
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision for the application of the provisions of Chapter 3 of Part 3 of the Finance Act 2006 (c. 25) (films and sound recordings), of the enactments amended by that Chapter and the Corporation Tax Acts in relation to films that commenced principal photography before 1st January 2007 but are not completed before that date (“transitional films”).

Regulation 1 provides for citation, commencement and effect. Authority for the retrospective effect of these Regulations is given by section 52(3)(a) and (b) of the Finance Act 2006.

Regulation 2 provides for the interpretation of terms used in the Regulations.

Regulation 3 provides for the application of the provisions of Chapter 3 of Part 3 of the Finance Act 2006, the enactments amended by that Chapter and provisions of the Corporation Tax Acts with the adaptations and modifications made by these Regulations.

Regulations 4 to 10 set out the adaptations and modifications to Chapter 3 of Part 3 of the Finance Act 2006.

Regulation 4 modifies section 32 (meaning of “film production company”) so a company that commenced principal photography before 1st April 2006 may be a film production company in relation to that film notwithstanding that the company is not responsible for pre-production of the film or is not actively engaged in production planning and decision-making during pre-production.

Regulation 5 modifies section 40 (conditions of relief: British film) so only films certified as British films for the purposes of film tax relief (and so satisfy the cultural test applied by these Regulations (see regulation 11)) qualify for film tax relief.

Regulation 6 modifies section 46 (films: withdrawal of existing reliefs (corporation tax)) and regulation 7 modifies section 47 (films: withdrawal of existing reliefs (income tax)) so that existing reliefs under sections 40A to 40D and 42 of the Finance (No. 2) Act 1992 (c. 48) and sections 134, 135 and 138 to 144 of the Income Tax (Trading and Other Income) Act 2005 (c. 5) (treatment of expenditure on production or acquisition of films and special reliefs for British films) are only withdrawn where a film qualifies for film tax relief under Chapter 3 of Part 3 of the Finance Act 2006.

Regulation 8 modifies section 51(1) (supplementary provisions) in relation to the application of provisions relating to intangible fixed assets.

Regulation 9 modifies Schedule 4 (taxation of activities of film production company) so that the Schedule will only apply to transitional films certified as British films for the purposes of film tax relief.

Regulation 10 modifies Schedule 5 (film tax relief: further provisions) to modify the amendments to Schedule 1 to the Films Act 1985 (c. 21). Schedule 1 of the Films Act 1985 is modified to apply the cultural test introduced by the Films (Definition of “British Film”) (No. 2) Order 2006 (S.I. 2006/3430) to transitional films for the purposes of film tax relief. The Films Act 1985 is further modified to include a new Schedule 1A which applies the same cultural test as introduced in the Films (Definition of “British Film”) Order 2006 (S.I. 2006/643) (with the omission of the requirement that the maker is resident in the EC) to films that do not meet the requirements of the Schedule 1 test. Films that are certified in accordance with this test may qualify for relief under sections 40A to 40D and 42 of the Finance (No. 2) Act 1992 or sections 134, 135 and 138 to 144 of the Income Tax (Trading and Other Income) Act 2005.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Regulation 11 provides for modifications to the Finance (No. 2) Act 1992 and regulation 12 provides for modifications to the Income Tax (Trading and Other Income) Act 2005 so that tax relief is available under these provisions by reference to the cultural test in Schedule 1A to the Films Act 1985 inserted by these Regulations.

Regulation 13 provides for the making or amending of returns, and the making of assessments, in relation to past accounting periods or tax years consequent on the application of provisions by these Regulations.

A regulatory impact analysis has been prepared in relation to the provisions of the Finance Act 2006 dealing with the taxation of film production and is available on HM Treasury's website at http://www.hm-treasury.gov.uk/media/1E6/1B/bud06_rias_896.pdf.