

**1 Creative sectors**

Schedule 1 makes provision about the treatment for corporation tax purposes of activities concerning the production of films, television programmes, video games, theatrical productions, orchestral concerts and museum and gallery exhibitions.

## SCHEDULE 1

Section 1

## CORPORATION TAX: CREATIVE SECTORS

**PART 1**

## NEW REGIME FOR FILMS, TELEVISION PROGRAMMES AND VIDEO GAMES

1 After Part 14 of CTA 2009 insert –

**“PART 14A**

## FILMS, TELEVISION PROGRAMMES AND VIDEO GAMES

**CHAPTER 1**

## INTRODUCTION AND INTERPRETATION

*Introduction to Part***1179A Overview of Part**

- (1) This Part –
  - (a) lays down special rules about the taxation of companies in relation to certain production activities in creative sectors, and
  - (b) provides an entitlement to a credit in respect of expenditure on those activities.
- (2) In particular –
  - (a) this Chapter makes general provision about the application of Chapters 2 and 3 and about the interpretation of this Part;
  - (b) Chapter 2 lays down the special rules about taxation;
  - (c) Chapter 3 provides the entitlement to credit;
  - (d) Chapter 4 makes provision about the application of this Part to films and television programmes;
  - (e) Chapter 5 makes provision about the application of this Part to video games.

**1179AA Qualifying companies and productions**

- (1) Chapters 2 and 3 apply where there is a qualifying production and a qualifying company for that production.
- (2) The later Chapters supply the meanings of those terms.
- (3) See in particular –
  - (a) section 1179D, in relation to films and television programmes;
  - (b) section 1179F, in relation to video games.

- (4) Whether a company is the qualifying company for a qualifying production (including whether the production is a qualifying production) is to be assessed separately in relation to each accounting period of the company.
- (5) The assessment is to be made by reference to the state of affairs at the end of that period.
- (6) So far as future events are relevant to the assessment, it is to be made by reference to the reasonable expectations of the company at that time.
- (7) Subsections (5) and (6) are subject to any provision of this Part that provides for a production no longer to be regarded as a qualifying production in an accounting period as a result of events after the end of that period.
- (8) Once a qualifying company has made an election under section 1179B(1) in respect of a qualifying production, no other company can subsequently be the qualifying company for that production.
- (9) In this Part, “production”, except when contained in another defined term or used to refer to the act of producing something, means—
  - (a) a film (see section 1179DA),
  - (b) a television programme (see section 1179DD), or
  - (c) a video game.

*Definitions and miscellaneous provision*

**1179AB UK expenditure**

- (1) In this Part, “UK expenditure” means expenditure on goods or services that are used or consumed in the United Kingdom.
- (2) Any apportionment of expenditure for the purposes of this Part between expenditure that is and is not UK expenditure is to be made on a just and reasonable basis.

**1179AC Company tax returns**

- (1) In this Part, “company tax return” has the same meaning as in Schedule 18 to FA 1998 (see paragraph 3(1)).
- (2) Any amendment to a company tax return that must be made by virtue of this Part, and any assessment to give effect to such a requirement, can be made despite any limitation on the time within which such an amendment or assessment can normally be made.

### **1179AD Groups**

For the purposes of this Part, a company is in the same group as another company if those companies are in the same group for the purposes of Part 5 of CTA 2010.

## **CHAPTER 2**

### SPECIAL RULES ABOUT TAXATION

#### *The separate production trade*

### **1179B Election to tax qualifying production as separate trade**

- (1) The qualifying company for a qualifying production may elect in its company tax return for an accounting period for the production to be taxed as a separate trade.
- (2) The effect of such an election is that the activities of the company in relation to the production are to be treated for corporation tax purposes as a trade separate from any other activities of the company (including activities in relation to other qualifying productions).
- (3) In this Part—
  - (a) that trade is called “the separate production trade”;
  - (b) the accounting period to which the return containing the election relates is called “the opt-in period”.

### **1179BA Duration of separate trade**

- (1) When the qualifying company is treated as beginning to carry on the separate production trade is determined by—
  - (a) section 1179DW, in the case of a film or television programme;
  - (b) section 1179FO, in the case of a video game.
- (2) If the result is that the separate production trade is treated as having been carried on in an accounting period before the opt-in period, any relevant company tax return must be amended so as to give effect to that treatment in that earlier accounting period.
- (3) Once a company has made an election under section 1179B(1), the activities of the company in relation to the production are to continue to be treated as a separate trade in accordance with this Chapter even if—
  - (a) the production ceases to be a qualifying production, or
  - (b) the company ceases to be the qualifying company for it.

- (4) That is the case even if the production ceases to be regarded as a qualifying production in the opt-in period as a result of events after the end of that period.
- (5) In the following provisions of this Chapter, “qualifying production” and “qualifying company” are accordingly capable of including productions or companies that used to be so.

*Accounting for the separate trade*

**1179BB Calculation of profits or losses**

- (1) The profits or losses of the separate production trade are to be calculated in accordance with this section.
- (2) For the first period of account, the following are to be brought into account—
  - (a) as a debit, the costs of the qualifying production incurred by the qualifying company to date, and
  - (b) as a credit, the proportion of the qualifying company’s estimated total income from the qualifying production that is treated as earned at the end of that period.
- (3) For subsequent periods of account, the following are to be brought into account—
  - (a) as a debit, the difference between—
    - (i) the amount of the costs of the qualifying production incurred by the qualifying company to date, and
    - (ii) the corresponding amount for the previous period, and
  - (b) as a credit, the difference between—
    - (i) the proportion of the qualifying company’s estimated total income from the qualifying production that is treated as earned at the end of that period, and
    - (ii) the corresponding amount for the previous period.
- (4) The proportion of the qualifying company’s estimated total income that is treated as earned at the end of a period of account is given by—

$$(C / T) \times I$$

where—

C is the total of the costs of the qualifying production incurred by the qualifying company to date,

T is the estimated total cost to the qualifying company of the qualifying production, and

I is the qualifying company’s estimated total income from the qualifying production.

- (5) What counts as costs of, and income from, the qualifying production is determined by –
  - (a) section 1179DX, in the case of a film or television programme;
  - (b) section 1179FP, in the case of a video game.(See also section 1179CB.)
- (6) But nothing in this Part, except section 1179BE, allows an amount to count as costs of the qualifying production if it would not generally be allowed as a deduction in calculating the profits of a trade for corporation tax purposes.
- (7) Estimates for the purposes of this section must be made –
  - (a) as at the balance sheet date for each period of account, and
  - (b) on a just and reasonable basis taking into consideration all relevant circumstances.
- (8) Subsection (9) applies if a period of account of the separate production trade does not coincide with an accounting period of the qualifying company.
- (9) The expenditure and receipts brought into account for the period under this section, and the resulting profit or loss, are to be apportioned to accounting periods of the company for the purposes of this Part by reference to the number of days in the periods concerned.

#### **1179BC When costs are to be taken as incurred**

- (1) For the purposes of section 1179BB, 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 to be ignored until the work has been carried out, and
  - (b) deferred payments are to be recognised to the extent that the work is represented in the state of completion.
- (3) But an amount that has not been paid is not an incurred cost until there is an unconditional obligation to pay it.
- (4) If an obligation is linked to income being earned from the qualifying production, 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.

#### **1179BD Preliminary expenditure**

- (1) This section applies if, before the qualifying company began to carry on the separate production trade, it incurred expenditure on the development of the qualifying production.

- (2) The expenditure may be treated as expenditure of the separate production trade incurred immediately after the company began to carry on the trade.
- (3) If expenditure so treated has previously been taken into account for other tax purposes, any relevant company tax return must be amended accordingly.

