



# Corporation Tax Act 2009

## 2009 CHAPTER 4

### [<sup>F1</sup>PART 15C

#### THEATRICAL PRODUCTIONS

##### Textual Amendments

- F1** Pt. 15C inserted (17.7.2014 for specified purposes and with effect in accordance with Sch. 4 para. 16 of the amending Act, 22.8.2014 in so far as not already in force) by [Finance Act 2014 \(c. 26\)](#), [Sch. 4 paras. 1, 16](#); [S.I. 2014/2228](#), art. 2

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

- C1** [Pt. 15C](#) modified (with application in accordance with s. 17(1)(4) of the amending Act) by [Finance Act 2022 \(c. 3\)](#), [s. 17\(1\)\(4\)](#)

#### *Introduction*

#### **1217F Overview**

- (1) This Part contains provision about tax relief for production companies in respect of their theatrical productions.
- (2) Sections 1217FA to 1217FC define “production company” and “theatrical production”.
- (3) Section 1217G sets out the conditions a production company must meet to qualify for relief in relation to its theatrical production.
- (4) Section 1217H provides for relief by way of additional deductions in respect of certain expenditure (and section 1217J is about the amount of the additional deduction).
- (5) This Part also contains provision—
  - (a) for a company that claims relief to be treated as carrying on a separate trade relating to the theatrical production (see section 1217H(3)), and

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- (b) about the calculation of the profits and losses of that trade (see sections 1217I to 1217IF).
- (6) Sections 1217K to 1217KC—
  - (a) provide for relief by way of payments (called “theatre tax credits”) to be made on the company's surrender of certain losses of that trade, and
  - (b) set out an upper limit on relief, in connection with State aid legislation.
- (7) Sections 1217LA and 1217LB are about certain cases involving tax avoidance arrangements or arrangements entered into otherwise than for genuine commercial reasons.
- (8) Sections 1217M to 1217MC contain provision about the use of losses of the separate trade (including provision about relief for terminal losses).
- (9) Sections 1217N and 1217NA are concerned with the provisional nature of relief given for periods preceding the period in which the company ceases to carry on the separate theatrical trade.

#### **1217FA “Theatrical production”**

- (1) In this Part “theatrical production” means a dramatic production or a ballet (and any ballet is therefore a theatrical production, whether or not it is also a dramatic production).

But see section 1217FB.

- (2) “Dramatic production” means a production of a play, opera, musical, or [<sup>F2</sup>other] dramatic piece (whether or not involving improvisation) in relation to which the following conditions are met—

- [<sup>F3</sup>(a) the primary focus of the play, opera, musical or dramatic piece is the depiction of a story, or a number of related or unrelated stories, through the playing of roles by performers (whether actors, singers, dancers or others),]

- (b) each performance in the proposed run of performances is to be live,

- [ each performance is intended to be given to an audience of not less than five [<sup>F4</sup>(ba) individuals,]

- [ it is reasonable to expect that the main purpose of the audience members will [<sup>F5</sup>(bb) be to observe the performance (rather than, for example, to undertake tasks facilitated or accompanied by the performance),] and

- (c) the presentation of live performances is the main object, or one of the main objects, of the company's activities in relation to the production.

- (3) “Dramatic piece” may [<sup>F6</sup>... include, for example, a show that is to be performed by a circus.

[<sup>F7</sup>(3A) .....

- (4) For the purposes of this section a performance is “live” if it is to an audience before whom the performers are actually present.

#### **Textual Amendments**

**F2** Word in s. 1217FA(2) substituted (with effect in accordance with Sch. 3 para. 2(4) of the amending Act) by Finance Act 2024 (c. 3), Sch. 3 para. 2(2)(a)

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- F3** S. 1217FA(2)(a) substituted (with effect in accordance with Sch. 3 para. 2(4) of the amending Act) by Finance Act 2024 (c. 3), **Sch. 3 para. 2(2)(b)**
- F4** S. 1217FA(2)(ba) inserted (1.4.2022 in relation to a theatrical production only where the production phase begins on or after that date) by Finance Act 2022 (c. 3), **s. 18(2)(a)(ii)(6)**
- F5** S. 1217FA(2)(bb) inserted (with effect in accordance with Sch. 3 para. 2(4) of the amending Act) by Finance Act 2024 (c. 3), **Sch. 3 para. 2(2)(c)**
- F6** Word in s. 1217FA(3) omitted (1.4.2022 in relation to a theatrical production only where the production phase begins on or after that date) by virtue of Finance Act 2022 (c. 3), **s. 18(2)(b)(6)**
- F7** S. 1217FA(3A) omitted (with effect in accordance with Sch. 3 para. 2(4) of the amending Act) by virtue of Finance Act 2024 (c. 3), **Sch. 3 para. 2(3)**

### 1217FB Productions not regarded as theatrical

- (1) A dramatic production or ballet is not regarded as a theatrical production if—
  - <sup>F8</sup>(za) [ it is produced for training purposes,]
    - (a) the main purpose, or one of the main purposes, for which it is made is to advertise or promote any goods or services,
    - (b) the performances are to consist of or include a competition or contest,
    - (c) a wild animal is to be used in any performance,
    - (d) the production is of a sexual nature (see subsection (3)), or
    - (e) the making of a relevant recording is the main object, or one of the main objects, of the company's activities in relation to the production.
- (2) For the purposes of subsection (1)(c) an animal is used in a performance if the animal performs, or is shown, in the course of the performance.
- (3) A production is of a sexual nature for the purposes of subsection (1)(d) if the performances are to include any content the nature of which is such that, ignoring financial gain, it would be reasonable to assume the content to be included solely or principally for the purpose of sexually stimulating any member of the audience (whether by verbal or other means).
- (4) “Relevant recording” means a recording of a performance—
  - (a) as a film (or part of a film) for exhibition to the paying general public at the commercial cinema, or
  - (b) for broadcast to the general public.
- (5) In this section—
  - “broadcast” means broadcast by any means (including television, radio or the internet);
  - “film” has the same meaning as in Part 15 (see section 1181);
  - “wild animal” means an animal of a kind which is not commonly domesticated in the British Islands (and in this definition “animal” has the meaning given by section 1(1) of the Animal Welfare Act 2006).

