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# SCHEDULES

## SCHEDULE 16

Section 36

### TAX RELIEF FOR TELEVISION PRODUCTION

#### PART 1

##### AMENDMENTS OF CTA 2009

1 After Part 15 of CTA 2009 insert—

#### “PART 15A

##### TELEVISION PRODUCTION

#### CHAPTER 1

##### INTRODUCTION

##### *Introductory*

#### Overview of Part

1216A(1) This Part is about television production.

- (2) Sections 1216AA to 1216AJ contain definitions and other provisions about interpretation that apply for the purposes of this Part. See, in particular—
  - (a) section 1216AB, which explains what is meant by a “relevant programme”, and
  - (b) section 1216AE, which explains how a company comes to be treated as the television production company in relation to a relevant programme.
- (3) Chapter 2 is about the taxation of the activities of a television production company and includes—
  - (a) provision for the company's activities in relation to its relevant programme to be treated as a separate trade, and
  - (b) provision about the calculation of the profits and losses of that trade.
- (4) Chapter 3 is about relief (called “television tax relief”) which can be given to a television production company—
  - (a) by way of additional deductions to be made in calculating the profits or losses of the company's separate trade, or

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  - (b) for such relief to be withdrawn if it turns out that conditions that must be met for such relief to be given are not actually met.

*Meaning of “television programme”, “relevant programme” etc*

### “Television programme”

1216A(A) This section applies for the purposes of this Part.

- (2) “Television programme” means any programme (with or without sounds) which—
  - (a) is produced to be seen on television, and
  - (b) consists of moving or still images or of legible text or of a combination of those things.
- (3) In subsection (2) “television” includes the internet.
- (4) Any television programmes that are commissioned together under the same agreement are treated as a single television programme.
- (5) A television programme is completed when it is first in a form in which it can reasonably be regarded as ready for broadcast to the general public.

### “Relevant programme”

1216A(B) This section applies for the purposes of this Part.

- (2) A television programme is a “relevant programme” if—
  - (a) conditions A and B are met, and
  - (b) in the case of a television programme that is not animation, conditions C and D are met.
- (3) Condition A is that the programme is—
  - (a) a drama,
  - (b) a documentary, or
  - (c) animation.

For further provision about these terms, see section 1216AC.

- (4) Condition B is that the programme is not an excluded programme (see section 1216AD).
- (5) Condition C is that the slot length in relation to the programme is greater than 30 minutes.

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- (6) Condition D is that the average core expenditure per hour of slot length in relation to the programme is not less than £1 million.

For the meaning of “core expenditure”, see section 1216AG.

- (7) “Slot length”, in relation to a television programme, means the period of time which the programme is commissioned to fill.

### **Types of programme eligible to be relevant programmes**

1216A(1) This section applies for the purposes of this Part.

- (2) A programme is a “drama” if—
- (a) it consists wholly or mainly of a depiction of events,
  - (b) the events are depicted (wholly or mainly) by one or more persons performing, and
  - (c) the whole or a major proportion of what is done by the person or persons performing, whether by way of speech, acting, singing or dancing, involves the playing of a role,
- and for these purposes “drama” includes comedy.
- (3) A drama or documentary that includes animation is to be treated as animation if the core expenditure on the completed animation constitutes at least 51% of the total core expenditure on the completed programme.

### **Excluded programmes**

1216A(1) For the purposes of this Part a television programme is an excluded programme if it falls within any of the Heads set out in the following subsections—

- (a) subsection (2) (advertisements etc),
  - (b) subsection (3) (current affairs etc),
  - (c) subsection (4) (entertainment shows),
  - (d) subsection (5) (competitions),
  - (e) subsection (6) (live performances),
  - (f) subsection (7) (training programmes).
- (2) Head 1 is any advertisement or other promotional programme.
- (3) Head 2 is any news or current affairs programme or discussion programme.
- (4) Head 3 is any quiz show, game show, panel show, variety show, chat show or similar entertainment.
- (5) Head 4 is any programme consisting of or including—
- (a) a competition or contest, or
  - (b) the results of a competition or contest.
- (6) Head 5 is any broadcast of a live event or of a theatrical or artistic performance given otherwise than for the purpose of being filmed.
- (7) Head 6 is any programme produced for training purposes.

