tax credit U.K.**

- (1) So far as a transaction is attributable to arrangements entered into wholly or mainly for a disqualifying purpose, it is to be ignored in determining for any period—
- (a) any additional deduction which a company may make under this Chapter, and
  - (b) any film tax credit to be given to a company.
- (2) Arrangements are entered into wholly or mainly for a disqualifying purpose if their main object, or one of their main objects, is to enable a company to obtain—
- (a) an additional deduction under this Chapter to which it would not otherwise be entitled or of a greater amount than that to which it would otherwise be entitled, or
  - (b) a film tax credit to which it would not otherwise be entitled or of a greater amount than that to which it would otherwise be entitled.

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- (3) “Arrangements” includes any scheme, agreement or understanding, whether or not legally enforceable.

## 1206 Confidentiality of information **U.K.**

- (1) Section 18(1) of the Commissioners for Revenue and Customs Act 2005 (c. 11) (restriction on disclosure by Revenue and Customs officials) does not prevent disclosure to the Secretary of State for the purposes of the Secretary of State's functions under Schedule 1 to the Films Act 1985 (c. 21) (certification of films as British films for the purposes of film tax relief).
- (2) Information so disclosed may be disclosed to the UK Film Council.
- (3) A person to whom information is disclosed under subsection (1) or (2) may not otherwise disclose it except—
- (a) for the purposes of the Secretary of State's functions under Schedule 1 to the Films Act 1985,
  - (b) if the disclosure is authorised by an enactment,
  - (c) in pursuance of an order of a court,
  - (d) for the purposes of a criminal investigation or legal proceedings (whether criminal or civil) connected with the operation of that Schedule or this Part,
  - (e) with the consent of the Commissioners for Her Majesty's Revenue and Customs, or
  - (f) with the consent of each person to whom the information relates.

## 1207 Wrongful disclosure **U.K.**

- (1) A person (“X”) commits an offence if—
- (a) X discloses revenue and customs information relating to a person (as defined in section 19(2) of the Commissioners for Revenue and Customs Act 2005 (c. 11)),
  - (b) the identity of the person to whom the information relates is specified in the disclosure or can be deduced from it, and
  - (c) the disclosure contravenes section 1206(3) above.
- (2) If a person (“Y”) is charged with an offence under subsection (1), it is a defence for Y to prove that Y reasonably believed—
- (a) that the disclosure was lawful, or
  - (b) that the information had already and lawfully been made available to the public.
- (3) A person guilty of an offence under subsection (1) is liable—
- (a) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine or both, or
  - (b) on summary conviction, to imprisonment for a term not exceeding 12 months or a fine not exceeding the statutory maximum or both.
- (4) A prosecution for an offence under subsection (1) may be brought in England and Wales only—
- (a) by the Director of Revenue and Customs Prosecutions, or
  - (b) with the consent of the Director of Public Prosecutions.

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- (5) A prosecution for an offence under subsection (1) may be brought in Northern Ireland only—
- (a) by the Commissioners for Her Majesty's Revenue and Customs, or
  - (b) with the consent of the Director of Public Prosecutions for Northern Ireland.
- (6) In the application of this section—
- (a) in England and Wales, in relation to an offence committed before the commencement of section 282 of the Criminal Justice Act 2003 (c. 44), or
  - (b) in Northern Ireland,
- the reference in subsection (3)(b) to 12 months is to be read as a reference to 6 months.

## CHAPTER 4 U.K.

### FILM LOSSES

#### 1208 Application of sections 1209 and 1210 U.K.

- (1) Sections 1209 and 1210 apply to a company that is the film production company in relation to a film.
- (2) In those sections—
- “the completion period” means the accounting period of the company—
    - (a) in which the film is completed, or
    - (b) if the company does not complete the film, in which it abandons film-making activities in relation to the film,
  - “loss relief” includes any means by which a loss might be used to reduce the amount in respect of which the company, or any other person, is chargeable to tax,
  - “pre-completion period” means an accounting period of the company before the completion period, and
  - “the separate film trade” means the company's separate trade in relation to the film (see section 1188).

#### 1209 Restriction on use of losses while film in production U.K.

- (1) This section applies if in a pre-completion period a loss is made in the separate film trade.
- (2) The loss is not available for loss relief except to the extent that it may be carried forward under [F1section 45 of CTA 2010] to be set against profits of the separate film trade in a subsequent period.