#### Textual Amendments

- F8** S. 1217FB(1)(za) inserted (1.4.2022 in relation to a theatrical production only where the production phase begins on or after that date) by Finance Act 2022 (c. 3), **s. 18(3)(6)**

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### 1217FC “Production company”

- (1) A company is the production company in relation to a theatrical production if the company (acting otherwise than in partnership)—
  - (a) is responsible for producing, running and closing the theatrical production,
  - (b) is actively engaged in decision-making during the production, running and closing phases,
  - (c) makes an effective creative, technical and artistic contribution to the production, and
  - (d) directly negotiates for, contracts for and pays for rights, goods and services in relation to the production.
- (2) No more than one company can be the production company in relation to a theatrical production.
- (3) If more than one company meets the conditions in subsection (1) in relation to a theatrical production, the company that is most directly engaged in the activities mentioned in subsection (1) is the production company.
- (4) If there is no company meeting the conditions in subsection (1), there is no production company in relation to the production.

#### *Companies qualifying for relief*

### 1217G How a company qualifies for relief

- (1) A company qualifies for relief in relation to a theatrical production if—
  - (a) it is the production company in relation to the production, and
  - (b) the commercial purpose condition (see section 1217GA) and the [<sup>F9</sup>UK] expenditure condition (see section 1217GB) are met.
- (2) There is further provision relating to subsection (1) in section 1217LA (tax avoidance arrangements).

#### **Textual Amendments**

**F9** Word in s. 1217G(1)(b) substituted (22.2.2024) by Finance Act 2024 (c. 3), Sch. 3 para. 5(2)(a) (with Sch. 3 para. 11)

### 1217GA The commercial purpose condition

- (1) The “commercial purpose condition” is that at the beginning of the production phase the company intends that all, or a high proportion of, the live performances that it proposes to run will be—
  - (a) to paying members of the general public, or
  - (b) provided for educational purposes.
- (2) The reference in subsection (1) to “live performances” is to be read in accordance with section 1217FA(4).

[ A performance to members of the general public is not regarded as being to paying <sup>F10</sup>(2A) members unless—

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- (a) it is separately ticketed, and
  - (b) it is intended that a significant proportion of the earnings from the performance should be obtained by such ticketing.
- (2B) For the purposes of subsection (2A), the fact that a ticket covers things reasonably incidental to the performance (such as, for example, a programme or food to be consumed during the course of the performance) does not prevent the performance from being separately ticketed, provided that the price paid can reasonably be apportioned between the performance and those other things.
- (2C) A performance is only regarded as provided for educational purposes if it is provided mainly for the purpose of educating the audience.]
- (3) A performance is not regarded as provided for educational purposes if the production company is, or is associated with, a person who—
- (a) has responsibility for the beneficiaries, or
  - (b) is otherwise connected with the beneficiaries (for instance, by being their employer).
- (4) For the purposes of subsection (3), a production company is associated with a person (“P”) if—
- (a) P controls the production company, or
  - (b) P is a company which is controlled by the production company or by a person who also controls the production company.
- (5) In this section—
- “the beneficiaries” means persons for whose benefit the performance will or may be provided;
  - “control” has the same meaning as in Part 10 of CTA 2010 (see section 450 of that Act).

#### Textual Amendments

**F10** S. 1217GA(2A)-(2C) inserted (1.4.2022 in relation to a theatrical production only where the production phase begins on or after that date) by [Finance Act 2022 \(c. 3\), s. 18\(4\)\(6\)](#)

#### 1217GB The [<sup>F11</sup>UK] expenditure condition

- (1) The “[<sup>F12</sup>UK] expenditure condition” is that at least [<sup>F13</sup>10%] of the core expenditure on the theatrical production incurred by the company is [<sup>F12</sup>UK] expenditure.
- [<sup>F14</sup>(2) In this Part “UK expenditure” means expenditure on goods or services that are used or consumed in the United Kingdom.]
- (3) Any apportionment of expenditure as between [<sup>F15</sup>expenditure that is and is not UK expenditure] expenditure for the purposes of this Part is to be made on a just and reasonable basis.
- (4) The Treasury may by regulations—
- (a) amend the percentage specified in subsection (1);
  - (b) amend subsection (2).

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- (5) See also sections 1217N and 1217NA (which are about the giving of relief provisionally on the basis that the [<sup>F16</sup>UK] expenditure condition will be met).