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### *Other interpretation*

#### **Television production company**

- 1216A(E) For the purposes of this Part “television production company” is to be read in accordance with this section.
- (2) There cannot be more than one television production company in relation to a relevant programme.
  - (3) A company is the television production company in relation to a relevant programme if the company (otherwise than in partnership)—
    - (a) is responsible—
      - (i) for pre-production, principal photography and post-production of the programme, and
      - (ii) for delivery of the programme,
    - (b) is actively engaged in production planning and decision-making during pre-production, principal photography and post-production, and
    - (c) directly negotiates, contracts and pays for rights, goods and services in relation to the programme.
  - (4) A company is the television production company in relation to a relevant programme that is a qualifying co-production if the company (otherwise than in partnership)—
    - (a) is a co-producer, and
    - (b) makes an effective creative, technical and artistic contribution to the programme.
  - (5) If there is more than one company meeting the description in subsection (3) or (4), the company that is most directly engaged in the activities referred to in that subsection is the television production company in relation to the relevant programme.
  - (6) If there is no company meeting the description in subsection (3) or (4), there is no television production company in relation to the relevant programme.
  - (7) A company may elect to be regarded as a company which does not meet the description in subsection (3) or (4).
  - (8) The election—
    - (a) must be made by the company by being included in its company tax return for an accounting period (and may be included in the return originally made or by amendment), and
    - (b) may be withdrawn by the company only by amending its company tax return for that accounting period.
  - (9) The election has effect in relation to relevant programmes which commence principal photography in that or any subsequent accounting period.

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### **“Television production activities” etc**

1216A(F) In this Part “television production activities”, in relation to a relevant programme, means the activities involved in development, pre-production, principal photography and post-production of the programme.

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

“Specified” means specified in the regulations.

### **“Production expenditure” and “core expenditure”**

1216A(G) This section applies for the purposes of this Part.

- (2) “Production expenditure”, in relation to a relevant programme, means expenditure on television production activities in connection with the programme.
- (3) “Core expenditure”, in relation to a relevant programme, means production expenditure on pre-production, principal photography and post-production of the programme.

### **“UK expenditure” etc**

1216A(H) In this Part “UK expenditure”, in relation to a relevant programme, means expenditure on goods or services that are used or consumed in the United Kingdom.

- (2) Any apportionment of expenditure as between UK expenditure and non-UK expenditure for the purposes of this Part is to be made on a just and reasonable basis.
- (3) The Treasury may by regulations amend subsection (1).

### **“Qualifying co-production” and “co-producer”**

1216AI In this Part—

- (a) “qualifying co-production” means a relevant programme that is eligible to be certified as a British programme under section 1216CB as a result of an agreement between Her Majesty's Government in the United Kingdom and any other government, international organisation or authority, and

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- (b) “co-producer” means a person who is a co-producer for the purposes of the agreement mentioned in paragraph (a).

**“Company tax return”**

1216AJ In this Part “company tax return” has the same meaning as in Schedule 18 to FA 1998 (see paragraph 3(1)).

## CHAPTER 2

### TAXATION OF ACTIVITIES OF TELEVISION PRODUCTION COMPANY

#### *Separate programme trade*

**Activities of television production company treated as a separate trade**

1216B) This Chapter applies for corporation tax purposes to a company that is the television production company in relation to a relevant programme.

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

**Calculation of profits or losses of separate programme trade**

1216BA) This section applies for the purpose of calculating the profits or losses of the separate programme trade.

