



Corporation Tax Act 2009

2009 CHAPTER 4

[^{F1}PART 15D

ORCHESTRA TAX RELIEF

Textual Amendments

- F1** Pt. 15D inserted (with effect in accordance with Sch. 8 para. 17(1)(a) of the amending Act) by [Finance Act 2016 \(c. 24\), Sch. 8 para. 1](#)

Modifications etc. (not altering text)

- C1** Pt. 15D modified (with application in accordance with [s. 19\(1\)\(4\)](#) of the amending Act) by [Finance Act 2022 \(c. 3\), s. 19\(1\)\(4\)](#)

CHAPTER 1

INTRODUCTION

Overview

1217P Overview

- (1) This Part is about the production of orchestral concerts, and applies for corporation tax purposes.
- (2) This Chapter explains what is meant by “orchestral concert” and how a company comes to be treated as the production company in relation to a concert.
- (3) Chapter 2 is about the taxation of the activities of a production company and includes—
 - (a) provision for the company's activities in relation to its concert, or its concert series, to be treated as a separate trade, and

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- (b) provision about the calculation of the profits and losses of that trade.
- (4) Chapter 3 is about relief (called “orchestra tax relief”) which may be given to a production company in relation to its concert or concert series—
 - (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 (an “orchestra tax credit”) to be made on the company's surrender of losses from that trade,
 and describes the conditions a company must meet to qualify for orchestra tax relief.
- (5) Chapter 4 contains provision about the use of losses of the separate trade (including provision about relief for terminal losses).
- (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 - (b) for such relief to be withdrawn if it turns out that conditions that must be met for such relief to be given are not actually met.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

1217PA “Orchestral concert”

- (1) In this Part “orchestral concert” means a concert by an orchestra, ensemble, group or band consisting wholly or mainly of instrumentalists who are the primary focus of the concert.
- (2) But a concert is not an orchestral concert if—
 - [it is produced for training purposes,]
 - ^{F2}(za)
 - (a) the main purpose, or one of the main purposes, of the concert is to advertise or promote any goods or services,
 - (b) the concert is to consist of or include a competition or contest, or
 - (c) the making of a relevant recording is the main object of the production company's activities in relation to the concert.
- (3) A recording of a concert is a “relevant recording” if the recording is made for the purpose of using it (or an edited version of it) in any of the following ways—
 - (a) broadcast, at the time of the concert or later, to the general public;
 - (b) release, at the time of the concert or later, to the paying public (by digital or other means);
 - (c) use as a soundtrack (or part of a soundtrack) to a television, radio, theatre, video game or similar production for broadcast, exhibition or release to the general public;
 - (d) use in a film (or part of a film) for exhibition to the paying public at the commercial cinema.
- (4) 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).

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Textual Amendments

- F2** [S. 1217PA\(2\)\(za\)](#) inserted (1.4.2022 in relation to a concert or series of concerts only where the production process starts on or after that date) by [Finance Act 2022 \(c. 3\), s. 20\(2\)\(5\)](#)

1217PB Production company

- (1) A company is the production company in relation to a concert if the company (acting otherwise than in partnership)—
 - (a) is responsible for putting on the concert from the start of the production process to the finish, including employing or engaging the performers,
 - (b) is actively engaged in decision-making in relation to the concert,
 - (c) makes an effective creative, technical and artistic contribution to the concert, and
 - (d) directly negotiates for, contracts for and pays for rights, goods and services in relation to the concert.
- (2) No more than one company can be the production company in relation to a concert.
- (3) If more than one company meets the conditions in subsection (1) in relation to a concert, the company that is most directly engaged in the activities mentioned in that subsection is the production company.
- (4) If no company meets the conditions in subsection (1), there is no production company in relation to the concert.

CHAPTER 2

TAXATION OF ACTIVITIES OF PRODUCTION COMPANY

Separate orchestral trade

1217Q Separate orchestral trade

- (1) Subsection (2) applies to a company in relation to a concert if—
 - (a) the company qualifies for orchestra tax relief in relation to the production of the concert (see section 1217RA(2)), and
 - (b) the concert is not included in a concert series in relation to which the company has made an election under subsection (4).
- (2) The company's activities in relation to the production of the concert are treated as a trade separate from any other activities of the company (including activities in relation to the production of any other concert).
- (3) Subsections (4) and (5) apply to a company in relation to concerts in a series if the conditions in section 1217RA(4)(a), (b), (c) and (d) are met in relation to the company and the concert series.
- (4) The company may, for the purposes of this Part, make an election in relation to the concert series.