#### **1179BE Treatment of certain capital amounts as revenue**

- (1) This section applies for corporation tax purposes in relation to the separate production trade.
- (2) Expenditure that—
  - (a) counts as costs of the qualifying production, and
  - (b) would (apart from this subsection) be regarded as of a capital nature by reason only of being incurred on the creation of an asset in the form of the qualifying production,is to be treated as expenditure of a revenue nature.  
(As to other capital expenditure, see section 53 and section 1179BB(6).)
- (3) Receipts that—
  - (a) count as income from the qualifying production, and
  - (b) would (apart from this subsection) be regarded as of a capital nature,are to be treated as receipts of a revenue nature.

#### *Losses in the separate trade*

#### **1179BF Carrying forward of production losses**

- (1) This section applies if a company makes a loss in the separate production trade in a pre-completion period.
- (2) The loss is not available for loss relief, except as provided in subsections (3) and (5).
- (3) The loss is not prevented from being carried forward under section 45B of CTA 2010 to be deducted from profits of the separate production trade in a subsequent period.
- (4) If the loss is so carried forward and deducted, the deduction is to be ignored for the purposes of section 269ZB of CTA 2010.
- (5) To the extent that the loss could be carried forward under section 45B of CTA 2010 to the completion period or a subsequent accounting period, it may instead be treated for the purposes of section 37 and Part 5 of CTA 2010 as a loss made in that period.

- (6) Subsection (5) does not apply to the extent that the loss is carried forward by virtue of section 1179BG.
- (7) In this section –
  - “completion period” and “pre-completion period” have the meanings given by –
    - (a) section 1179DY, in the case of a film or television programme;
    - (b) section 1179FQ, in the case of a video game;
  - “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.

### **1179BG Transfer of terminal loss to other qualifying production**

- (1) This section applies if –
  - (a) a company (“the principal company”) ceases to carry on the separate production trade in respect of a production,
  - (b) the principal company could, but for the cessation of that trade, carry an amount (“the terminal loss”) forward under section 45A or 45B of CTA 2010 to an accounting period after that in which the cessation occurs,
  - (c) when the trade ceases, either the principal company or another company in the same group carries on another separate production trade under this Chapter (“the other trade”), and
  - (d) the ceased trade and the other trade both relate to productions that are or were qualifying productions by virtue of the same Chapter of this Part.
- (2) If the other trade is carried on by the principal company, the company may, by making a claim, treat the terminal loss (or part of it) as a loss made in the other trade that is carried forward under section 45B of CTA 2010.
- (3) If the other trade is carried on by another company –
  - (a) the principal company may surrender the terminal loss (or part of it) to the other company, and
  - (b) the other company may, by making a claim, elect for the surrendered amount to be treated as a loss made in the other trade that is carried forward under section 45B of CTA 2010.
- (4) The carrying forward of a loss by virtue of subsection (2) or (3) is to the first accounting period beginning after the cessation of the ceased trade occurs.
- (5) If –
  - (a) the other trade is no longer carried on that accounting period,



- (b) the company carrying on the other trade is not entitled to an expenditure credit under Chapter 3 for that accounting period in respect of the other trade, or
  - (c) in a case within subsection (3), the other company does not make the election in relation to that accounting period,
- the claim under subsection (2) or the surrender under subsection (3) is to be treated as not having been made.
- (6) The Treasury may, in relation to surrenders or elections under subsection (3), make provision by regulations corresponding, subject to such adaptations or modifications as appear to them to be appropriate, to that made by Part 8 of Schedule 18 to the FA 1998.
- (7) A deduction made under section 45B of CTA 2010 by virtue of this section is to be ignored for the purposes of section 269ZB of CTA 2010.
- (8) The principal company is not entitled to relief under section 45F of CTA 2010 in respect of an amount surrendered under subsection (3).

### CHAPTER 3

#### EXPENDITURE CREDIT

##### *The entitlement*

#### **1179C Entitlement to expenditure credit**

- (1) The qualifying company for a qualifying production is entitled to an expenditure credit for –
  - (a) the opt-in period, and
  - (b) (subject to subsection (2)) any subsequent accounting period in which it continues to carry on the separate production trade.
- (2) If in any of those subsequent periods the production is no longer a qualifying production, or the company is no longer the qualifying company for it, the company is not entitled to an expenditure credit for the period.
- (3) But that does not affect the entitlement of the company for any subsequent period in which the production is once again a qualifying production or the company is once again the qualifying company for it.
- (4) If a production ceases to be regarded as a qualifying production in an accounting period as a result of events after the end of that period –

- (a) the qualifying company is no longer entitled to an expenditure credit for that period, and
  - (b) any relevant company tax return must be amended accordingly.
- (5) An expenditure credit to which a company is entitled may be claimed by the company in accordance with Part 9D of Schedule 18 to FA 1998.

#### **1179CA Amount of expenditure credit**

- (1) The amount of the expenditure credit to which a qualifying company is entitled for an accounting period is determined as follows.

*Step 1*

Ascertain the total of the company's relevant global expenditure for all accounting periods up to and including the present one.

*Step 2*

Deduct from that total any expenditure that is not UK expenditure (see section 1179AB).

*Step 3*

If the amount remaining after step 2 exceeds 80% of the total ascertained at step 1, deduct the amount of the excess.

The remaining amount is the company's "qualifying expenditure to date".

*Step 4*

Deduct from the company's qualifying expenditure to date the amount (if any) that was the company's qualifying expenditure to date in the accounting period for which it was last entitled to, and claimed, an expenditure credit in respect of the qualifying production.

The remaining amount is the company's "qualifying expenditure for the period".

*Step 5*

The amount of the credit to which the company is entitled is the relevant percentage of the company's qualifying expenditure for the period.

The relevant percentage is determined by –

- (a) section 1179DV, in the case of a film or television programme;
  - (b) section 1179FN, in the case of a video game.
- (2) Expenditure is "relevant global expenditure" for an accounting period if –

- (a) it is brought into account under section 1179BB in calculating the profits or losses of the separate production trade for that period, and
- (b) it counts as relevant production expenditure in relation to the qualifying production under –
  - (i) section 1179DS, in the case of a film or television programme;
  - (ii) section 1179FK, in the case of a video game.

*Treatment of credit*

**1179CB Expenditure credit to count as taxable receipt**

If a company is entitled to, and claims, an expenditure credit under this Chapter for an accounting period, it must bring the amount of the credit into account as a receipt in calculating the profits or losses of the separate production trade for that period.

**1179CC Redemption of value of expenditure credit**

If a company is entitled to, and claims, an expenditure credit under this Chapter for an accounting period, the credit is to be dealt with as follows.

*Step 1*

The amount of the credit is to be applied in discharging any liability of the company to pay corporation tax for the accounting period.

*Step 2*

Any amount remaining after step 1 is to be reduced, if necessary, to the amount given by –

$$A - B$$

where –

A is the initial amount of the credit (before step 1), and  
B is the amount of corporation tax that would be chargeable on that amount if it were an amount of profits for the accounting period on which corporation tax was chargeable at the main rate.

For provision about the treatment of an amount deducted under this step, see section 1179CD.

*Step 3*

The amount remaining after step 2 is to be applied in discharging any liability of the company to pay corporation tax for any other accounting period.

*Step 4*

If the company is a member of a group, it may surrender the whole or part of any amount remaining after step 3 to any other member of the group (as to which see section 1179CE).

*Step 5*

Any amount remaining after step 4 is to be applied in discharging any other liability of the company to pay a sum to the Commissioners of Revenue and Customs –

- (a) under or by virtue of an enactment, or
- (b) under an agreement made in connection with any person's liability to make a payment to the Commissioners under or by virtue of an enactment.

*Step 6*

Any amount remaining after step 5 is (subject to sections 1179CG and 1179CH) to be paid to the company by an officer of Revenue and Customs.