#### Textual Amendments

- F11** Word in s. 1217GB heading substituted (22.2.2024) by Finance Act 2024 (c. 3), **Sch. 3 para. 5(1)(a)** (with Sch. 3 para. 11)
- F12** Word in s. 1217GB(1) substituted (22.2.2024) by Finance Act 2024 (c. 3), **Sch. 3 para. 5(1)(b)(i)** (with Sch. 3 para. 11)
- F13** Word in s. 1217GB(1) substituted (22.2.2024) by Finance Act 2024 (c. 3), **Sch. 3 para. 5(1)(b)(ii)** (with Sch. 3 para. 11)
- F14** S. 1217GB(2) substituted (22.2.2024) by Finance Act 2024 (c. 3), **Sch. 3 para. 5(1)(c)** (with Sch. 3 para. 11)
- F15** Words in s. 1217GB(3) substituted (22.2.2024) by Finance Act 2024 (c. 3), **Sch. 3 para. 5(1)(d)** (with Sch. 3 para. 11)
- F16** Word in s. 1217GB(5) substituted (22.2.2024) by Finance Act 2024 (c. 3), **Sch. 3 para. 5(1)(e)** (with Sch. 3 para. 11)

#### 1217GC “Core expenditure”

- (1) In this Part “core expenditure”, in relation to a theatrical production, means expenditure on the activities involved in—
- producing the production, and
  - closing the production.
- (2) The reference in subsection (1)(a) to “expenditure on the activities involved in producing the production”—
- does not include expenditure on any matters not directly involved in producing the production (for instance, financing, marketing, legal services [<sup>F17</sup>, storage, or the provision of incidental goods or services to members of the audience]);
  - does not include expenditure on the ordinary running of the production; but expenditure incurred on or after the date of the first performance of the production to the paying general public may fall within subsection (1)(a) (for instance, if it is incurred in connection with a substantial recasting or a substantial redesign of the set).
- [ For the purposes of subsection (2)(a), expenditure by an educational body on teaching <sup>F18</sup>(3) or training participants in a production is expenditure on a matter not directly involved in producing the production, except to the extent that the teaching or training takes place as part of a rehearsal for the production.
- (4) For the purposes of subsection (2)(b), a performance to the general public is not regarded as being to paying members unless it satisfies section 1217GA(2A).
- (5) In this section, “educational body” includes a body mentioned in section 71.]

#### Textual Amendments

- F17** Words in s. 1217GC(2)(a) substituted (with effect in accordance with Sch. 3 para. 3(2) of the amending Act) by Finance Act 2024 (c. 3), **Sch. 3 para. 3(1)**

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**F18** S. 1217GC(3)-(5) inserted (1.4.2022 in relation to a theatrical production only where the production phase begins on or after that date) by Finance Act 2022 (c. 3), s. 18(5)(6)

### *Claim for additional deduction*

#### **1217H Claim for additional deduction**

- (1) A company which qualifies for relief in relation to a theatrical production may claim an additional deduction in relation to the production.
- (2) A claim under subsection (1) is made with respect to an accounting period.  

(See Schedule 18 to FA 1998, and in particular Part 9D, for provision about the procedure for making claims.)
- (3) Where a company has made a claim under subsection (1)—
  - (a) the company's activities in relation to the theatrical production are treated for corporation tax purposes as a trade separate from any other activities of the company (including activities in relation to any other theatrical production), and
  - (b) the company is entitled to make an additional deduction, in accordance with section 1217J, in calculating the profit or loss of the separate trade for the accounting period concerned.
- (4) The company is treated as beginning to carry on the separate trade—
  - (a) when the production phase begins, or
  - (b) if earlier, at the time of the first receipt by the company of any income from the theatrical production.
- (5) Where the company tax return in which a claim under subsection (1) is made is for an accounting period later than that in which the company begins to carry on the separate trade, the company must make any amendments of company tax returns for earlier periods that may be necessary.
- (6) Any amendment or assessment necessary to give effect to subsection (5) may be made despite any limitation on the time within which an amendment or assessment may normally be made.
- (7) If the company ceases at any time to meet the conditions in section 1217FC(1) (meaning of “production company”) in relation to the production, it is treated as ceasing to carry on the separate trade at that time.

### *The separate theatrical trade*

#### **1217I Introduction to sections 1217IA to 1217IF**

Where a company is treated under section 1217H(3)(a) as carrying on a separate trade (“the separate theatrical trade”), the profits or losses of the trade are calculated for corporation tax purposes in accordance with sections 1217IA to 1217IF.

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### **1217IA Calculation of profits or losses of separate theatrical trade**

- (1) For the first period of account during which the separate theatrical trade is carried on, the following are brought into account—
  - (a) as a debit, the costs of the theatrical production incurred (and represented in work done) to date;
  - (b) as a credit, the proportion of the estimated total income from the production treated as earned at the end of that period.
- (2) For subsequent periods of account the following are brought into account—
  - (a) as a debit, the difference between the amount (“C”) of the costs of the theatrical production incurred (and represented in work done) to date and the amount corresponding to C for the previous period, and
  - (b) as a credit, the difference between the proportion (“PI”) of the estimated total income from the production treated as earned at the end of that period and the amount corresponding to PI for the previous period.
- (3) The proportion of the estimated total income treated as earned at the end of a period of account is—

$$C \div T \times I$$

where—

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

T is the estimated total cost of the theatrical production;

I is the estimated total income from the theatrical production.

### **1217IB Income from the production**

- (1) References in this Part to income from a theatrical production are to any receipts by the company in connection with the making or exploitation of the production.
- (2) This includes—
  - (a) receipts from the sale of tickets or of rights in the theatrical production;
  - (b) royalties or other payments for use of aspects of the theatrical production (for example, characters or music);
  - (c) payments for rights to produce merchandise;
  - (d) receipts by the company by way of a profit share agreement.
- (3) Receipts that (apart from this subsection) would be regarded as being of a capital nature are treated as being of a revenue nature.

### **1217IC Costs of the production**

- (1) References in this Part to the costs of a theatrical production are to expenditure incurred by the company on—
  - (a) the activities involved in developing, producing, running and closing the production, or
  - (b) activities with a view to exploiting the production.