- (2) For the first period of account the following are brought into account—
  - (a) as a debit, the costs of the relevant programme incurred (and represented in work done) to date, and
  - (b) as a credit, the proportion of the estimated total income from the relevant programme treated as earned at the end of that period.
- (3) For subsequent periods of account the following are brought into account—
  - (a) as a debit, the difference between the amount of the costs of the relevant programme incurred (and represented in work done) to date and the corresponding amount for the previous period, and
  - (b) as a credit, the difference between the proportion of the estimated total income from the relevant programme treated as earned at the end of that period and the corresponding amount for the previous period.

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- (4) The proportion of the estimated total income treated as earned at the end of a period of account is given by—

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

where—

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

T is the estimated total cost of the relevant programme, and

I is the estimated total income from the relevant programme.

### *Supplementary*

#### **Income from the relevant programme**

1216B(1) References in this Chapter to income from the relevant programme are to any receipts by the company in connection with the making or exploitation of the programme.

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

#### **Costs of the relevant programme**

1216B(1) References in this Chapter to the costs of the relevant programme are to expenditure incurred by the company on—

- (a) television production activities in connection with the programme, or
  - (b) activities with a view to exploiting the programme.
- (2) This is subject to any provision of the Corporation Tax Acts prohibiting the making of a deduction, or restricting the extent to which a deduction is allowed, in calculating the profits of a trade.
- (3) Expenditure that (apart from this subsection) would be regarded as of a capital nature by reason only of being incurred on the creation of an asset (the relevant programme) is treated as being of a revenue nature.

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### **When costs are taken to be incurred**

- 1216B(1) For the purposes of this Chapter costs are incurred when they are represented in the state of completion of the work in progress.
- (2) Accordingly—
- (a) payments in advance for work to be done are ignored until the work has been carried out, and
  - (b) deferred payments are recognised to the extent that the work is represented in the state of completion.
- (3) The costs incurred on the relevant programme are taken to include an amount that has not been paid only if it is the subject of an unconditional obligation to pay.
- (4) If an obligation is linked to income being earned from the relevant programme, no amount is to be brought into account in respect of the costs of the obligation unless an appropriate amount of income is or has been brought into account.

### **Pre-trading expenditure**

- 1216B(1) This section applies if, before the company began to carry on the separate programme trade, it incurred expenditure on development of the relevant programme.
- (2) The expenditure may be treated as expenditure of the separate programme trade and as if incurred immediately after the company began to carry on that trade.
- (3) If expenditure so treated has previously been taken into account for other tax purposes, the company must amend any relevant company tax return accordingly.
- (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.

### **Estimates**

- 1216BF Estimates for the purposes of this Chapter must be made as at the balance sheet date for each period of account, on a just and reasonable basis taking into consideration all relevant circumstances.



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## CHAPTER 3

### TELEVISION TAX RELIEF

#### *Introductory*

#### **Availability and overview of television tax relief**

- 1216C(1) This Chapter applies for corporation tax purposes to a company that is the television production company in relation to a relevant programme.
- (2) Relief under this Chapter (“television tax relief”) is available to the company if the conditions specified in the following sections are met in relation to the programme—
- (a) section 1216CA (intended for broadcast),
  - (b) section 1216CB (British programme), and
  - (c) section 1216CE (UK expenditure).
- (3) Television tax relief is given by way of—
- (a) additional deductions (see sections 1216CF and 1216CG), and
  - (b) television tax credits (see sections 1216CH to 1216CJ).
- (4) But television tax relief is not available in respect of any expenditure if—
- (a) the company is entitled to an R&D expenditure credit under Chapter 6A of Part 3 in respect of the expenditure, or
  - (b) the company has obtained relief under Part 13 (additional relief for expenditure on research and development) in respect of the expenditure.
- (5) Sections 1216CK to 1216CN contain provision about unpaid costs, artificially inflated claims and confidentiality of information.
- (6) In this Chapter “the separate programme trade” means the company's separate trade in relation to the relevant programme (see section 1216B).
- (7) See Schedule 18 to FA 1998 (in particular, Part 9D) for information about the procedure for making claims for television tax relief.