**1179CD Treatment of notional tax deduction**

- (1) This section applies if an amount is deducted under step 2 in section 1179CC from the amount of the qualifying company's expenditure credit.
- (2) If the qualifying company is a member of a group, it may, as respects the accounting period for which the expenditure credit arises, surrender the whole or part of the deducted amount to any other member of the group (as to which see section 1179CE).
- (3) To the extent that the deducted amount is not surrendered under subsection (2), it is to be carried forward to the next accounting period of the qualifying company, and subsections (4) and (5) apply.
- (4) If the qualifying company is a member of a group, it may, as respects that accounting period, surrender the whole or part of the carried-forward amount to any other member of the group (as to which see section 1179CE).
- (5) To the extent that the carried-forward amount is not surrendered under subsection (4), it is to be applied in discharging any liability of the qualifying company to pay corporation tax for that accounting period.
- (6) If any of the carried-forward amount remains after the application of subsections (4) and (5), it is to be carried forward to the next accounting period of the qualifying company, and those subsections apply again in relation to that accounting period.

### **1179CE Amounts surrendered to other group companies**

- (1) Subsection (3) applies if an amount of expenditure credit is surrendered by the qualifying company to another member of its group under step 4 in section 1179CC or under section 1179CD(2) or (4).
- (2) For the purposes of that subsection—
  - (a) the accounting period as respects which the surrender is made is “the surrender AP”;
  - (b) an accounting period of the other group member is an “overlapping AP” if it overlaps to any extent with the surrender AP.
- (3) The surrendered amount is to be dealt with as follows.

*Step 1*

Select an overlapping AP.

*Step 2*

Calculate the proportion of the overlapping AP that overlaps with the surrender AP, and apply that proportion to the amount of corporation tax payable by the other group member for that overlapping AP.

*Step 3*

Calculate the proportion of the surrender AP that overlaps with the overlapping AP, and apply that proportion to the surrendered amount.

*Step 4*

The amount given by step 3 is to be applied in discharging the liability of the other group member to pay the corporation tax mentioned in step 2 (up to the amount given by step 2).

*Step 5*

Select another overlapping AP, if there is one, and repeat steps 2 to 4.

*Step 6*

If any of the surrendered amount remains after steps 2 to 4 have been taken in relation to each overlapping AP, the remainder is to be treated for the purposes of section 1179CC or (as the case may be) section 1179CD as if it had not been surrendered as mentioned in subsection (1).

- (4) A surrender to which subsection (3) applies is not to be—
  - (a) taken into account in determining, for corporation tax purposes, the profits or losses of the qualifying company or the other group member, or

- (b) regarded for corporation tax purposes as the making of a distribution.

#### **1179CF Priority of discharge**

- (1) An amount within subsection (2) is to be applied as described in that subsection before any amount within subsection (3) is applied as described in that subsection.
- (2) An amount is within this subsection if it is to be applied under –
  - (a) section 1179CD(5), or
  - (b) section 1179CE(3) as it applies in relation to an amount surrendered under section 1179CD(2) or (4),in discharging the liability of a company to pay corporation tax for an accounting period.
- (3) An amount is within this subsection if it is to be (or would but for subsection (1) be) applied under –
  - (a) section 1179CC, or
  - (b) section 1179CE(3) as it applies in relation to an amount surrendered under section 1179CC,in discharging the same liability as an amount within subsection (2).

#### *Restrictions on payment*

#### **1179CG No credit payable if company not going concern**

- (1) No amount may be paid to a company at step 6 of section 1179CC if, when the company claims the expenditure credit from which the amount is derived, the company is not a going concern.
- (2) For the purposes of this section, a company is a going concern if –
  - (a) its latest published accounts were prepared on a going concern basis, and
  - (b) nothing in those accounts indicates that they were prepared on that basis only because of an entitlement or expected entitlement to an expenditure credit under this Chapter.
- (3) But a company is not a going concern if it is in administration or liquidation.
- (4) 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.

- (5) 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.
- (6) If—
  - (a) a company transfers the separate production trade to another company that is a member of the same group, and
  - (b) only by reason of that transfer, the company’s accounts are not prepared on a going concern basis,the accounts are to be treated for the purposes of subsection (2) as if they were prepared on a going concern basis.
- (7) For the purposes of subsection (6), a company transfers the separate production trade to another company if, as a result of any transaction or sequence of transactions between the companies, the company ceases to carry on the separate production trade and the other company begins to carry on (in the course of a trade) the activities that comprised that trade.
- (8) Section 436(2) of the Companies Act 2006 (meaning of “publication” of documents) has effect for the purposes of this section.

**1179CH No credit payable if certain tax matters outstanding**

- (1) Subsection (2) applies if—
  - (a) a company would (but for that subsection) be entitled to be paid an amount at step 6 of section 1179CC, and
  - (b) the company’s tax return for the accounting period in question is enquired into by an officer of Revenue and Customs.
- (2) The amount does not have to be paid to the company; but an officer of Revenue and Customs may make a payment on a provisional basis of such amount as the officer thinks fit.
- (3) Subsection (4) applies if—
  - (a) a company would (but for that subsection) be entitled to be paid an amount at step 6 of section 1179CC, and
  - (b) the company has outstanding PAYE or NIC liabilities for the accounting period in question.
- (4) The amount does not have to be paid to the company; but an officer of Revenue and Customs may make a payment of such amount as the officer thinks fit.

- (5) A company has outstanding PAYE or NIC liabilities for an accounting period if it has not paid to an officer of Revenue and Customs any amount that it is required to pay –
  - (a) under PAYE regulations, or
  - (b) in respect of Class 1 national insurance contributions, for payment periods ending in the accounting period.
- (6) For the purposes of subsection (5), a “payment period” is a period –
  - (a) which ends on the fifth day of a month, and
  - (b) for which the qualifying company is liable to account for income tax and national insurance contributions to an officer of Revenue and Customs.

*Artificial arrangements*

**1179CI Disqualifying arrangements and non-commercial transactions**

- (1) Subsections (2) and (3) apply if, at any time, a company is party to disqualifying arrangements in relation to anything that is, was or becomes a qualifying production (“the production”).
- (2) The company is not entitled to an expenditure credit under this Chapter in respect of the production for any accounting period.
- (3) Any relevant company tax return must be amended accordingly.
- (4) Subsection (5) applies if a transaction –
  - (a) is attributable to arrangements (other than disqualifying arrangements) entered into otherwise than for genuine commercial reasons, and
  - (b) would result in a company obtaining a relevant advantage.
- (5) The relevant advantage is to be counteracted by the making of just and reasonable adjustments to any amounts relevant to the calculation of the company’s entitlement to an expenditure credit under this Chapter.
- (6) Those adjustments may be made (for example) by way of amendment, assessment, or modification of an assessment.
- (7) For the purposes of this section, arrangements are disqualifying arrangements if their main purpose, or one of their main purposes, is to enable the company to obtain a relevant advantage.
- (8) But such arrangements are not disqualifying arrangements if the obtaining of that advantage as a result of the arrangements could reasonably be regarded as consistent with –
  - (a) the principles (whether expressed or implied) on which the provisions of this Part are based, and
  - (b) the policy objectives of those provisions.



- (9) For the purposes of this section, a company would obtain a relevant advantage if it would become entitled to an expenditure credit under this Chapter –
  - (a) to which it would not otherwise be entitled, or
  - (b) of a greater amount than that to which it would otherwise be entitled.
- (10) In this section, “arrangements” includes any scheme, agreement or understanding, whether or not legally enforceable.

## CHAPTER 4

### FILMS AND TELEVISION PROGRAMMES

#### *General*

#### **1179D Application of Chapters 2 and 3 to films and television programmes**

- (1) For the purposes of this Part –
  - (a) a qualifying film (see section 1179DB) or qualifying television programme (see section 1179DE) is a qualifying production, and
  - (b) the production company for a qualifying film or a qualifying television programme (see section 1179DQ) is the qualifying company for that film or programme.
- (2) The following provisions of this Chapter apply for the purposes of this Part in relation to films and television programmes.
- (3) Expenditure credit under Chapter 3 is called “audiovisual expenditure credit” when the entitlement to it arises in respect of a film or television programme.