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- (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 which, apart from this subsection, would be regarded as being of a capital nature only because it is incurred on the creation of an asset (i.e. the theatrical production) is treated as being of a revenue nature. <sup>[F19]</sup>(As to other capital expenditure, see section 53 and subsection (2).)]

#### Textual Amendments

**F19** Words in s. 1217IC(3) inserted (22.2.2024) by Finance Act 2024 (c. 3), Sch. 3 para. 4

### 1217ID When costs are taken to be incurred

- (1) For the purposes of this Part, the costs that have been incurred on a theatrical production at a given time—
  - (a) are those costs of the production that are represented in the state of completion of the work in progress, but
  - (b) do not include any amount that has not been paid unless it is the subject of an unconditional obligation to pay.
- (2) In accordance with subsection (1)(a)—
  - (a) payments in advance of work to be done are ignored until the work has been carried out;
  - (b) deferred payments are recognised to the extent that the goods or services in question are represented in the state of completion of the work in progress (but this is subject to subsection (1)(b)).
- (3) Where an obligation to pay an amount is linked to income being earned from the theatrical production, the obligation is not treated as having become unconditional unless an appropriate amount of income is or has been brought into account under section 1217IA.
- (4) In determining for the purposes of this Part the amount of costs incurred on a theatrical production at the end of a period of account, any amount that has not been paid 4 months after the end of that period is to be ignored.

### 1217IE Pre-trading expenditure

- (1) This section applies if, before the company begins to carry on the separate theatrical trade, it incurs expenditure on activities falling within section 1217IC(1)(a).
- (2) The expenditure may be treated as expenditure of the separate theatrical trade and as if incurred immediately after the company begins 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.
- (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.

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## 1217IF Estimates

Estimates for the purposes of section 1217IA 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.

### *Amount of additional deduction*

## 1217J Amount of additional deduction

- (1) The amount of an additional deduction to which a company is entitled as a result of a claim under section 1217H is calculated as follows.
- (2) For the first period of account during which the separate theatrical trade is carried on, the amount of the additional deduction is E, where—
  - E is—
    - (a) so much of the qualifying expenditure incurred to date as is [<sup>F20</sup>[<sup>F21</sup>UK] expenditure], or
    - (b) if less, 80% of the total amount of qualifying expenditure incurred to date.
- (3) For any period of account after the first, the amount of the additional deduction is—
  - E – P
 where—
  - E is—
    - (a) so much of the qualifying expenditure incurred to date as is [<sup>F20</sup>[<sup>F22</sup>UK] expenditure], or
    - (b) if less, 80% of the total amount of qualifying expenditure incurred to date, and
  - P is the total amount of the additional deductions given for previous periods.
- (4) The Treasury may by regulations amend the percentage specified in subsection (2) or (3).

### Textual Amendments

- F20** Words in s. 1217J substituted (31.12.2020) by [The Taxes \(Amendments\) \(EU Exit\) Regulations 2019 \(S.I. 2019/689\)](#), regs. 1, **16(29)** (with regs. 39-41); 2020 c. 1, Sch. 5 para. 1(1)
- F21** Word in s. 1217J(2) substituted (with effect in accordance with Sch. 3 para. 12(2) of the amending Act) by [Finance Act 2024 \(c. 3\)](#), **Sch. 3 para. 6(1)** (with Sch. 3 para. 12)
- F22** Word in s. 1217J(3) substituted (with effect in accordance with Sch. 3 para. 12(2) of the amending Act) by [Finance Act 2024 \(c. 3\)](#), **Sch. 3 para. 6(1)** (with Sch. 3 para. 12)

## 1217JA “Qualifying expenditure”

- (1) In this Part “qualifying expenditure”, in relation to a theatrical production, means core expenditure (see section 1217GC) on the theatrical production that—
  - (a) falls to be taken into account under sections 1217IA to 1217IF in calculating the profit or loss of the separate theatrical trade for tax purposes, and
  - (b) is not excluded by subsection (2) [<sup>F23</sup>or (3)].

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- (2) The following expenditure is excluded—
- <sup>F24</sup>(a) .....
  - (b) expenditure in respect of which the company [<sup>F25</sup>would be able to claim] relief under Part 13 (<sup>F26</sup>... relief for expenditure on research and development).
- <sup>F27</sup>(3) Expenditure is excluded to the extent that it represents connected party profit, unless subsection (5) applies.
- (4) For the purposes of subsection (3), expenditure represents connected party profit—
- (a) if it is a payment to a person (“C”) in exchange for something supplied by that person,
  - (b) if the company is connected with C, and
  - (c) if, and to the extent that, the amount of the payment exceeds the expenditure incurred by C in supplying that thing.
- (5) This subsection applies if the amount of the payment is no more than would have been the case had the transaction been entered into at arm’s length.
- (6) A transaction would have been entered into “at arm’s length” if it made “the arm’s length provision” within the meaning of Part 4 of TIOPA 2010 (and for this purpose any limitation on the application of that Part is to be disregarded).
- (7) Subsections (8) and (9) apply if—
- (a) the supply by C to the production company is one of a sequence of transactions in which the thing supplied has been supplied by one person to another, and
  - (b) either—
    - (i) each transacting party in the sequence is connected to at least one other transacting party in the sequence, or
    - (ii) each transaction in the sequence is entered into in furtherance of a single scheme or arrangement (of whatever kind, and whether or not legally enforceable).
- (8) The reference to C in subsection (4)(c) is to be read as a reference to the supplier in the first transaction in the sequence.
- (9) The reference to the transaction in subsection (5) is to be read as including each transaction in the sequence.
- (10) In this section, “payment” includes any transfer of value.]