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See section 1217QA for provision about making an election.

- (5) Where the company makes an election in relation to a concert series (and accordingly qualifies for orchestra tax relief in relation to the production of the series), the company's activities in relation to the production of the concert series are treated as a trade separate from any other activities of the company (including activities in relation to the production of any other concert).
- (6) In this Part the separate trade mentioned in subsection (2) or (5) is called the “separate orchestral trade”.
- (7) If the separate orchestral trade relates to a single concert, the company is treated as beginning to carry on that trade—
 - (a) at the beginning of the pre-performance stage of the concert, or
 - (b) if earlier, at the time of the first receipt by the company of any income from the production of the concert.

1217QA Election for concert series

- (1) An election under section 1217Q(4) must be made by the company by notice in writing to an officer of Her Majesty's Revenue and Customs before the date of the first concert in the series.
- (2) An election has effect in relation to the orchestral concerts specified in it, and must also specify which of those concerts (if any) are not to be qualifying orchestral concerts (see section 1217RA(3)).
- (3) An election—
 - (a) may have effect in relation to concerts in two or more accounting periods, and
 - (b) is irrevocable.
- (4) If the separate orchestral trade relates to a concert series, the company is treated as beginning to carry on that trade—
 - (a) at the beginning of the pre-performance stage of the first concert in the series, or
 - (b) if earlier, at the time of the first receipt by the company of any income from the production of the concert series.

Profits and losses of separate orchestral trade

1217QB Calculation of profits or losses of separate orchestral trade

- (1) This section applies for the purpose of calculating the profits or losses of the separate orchestral trade.
- (2) For the first period of account during which the separate orchestral trade is carried on, the following are brought into account—
 - (a) as a debit, the costs of the production of the concert or concert series incurred to date;
 - (b) as a credit, the proportion of the estimated total income from that production treated as earned at the end of that period.
- (3) For subsequent periods of account the following are brought into account—

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- (a) as a debit, the difference between the amount (“C”) of the costs of the production of the concert or concert series incurred 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 that production treated as earned at the end of that period and the amount corresponding to PI for the previous period.
- (4) 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;

T is the estimated total cost of the production of the concert or concert series;

I is the estimated total income from the production of the concert or concert series.

1217QC Income from the production

- (1) References in this Chapter to income from a production of a concert or concert series are to any receipts by the company in connection with the production or exploitation of the concert or concert series.
- (2) This includes—
 - (a) receipts from the sale of tickets or of rights in the concert or concert series;
 - (b) royalties or other payments for use of the concert or concert series;
 - (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.

1217QD Costs of the production

- (1) References in this Chapter to the costs of a production of a concert or concert series are to expenditure incurred by the company on—
 - (a) activities involved in developing and putting on the concert or concert series, or
 - (b) activities with a view to exploiting the concert or concert series.
- (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 (the concert or concert series) is treated as being of a revenue nature.

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1217QE When costs are taken to be incurred

- (1) For the purposes of this Chapter, the costs that have been incurred on a production of a concert or concert series at a given time do not include any amount that has not been paid unless it is the subject of an unconditional obligation to pay.
- (2) Where an obligation to pay an amount is linked to income being earned from the production of the concert or concert series, the obligation is not treated as having become unconditional unless an appropriate amount of income is or has been brought into account under section 1217QB.

1217QF Pre-trading expenditure

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

1217QG Estimates

Estimates for the purposes of section 1217QB 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

ORCHESTRA TAX RELIEF

Introduction

1217R Overview of orchestra tax relief

- (1) Relief under this Chapter (“orchestra tax relief”) is given by way of—
 - (a) additional deductions (see sections 1217RD to 1217RF), and
 - (b) orchestra tax credits (see sections 1217RG to 1217RJ).
- (2) See Schedule 18 to FA 1998 (in particular, Part 9D) for provision about the procedure for making claims for orchestra tax relief.