#### *Qualifying films*

#### **1179DA Meaning of “film”**

- (1) “Film” includes any record, however made, of a sequence of visual images that is capable of being used as a means of showing that sequence as a moving picture.
- (2) Each part of a series of films is treated as a separate film, unless –
  - (a) the films form a series with not more than 26 parts,
  - (b) the combined playing time is not more than 26 hours, and
  - (c) the series constitutes a self-contained work or is a series of documentaries with a common theme,in which case the films are treated as a single film.

- (3) References to a film include the film soundtrack.

**1179DB Films that are qualifying films**

A film is a qualifying film if it meets—

- (a) the theatrical release condition (see section 1179DC),
- (b) the British certification condition (see section 1179DJ), and
- (c) the UK expenditure condition (see section 1179DP).

**1179DC Theatrical release condition**

- (1) A film meets the theatrical release condition if—
- (a) the film is intended for exhibition to the paying public at the commercial cinema, and
  - (b) a significant proportion of the earnings from the film is intended to be obtained by such exhibition.
- (2) If the film does not meet that condition in an accounting period after the opt-in period, it cannot meet it in any subsequent accounting period.

*Qualifying television programmes*

**1179DD Meaning of “television programme”**

- (1) “Television programme” means any programme (with or without sounds) which—
- (a) is produced to be seen on television or on the internet, and
  - (b) consists of moving or still images or of legible text or of a combination of those things.
- (2) Two or more television programmes that are commissioned together under the same agreement are to be treated as a single television programme.

**1179DE Programmes that are qualifying television programmes**

- (1) A television programme is not a qualifying television programme unless it is—
- (a) a drama,
  - (b) a documentary,
  - (c) an animation, or
  - (d) a children’s programme.
- (See section 1179DF.)
- (2) A television programme of any of those types is a qualifying television programme if—
- (a) it is not an excluded programme (see section 1179DG),

- (b) it meets the broadcast condition (see section 1179DH),
- (c) in the case of a programme that is not an animation or a children’s programme, it meets the slot length and hourly cost conditions (see section 1179DI),
- (d) it meets the British certification condition (see section 1179DJ), and
- (e) it meets the UK expenditure condition (see section 1179DP).

#### **1179DF Categories of qualifying programme**

- (1) A television 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.(Accordingly, “drama” may include a comedy.)
- (2) A television programme is a documentary if—
  - (a) it is intended to inform the viewer about real events,
  - (b) those events have not, to any significant degree, been arranged for the purposes of the programme, and
  - (c) either—
    - (i) the events are not depicted by one or more persons playing roles, or
    - (ii) to the extent that the events are depicted in that way, the depiction is ancillary to a written or spoken narrative.
- (3) A programme is a children’s programme if, when production activities begin, it is reasonable to expect that the persons who will make up the programme’s primary audience will be under the age of 15.
- (4) See section 1179E(3) for the meaning of “animation”.

#### **1179DG Excluded programmes**

- (1) A television programme is an excluded programme if—
  - (a) it is an advertisement or other promotional programme,
  - (b) it is a news or current affairs programme or discussion programme,
  - (c) it is a quiz show, game show, panel show, variety show, chat show or similar entertainment,
  - (d) it consists of or includes a competition or contest, or the results of a competition or contest,

- (e) it is a broadcast of a live event or of a theatrical or artistic performance given otherwise than for the purpose of being filmed, or
  - (f) it is produced for training purposes.
- (2) But a children’s programme is not an excluded programme by virtue of being a quiz show or game show, or falling within subsection (1)(d), if the prize total does not exceed £1,000.
- (3) For that purpose the “prize total” for a programme is the total of—
  - (a) the amount of each relevant prize that is a money prize, and
  - (b) the amount spent on each other relevant prize by, or on behalf of, its provider;and here “relevant prize” means a prize offered in connection with participation in a quiz, game, competition or contest in, or promoted by, the programme.
- (4) The Treasury may by regulations amend subsection (2) for the purpose of increasing the amount of the money limit for the time being specified in that subsection.

#### **1179DH Broadcast condition**

- (1) A television programme meets the broadcast condition if—
  - (a) it is intended for broadcast to the general public, and
  - (b) it is not a film that meets the theatrical release condition (see section 1179DC).
- (2) If the television programme does not meet that condition in an accounting period after the opt-in period, it cannot meet it in any subsequent accounting period.

#### **1179DI Slot length and hourly cost conditions**

- (1) A television programme that consists of distinct episodes meets the slot length condition if the slot length of each episode is greater than 20 minutes.
- (2) A television programme that does not consist of distinct episodes meets the slot length condition if the slot length of the programme is greater than 20 minutes.
- (3) A television programme meets the hourly cost condition if the average core expenditure per hour of slot length in relation to the programme is at least £1 million.
- (4) In this section, “slot length” means the period of time which the episode or (as the case may be) programme is commissioned to fill.

*British certification condition*

**1179DJ British certification condition: provisional and final satisfaction**

- (1) In this section, references to a certificate are to be read –
  - (a) in relation to a film, as references to a certificate under Schedule 1 to the Films Act 1985, and
  - (b) in relation to a television programme, as references to a certificate under section 1179DM.
- (2) A film or television programme meets the British certification condition in a pre-completion period (see section 1179DY) if –
  - (a) an interim certificate has effect in relation to it at the end of that period, and
  - (b) the production company’s company tax return for that period is accompanied by the certificate.
- (3) A film or television programme meets the British certification condition in the completion period (see section 1179DY) and any subsequent accounting period if –
  - (a) at the end of the completion period, either –
    - (i) a final certificate has effect in relation to the film or programme, or
    - (ii) the production company has abandoned production activities in relation to the film or programme and an interim certificate has effect in relation to it, and
  - (b) the production company’s company tax return for that period is accompanied by the certificate.
- (4) Subsections (2) and (3) are subject to subsections (5) and (6).
- (5) If a film or television programme does not meet the British certification condition in the completion period, it is no longer to be regarded as having met the condition (nor, therefore, as being a qualifying film or television programme) in any pre-completion period.
- (6) If, after the end of an accounting period, a certificate ceases to have effect in relation to a film or television programme as respects that period, the film or programme is no longer to be regarded as having met the British certification condition (nor, therefore, as being a qualifying film or television programme) in that period in reliance on that certificate.
- (7) Subsection (6) does not apply where an interim certificate ceases to have effect on being superseded by a final certificate.
- (8) For the purposes of subsection (6), a certificate that ceases to have effect so ceases as respects all accounting periods, except to the

extent that a direction under paragraph 3 of Schedule 1 to the Films Act 1985 or section 1179DM provides otherwise.

**1179DK Television programmes: test for certification**

- (1) The Secretary of State, with the approval of the Treasury, may by regulations specify conditions which must be met by a television programme before it may be certified as a British programme.
- (2) Such regulations may –
  - (a) specify different conditions in relation to different descriptions of programme;
  - (b) provide that certain descriptions of programme may not be certified as a British programme;
  - (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 certain conditions.

**1179DL Television programmes: applications for certification**

- (1) The production company for a television programme may apply to the Secretary of State for a certificate under section 1179DM in relation to the programme.
- (2) An application may be for an interim certificate or a final certificate.
- (3) An interim certificate is a certificate that –
  - (a) is granted before the programme is completed (see section 1179EA), 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.
- (5) The Secretary of State may require an applicant to provide documents or information to assist the Secretary of State in determining the application.
- (6) The Secretary of State may require information provided for the purposes of an 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 any conditions that apply by virtue of section 1179DK, 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.