#### Textual Amendments

- F23** Words in s. 1217JA(1)(b) inserted (with effect in accordance with Sch. 3 para. 7(4) of the amending Act) by Finance Act 2024 (c. 3), Sch. 3 para. 7(2)
- F24** S. 1217JA(2)(a) omitted (with effect in relation to accounting periods beginning on or after 1.4.2024) by virtue of Finance Act 2024 (c. 3), Sch. 1 paras. 12(6)(a), 16; S.I. 2024/286, reg. 2
- F25** Words in s. 1217JA(2)(b) substituted (with effect in accordance with Sch. 3 para. 8(2) of the amending Act) by Finance Act 2024 (c. 3), Sch. 3 para. 8(1)(b)
- F26** Word in s. 1217JA(2)(b) omitted (with effect in relation to accounting periods beginning on or after 1.4.2024) by virtue of Finance Act 2024 (c. 3), Sch. 1 paras. 12(6)(b), 16; S.I. 2024/286, reg. 2
- F27** S. 1217JA(3)-(10) inserted (with effect in accordance with Sch. 3 para. 7(4) of the amending Act) by Finance Act 2024 (c. 3), Sch. 3 para. 7(3)

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### *Theatre tax credits*

#### **1217K Theatre tax credit claimable if company has surrenderable loss**

- (1) A company which—
  - (a) is treated under section 1217H(3) as carrying on a separate trade during the whole or part of an accounting period, and
  - (b) has a surrenderable loss in that period,
 may claim a theatre tax credit for that accounting period.
- (2) Section 1217KA sets out how to calculate the amount of any surrenderable loss that the company has in the accounting period.
- (3) A company making a claim may surrender the whole or part of its surrenderable loss in the accounting period.
- (4) The amount of the theatre tax credit to which a company making a claim is entitled for the accounting period is—
  - (a) 25% of the amount of the loss surrendered if the theatrical production is a touring production, or
  - (b) 20% of the amount of the loss surrendered if the theatrical production is not a touring production.
- (5) The company's available loss for the accounting period (see section 1217KA(2)) is reduced by the amount surrendered.
- (6) A theatrical production is a “touring production” only if the company intends at the beginning of the production phase—
  - (a) that it will present performances of the production in 6 or more separate premises, or
  - (b) that it will present performances of the production in at least two separate premises and that the number of performances will be at least 14.
- (7) See Schedule 18 to FA 1998 (in particular, Part 9D) for provision about the procedure for making claims under subsection (1).

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

- C2** S. 1217K(4) modified (temp.) (with application in accordance with s. 17(1)-(3) of the amending Act) by Finance Act 2022 (c. 3), s. 17(1)-(3) (as amended (11.7.2023) by Finance (No. 2) Act 2023 (c. 30), s. 14(1)(a)(2)(a))

#### **1217KA Amount of surrenderable loss**

- (1) The company's surrenderable loss in the accounting period is—
  - (a) the company's available loss for the period in the separate theatrical trade (see subsections (2) and (3)), or
  - (b) if less, the available qualifying expenditure for the period (see subsections (4) and (5)).
- (2) The company's available loss for an accounting period is—

L+RUL

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where—

L is the amount of the company's loss for the period in the separate theatrical trade, and

RUL is the amount of any relevant unused loss of the company (see subsection (3)).

- (3) The “relevant unused loss” of a company is so much of any available loss of the company for the previous accounting period as has not been—
  - (a) surrendered under section 1217K, or
  - (b) carried forward under section 45 [<sup>F28</sup>or 45B] of CTA 2010 and set against profits of the separate theatrical trade.
- (4) For the first period of account during which the separate theatrical trade is carried on, the available qualifying expenditure is the amount that is E for that period for the purposes of section 1217J(2).
- (5) For any period of account after the first, the available qualifying expenditure is—  
E “ S

where—

E is the amount that is E for that period for the purposes of section 1217J(3), and

S is the total amount previously surrendered under section 1217K.

- (6) If a period of account of the separate theatrical trade does not coincide with an accounting period, any necessary apportionments are to be made by reference to the number of days in the periods concerned.

#### **Textual Amendments**

**F28** Words in s. 1217KA(3)(b) inserted (with effect in accordance with Sch. 4 para. 190 of the amending Act) by [Finance \(No. 2\) Act 2017 \(c. 32\)](#), [Sch. 4 para. 142](#)

#### **1217KB Payment in respect of theatre tax credit**

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

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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 theatre 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 national insurance contributions under Part 1 of the Social Security Contributions and Benefits Act 1992 or Part 1 of the Social Security Contributions and Benefits (Northern Ireland) Act 1992.

[ For the purposes of subsection (4), a “payment period” is—

- <sup>F29</sup>(4A) (a) in relation to PAYE regulations or Class 1 national insurance contributions, a period—
- (i) which ends on the fifth day of a month, and
  - (ii) for which the company is liable to account for income tax and national insurance contributions to an officer of Revenue and Customs;
- (b) in relation to section 966 of ITA 2007, a period for which the company is required to make a return as described in section 969(1)(b) of that Act.]

- (5) A payment in respect of a theatre tax credit is not income of the company for any tax purpose.

#### Textual Amendments

**F29** S. 1217KB(4A) inserted (22.2.2024) by Finance Act 2024 (c. 3), Sch. 3 para. 9

#### 1217KCLimit on State aid

- (1) The total amount of any theatre tax credits payable under section 1217KB in the case of any undertaking is not to exceed 50 million euros per year.
- (2) In this section “undertaking” has the same meaning as in the General Block Exemption Regulation.
- (3) In this section “the General Block Exemption Regulation” means any regulation that—
  - <sup>F30</sup>(a) was in force under Article 1 of Council Regulation (EC) No 994/98 immediately before IP completion day, and]
  - (b) [<sup>F31</sup>made], in relation to aid in favour of culture and heritage conservation, the declaration provided for by that Article.

