

## SCHEDULES

### SCHEDULE 4

Section 5

#### ORCHESTRAL CONCERTS

##### PART 1

##### AMENDMENTS OF PART 15D OF CTA 2009

###### *Introduction*

1 Part 15D of CTA 2009 (orchestra tax relief) is amended as follows.

###### *Time of election for orchestral concerts to be treated as a series*

- 2 (1) In section 1217QA (election for orchestral concerts to be treated as a series), in subsection (1), after “Customs” insert “—
- (a) before the date on which the company first delivers a company tax return for a period in relation to which a concert in the series falls to be treated in accordance with section 1217Q, or
  - (b) if later,”.
- (2) That amendment has effect in relation to a series of concerts the first concert in which takes place on or after 1 April 2024.

###### *Meaning of “core expenditure”*

- 3 (1) In section 1217RC(3) (expenditure that is not “core expenditure” on orchestral concert), in paragraph (a), for “or storage” substitute “, storage, or the provision of incidental goods or services to members of the audience”.
- (2) That amendment has effect in relation to expenditure incurred on or after 1 April 2024.

###### *Provision to emphasise that capital expenditure does not generally qualify for relief*

- 4 In section 1217QD (costs of orchestral concert), in subsection (3), at the end insert—
- “(As to other capital expenditure, see section 53 and subsection (2).)”

###### *UK expenditure threshold to replace EEA expenditure threshold*

- 5 (1) In section 1217RB (European expenditure condition)—
- (a) in the heading, for “European” substitute “UK”;
  - (b) in subsection (1)—
    - (i) for “European” (in both places it occurs) substitute “UK”;

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- (ii) for “25%” substitute “10%”;
  - (c) for subsection (2) substitute—
    - “(2) In this Part “UK expenditure” means expenditure on goods or services that are used or consumed in the United Kingdom.”;
  - (d) in subsection (3), for “European and non-European expenditure” substitute “expenditure that is and is not UK expenditure”;
  - (e) in subsection (5), for “European” substitute “UK”.
- (2) In each of the following provisions, for “European” (in each place it occurs) substitute “UK”—
- (a) section 1217RA(2)(d) and (4)(d) (need to meet European expenditure condition to qualify for relief);
  - (b) section 1217T(2) (provisional satisfaction of European expenditure condition);
  - (c) section 1217TA(1), (2) and (3) (European expenditure condition provisionally satisfied not later satisfied).
- (3) In section 1217U (defined terms)—
- (a) omit the definitions of “European expenditure” and “European expenditure condition”;
  - (b) at the end insert—
    - ““UK expenditure” has the meaning given by section 1217RB(2);
    - “UK expenditure condition” has the meaning given by section 1217RB(1).”
- (4) In Schedule 4 (index of defined expressions)—
- (a) omit the entries for “European expenditure (in Part 15D)” and “European expenditure condition (in Part 15D)”;
  - (b) at the appropriate places insert—
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- “UK expenditure (in Part 15D) section 1217RB(2)”;
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- “UK expenditure condition (in section 1217RB(1))”.  
Part 15D)
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- (5) For transitional provision in relation to this paragraph, see paragraph 11.

*EEA expenditure not to qualify for relief*

- 6 (1) In section 1217RE(2) and (3) (amount of relief for orchestral concert), for “European” substitute “UK”.
- (2) For transitional provision in relation to this paragraph, see paragraph 12.

*Profit element of non-arm's-length payments to connected parties not to qualify for relief*

- 7 (1) Section 1217RF (expenditure that qualifies for orchestra tax relief) is amended as follows.
- (2) In subsection (1)—
- (a) omit the “and” after paragraph (a);

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- (b) after paragraph (b) insert “, and
- (c) is not excluded by subsection (3).”

(3) After subsection (2) insert—

“(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, transferred or done 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, transferring or doing 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 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.”

(4) Those amendments have effect in relation to expenditure incurred on or after 1 April 2024.

#### *Amendment of exclusion for other reliefs*

8 (1) In section 1217RF(2) (exclusion of expenditure eligible for other creative sector relief)—

- (a) in the words before paragraph (a), for the words from “(assuming” to the end substitute “the company would be able to claim”;
- (b) before paragraph (a) insert—

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- “(za) an R&D expenditure credit under Chapter 6A of Part 3,
- (zb) relief under Part 13 (relief for expenditure on research and development).”.

(2) Those amendments have effect in relation to expenditure incurred on or after 1 April 2024.