#### *“Intended for broadcast”*

#### **Intended for broadcast**

- 1216CA(1) The relevant programme must be intended for broadcast to the general public.
- (2) Whether this condition is met is determined when television production activities begin, so that—
- (a) where a relevant programme is originally intended for broadcast, this condition continues to be met even if that ceases to be the intention, and

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- (b) where a relevant programme is not originally intended for broadcast, this condition is not met even if that becomes the intention.

### *British programmes*

#### **British programme**

1216CB) The relevant programme must be certified by the Secretary of State as a British programme.

- (2) The Secretary of State, with the approval of the Treasury, may by regulations specify conditions which must be met by a relevant programme before it may be certified as a British programme.

These conditions are known as the “cultural test”.

- (3) Regulations under subsection (2) may—
- (a) specify different conditions in relation to different descriptions of relevant programme,
  - (b) provide that specified descriptions of programme may not be certified as a British programme, and
  - (c) enable the Secretary of State to direct that any provision made by virtue of paragraph (b) does not apply to a programme that meets specified conditions.

“Specified” means specified in the regulations.

- (4) Regulations under subsection (2) are to be made by statutory instrument.
- (5) A statutory instrument containing regulations under subsection (2) is subject to annulment in pursuance of a resolution of the House of Commons.
- (6) Sections 1216CC and 1216CD contain further provision about certification of programmes as British programmes, including provision about applications for, and withdrawal of, certification.

#### **Applications for certification**

1216CQ) An application for certification of a relevant programme as a British programme is to be made to the Secretary of State by the television production company.

- (2) The application may be for an interim or final certificate.
- (3) An interim certificate is a certificate that—
- (a) is granted before the programme is completed, and
  - (b) states that the programme, if completed in accordance with the proposals set out in the application, will be a British programme.
- (4) A final certificate is a certificate that—
- (a) is granted after the programme is completed, and
  - (b) states that the programme is a British programme.

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- (5) The applicant must provide the Secretary of State with any documents or information which the Secretary of State requires in order to determine the application.
- (6) The Secretary of State may require information provided for the purposes of the application to be accompanied by a statutory declaration, made by the person providing it, as to the truth of the information.
- (7) The Secretary of State may by regulations make provision supplementing this section, including—
  - (a) provision about the form of applications,
  - (b) provision about the particulars and evidence necessary for satisfying the Secretary of State that a programme meets the cultural test, and
  - (c) provision that any statutory declaration which is required by subsection (6) to be made by any person may be made on the person's behalf by such person as is specified in the regulations.
- (8) Regulations under subsection (7) are to be made by statutory instrument.
- (9) A statutory instrument containing regulations under subsection (7) is subject to annulment in pursuance of a resolution of the House of Commons.

#### **Certification and withdrawal of certification**

- 1216C(1) If the Secretary of State is satisfied that the requirements are met for interim or final certification of a relevant programme as a British programme, the Secretary of State must certify the programme accordingly.
- (2) If the Secretary of State is not satisfied that those requirements are met, the Secretary of State must refuse the application.
  - (3) An interim certificate—
    - (a) may be given subject to conditions, and (unless the Secretary of State directs otherwise) is of no effect if the conditions are not met, and
    - (b) may be expressed to expire after a specified period, and (unless the Secretary of State directs otherwise) ceases to have effect at the end of that period.
  - (4) An interim certificate ceases to have effect when a final certificate is issued.
  - (5) If it appears to the Secretary of State that a relevant programme certified under this Part ought not to have been certified, the Secretary of State may revoke its certification.
  - (6) Unless the Secretary of State directs otherwise, a certificate that is revoked is treated as never having had effect.

#### *UK expenditure*

#### **UK expenditure**

- 1216C(1) At least 25% of the core expenditure on the relevant programme incurred—
  - (a) in the case of a British programme that is not a qualifying co-production, by the company, and

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(b) in the case of a qualifying co-production, by the co-producers, must be UK expenditure.