#### Textual Amendments

**F30** S. 1217KC(3)(a) substituted (31.12.2020) by The Taxes (State Aid) (Amendments) (EU Exit) Regulations 2020 (S.I. 2020/1499), regs. 1, 5(3)(a)

**F31** Word in s. 1217KC(3)(b) substituted (31.12.2020) by The Taxes (State Aid) (Amendments) (EU Exit) Regulations 2020 (S.I. 2020/1499), regs. 1, 5(3)(b)

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## *f<sup>32</sup>Companies in insolvency*

### **Textual Amendments**

**F32** S. 1217KD and cross-heading inserted (with effect in accordance with Sch. 3 para. 10(2) of the amending Act) by [Finance Act 2024 \(c. 3\)](#), **Sch. 3 para. 10(1)**

### **1217KD No claim if company in administration or liquidation**

- (1) A company may not make a claim under section 1217H or section 1217K at a time when it is in administration or liquidation.
- (2) For the purposes of this section, a company is in administration if—
  - (a) it is in administration under Part 2 of the Insolvency Act 1986 or Part 3 of the Insolvency (Northern Ireland) Order 1989 ([S.I. 1989/2405 \(N.I. 19\)](#)), or
  - (b) a corresponding situation under the law of a country or territory outside the United Kingdom exists in relation to the company.
- (3) For the purposes of this section, a company is in liquidation if—
  - (a) it is in liquidation within the meaning of section 247 of that Act or Article 6 of that Order, or
  - (b) a corresponding situation under the law of a country or territory outside the United Kingdom exists in relation to the company.]

*Anti-avoidance etc*

### **1217LA Tax avoidance arrangements**

- (1) A company does not qualify for relief in relation to a theatrical production if there are any tax avoidance arrangements relating to the production.
- (2) Arrangements are “tax avoidance arrangements” if their main purpose, or one of their main purposes, is the obtaining of a tax advantage.
- (3) In this section—
  - “arrangements” includes any scheme, agreement or understanding, whether or not legally enforceable;
  - “tax advantage” has the meaning given by section 1139 of CTA 2010.

### **1217LB Transactions not entered into for genuine commercial reasons**

- (1) A transaction is to be ignored for the purpose of determining a relief mentioned in subsection (2) so far as the transaction is attributable to arrangements (other than tax avoidance arrangements) entered into otherwise than for genuine commercial reasons.
- (2) The reliefs mentioned in subsection (1) are—
  - (a) any additional deduction which a company may make under this Part, and
  - (b) any theatre tax credit to be given to a company.
- (3) In this section “arrangements” and “tax avoidance arrangements” have the same meaning as in section 1217LA.

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

- C3** S. 1217LB modified by 2010 c. 4, s. 357UE (as inserted (with effect in accordance with s. 5 of the amending Act) by Corporation Tax (Northern Ireland) Act 2015 (c. 21), s. 1)

### *Use of losses*

#### **1217M Application of sections 1217MA to 1217MC**

- (1) Sections 1217MA to 1217MC apply to a company that is treated under section 1217H(3) as carrying on a separate trade in relation to a theatrical production.
- (2) In those sections—
  - “the completion period” means the accounting period in which the company ceases to carry on the separate theatrical trade;
  - “loss relief” includes any means by which a loss might be used to reduce the amount in respect of which a company, or any other person, is chargeable to tax.

#### **1217MA Restriction on use of losses before completion period**

- (1) [<sup>F33</sup>This section] applies if a loss is made by the company in the separate theatrical trade in an accounting period preceding the completion period.
- (2) The loss is not available for loss relief, except to the extent that the loss may be carried forward under section 45 [<sup>F34</sup>or 45B] of CTA 2010 to be [<sup>F35</sup>deducted from] profits of the separate theatrical trade in a subsequent period.
- [ If the loss is carried forward under section 45 or 45B of CTA 2010 and deducted from <sup>F36</sup>(3) profits of the separate theatrical trade in a subsequent period, the deduction is to be ignored for the purposes of section 269ZB of CTA 2010 (restriction on deductions from trading profits).]

#### Textual Amendments

- F33** Words in s. 1217MA(1) substituted (with effect in accordance with Sch. 4 para. 190 of the amending Act) by Finance (No. 2) Act 2017 (c. 32), Sch. 4 para. 40(2)
- F34** Words in s. 1217MA(2) inserted (with effect in accordance with Sch. 4 para. 190 of the amending Act) by Finance (No. 2) Act 2017 (c. 32), Sch. 4 para. 40(3)(a)
- F35** Words in s. 1217MA(2) substituted (with effect in accordance with Sch. 4 para. 190 of the amending Act) by Finance (No. 2) Act 2017 (c. 32), Sch. 4 para. 40(3)(b)
- F36** S. 1217MA(3) inserted (with effect in accordance with Sch. 4 para. 190 of the amending Act) by Finance (No. 2) Act 2017 (c. 32), Sch. 4 para. 40(4)

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

- C4** S. 1217MA modified by 2010 c. 4, s. 357UF (as inserted (with effect in accordance with s. 5 of the amending Act) by Corporation Tax (Northern Ireland) Act 2015 (c. 21), s. 1)



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## 1217MB Use of losses in the completion period