#### **1179DM Television programmes: certification and revocation**

- (1) If—
  - (a) an application is made in accordance with section 1179DL, and
  - (b) the Secretary of State is satisfied that the television programme concerned meets any conditions that apply by virtue of section 1179DK,the Secretary of State must certify the programme accordingly.
- (2) 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.
- (3) If it appears to the Secretary of State that a film or television programme certified under this section ought not to have been certified, the Secretary of State may revoke the certificate.
- (4) Unless the Secretary of State directs otherwise, a certificate that is revoked is treated as never having had effect.

#### **1179DN Television programmes: regulations about certification**

- (1) Regulations under sections 1179DK and 1179DL are to be made by statutory instrument.
- (2) An instrument containing such regulations is subject to annulment in pursuance of a resolution of either House of Parliament.

#### **1179DO Disclosure of information for certification purposes**

- (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—
  - (a) Schedule 1 to the Films Act 1985, or
  - (b) sections 1179DK to 1179DM.

- (2) Information disclosed to the Secretary of State for those purposes may be disclosed by the Secretary of State to the British Film Institute.
- (3) The Treasury may by order amend subsection (2) –
  - (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.
- (4) A person to whom information is disclosed under subsection (1) or (2) may not otherwise disclose it except –
  - (a) for the purposes of the Secretary of State’s functions under the provisions referred to in subsection (1),
  - (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 criminal or civil) connected with the operation of this Part or Schedule 1 to the Films Act 1985,
  - (e) with the consent of the Commissioners for Revenue and Customs, or
  - (f) with the consent of each person to whom the information relates.
- (5) Section 19 of the Commissioners for Revenue and Customs Act 2005 (offence of unlawful disclosure of revenue and customs information) applies in relation to a contravention of subsection (4) as it applies in relation to a contravention of the provisions referred to in subsection (1) of that section.

*UK expenditure condition*

**1179DP UK expenditure condition: provisional and final satisfaction**

- (1) A film or television programme meets the UK expenditure condition in a pre-completion period (see section 1179DY) if –
  - (a) the production company’s company tax return for the period states –
    - (i) the total amount of core expenditure that is expected to be incurred in relation to the film or programme, and
    - (ii) the amount of that expenditure that is expected to be UK expenditure, and
  - (b) the second of those amounts is at least 10% of the first.
- (2) A film or television programme meets the UK expenditure condition in the completion period (see section 1179DY) and any subsequent accounting period if –



- (a) the production company’s company tax return for the completion period states –
    - (i) the total amount of core expenditure that has been incurred in relation to the film or programme, and
    - (ii) the amount of that expenditure that is UK expenditure, and
  - (b) the second of those amounts is at least 10% of the first.
- (3) Subsection (1) is subject to subsections (5) and (4).
- (4) If a film or television programme does not meet the UK expenditure condition in a pre-completion period, it is no longer to be regarded as having done so (nor, therefore, as being a qualifying film or television programme) in any previous accounting period by virtue of subsection (1) as it applies to that previous period.
- (5) If a film or television programme does not meet the UK expenditure condition in the completion period, it is no longer to be regarded as having done so (nor, therefore, as being a qualifying film or television programme) in any pre-completion period.
- (6) References in this section to core expenditure are to core expenditure incurred –
  - (a) in the case of a film or programme other than a qualifying co-production, by the production company, or
  - (b) in the case of a qualifying co-production, by the co-producers.
- (7) The Treasury may by regulations amend the percentage specified in subsection (1) or (2).

*Production companies*

**1179DQ Meaning of “production company”**

- (1) A company is the production company for a film or television programme that is not a qualifying co-production if –
  - (a) it is responsible for –
    - (i) pre-production, principal photography and post-production of the film or programme, and
    - (ii) delivery of the film or programme in completed form,
  - (b) it is actively engaged in production planning and decision-making during pre-production, principal photography and post-production,
  - (c) it directly negotiates, contracts and pays for rights, goods and services in relation to the film or programme, and
  - (d) it is more directly engaged in the matters described in paragraphs (a) to (c), taken as a whole, than any other company that satisfies those paragraphs.

- (2) A company is the production company for a film or television programme that is a qualifying co-production if—
  - (a) the company is a co-producer of the co-production,
  - (b) the company makes an effective creative, technical and artistic contribution to the film or programme, and
  - (c) its creative, technical, and artistic contribution is greater than that of any other company that—
    - (i) is also a co-producer of the co-production, and
    - (ii) is chargeable to corporation tax on income it receives from the film or programme (or would be if it received any).
- (3) Activities carried on in partnership are to be ignored in determining whether a company is the production company for a film or television programme.

#### **1179DR Qualifying co-productions and co-producers**

- (1) A film is a “qualifying co-production” if it falls to be treated as a national film in the United Kingdom under an international agreement.
- (2) A television programme is a “qualifying co-production” if it is eligible to be certified under section 1179DM under an international agreement.
- (3) A company is a “co-producer” of a qualifying co-production if it is regarded as such under the international agreement by virtue of which the film or television programme in question is a qualifying co-production.
- (4) In this section, “international agreement” means an agreement between His Majesty’s Government in the United Kingdom and any other government, international organisation or authority.

#### *Qualifying expenditure and rate of credit*

#### **1179DS Expenditure that qualifies for credit**

Expenditure incurred by the production company for a film or television programme counts as “relevant production expenditure” for the purposes of section 1179CA(2) if—

- (a) it is core expenditure in relation to that film or television programme (see section 1179DT), and
- (b) it is not excluded expenditure (see section 1179DU).

#### **1179DT Meaning of “core expenditure”**

Expenditure is “core expenditure” in relation to a film or television programme if it is expenditure on the pre-production, principal photography or post-production of the film or programme.

#### **1179DU Excluded expenditure**

- (1) Expenditure is excluded expenditure to the extent that the production company would (assuming a claim were made) be entitled to—
  - (a) an expenditure credit under Chapter 6A of Part 3, or
  - (b) relief under Chapter 2 of Part 13,in respect of the expenditure.
- (2) Expenditure is excluded expenditure to the extent that it represents connected party profit.
- (3) For the purposes of subsection (2), expenditure represents connected party profit—
  - (a) if it is a payment, or other transfer of value, to a person (“C”) in exchange for something supplied by that person,
  - (b) if the production company is connected with C, and
  - (c) if, and to the extent that, the amount of the payment or value exceeds the expenditure incurred by C in supplying that thing.
- (4) If—
  - (a) the supply by C to the production company is one of a sequence of transactions in which the thing supplied has been supplied by one person to another, and
  - (b) each transacting party in the sequence is connected to at least one other transacting party in the sequence,the reference to C in subsection (3)(c) is to be read as a reference to the supplier in the first transaction in that sequence.
- (5) Subsection (2) does not apply to expenditure incurred on renting, hiring or otherwise securing the use of premises or land as a location for the principal photography of the film or television programme in question.

#### **1179DV Percentage of qualifying expenditure translated into credit**

- (1) This section determines the relevant percentage for the purposes of step 5 in section 1179CA(1).
- (2) In the case of—
  - (a) a qualifying film that is not an animation, or

- (b) a qualifying television programme that is not an animation or a children’s programme,  
the relevant percentage is 34%.
- (3) In the case of –
  - (a) a qualifying film that is an animation, or
  - (b) a qualifying television programme that is an animation or a children’s programme,  
the relevant percentage is, subject to the following subsections, 39%.
- (4) Subsection (5) applies if, for any accounting period, the production company is entitled to, and claims, an audiovisual expenditure credit on the basis that the film or programme falls within subsection (2).
- (5) In relation to any subsequent accounting period, the relevant percentage is 34%.

*Accounting for the separate trade*

**1179DW When the separate trade begins**

For the purposes of section 1179B, the production company for a film or television programme is treated as beginning the separate production trade in respect of the film or programme –

- (a) when pre-production of the film or programme begins,
- (b) if earlier, when any income from the film or programme is received by the company.