#### Textual Amendments

- F1** Words in s. 1209(2) substituted (with effect in accordance with s. 1184(1) of the amending Act) by Corporation Tax Act 2010 (c. 4), s. 1184(1), Sch. 1 para. 680 (with Sch. 2)

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## 1210 Use of losses in later periods **U.K.**

- (1) This section applies to the following accounting periods of the company (“relevant later periods”)—
  - (a) the completion period, and
  - (b) any subsequent accounting period during which the separate film trade continues.
- (2) Subsection (3) applies if a loss made in the separate film trade is carried forward under [F<sup>2</sup>section 45 of CTA 2010] from a pre-completion period to a relevant later period.
- (3) So much (if any) of the loss as is not attributable to film tax relief (see subsection (6)) may be treated for the purposes of loss relief as if it were a loss made in the period to which it is carried forward.
- (4) Subsection (5) applies if in a relevant later period a loss is made in the separate film trade.
- (5) The amount of the loss that may be—
  - (a) [F<sup>3</sup>deducted from total] profits of the same or an earlier period under [F<sup>4</sup>section 37 of CTA 2010], or
  - (b) surrendered as group relief under [F<sup>5</sup>Part 5] of that Act,
 is restricted to the amount (if any) that is not attributable to film tax relief (see subsection (6)).
- (6) The amount of a loss in any period that is attributable to film tax relief is calculated by deducting from the total amount of the loss the amount there would have been if there had been no additional deduction under Chapter 3 in that or any earlier period.
- (7) This section does not apply to a loss to the extent that it is carried forward or surrendered under section 1211.

### Textual Amendments

- F2** Words in s. 1210(2) substituted (with effect in accordance with s. 1184(1) of the amending Act) by Corporation Tax Act 2010 (c. 4), s. 1184(1), **Sch. 1 para. 681(2)** (with Sch. 2)
- F3** Words in s. 1210(5)(a) substituted (with effect in accordance with s. 1184(1) of the amending Act) by Corporation Tax Act 2010 (c. 4), s. 1184(1), **Sch. 1 para. 681(3)(a)(i)** (with Sch. 2)
- F4** Words in s. 1210(5)(a) substituted (with effect in accordance with s. 1184(1) of the amending Act) by Corporation Tax Act 2010 (c. 4), s. 1184(1), **Sch. 1 para. 681(3)(a)(ii)** (with Sch. 2)
- F5** Words in s. 1210(5)(b) substituted (with effect in accordance with s. 1184(1) of the amending Act) by Corporation Tax Act 2010 (c. 4), s. 1184(1), **Sch. 1 para. 681(3)(b)** (with Sch. 2)

## 1211 Terminal losses **U.K.**

- (1) This section applies if—
  - (a) a company (“company A”) is the film production company in relation to a qualifying film,
  - (b) company A ceases to carry on its separate trade in relation to that film (“trade X”) (see section 1188), and
  - (c) if company A had not ceased to carry on trade X, it could have carried forward an amount under [F<sup>6</sup>section 45 of CTA 2010] to be set against profits of trade X in a later period (“the terminal loss”).

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- (2) If on cessation of trade X company A—
  - (a) is the film production company in relation to another qualifying film, and
  - (b) is carrying on its separate trade in relation to that film (“trade Y”),it may (on making a claim) make an election under subsection (3).
- (3) The election is to have the terminal loss (or a part of it) treated as if it were a loss brought forward under [F7section 45 of CTA 2010] to be set against the profits of trade Y of the first accounting period beginning after the cessation and so on.
- (4) Subsection (5) applies if on cessation of trade X—
  - (a) there is another company (“company B”) that is the film production company in relation to a qualifying film,
  - (b) company B is carrying on its separate trade in relation to that film (“trade Z”), and
  - (c) company B is in the same group as company A for the purposes of [F8Part 5 of CTA 2010] (group relief).
- (5) Company A may surrender the terminal loss (or a part of it) to company B.
- (6) On the making of a claim by company B the amount surrendered is treated as if it were a loss brought forward by company B under [F9section 45 of CTA 2010] to be set against the profits of trade Z of the first accounting period beginning after the cessation and so on.
- (7) The Treasury may, in relation to the surrender of a loss under subsection (5) and the resulting claim under subsection (6), make provision by regulations corresponding, subject to such adaptations or other modifications as appear to them to be appropriate, to that made by Part 8 of Schedule 18 to FA 1998 (company tax returns: claims for group relief).
- (8) “Qualifying film” means a film in relation to which the conditions for film tax relief are met (see section 1195(2)).

#### Textual Amendments

- F6** Words in s. 1211(1)(c) substituted (with effect in accordance with s. 1184(1) of the amending Act) by Corporation Tax Act 2010 (c. 4), s. 1184(1), **Sch. 1 para. 682(2)** (with Sch. 2)
- F7** Words in s. 1211(3) substituted (with effect in accordance with s. 1184(1) of the amending Act) by Corporation Tax Act 2010 (c. 4), s. 1184(1), **Sch. 1 para. 682(3)** (with Sch. 2)
- F8** Words in s. 1211(4)(c) substituted (with effect in accordance with s. 1184(1) of the amending Act) by Corporation Tax Act 2010 (c. 4), s. 1184(1), **Sch. 1 para. 682(4)** (with Sch. 2)
- F9** Words in s. 1211(6) substituted (with effect in accordance with s. 1184(1) of the amending Act) by Corporation Tax Act 2010 (c. 4), s. 1184(1), **Sch. 1 para. 682(5)** (with Sch. 2)