- (1) Subsection (2) applies if a loss made in the separate theatrical trade is carried forward under section 45 [<sup>F37</sup>or 45B] of CTA 2010 to the completion period.
- (2) So much (if any) of the loss as is not attributable to relief under section 1217H (see subsection (4)) may be treated for the purposes of [<sup>F38</sup>section 37 and Part 5 of CTA 2010] as if it were a loss made in the completion period.
- (3) If a loss is made in the separate theatrical trade in the completion period, the amount of the loss that may be—
  - (a) deducted from total profits of the same or an earlier period under section 37 of CTA 2010, or
  - (b) surrendered as group relief under Part 5 of that Act,is restricted to the amount (if any) that is not attributable to relief under section 1217H.
- (4) The amount of a loss in any period that is attributable to relief under section 1217H is found by—
  - (a) calculating what the amount of the loss would have been if there had been no additional deduction under that section in that or any earlier period, and
  - (b) deducting that amount from the total amount of the loss.
- (5) This section does not apply to loss surrendered, or treated as carried forward, under section 1217MC (terminal losses).

### Textual Amendments

**F37** Words in s. 1217MB(1) inserted (with effect in accordance with Sch. 4 para. 190 of the amending Act) by Finance (No. 2) Act 2017 (c. 32), **Sch. 4 para. 41(2)**

**F38** Words in s. 1217MB(2) substituted (with effect in accordance with Sch. 4 para. 190 of the amending Act) by Finance (No. 2) Act 2017 (c. 32), **Sch. 4 para. 41(3)**

### Modifications etc. (not altering text)

**C5** S. 1217MB modified by 2010 c. 4, **s. 357UG** (as inserted (with effect in accordance with s. 5 of the amending Act) by Corporation Tax (Northern Ireland) Act 2015 (c. 21), **s. 1**)

## 1217MC Terminal losses

- (1) This section applies if—
  - (a) the company ceases to carry on the separate theatrical trade, and
  - (b) if the company had not ceased to carry on the separate theatrical trade, it could have carried forward an amount under section 45 [<sup>F39</sup>or 45B] of CTA 2010 to be set against profits of that trade in a later period (“the terminal loss”).

Below in this section the company is referred to as “company A” and the separate theatrical trade is referred to as “trade 1”.

- (2) If company A—
  - (a) is treated under section 1217H(3) as carrying on a separate theatrical trade in relation to another theatrical production (“trade 2”), and
  - (b) is carrying on trade 2 when it ceases to carry on trade 1,

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company A may (on making a claim) elect to transfer the terminal loss (or a part of it) to trade 2.

- (3) If company A makes an election under subsection (2), the terminal loss (or part of the loss) is treated<sup>F40</sup>—
- (a) in a case where the loss could have been carried forward under section 45 of CTA 2010 had trade 1 not ceased, as if it were a loss carried forward under that section to be set against the profits of trade 2 of the first accounting period beginning after the cessation and so on, and
  - (b) in a case where the loss could have been carried forward under section 45B of CTA 2010 had trade 1 not ceased, as if it were a loss made in trade 2 which has been carried forward under that section to the first accounting period beginning after the cessation.]
- (4) Subsection (5) applies if—
- (a) another company (“company B”) is treated under section 1217H(3) as carrying on a separate theatrical trade (“company B’s trade”) in relation to another theatrical production,
  - (b) company B is carrying on that trade when company A ceases to carry on trade 1, and
  - (c) company B is in the same group as company A for the purposes of Part 5 of CTA 2010 (group relief).
- (5) Company A may surrender the loss (or part of it) to company B.
- (6) On the making of a claim by company B the amount surrendered is treated<sup>F41</sup>—
- (a) in a case where the amount could have been carried forward under section 45 of CTA 2010 had trade 1 not ceased, as if it were a loss carried forward by company B under that section to be set against the profits of company B’s trade of the first accounting period beginning after the cessation and so on, and
  - (b) in a case where the amount could have been carried forward under section 45B of CTA 2010 had trade 1 not ceased, as if it were a loss made in company B’s trade which has been carried forward under that section to the first accounting period beginning after the cessation.]
- (7) The Treasury may by regulations make administrative provision in relation to the surrender of a loss under subsection (5) and the resulting claim under subsection (6).
- (8) “Administrative provision” means provision corresponding, subject to such adaptations or other modifications as appear to the Treasury to be appropriate, to that made by Part 8 of Schedule 18 to FA 1998 (company tax returns: claims for group relief).

[ A deduction under section 45 or 45B of CTA 2010 which is made in reliance on this<sup>F42</sup>(9) section is to be ignored for the purposes of section 269ZB of that Act (restriction on deductions from trading profits).]

#### Textual Amendments

**F39** Words in s. 1217MC(1)(b) inserted (with effect in accordance with Sch. 4 para. 190 of the amending Act) by [Finance \(No. 2\) Act 2017 \(c. 32\)](#), [Sch. 4 para. 42\(2\)](#)

**F40** Words in s. 1217MC(3) substituted (with effect in accordance with Sch. 4 para. 190 of the amending Act) by [Finance \(No. 2\) Act 2017 \(c. 32\)](#), [Sch. 4 para. 42\(3\)](#)

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**F41** Words in s. 1217MC(6) substituted (with effect in accordance with Sch. 4 para. 190 of the amending Act) by [Finance \(No. 2\) Act 2017 \(c. 32\)](#), [Sch. 4 para. 42\(4\)](#)

**F42** S. 1217MC(9) inserted (with effect in accordance with Sch. 4 para. 190 of the amending Act) by [Finance \(No. 2\) Act 2017 \(c. 32\)](#), [Sch. 4 para. 42\(5\)](#)

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

**C6** S. 1217MC modified by [2010 c. 4, s. 357UH](#) (as inserted (with effect in accordance with s. 5 of the amending Act) by [Corporation Tax \(Northern Ireland\) Act 2015 \(c. 21\)](#), [s. 1](#))

*Provisional entitlement to relief*

**1217N Provisional entitlement to relief**

- (1) In relation to a company that has made a claim under section 1217H in relation to a theatrical production, “interim accounting period” means any accounting period that—
- is one in which the company carries on the separate theatrical trade, and
  - precedes the accounting period in which it ceases to do so.