**1179DX Costs and income of separate trade**

- (1) This section applies for the purposes of section 1179BB as that section applies in relation to a film or television programme.
- (2) Expenditure counts towards the costs of the film or programme if it is expenditure on –
  - (a) production activities in connection with the film or programme, or
  - (b) activities with a view to exploiting the film or programme.
- (3) But an amount that has not been paid within the period of 4 months beginning with the first day after the final day of a period of account is not to count towards the costs incurred in that period.
- (4) Receipts count towards the income from the film or programme if they are receipts in connection with the making or exploitation of the film or programme, including –
  - (a) receipts from the sale of the film or programme or rights in it,

- (b) royalties or other payments for use of the film or programme, or aspects of it (for example, characters or music),
- (c) payments for rights to produce games or other merchandise, and
- (d) receipts by way of a profit share agreement.

#### **1179DY Accounting periods**

- (1) A reference to an accounting period, in relation to a film or television programme, is a reference to an accounting period of the production company for the film or programme.
- (2) A reference to the “completion period”, in relation to a film or television programme, is a reference to the accounting period in which—
  - (a) the film is completed (see section 1179EA), or
  - (b) the production company abandons production activities in relation to the film or programme.
- (3) The production company for a film or television programme must, in its company tax return for the completion period, state whichever of those has occurred.
- (4) A reference to a “pre-completion period”, in relation to a film or television programme, is a reference to any accounting period before the completion period in relation to that film or programme.
- (5) In this section, “production company” includes a company that is no longer the production company for the film or television programme but is still carrying on the separate production trade in relation to it.

#### *Miscellaneous*

#### **1179DZ Effect of move out of higher-percentage category**

- (1) Subsection (2) applies if, for an accounting period, a production company is entitled to, and claims, an audiovisual expenditure credit—
  - (a) in respect of a film on the basis that it is an animation, or
  - (b) in respect of a television programme on the basis that it is an animation or a children’s programme.
- (2) The production company may not, for any subsequent accounting period, claim an audiovisual expenditure credit in respect of the film or programme on the basis that it is—
  - (a) a qualifying film other than an animation, or
  - (b) a qualifying television programme other than an animation or a children’s programme.

- (3) Subsection (2) ceases to apply if the company amends its company tax return for the accounting period referred to in subsection (1) to withdraw the claim for expenditure credit for that period.
- (4) An amendment may be made for that purpose despite any limitation on the time within which the return could normally be amended.

**1179E Meaning of “production activities”, “principal photography” and “animation”**

- (1) “Production activities”, in relation to a film or television programme, means the activities involved in development, pre-production, principal photography and post-production of the film or programme.
- (2) “Principal photography”, in relation to a film or television programme, includes the generation of images by a computer for inclusion in the film or programme.
- (3) A film or television programme is an “animation” if (and only if) –
  - (a) the imagery of the completed film or programme includes animation, and
  - (b) the core expenditure on the completed animation constitutes at least 51% of the total core expenditure on the completed film or programme.

**1179EA When film or programme is completed**

- (1) A film is “completed” when it is first in a form in which it can reasonably be regarded as ready for copies of it to be made and distributed for presentation to the general public.
- (2) 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.

**CHAPTER 5**

VIDEO GAMES

*General*

**1179F Application of Chapters 2 and 3 to video games**

- (1) For the purposes of this Part –
  - (a) a qualifying video game (see section 1179FA) is a qualifying production, and
  - (b) the development company for a qualifying video game (see section 1179FJ) is the qualifying company for that video game.

- (2) The following provisions of this Chapter apply for the purposes of this Part in relation to video games.
- (3) Expenditure credit under Chapter 3 is called “video game expenditure credit” when the entitlement to it arises in respect of a video game.

*Qualifying video games*

**1179FA Video games that are qualifying video games**

- (1) A video game is a qualifying video game if—
  - (a) it is not an excluded game (see subsection (2)),
  - (b) it meets the intended supply condition (see section 1179FB),
  - (c) it meets the British certification condition (see section 1179FC), and
  - (d) it meets the UK expenditure condition (see section 1179FI).
- (2) A video game is an excluded game if it is produced for—
  - (a) advertising or promotional purposes, or
  - (b) the purposes of gambling, within the meaning of the Gambling Act 2005.

**1179FB Intended supply condition**

- (1) A video game meets the intended supply condition if it is intended for supply to the general public.
- (2) If the video game does not meet that condition in an accounting period after the opt-in period, it cannot meet it in any subsequent accounting period.

*British certification condition*

**1179FC British certification condition: provisional and final satisfaction**

- (1) In this section, references to a certificate are to a certificate under section 1179FF.
- (2) A video game meets the British certification condition in a pre-completion period (see section 1179FQ) if—
  - (a) an interim certificate has effect in relation to it at the end of that period, and
  - (b) the development company’s company tax return for that period is accompanied by the certificate.
- (3) A video game meets the British certification condition in the completion period (see section 1179FQ) and any subsequent accounting period if—

- (a) at the end of the completion period, either –
    - (i) a final certificate has effect in relation to the video game, or
    - (ii) the development company has abandoned development activities in relation to the video game and an interim certificate has effect in relation to it, and
  - (b) the development company's company tax return for that period is accompanied by the certificate.
- (4) Subsections (2) and (3) are subject to subsections (5) and (6).
- (5) If a video game does not meet the British certification condition in the completion period, it is no longer to be regarded as having done so (nor, therefore, as being a qualifying video game) in any pre-completion period.
- (6) If, after the end of an accounting period, a certificate ceases to have effect in relation to a video game as respects that period, the video game is no longer to be regarded as having met the British certification condition (nor, therefore, as being a qualifying video game) in that period in reliance on that certificate.
- (7) Subsection (6) does not apply where an interim certificate ceases to have effect on being superseded by a final certificate.
- (8) For the purposes of subsection (6), a certificate that ceases to have effect so ceases as respects all accounting periods, except to the extent that a direction under section 1179FF provides otherwise.

#### **1179FD Test for certification**

- (1) The Secretary of State, with the approval of the Treasury, may by regulations specify conditions which must be met by a video game before it may be certified as a British video game.
- (2) Such regulations may –
  - (a) specify different conditions in relation to different descriptions of video game;
  - (b) provide that certain descriptions of video game may not be certified as a British video game;
  - (c) enable the Secretary of State to direct that any provision made by virtue of paragraph (b) does not apply to a video game that meets certain conditions.

#### **1179FE Applications for certification**

- (1) The development company for a video game may apply to the Secretary of State for a certificate under section 1179FF in relation to the programme.



- (2) An application may be for an interim certificate or a final certificate.
- (3) An interim certificate is a certificate that—
  - (a) is granted before the video game is completed (see section 1179FS), and
  - (b) states that the video game, if completed in accordance with the proposals set out in the application, will be a British video game.
- (4) A final certificate is a certificate that—
  - (a) is granted after the video game is completed, and
  - (b) states that the video game is a British video game.
- (5) The Secretary of State may require an applicant to provide documents or information to assist the Secretary of State in determining the application.
- (6) The Secretary of State may require information provided for the purposes of an 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 video game meets any conditions that apply by virtue of section 1179FD, 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.

#### **1179FF Certification and revocation**

- (1) If—
  - (a) an application is made in accordance with section 1179FE, and
  - (b) the Secretary of State is satisfied that the video game concerned meets any conditions that apply by virtue of section 1179FD,the Secretary of State must certify the video game accordingly.
- (2) 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.
- (3) If it appears to the Secretary of State that a video game certified under this section ought not to have been certified, the Secretary of State may revoke the certificate.
- (4) Unless the Secretary of State directs otherwise, a certificate that is revoked is treated as never having had effect.

#### **1179FG Regulations about certification**

- (1) Regulations under sections 1179FD and 1179FE are to be made by statutory instrument.
- (2) An instrument containing such regulations is subject to annulment in pursuance of a resolution of either House of Parliament.