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Companies qualifying for orchestra tax relief

1217RA Companies qualifying for orchestra tax relief

- (1) Subsection (2) applies in the case of an orchestral concert which is not included in a concert series in relation to which an election has been made under section 1217Q(4).
- (2) A company qualifies for orchestra tax relief in relation to the production of a concert if—
 - (a) the concert is a qualifying orchestral concert,
 - (b) the company is the production company in relation to the concert,
 - (c) the company intends that the concert should be performed live—
 - (i) before the paying public, or
 - (ii) for educational purposes, and
 - (d) the [^{F3}European expenditure condition] is met in relation to the concert (see section 1217RB).
- (3) In this Part “qualifying orchestral concert” means an orchestral concert—
 - (a) in which the instrumentalists number at least 12, and
 - (b) in which none of the musical instruments to be played, or a minority of those instruments, is electronically or directly amplified.
- (4) A company qualifies for orchestra tax relief in relation to the production of a concert series if—
 - (a) the concert series is a qualifying orchestral concert series,
 - (b) the company is the production company in relation to every concert in the series,
 - (c) the company intends that all or a high proportion of the concerts in the series should be performed live—
 - (i) before the paying public, or
 - (ii) for educational purposes,
 - (d) the [^{F4}European expenditure condition] is met in relation to the series, and
 - (e) the company has made an election under section 1217Q(4) in relation to the series.
- (5) In this section “qualifying orchestral concert series” means two or more orchestral concerts, all or a high proportion of which are qualifying orchestral concerts.
- (6) For the purposes of this section a concert is “live” if it is to an audience before whom the musicians are actually present.
 - [A concert performed before the public is not regarded as being performed before the ^{F5}(6A) paying public unless—
 - (a) it is separately ticketed, and
 - (b) it is intended that a significant proportion of the earnings from the concert should be obtained by such ticketing.
 - (6B) For the purposes of subsection (6A), the fact that a ticket covers things reasonably incidental to the concert (such as, for example, a programme or food to be consumed during the course of the performance) does not prevent the concert from being separately ticketed, provided that the price paid can reasonably be apportioned between the concert and those other things.

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- (6C) A concert is only regarded as performed for educational purposes if it is performed entirely or mainly for the purpose of educating the audience.]
- (7) A concert is not regarded as performed 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).
- (8) For the purposes of subsection (7), 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.
- (9) In this section—
- “the beneficiaries” means persons for whose benefit the concert will or may be performed;
- “control” has the same meaning as in Part 10 of CTA 2010 (see section 450 of that Act).
- (10) There is further related provision in section 1217RL (tax avoidance arrangements).

Textual Amendments

- F3** Words in s. 1217RA(2)(d) substituted (31.12.2020) by [The Taxes \(Amendments\) \(EU Exit\) Regulations 2019 \(S.I. 2019/689\)](#), regs. 1, **16(33)(a)** (with regs. 39-41); 2020 c. 1, Sch. 5 para. 1(1)
- F4** Words in s. 1217RA(4)(d) substituted (31.12.2020) by [The Taxes \(Amendments\) \(EU Exit\) Regulations 2019 \(S.I. 2019/689\)](#), regs. 1, **16(33)(b)** (with regs. 39-41); 2020 c. 1, Sch. 5 para. 1(1)
- F5** [S. 1217RA\(6A\)-\(6C\)](#) inserted (1.4.2022 in relation to a concert or series of concerts only where the production process starts on or after that date) by [Finance Act 2022 \(c. 3\)](#), s. **20(3)(5)**

1217RB The [^{F6}European] expenditure condition

- (1) The “[^{F6}European] expenditure condition” is that at least 25% of the core expenditure on the production of the concert or concert series incurred by the company is [^{F6}European] expenditure.
- (2) In this Part “[^{F6}European] expenditure” means expenditure on goods or services that are provided from within [^{F7}the United Kingdom or] the European Economic Area.
- (3) Any apportionment of expenditure as between [^{F6}European] and [^{F8}non-European] 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).
- (5) See also sections 1217T and 1217TA (which are about the giving of relief provisionally on the basis that the [^{F6}European] expenditure condition will be met).

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Textual Amendments

- F6** Word in s. 1217RB substituted (31.12.2020) by [The Taxes \(Amendments\) \(EU Exit\) Regulations 2019 \(S.I. 2019/689\)](#), regs. 1, **16(34)(a)** (with regs. 39-41); 2020 c. 1, Sch. 5 para. 1(1)
- F7** Words in s. 1217RB(2) inserted (31.12.2020) by [The Taxes \(Amendments\) \(EU Exit\) Regulations 2019 \(S.I. 2019/689\)](#), regs. 1, **16(34)(b)** (with regs. 39-41); 2020 c. 1, Sch. 5 para. 1(1)
- F8** Word in s. 1217RB(3) substituted (31.12.2020) by [The Taxes \(Amendments\) \(EU Exit\) Regulations 2019 \(S.I. 2019/689\)](#), regs. 1, **16(34)(c)** (with regs. 39-41); 2020 c. 1, Sch. 5 para. 1(1)