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

#### *Additional deductions*

#### **Additional deduction for qualifying expenditure**

1216C(F) If television tax relief is available to the company, it may (on making a claim) make an additional deduction in respect of qualifying expenditure on the relevant programme.

- (2) The deduction is made in calculating the profit or loss of the separate programme trade.
- (3) In this Chapter “qualifying expenditure” means core expenditure on the relevant programme that falls to be taken into account under Chapter 2 in calculating the profit or loss of the separate programme trade for tax purposes.
- (4) The Treasury may by regulations—
- (a) amend subsection (3), and
  - (b) provide that expenditure of a specified description is or is not to be regarded as qualifying expenditure.

#### **Amount of additional deduction**

1216C(G) For the first period of account during which the separate programme trade is carried on, the amount of the additional deduction is—

*E*

where *E* is—

- a so much of the qualifying expenditure as is UK expenditure, or
  - b if less, 80% of the total amount of qualifying expenditure.
- (2) For any period of account after the first, the amount of the additional deduction is given by—

*E – P*

where—

*E* is—

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

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

- (3) The Treasury may by regulations amend this section.

#### *Television tax credits*

#### **Television tax credit claimable if company has surrenderable loss**

1216C(1) If television tax relief is available to the company, it may claim a television tax credit for an accounting period in which it has a surrenderable loss.

- (2) The company's surrenderable loss in an accounting period is—
- (a) the company's available loss for the period in the separate programme trade (see subsection (3)), or
  - (b) if less, the available qualifying expenditure for the period (see subsections (5) and (6)).
- (3) The company's available loss for an accounting period is given by—

$$L + RUL$$

where—

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

RUL is the amount of any relevant unused loss of the company (see subsection (4)).

- (4) 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 1216CI(1), or
  - (b) carried forward under section 45 of CTA 2010 and set against profits of the separate programme trade.
- (5) For the first period of account during which the separate programme trade is carried on, the available qualifying expenditure is the amount that is E for that period for the purposes of section 1216CG(1).
- (6) For any period of account after the first, the available qualifying expenditure is given by—

$$E - S$$

where—

E is the amount that is E for that period for the purposes of section 1216CG(2), and

S is the total amount previously surrendered under section 1216CI(1).

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- (7) If a period of account of the separate programme 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.

### **Surrendering of loss and amount of television tax credit**

1216C(1) The company may surrender the whole or part of its surrenderable loss in an accounting period.

- (2) If the company surrenders the whole or part of that loss, the amount of the television tax credit to which it is entitled for the accounting period is 25% of the amount of the loss surrendered.
- (3) The company's available loss for the accounting period is reduced by the amount surrendered.

### **Payment in respect of television tax credit**

1216C(1) If the company—

- (a) is entitled to a television tax credit for a period, and  
(b) makes a claim,

the Commissioners for Her Majesty's Revenue and Customs (“the Commissioners”) must pay to the company the amount of the credit.

(2) An amount payable in respect of—

- (a) a television tax credit, or  
(b) interest on a television 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 television tax credit for that period need be made before the Commissioners' enquiries are completed (see paragraph 32 of Schedule 18 to FA 1998).

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

(4) No payment need be made in respect of a television 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.

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

#### *Miscellaneous*

#### **No account to be taken of amount if unpaid**

- 1216C(1) In determining for the purposes of this Chapter the amount of costs incurred on a relevant programme 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 1216BD (when costs are taken to be incurred).

#### **Artificially inflated claims for additional deduction or tax credit**

- 1216C(1) So far as a transaction is attributable to arrangements entered into wholly or mainly for a disqualifying purpose, it is to be ignored in determining for any period—
- (a) any additional deduction which a company may make under this Chapter, and
  - (b) any television tax credit to be given to a company.
- (2) Arrangements are entered into wholly or mainly for a disqualifying purpose if their main object, or one of their main objects, is to enable a company to obtain—
- (a) an additional deduction under this Chapter to which it would not otherwise be entitled or of a greater amount than that to which it would otherwise be entitled, or
  - (b) a television tax credit to which it would not otherwise be entitled or of a greater amount than that to which it would otherwise be entitled.
- (3) “Arrangements” includes any scheme, agreement or understanding, whether or not legally enforceable.