- (2) A company is not entitled to relief under any of the relieving provisions for an interim accounting period unless—
- its company tax return for the period states the amount of planned core expenditure on the theatrical production that is [<sup>F43</sup>UK] expenditure, and
  - that amount is such as to indicate that the [<sup>F43</sup>UK] expenditure condition (see section 1217GB) will be met in relation to the production.

If those requirements are met, the company is provisionally treated in relation to that period as if the [<sup>F43</sup>UK] expenditure condition were met.

- (3) In this section “the relieving provisions” means—
- section 1217H (additional deduction),
  - section 1217K (theatre tax credits), and
  - section 1217MC (terminal losses).

**Textual Amendments**

**F43** Word in [s. 1217N\(2\)](#) substituted (22.2.2024) by [Finance Act 2024 \(c. 3\)](#), [Sch. 3 para. 5\(2\)\(b\)](#) (with [Sch. 3 para. 11](#))

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

**C7** S. 1217N(3) modified by [2010 c. 4, s. 357UI](#) (as inserted (with effect in accordance with s. 5 of the amending Act) by [Corporation Tax \(Northern Ireland\) Act 2015 \(c. 21\)](#), [s. 1](#))

**1217NA Clawback of provisional relief**

- (1) If a statement is made under section 1217N(2) but it subsequently appears that the [<sup>F44</sup>UK] expenditure condition will not be met on the company's ceasing to carry on the separate theatrical trade, the company—
- is not entitled to relief under any of the relieving provisions for any period for which its entitlement depended on such a statement, and
  - must amend its company tax return for any such period accordingly.

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- (2) When a company which has made a claim under section 1217H ceases to carry on the separate theatrical trade, the company's company tax return for the period in which that cessation occurs must—
  - (a) state that the company has ceased to carry on the separate theatrical trade, and
  - (b) be accompanied by a final statement of the amount of the core expenditure on the theatrical production that is [<sup>F45</sup>UK] expenditure.
- (3) If that statement shows that the [<sup>F46</sup>UK] expenditure condition is not met—
  - (a) the company is not entitled to relief under any of the relieving provisions for any period,
  - (b) the company is treated for corporation tax purposes as if section 1217H(3) (a) (treatment as a separate trade) did not apply in relation to the theatrical production for any period, and
  - (c) accordingly, sections 1217MA and 1217MB (provisions about use of losses) do not apply in relation to the theatrical production for any period.
- (4) Where subsection (3) applies, the company must amend its company tax return for any period in which (or in any part of which) it was treated as carrying on a separate trade relating to the theatrical production.
- (5) Any amendment or assessment necessary to give effect to this section may be made despite any limitation on the time within which an amendment or assessment may normally be made.
- (6) In this section “the relieving provisions” has the same meaning as in section 1217N.

#### Textual Amendments

- F44** Word in s. 1217NA(1) substituted (22.2.2024) by Finance Act 2024 (c. 3), Sch. 3 para. 5(2)(c) (with Sch. 3 para. 11)
- F45** Word in s. 1217NA(2) substituted (22.2.2024) by Finance Act 2024 (c. 3), Sch. 3 para. 5(2)(c) (with Sch. 3 para. 11)
- F46** Word in s. 1217NA(3) substituted (22.2.2024) by Finance Act 2024 (c. 3), Sch. 3 para. 5(2)(c) (with Sch. 3 para. 11)

### Interpretation

#### 1217O Activities involved in developing, producing, running or closing a production

The Treasury may by regulations amend section 1217GC (core expenditure) or 1217IC (costs of production) for the purpose of providing that activities of a specified description are, or are not, to be regarded as activities involved in developing or (as the case may be) producing, running or closing—

- (a) a theatrical production, or
- (b) a theatrical production of a specified description.

#### 1217OA “Company tax return”

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

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## 1217OB Index

In this Part—

- “commercial purpose condition” has the meaning given by section 1217GA;
- “company tax return” has the meaning given by section 1217OA;
- “core expenditure” has the meaning given by section 1217GC;
- “costs”, in relation to a theatrical production, has the meaning given by section 1217IC;
- <sup>F47</sup> ...
- <sup>F47</sup> ...
- references to “income from a theatrical production” are to be read in accordance with section 1217IB;
- “production company” has the meaning given by section 1217FC;
- “qualifying expenditure” has the meaning given by section 1217JA;
- references to the “separate theatrical trade” are to be read in accordance with section 1217I;
- “theatrical production” has the meaning given by section 1217FA (read with section 1217FB).]
- [<sup>F48</sup>“UK expenditure” has the meaning given by section 1217GB;
- “UK expenditure condition” has the meaning given by section 1217GB.]

### Textual Amendments

- F47** Words in s. 1217OB omitted (22.2.2024) by virtue of [Finance Act 2024 \(c. 3\)](#), [Sch. 3 para. 5\(3\)\(a\)](#) (with [Sch. 3 para. 11](#))
- F48** Words in s. 1217OB inserted (22.2.2024) by [Finance Act 2024 \(c. 3\)](#), [Sch. 3 para. 5\(3\)\(b\)](#) (with [Sch. 3 para. 11](#))

**Status:**

Point in time view as at 01/04/2024.

**Changes to legislation:**

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