1217RC “Core expenditure”

- (1) In this Part “core expenditure”, in relation to the production of a concert or concert series, means expenditure on the activities involved in producing the concert or concert series.
- (2) The reference in subsection (1) to “expenditure on the activities involved in producing the concert or concert series” includes expenditure on travel to and from a venue which is not a usual venue for concerts produced by the company.
- (3) But that reference does not include—
 - (a) expenditure on any matters not directly involved with putting on the concert or concerts (for instance, financing, marketing, legal services or storage),
 - (b) speculative expenditure on activities not involved with putting on the concert or concerts, and
 - (c) expenditure on the actual performance or performances (for instance, payments to musicians for their performances in the concert or concert series).
- ^{F9}(4) For the purposes of subsection (3)(a), expenditure by an educational body on teaching or training participants in a concert or concerts is expenditure on a matter not directly involved with putting on the concert or concerts, except to the extent that the teaching or training takes place as part of a rehearsal for the concert or concerts.
- (5) In this section, “educational body” includes a body mentioned in section 71.]

Textual Amendments

- F9** [S. 1217RC\(4\)\(5\)](#) inserted (1.4.2022 in relation to a concert or series of concerts only where the production process starts on or after that date) by [Finance Act 2022 \(c. 3\)](#), s. **20(4)(5)**

Additional deduction

1217RD Claim for additional deduction

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

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- (3) Where a company has made a claim, the company is entitled to make an additional deduction, in accordance with section 1217RE, in calculating the profit or loss of the separate orchestral trade for the accounting period concerned.
- (4) Where the company tax return in which a claim is made is for an accounting period later than that in which the company begins to carry on the separate orchestral trade, the company must make any amendments of company tax returns for earlier periods that may be necessary.
- (5) Any amendment or assessment necessary to give effect to subsection (4) may be made despite any limitation on the time within which an amendment or assessment may normally be made.

1217RE 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 1217RD is calculated as follows.
- (2) For the first period of account during which the separate orchestral 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 [^{F10}European 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 [^{F10}European 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

F10 Words in s. 1217RE substituted (31.12.2020) by [The Taxes \(Amendments\) \(EU Exit\) Regulations 2019 \(S.I. 2019/689\)](#), regs. 1, **16(35)** (with regs. 39-41); 2020 c. 1, Sch. 5 para. 1(1)

1217RF “Qualifying expenditure”

- (1) In this Chapter “qualifying expenditure”, in relation to the production of a concert or concert series, means core expenditure (see section 1217RC) on the production that—
 - (a) falls to be taken into account under sections 1217QB to 1217QG in calculating the profit or loss of the separate orchestral trade for tax purposes, and
 - (b) is not expenditure which is otherwise relievable.
- (2) For the purposes of this section expenditure is otherwise relievable if it is expenditure in respect of which (assuming a claim were made) the company would be entitled to—

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- (a) film tax relief under Chapter 3 of Part 15,
- (b) television tax relief under Chapter 3 of Part 15A,
- (c) video games tax relief under Chapter 3 of Part 15B,
- (d) an additional deduction under Part 15C (theatrical productions), or
- (e) a theatre tax credit under Part 15C.

Orchestra tax credits

1217RG Orchestra tax credit claimable if company has surrenderable loss

- (1) A company which qualifies for orchestra tax relief in relation to the production of a concert or concert series may claim an orchestra tax credit in relation to the production for an accounting period in which the company has a surrenderable loss.
- (2) Section 1217RH 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 orchestra tax credit to which a company making a claim is entitled for the accounting period is 25% of the amount of the loss surrendered.
- (5) The company's available loss for the accounting period (see section 1217RH(2)) is reduced by the amount surrendered.

Modifications etc. (not altering text)

C2 S. 1217RG(4) modified (temp.) (with application in accordance with s. 19(1)-(3) of the amending Act) by Finance Act 2022 (c. 3), s. 19(1)-(3)

1217RH 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 orchestral 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—
$$L + RUL$$
where—

L is the amount of the company's loss for the period in the separate orchestral 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 1217RG, or

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- (b) carried forward under section 45 ^{F11}or 45B] of CTA 2010 and set against profits of the separate orchestral trade.
- (4) For the first period of account during which the separate orchestral trade is carried on, the available qualifying expenditure is the amount that is E for that period for the purposes of section 1217RE(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 1217RE(3), and
- S is the total amount previously surrendered under section 1217RG.
- (6) If a period of account of the separate orchestral 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

- F11** Words in s. 1217RH(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. 143](#)

1217RI Payment in respect of orchestra tax credit

- (1) If a company—
- is entitled to an orchestra tax credit for an accounting period, and
 - 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—
- an orchestra tax credit, or
 - interest on an orchestra 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 an orchestra 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 an orchestra 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—
- under PAYE regulations,

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

1217RJ Limit on State aid

In accordance with Commission Regulation (EU) No. 651/2014 of 17 June 2014 declaring certain categories of aid compatible with the internal market [^{F12}(as that Regulation had effect immediately before IP completion day)], the total amount of orchestra tax credits payable under section 1217RI in the case of any undertaking is not to exceed 50 million euros per year.