#### **Confidentiality of information**

- 1216C(1) Section 18(1) of the Commissioners for Revenue and Customs Act 2005 (restriction on disclosure by Revenue and Customs officials) does not prevent disclosure to the Secretary of State for the purposes of the Secretary of State's functions under any of the provisions listed in subsection (2).
- (2) The provisions referred to in subsection (1) are—
- (a) sections 1216CB to 1216CD (certification of relevant programmes as British),
  - (b) sections 1217CB to 1217CD (certification of video games as British), and
  - (c) Schedule 1 to the Films Act 1985 (certification of films as British).
- (3) Information so disclosed may be disclosed to the British Film Institute.
- (4) The Treasury may by order amend subsection (3)—

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- (a) so as to substitute for the person or body specified in that subsection a different person or body, or
  - (b) in consequence of a change in the name of the person or body so specified.
- (5) A person to whom information is disclosed under subsection (1) or (3) may not otherwise disclose it except—
- (a) for the purposes of the Secretary of State's functions under any of the provisions listed in subsection (2),
  - (b) if the disclosure is authorised by an enactment,
  - (c) in pursuance of an order of a court,
  - (d) for the purposes of a criminal investigation or legal proceedings (whether civil or criminal) connected with the operation of any of Parts 15 to 15B of this Act or Schedule 1 to the Films Act 1985,
  - (e) with the consent of the Commissioners for Her Majesty's Revenue and Customs, or
  - (f) with the consent of each person to whom the information relates.

### **Wrongful disclosure**

- 1216C*N*) A person (“X”) commits an offence if—
- (a) X discloses revenue and customs information relating to a person (as defined in section 19(2) of the Commissioners for Revenue and Customs Act 2005),
  - (b) the identity of the person to whom the information relates is specified in the disclosure or can be deduced from it, and
  - (c) the disclosure contravenes section 1216CM(5).
- (2) If a person (“Y”) is charged with an offence under subsection (1), it is a defence for Y to prove that Y reasonably believed—
- (a) that the disclosure was lawful, or
  - (b) that the information had already and lawfully been made available to the public.
- (3) A person guilty of an offence under subsection (1) is liable—
- (a) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine or both, or
  - (b) on summary conviction, to imprisonment for a term not exceeding 12 months or a fine not exceeding the statutory maximum or both.
- (4) A prosecution for an offence under subsection (1) may be brought in England and Wales only—
- (a) by the Director of Revenue and Customs Prosecutions, or
  - (b) with the consent of the Director of Public Prosecutions.
- (5) A prosecution for an offence under subsection (1) may be brought in Northern Ireland only—
- (a) by the Commissioners for Her Majesty's Revenue and Customs, or
  - (b) with the consent of the Director of Public Prosecutions for Northern Ireland.
- (6) In the application of this section—



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- (a) in England and Wales, in relation to an offence committed before the commencement of section 282 of the Criminal Justice Act 2003, or
  - (b) in Northern Ireland,
- the reference in subsection (3)(b) to 12 months is to be read as a reference to 6 months.

## CHAPTER 4

### PROGRAMME LOSSES

#### **Application of sections 1216DA and 1216DB**

1216D(1) Sections 1216DA and 1216DB apply to a company that is the television production company in relation to a relevant programme.

(2) In those sections—

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

- (a) in which the relevant programme is completed, or
- (b) if the company does not complete the relevant programme, in which it abandons television production activities in relation to the programme,

“loss relief” includes any means by which a loss might be used to reduce the amount in respect of which the company, or any other person, is chargeable to tax,

“pre-completion period” means an accounting period of the company before the completion period, and

“the separate programme trade” means the company's separate trade in relation to the relevant programme (see section 1216B).