#### **1179FH Disclosure of information for certification purposes**

Section 1179DO (disapplication of section 18, and application of section 19, of the Commissioners for Revenue and Customs Act 2005) has effect in relation to the Secretary of State's functions under sections 1179FD to 1179FF as it has effect in relation to the Secretary of State's functions under sections 1179DK to 1179DM.

#### *UK expenditure condition*

#### **1179FI UK expenditure condition**

- (1) A video game meets the UK expenditure condition in a pre-completion period (see section 1179FQ) if—
  - (a) the development company's company tax return for the period states—
    - (i) the total amount of core expenditure that is expected to be incurred in relation to the video game, and
    - (ii) the amount of that expenditure that is expected to be UK expenditure, and
  - (b) the second of those amounts is at least 10% of the first.
- (2) A video game meets the UK expenditure condition in the completion period (see section 1179FQ) and any subsequent accounting period if—
  - (a) the development company's company tax return for the completion period states—
    - (i) the total amount of core expenditure that has been incurred in relation to the video game, and

- (ii) the amount of that expenditure that is UK expenditure, and
  - (b) the second of those amounts is at least 10% of the first.
- (3) Subsection (1) is subject to subsections (4) and (5).
  - (4) If a video game does not meet the UK expenditure condition in a pre-completion period, it is no longer to be regarded as having done so (nor, therefore, as being a qualifying video game) in any previous accounting period by virtue of subsection (1) as it applies to that previous period.
  - (5) If a video game does not meet the UK expenditure condition in the completion period, it is no longer to be regarded as having done so (nor, therefore, as being a qualifying video game) in any pre-completion period.
  - (6) References in this section to core expenditure are to core expenditure incurred by the development company.
  - (7) The Treasury may by regulations amend the percentage specified in subsection (1) or (2).

#### *Development companies*

#### **1179FJ Meaning of “development company”**

- (1) A company is the development company for a video game if –
  - (a) it is responsible for designing, producing and testing the video game,
  - (b) it is actively engaged in planning and decision-making during the design, production and testing of the video game,
  - (c) it directly negotiates, contracts and pays for rights, goods and services in relation to the video game, and
  - (d) it is more directly engaged in the matters described in paragraphs (a) to (c), taken as a whole, than any other company that satisfies those paragraphs.
- (2) Activities carried on in partnership are to be ignored in determining whether a company is the development company for a video game.

#### *Qualifying expenditure and rate of credit*

#### **1179FK Expenditure that qualifies for credit**

Expenditure incurred by the development company for a video game counts as “relevant production expenditure” for the purposes of section 1179CA(2) if –

- (a) it is core expenditure in relation to that video game (see section 1179FL), and
- (b) it is not excluded expenditure (see section 1179FM).

#### **1179FL Meaning of “core expenditure”**

- (1) Expenditure is “core expenditure” in relation to a video game if it is expenditure on designing, producing or testing the video game.
- (2) But core expenditure does not include expenditure on—
  - (a) designing the initial concept for a video game, or
  - (b) debugging, or carrying out maintenance in connection with, a completed video game.

#### **1179FM Excluded expenditure**

- (1) Expenditure is excluded expenditure to the extent that the development company would (assuming a claim were made) be entitled to—
  - (a) an expenditure credit under Chapter 6A of Part 3, or
  - (b) relief under Chapter 2 of Part 13,in respect of the expenditure.
- (2) Expenditure is excluded expenditure to the extent that it represents connected party profit.
- (3) For the purposes of this section, expenditure represents connected party profit—
  - (a) if it is a payment, or other transfer of value, to a person (“C”) in exchange for something supplied by that person,
  - (b) if the development company is connected with C, and
  - (c) if, and to the extent that, the amount of the payment or value exceeds the expenditure incurred by C in supplying that thing.
- (4) If—
  - (a) the supply by C to the production company is one of a sequence of transactions in which the thing supplied has been supplied by one person to another, and
  - (b) each transacting party in the sequence is connected to at least one other transacting party in the sequence,the reference to C in subsection (3)(c) is to be read as a reference to the supplier in the first transaction in that sequence.

#### **1179FN Percentage of qualifying expenditure translated into credit**

In relation to a qualifying video game, the relevant percentage for the purposes of step 5 in section 1179CA(1) is 34%.

*Accounting for the separate trade*

**1179FO When the separate trade begins**

For the purposes of section 1179B, the development company for a video game is treated as beginning the separate production trade in respect of the video game—

- (a) when the design of the video game begins,
- (b) if earlier, when any income from the video game is received by the company.

**1179FP Costs and income of separate trade**

- (1) This section applies for the purposes of section 1179BB as that section applies in relation to a video game.
- (2) Expenditure counts towards the costs of the video game if it is expenditure on—
  - (a) development activities in connection with the video game, or
  - (b) activities with a view to exploiting the video game.
- (3) But an amount that has not been paid within the period of 4 months beginning with the first day after the final day of a period of account is not to count towards the costs incurred in that period.
- (4) Receipts count towards the income from the video game if they are receipts in connection with the production or exploitation of the video game, including—
  - (a) receipts from the sale of the video game or rights in it,
  - (b) royalties or other payments for use of the video game, or aspects of it (for example, characters or music),
  - (c) payments for rights to produce games or other merchandise, and
  - (d) receipts by way of a profit share agreement.

**1179FQ Accounting periods**

- (1) A reference to an accounting period, in relation to a video game, is a reference to an accounting period of the development company for the video game.
- (2) A reference to the “completion period”, in relation to a video game, is a reference to the accounting period in which—
  - (a) the video game is completed (see section 1179FS), or
  - (b) the development company abandons development activities in relation to the video game.

- (3) The development company for a video game must, in its company tax return for the completion period, state whichever of those has occurred.
- (4) A reference to a “pre-completion period”, in relation to a video game, is a reference to any accounting period before the completion period in relation to that video game.
- (5) In this section, “development company” includes a company that is no longer the development company for the video game but is still carrying on the separate production trade in relation to it.

*Miscellaneous*

**1179FR Meaning of “development activities”**

“Development activities”, in relation to a video game, means the activities involved in designing, producing and testing the video game.

**1179FS When video game is completed**

A video game is “completed” when it is first in a form in which it can reasonably be regarded as ready for copies of it to be made and made available to the general public.”

**PART 2**

AMENDMENTS CONSEQUENTIAL ON PART 1

*Films Act 1985 (c. 21)*

- 2 (1) The Films Act 1985 is amended as follows.
- (2) In section 6 (certification of British films), after “purposes of” insert “audiovisual expenditure credit and”.
- (3) In Schedule 1 (certification of British films)—
  - (a) in the heading, after “purposes of” insert “audiovisual expenditure credit and”;
  - (b) in paragraph 1(1), for the definition of “film production company” substitute—

““film production company”, in relation to a film, means a company that is the production company for the film for the purposes of Part 14A of the Corporation Tax Act 2009 (see section 1179DQ of that Act) or the film production company in relation to the film for the purposes of Part 15 of that Act (see section 1182 of that Act).”

*Finance Act 1998 (c. 36)*

- 3 (1) Schedule 18 to FA 1998 (company tax returns) is amended as follows.
- (2) In paragraph 10 (certain claims and elections to be included in tax return) –
  - (a) in sub-paragraph (4), for the words from “for” to “or” substitute “under Parts 14A to”;
  - (b) after sub-paragraph (4) insert –

“(4A) An election under section 1179B of the Corporation Tax Act 2009 (opting into Part 14A of that Act) can only be made by being included in a company tax return.”
- (3) In the heading of Part 9D, for the words from “for” to “or” substitute “under Parts 14A to”.
- (4) In paragraph 83S (application of Part 9D), for “the following reliefs –” substitute “ –
  - (za) audiovisual expenditure credit or video game expenditure credit.”.