Textual Amendments

F12 Words in s. 1217RJ inserted (31.12.2020) by [The Taxes \(State Aid\) \(Amendments\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1499\)](#), regs. 1, **5(4)**

1217RK No account to be taken of amount if unpaid

- (1) In determining for the purposes of this Chapter the amount of costs incurred on a production of a concert or concert series 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 1217QE (when costs are taken to be incurred).

Anti-avoidance etc

1217RL Tax avoidance arrangements

- (1) A company does not qualify for orchestra tax relief in relation to the production of a concert or concert series 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.

1217RM Transactions not entered into for genuine commercial reasons

- (1) A transaction is to be ignored for the purpose of determining orchestra tax relief so far as the transaction is attributable to arrangements (other than tax avoidance arrangements) entered into otherwise than for genuine commercial reasons.

Status: Point in time view as at 01/04/2022.

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- (2) In this section “arrangements” and “tax avoidance arrangements” have the same meaning as in section 1217RL.

CHAPTER 4

LOSSES OF SEPARATE ORCHESTRAL TRADE

1217S Application of sections 1217SA to 1217SC

- (1) Sections 1217SA to 1217SC apply to a company which is treated under section 1217Q(2) or (5) as carrying on a separate trade in relation to the production of a concert or concert series.
- (2) In those sections—
- (a) “the completion period” means the accounting period in which the company ceases to carry on the separate orchestral trade;
 - (b) “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.

1217SA Restriction on use of losses before completion period

- (1) ^{F13}[This section] applies if a loss is made by the company in the separate orchestral 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 ^{F14}[or 45B] of CTA 2010 to be ^{F15}[deducted from] profits of the separate orchestral trade in a subsequent period.
- ^{F16}[If the loss is carried forward under section 45 or 45B of CTA 2010 and deducted from (3) profits of the separate orchestral 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

- F13** Words in s. 1217SA(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. 44\(2\)](#)
- F14** Words in s. 1217SA(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. 44\(3\)\(a\)](#)
- F15** Words in s. 1217SA(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. 44\(3\)\(b\)](#)
- F16** S. 1217SA(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. 44\(4\)](#)

Modifications etc. (not altering text)

- C3** S. 1217SA modified by [2010 c. 4, s. 357UO](#) (as inserted (with effect in accordance with Sch. 8 para. 18(1) of the amending Act) by [Finance Act 2016 \(c. 24\)](#), [Sch. 8 para. 14](#))

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1217SB Use of losses in the completion period

- (1) Subsection (2) applies if a loss made in the separate orchestral trade is carried forward under section 45 [^{F17}or 45B] of CTA 2010 to the completion period.
- (2) So much (if any) of the loss as is not attributable to orchestra tax relief (see subsection (4)) may be treated for the purposes of [^{F18}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 orchestral 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 orchestra tax relief (see subsection (4)).
- (4) The amount of a loss in any period that is attributable to orchestra tax relief is found by—
 - (a) calculating what the amount of the loss would have been if there had been no additional deduction under Chapter 3 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 1217SC (terminal losses).

Textual Amendments

F17 Words in s. 1217SB(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. 45(2)**

F18 Words in s. 1217SB(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. 45(3)**

Modifications etc. (not altering text)

C4 S. 1217SB modified by [2010 c. 4, s. 357UP](#) (as inserted (with effect in accordance with Sch. 8 para. 18(1) of the amending Act) by [Finance Act 2016 \(c. 24\)](#), **Sch. 8 para. 14**)

1217SC Terminal losses

- (1) This section applies if—
 - (a) the company ceases to carry on the separate orchestral trade, and
 - (b) if the company had not ceased to carry on that trade, it could have carried forward an amount under section 45 [^{F19}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 orchestral trade is referred to as “trade 1”.

- (2) If company A—
 - (a) is treated under section 1217Q(2) or (5) as carrying on a separate trade in relation to the production of another concert or concert series (“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) make an election under subsection (3).