#### **Restriction on use of losses while programme in production**

1216D(1) This section applies if in a pre-completion period a loss is made in the separate programme trade.

(2) The loss is not available for loss relief except to the extent that it may be carried forward under section 45 of CTA 2010 to be set against profits of the separate programme trade in a subsequent period.

#### **Use of losses in later periods**

1216D(1) This section applies to the following accounting periods of the company (“relevant later periods”)—

- (a) the completion period, and
- (b) any subsequent accounting period during which the separate programme trade continues.

(2) Subsection (3) applies if a loss made in the separate programme trade is carried forward under section 45 of CTA 2010 from a pre-completion period to a relevant later period.

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- (3) So much (if any) of the loss as is not attributable to television tax relief (see subsection (6)) may be treated for the purposes of loss relief as if it were a loss made in the period to which it is carried forward.
- (4) Subsection (5) applies if in a relevant later period a loss is made in the separate programme trade.
- (5) 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 television tax relief (see subsection (6)).
- (6) The amount of a loss in any period that is attributable to television tax relief is calculated by deducting from the total amount of the loss the amount there would have been if there had been no additional deduction under Chapter 3 in that or any earlier period.
- (7) This section does not apply to a loss to the extent that it is carried forward or surrendered under section 1216DC.

### **Terminal losses**

1216D(1) This section applies if—

- (a) a company (“company A”) is the television production company in relation to a qualifying programme,
  - (b) company A ceases to carry on its separate trade in relation to that programme (“trade X”) (see section 1216B), and
  - (c) if company A had not ceased to carry on trade X, it could have carried forward an amount under section 45 of CTA 2010 to be set against profits of trade X in a later period (“the terminal loss”).
- (2) If on cessation of trade X company A—
- (a) is the television production company in relation to another qualifying programme, and
  - (b) is carrying on its separate trade in relation to that programme (“trade Y”),
- it may (on making a claim) make an election under subsection (3).
- (3) The election is to have the terminal loss (or a part of it) treated as if it were a loss brought forward under section 45 of CTA 2010 to be set against the profits of trade Y in the first accounting period beginning after the cessation and so on.
- (4) Subsection (5) applies if on cessation of trade X—
- (a) there is another company (“company B”) that is the television production company in relation to a qualifying programme,
  - (b) company B is carrying on its separate trade in relation to that programme (“trade Z”), and
  - (c) company B is in the same group as company A for the purposes of Part 5 of CTA 2010 (group relief).

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- (5) Company A may surrender the terminal loss (or a part of it) to company B.
- (6) On the making of a claim by company B the amount surrendered is treated as if it were a loss brought forward by company B under section 45 of CTA 2010 to be set against the profits of trade Z of the first accounting period of that company beginning after the cessation and so on.
- (7) The Treasury may, in relation to the surrender of a loss under subsection (5) and the resulting claim under subsection (6), make provision by regulations corresponding, subject to such adaptations or other modifications as appear to them to be appropriate, to that made by Part 8 of Schedule 18 to FA 1998 (company tax returns: claims for group relief).
- (8) “Qualifying programme” means a relevant programme in relation to which the conditions for television tax relief are met (see 1216C(2)).

## CHAPTER 5

### PROVISIONAL ENTITLEMENT TO RELIEF

#### Introduction

1216F) In this Chapter—

“the company” means the television production company in relation to a relevant programme,

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

- (a) in which the relevant programme is completed, or
- (b) if the company does not complete the relevant programme, in which it abandons television production activities in relation to it,

“interim accounting period” means any earlier accounting period of the company during which television production activities are carried on in relation to the relevant programme,

“interim certificate” and “final certificate” have the meaning given by section 1216CC,

“the separate programme trade” means the company's separate trade in relation to the relevant programme (see section 1216B), and

“special television relief” means—

- (a) television tax relief, or
  - (b) relief under section 1216DC (transfer of terminal losses from one relevant programme to another).
- (2) The company's company tax return for the completion period must state that the relevant programme has been completed or that the company has abandoned television production activities in relation to it (as the case may be).