*Restriction where tax liabilities outstanding: meaning of “payment period”*

9 In section 1217RI (payment in respect of orchestra tax credit), after subsection (4) insert—

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

*Relief not to be available for companies in insolvency*

10 (1) After section 1217RK insert—

*“Companies in insolvency*

**1217RKA No claim if company in administration or liquidation**

- (1) A company may not make a claim under section 1217RD or section 1217RG 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.”
- (2) That amendment has effect in relation to claims made on or after 1 April 2024.

## PART 2

### CHANGES FROM EUROPEAN TO UK EXPENDITURE: TRANSITIONAL PROVISION

#### *Transitional provision in relation to paragraph 5*

- 11 (1) This paragraph makes transitional provision in relation to paragraph 5.
- (2) The amendments made by that paragraph do not apply in relation to an orchestral concert or concert series if—
- (a) it has entered production before 1 April 2024, and
  - (b) the separate orchestral trade in respect of it ceases before 1 April 2025.
- (3) Sub-paragraph (4) applies if—
- (a) an orchestral concert or concert series has entered production before 1 April 2024,
  - (b) the separate orchestral trade in respect of the concert or series continues on or after 1 April 2025,
  - (c) the production company's company tax return for the first accounting period that ends on or after 1 April 2025 is accompanied by a statement of the amount of the core expenditure on the concert or series incurred before 1 April 2025 that is European expenditure, and
  - (d) that statement shows that, in respect of core expenditure incurred before 1 April 2025, the European expenditure condition is met.
- (4) The company's entitlement to—
- (a) an additional deduction under section 1217RD of CTA 2009, or
  - (b) a tax credit under section 1217RG of that Act,
- is unaffected by a failure to meet the UK expenditure condition so far as the entitlement derives from expenditure incurred before 1 April 2025.
- (5) For the purposes of sub-paragraph (4), an entitlement to a tax credit under section 1217RG of CTA 2009 derives from expenditure incurred before 1 April 2025 to the extent that it would arise if only costs incurred and income received before that date were taken into account in calculating the surrenderable loss of the company for the purposes of section 1217RH of that Act.
- (6) Sub-paragraph (7) applies in relation to an orchestral concert or concert series in respect of which the separate orchestral trade continues on or after 1 April 2025.
- (7) The reference in section 1217TA(1) of CTA 2009, as amended by paragraph 5(2)(c), to a statement having been made under section 1217T(2) of that Act includes reference to a statement having been made under that provision in relation to the European expenditure condition.
- (8) But the application of section 1217TA(1) of CTA 2009 as so amended is subject to sub-paragraph (4) (where that sub-paragraph applies).
- (9) In this paragraph—
- “orchestral concert”, “concert series”, “separate orchestral trade”, “production company” and “core expenditure” have the same meanings as in Part 15D of CTA 2009;
  - “UK expenditure condition” has the same meaning as in that Part after the amendments made by paragraph 5;

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“European expenditure” and “European expenditure condition” have the same meanings as in that Part before the amendments made by paragraph 5.

- (10) For the purposes of this paragraph, an orchestral concert or concert series “enters production” when core expenditure is first incurred on it.

*Transitional provision in relation to paragraph 6*

- 12 (1) This paragraph makes transitional provision in relation to paragraph 6.
- (2) The amendments made by that paragraph have effect in relation to accounting periods ending on or after 1 April 2024.
- (3) Sub-paragraph (4) applies in a case where expenditure incurred before 1 April 2024 is to be taken into account as qualifying expenditure for the purposes of section 1217RE of CTA 2009 (amount of relief for orchestral concert).
- (4) The references in subsections (2) and (3) of that section (as amended by paragraph 6) to so much of the qualifying expenditure incurred to date as is UK expenditure are to be read as references to so much of the qualifying expenditure incurred to date as—
- (a) has been incurred before 1 April 2024 and is European expenditure, or
  - (b) has been incurred on or after that date and is UK expenditure.
- (5) But if the orchestral concert or concert series in relation to which sub-paragraph (4) applies has entered production before 1 April 2024, the production company may elect for that sub-paragraph to have effect in relation to that concert or series as if “2025” were substituted for “2024”.
- (6) In this paragraph—
- “orchestral concert”, “concert series”, “production company” and “core expenditure” have the same meanings as in Part 15D of CTA 2009;
  - “UK expenditure” has the same meaning as in that Part after the amendments made by paragraph 5;
  - “European expenditure” has the same meaning as in that Part before the amendments made by paragraph 5.
- (7) For the purposes of sub-paragraph (5), an orchestral concert or concert series “enters production” when core expenditure is first incurred on it.