## CHAPTER 5 U.K.

### PROVISIONAL ENTITLEMENT TO RELIEF

#### 1212 Introduction U.K.

- (1) In this Chapter—

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“the company” means the film production company in relation to a film,

“the completion period” means the accounting period of the company—

- (a) in which the film is completed, or
- (b) if the company does not complete the film, in which it abandons film-making activities in relation to it,

“interim accounting period” means any earlier accounting period of the company during which film-making activities are carried on in relation to the film,

“interim certificate” and “final certificate” refer to certificates under Schedule 1 to the Films Act 1985 (c. 21) (certification of films as British films for purposes of film tax relief),

“the separate film trade” means the company's separate trade in relation to the film (see section 1188), and

“special film relief” means—

- (a) film tax relief, or
- (b) relief under section 1211 (transfer of terminal losses from one qualifying film to another).

- (2) The company's company tax return for the completion period must state that the film has been completed or that the company has abandoned film-making activities in relation to it (as the case may be).

### 1213 Certification as a British film U.K.

- (1) The company is not entitled to special film relief for an interim accounting period unless its company tax return for the period is accompanied by an interim certificate.
- (2) If an interim certificate ceases to be in force (otherwise than on being superseded by a final certificate) or is revoked, the company—
  - (a) is not entitled to special film relief for any period for which its entitlement depended on the certificate, and
  - (b) must amend accordingly its company tax return for any such period.
- (3) If the film is completed by the company—
  - (a) its company tax return for the completion period must be accompanied by a final certificate,
  - (b) if that requirement is met, the final certificate has effect for the completion period and for any interim accounting period, and
  - (c) if that requirement is not met, the company—
    - (i) is not entitled to special film relief for any period, and
    - (ii) must amend accordingly its company tax return for any period for which such relief was claimed.
- (4) If the company abandons film-making activities in relation to the film—
  - (a) its company tax return for the completion period may be accompanied by an interim certificate, and
  - (b) the abandonment of film-making activities does not affect any entitlement to special film relief in that or any previous accounting period.
- (5) If a final certificate is revoked, the company—
  - (a) is not entitled to special film relief for any period, and



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- (b) must amend accordingly its company tax return for any period for which such relief was claimed.

#### **1214 The UK expenditure condition** **U.K.**

- (1) The company is not entitled to special film relief for an interim accounting period unless—
  - (a) its company tax return for the period states the amount of planned core expenditure on the film that is UK expenditure, and
  - (b) that amount is such as to indicate that the condition in section 1198 (the UK expenditure condition) will be met on completion of the film.

If those requirements are met, the company is provisionally treated in relation to that period as if that condition was met.

- (2) If such a statement is made but it subsequently appears that the condition will not be met on completion of the film, the company—
  - (a) is not entitled to special film relief for any period for which its entitlement depended on such a statement, and
  - (b) must amend accordingly its company tax return for any such period.
- (3) When the film is completed or the company abandons film-making activities in relation to it (as the case may be), the company's company tax return for the completion period must be accompanied by a final statement of the amount of the core expenditure on the film that is UK expenditure.
- (4) If that statement shows that the condition in section 1198 is not met, the company—
  - (a) is not entitled to special film relief for any period, and
  - (b) must amend accordingly its company tax return for any period for which such relief was claimed.

#### **1215 Film tax relief on basis that film is limited-budget film** **U.K.**

- (1) The company is not entitled to film tax relief for an interim accounting period on the basis that the film is a limited-budget film unless—
  - (a) its company tax return for the period states the amount of planned core expenditure on the film, and
  - (b) that amount is such as to indicate that the condition in section 1184(2) (definition of “limited-budget film”) will be met on completion of the film.

In that case, the film is provisionally treated in relation to that period as if that condition was met.

- (2) If it subsequently appears that the condition will not be met on completion of the film, the company—
  - (a) is not entitled to film tax relief for any period on the basis that the film is a limited-budget film, and
  - (b) must amend accordingly its company tax return for any such period for which such relief has been claimed on that basis.
- (3) When the film is completed or the company abandons film-making activities in relation to it (as the case may be), the company's company tax return for the completion period must be accompanied by a final statement of the core expenditure on the film.

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- (4) Subsection (5) applies if that statement shows—
  - (a) that the film is not a limited-budget film, or (as the case may be)
  - (b) that, having regard to the proportion of work on the film that was completed, the film would not have been a limited-budget film had it been completed.
- (5) The company—
  - (a) is not entitled to film tax relief for any period on the basis that the film is a limited-budget film, and
  - (b) must amend accordingly its company tax return for any period for which such relief was claimed on that basis.

#### **1216 Time limit for amendments and assessments** U.K.

Any amendment or assessment necessary to give effect to the provisions of this Chapter may be made despite any limitation on the time within which an amendment or assessment may normally be made.

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**Changes to legislation:**

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