- (3) The election is to have the terminal loss (or a part of it) treated^{F20}—
- (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 1217Q(2) or (5) as carrying on a separate trade (“company B's trade”) in relation to the production of another concert or concert series,
 - (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 a part of it) to company B.
- (6) On the making of a claim by company B the amount surrendered is treated^{F21}—
- (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^{F22}(9) section is to be ignored for the purposes of section 269ZB of that Act (restriction on deductions from trading profits).]

Textual Amendments

- F19** Words in s. 1217SC(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. 46\(2\)](#)
- F20** Words in s. 1217SC(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. 46\(3\)](#)
- F21** Words in s. 1217SC(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. 46\(4\)](#)

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F22 S. 1217SC(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. 46(5)**

Modifications etc. (not altering text)

C5 S. 1217SC modified by 2010 c. 4, s. 357UQ (as inserted (with effect in accordance with Sch. 8 para. 18(1) of the amending Act) by Finance Act 2016 (c. 24), **Sch. 8 para. 14**)

CHAPTER 5

PROVISIONAL ENTITLEMENT TO RELIEF

1217T Provisional entitlement to relief

- (1) In relation to a company and the production of a concert or concert series, “interim accounting period” means any accounting period that—
 - (a) is one in which the company carries on a separate orchestral trade, and
 - (b) precedes the accounting period in which it ceases to do so.
- (2) A company is not entitled to orchestra tax relief for an interim accounting period unless—
 - (a) its company tax return for the period states the amount of planned core expenditure on the production of the concert or concert series that is [^{F23}European] expenditure (see section 1217RB(2)), and
 - (b) that amount is such as to indicate that the [^{F23}European] expenditure condition (see section 1217RB) 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 [^{F23}European] expenditure condition were met.

Textual Amendments

F23 Word in s. 1217T substituted (31.12.2020) by The Taxes (Amendments) (EU Exit) Regulations 2019 (S.I. 2019/689), regs. 1, **16(36)** (with regs. 39-41); 2020 c. 1, Sch. 5 para. 1(1)

1217TA Clawback of provisional relief

- (1) If a statement is made under section 1217T(2) but it subsequently appears that the [^{F24}European] expenditure condition will not be met on the company's ceasing to carry on the separate orchestral trade, the company—
 - (a) is not entitled to orchestra tax 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.
- (2) When a company ceases to carry on the separate orchestral 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 orchestral trade, and
 - (b) be accompanied by a final statement of the amount of the core expenditure on the production of the concert or concert series that is [^{F24}European] expenditure.

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- (3) If that statement shows that the [^{F24}European] expenditure condition is not met—
- (a) the company is not entitled to orchestra tax relief or to relief under section 1217SC (transfer of terminal losses) for any period, and
 - (b) must amend accordingly its company tax return for any period for which such relief was claimed.
- (4) 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.

Textual Amendments

F24 Word in s. 1217TA substituted (31.12.2020) by [The Taxes \(Amendments\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/689), regs. 1, **16(37)** (with regs. 39-41); 2020 c. 1, Sch. 5 para. 1(1)

CHAPTER 6

INTERPRETATION

1217U Interpretation

In this Part—

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

“core expenditure” has the meaning given by section 1217RC;

“costs”, in relation to a concert or concert series, has the meaning given by section 1217QD;

“^{F25}European] expenditure” has the meaning given by section 1217RB(2);

“^{F25}European] expenditure condition” has the meaning given by section 1217RB;

“income”, in relation to a concert or concert series, has the meaning given by section 1217QC;

“orchestra tax relief” is to be read in accordance with Chapter 3 (see in particular section 1217R(1));

“orchestral concert” has the meaning given by section 1217PA;

“production company” has the meaning given by section 1217PB;

“qualifying expenditure” has the meaning given by section 1217RF;

“qualifying orchestral concert” has the meaning given by section 1217RA(3);

“qualifying orchestral concert series” has the meaning given by section 1217RA(5);

the “separate orchestral trade” is to be read in accordance with section 1217Q.]

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Textual Amendments

F25 Word in s. 1217U substituted (31.12.2020) by [The Taxes \(Amendments\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/689), regs. 1, **16(38)** (with regs. 39-41); 2020 c. 1, Sch. 5 para. 1(1)

Status:

Point in time view as at 01/04/2022.

Changes to legislation:

Corporation Tax Act 2009, PART 15D is up to date with all changes known to be in force on or before 18 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.