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### **Certification as a British programme**

- 1216E(A) The company is not entitled to special television relief for an interim accounting period unless its company tax return for the period is accompanied by an interim certificate.
- (2) If an interim certificate ceases to be in force (otherwise than on being superseded by a final certificate) or is revoked, the company—
    - (a) is not entitled to special television relief for any period for which its entitlement depended on the certificate, and
    - (b) must amend accordingly its company tax return for any such period.
  - (3) If the relevant programme is completed by the company—
    - (a) its company tax return for the completion period must be accompanied by a final certificate,
    - (b) if that requirement is met, the final certificate has effect for the completion period and for any interim accounting period, and
    - (c) if that requirement is not met, the company—
      - (i) is not entitled to special television relief for any period, and
      - (ii) must amend accordingly its company tax return for any period for which such relief was claimed.
  - (4) If the company abandons television production activities in relation to the relevant programme—
    - (a) its company tax return for the completion period may be accompanied by an interim certificate, and
    - (b) the abandonment of television production activities does not affect any entitlement to special television relief in that or any previous accounting period.
  - (5) If a final certificate is revoked, the company—
    - (a) is not entitled to special television relief for any period, and
    - (b) must amend accordingly its company tax return for any period for which such relief was claimed.

### **The UK expenditure condition**

- 1216E(B) The company is not entitled to special television relief for an interim accounting period unless—
- (a) its company tax return for the period states the amount of planned core expenditure on the relevant programme that is UK expenditure, and
  - (b) that amount is such as to indicate that the condition in section 1216CE (the UK expenditure condition) will be met on completion of the programme.

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

- (2) If such a statement is made but it subsequently appears that the condition will not be met on completion of the programme, the company—

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- (a) is not entitled to special television relief for any period for which its entitlement depended on such a statement, and
  - (b) must amend accordingly its company tax return for any such period.
- (3) When the relevant programme is completed or the company abandons television production activities in relation to it (as the case may be), the company's company tax return for the completion period must be accompanied by a final statement of the amount of core expenditure on the programme that is UK expenditure.
- (4) If that statement shows that the condition in section 1216CE is not met, the company—
  - (a) is not entitled to special television relief for any period, and
  - (b) must amend accordingly its company tax return for any period for which such relief was claimed.

### **Time limit for amendments and assessments**

1216EC Any amendment or assessment necessary to give effect to the provisions of this Chapter may be made despite any limitation on the time within which an amendment or assessment may normally be made.”

## **PART 2**

### COMMENCEMENT

- 2
  - (1) Any power conferred on the Secretary of State or the Treasury by virtue of this Schedule to make regulations or an order comes into force on the day on which this Act is passed.
  - (2) So far as not already brought into force by sub-paragraph (1), the amendments made by this Schedule come into force in accordance with provision contained in an order made by the Treasury.
  - (3) An order under sub-paragraph (2)—
    - (a) may make different provision for different purposes;
    - (b) may make such adaptations of Part 15A of CTA 2009 as appear to be necessary or expedient in consequence of other provisions of this Act not yet having come into force.
- 3
  - (1) The amendments made by this Schedule have effect in relation to accounting periods beginning on or after 1 April 2013.
  - (2) Sub-paragraph (3) applies where a company has an accounting period beginning before 1 April 2013 and ending on or after that date (“the straddling period”).
  - (3) For the purposes of Part 15A of CTA 2009—
    - (a) so much of the straddling period as falls before 1 April 2013, and so much of that period as falls on or after that date, are treated as separate accounting periods, and
    - (b) any amounts brought into account for the purposes of calculating for corporation tax purposes the profits of any trade of the company for the

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straddling period are apportioned to the two separate accounting periods on such basis as is just and reasonable.

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**Changes to legislation:**

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