*Finance Act 2007 (c. 11)*

- 4 In Schedule 24 to FA 2007 (penalties for errors), in paragraph 28(fa) (meaning of “corporation tax credit”), before paragraph (iv) insert –

“(iia) an audiovisual expenditure credit or video game expenditure credit under Chapter 3 of Part 14A of CTA 2009 (expenditure credit in respect of films, television programmes and video games).”

*Corporation Tax Act 2009 (c. 4)*

- 5 (1) CTA 2009 is amended as follows.
- (2) For sections 808 to 808E substitute –

**“807A Assets representing expenditure on separate creative production trade**

This Part does not apply to an intangible fixed asset held by a company treated as carrying on a separate trade under any of Parts 14A to 15E (production of films, television programmes, video games, theatrical productions, orchestral concerts and museum and gallery exhibitions), so far as the asset represents expenditure of that separate trade.”
- (3) In section 1040ZA (restrictions on claiming other reliefs where R&D relief given), before subsection (1) insert –

“(A1) For provision prohibiting audiovisual expenditure credit or video game expenditure credit being given where relief is available under this Part, see sections 1179DU(1) and 1179FM(1).”

- (4) *[Amendments of Schedule 4 will be added.]*

*Corporation Tax Act 2010 (c. 4)*

- 6 (1) CTA 2010 is amended as follows.
- (2) In section 45A(3) (conditions for carrying forward trade loss against total profits), after “section” insert “1179BF,”.
- (3) In Part 8B (profits taxable at Northern Ireland rate), after Chapter 10 insert –

**“CHAPTER 10A**

FILMS, TELEVISION PROGRAMMES AND VIDEO GAMES QUALIFYING FOR  
EXPENDITURE CREDIT

*Introduction*

**357QE Application and interpretation**

- (1) This Chapter makes provision about the interaction between this Part and Part 14A of CTA 2009 (films, television programmes and video games).
- (2) This Chapter applies if –
- (a) a company is a Northern Ireland company in an accounting period,
  - (b) the company is treated under Part 14A of CTA 2009 as carrying on a separate trade in that period (see 1179B of that Act), and
  - (c) that trade is a qualifying trade.
- (3) References in this Chapter to “the Northern Ireland company”, “the accounting period” and “the separate trade” are to be read accordingly.

*Expenditure credit*

**357QF Expenditure credit to count towards mainstream profits or losses**

- (1) Subsection (2) applies if, under section 1179CB of CTA 2009 (expenditure credit under Part 14A of CTA 2009 to be taxable receipt), the Northern Ireland company brings an amount of audiovisual expenditure credit or video game expenditure credit into account in calculating the profits or losses of the separate trade for the accounting period.
- (2) The amount is to form part of the mainstream profits or mainstream losses of the trade for that period.



*Losses of separate trade*

**357QG Carrying forward of production losses**

- (1) If the accounting period is a pre-completion period within the meaning of section 1179BF of CTA 2009 (carrying forward of production losses in separate trade), that section applies in relation to the separate trade and that accounting period subject to the following provisions.
- (2) In subsection (1) of that section, the reference to a loss is to be read as a reference to—
  - (a) any Northern Ireland losses, or
  - (b) any mainstream losses;and the rest of that section is to be read accordingly.
- (3) Subsection (4) applies if the Northern Ireland company has in the accounting period—
  - (a) both Northern Ireland losses of the separate trade and mainstream profits of that trade, or
  - (b) both mainstream losses of the separate trade and Northern Ireland profits of that trade.
- (4) The company may, despite section 1179BF(2) of CTA 2009, claim under section 37 (relief for trade losses against total profits) for—
  - (a) relief for those Northern Ireland losses against those mainstream profits, or
  - (b) relief for those mainstream losses against those Northern Ireland profits.

**357QH Transfer of terminal loss**

- (1) Subsection (2) applies if—
  - (a) the Northern Ireland company ceases to carry on the separate trade in the accounting period,
  - (b) as a result, section 1179BG of CTA 2009 (transfer of terminal loss in separate production trade to other production or group company) applies, and
  - (c) the amount in respect of which it applies (see subsection (1)(b) of that section) represents a Northern Ireland loss.
- (2) The references to a loss in subsections (2) and (3)(b) of that section are to be read as references to a Northern Ireland loss.”

**PART 3**

REPEAL OF EXISTING REGIMES FOR FILMS, TELEVISION PROGRAMMES AND VIDEO GAMES

7      Parts 15 to 15B of CTA 2009 are omitted.

## PART 4

### AMENDMENTS CONSEQUENTIAL ON PART 3

#### *Films Act 1985 (c. 21)*

- 8 (1) The Films Act 1985 is amended as follows.
- (2) In section 6 (certification of British films) (as amended by paragraph 2), omit “and film tax relief”.
- (3) In Schedule 1 (certification of British films) (as amended by paragraph 2)—
- (a) in the heading, omit “and film tax relief”;
  - (b) in paragraph 1(1), in the definition of “film production company”, omit the words from “or” to the end.

#### *Income and Corporation Taxes Act 1988 (c. 1)*

- 9 (1) Section 826 of ICTA (interest on tax overpaid) is amended as follows.
- (2) In subsection (1), omit paragraphs (f) to (fb).
- (3) In subsection (3C), omit “film tax credit, television tax credit, video game tax credit”.
- (4) In subsection (8A)(b)(ii), omit “or film tax credit or television tax credit or video game tax credit”.
- (5) In subsection (8BA), omit “or film tax credit or television tax credit or video game tax credit” in both places those words occur.

#### *Finance Act 1998 (c. 36)*

- 10 (1) Schedule 18 to FA 1998 (company tax returns) is amended as follows.
- (2) In paragraph 10 (certain claims and elections to be included in tax return), omit sub-paragraphs (5) to (7).
- (3) In paragraph 52 (recovery of excessive payments), in sub-paragraph (2B) (inserted by paragraph 52 of this Schedule), omit paragraphs (b) to (d).
- (4) In paragraph 83S (application of Part 9D), omit sub-paragraphs (a) to (c).

#### *Finance Act 2007 (c. 11)*

- 11 In Schedule 24 to FA 2007 (penalties for errors), in paragraph 28(fa) (meaning of “corporation tax credit”), omit paragraphs (iv) to (ivb).

#### *Corporation Tax Act 2009 (c. 4)*

- 12 (1) CTA 2009 is amended as follows.
- (2) In section 1040ZA (restrictions on claiming other reliefs where R&D relief given), omit subsections (1) to (3).

- (3) In section 1310(4) (orders and regulations subject to affirmative procedure), omit paragraphs (a) to (ej).
- (4) [*Amendments of Schedule 4 will be added.*]

*Finance Act 2009 (c 10)*

- 13 In paragraph 2 of Schedule 54A to FA 2009 (amounts of overpaid repayment interest recoverable as late payment interest), omit paragraphs (e) to (g).

*Corporation Tax Act 2010 (c. 4)*

- 14 (1) CTA 2010 is amended as follows.
- (2) In section 45A(3) (conditions for carrying forward trade loss against total profits), in paragraph (b)(ii), omit “1209, 1216DA, 1217DA,”.
- (3) In section 45B(1) (cases in which trade loss carried forward against trade profits)–
  - (a) in paragraph (d), omit “, 2”;
  - (b) omit Case 2.
- (4) In Part 8B (profits taxable at Northern Ireland rate), omit Chapters 11 to 13.

*Finance Act 2016 (c. 24)*

- 15 In Schedule 24 to FA 2016 (tax advantages constituting the grant of state aid), in Part 1, in the table headed “Creative tax reliefs”, omit the entries for film tax relief, television tax reliefs and video games tax relief.

**PART 5**

COMMENCEMENT AND TRANSITIONAL PROVISION RELATING TO PARTS 1 TO 4

*General commencement*

- 16 (1) No election under section 1179B(1) of CTA 2009 may be made in a company tax return for an accounting period ending before 1 January 2024.
- (2) The amendments made by Part 3 and 4 of this Schedule have effect in relation to accounting periods beginning on or after 1 April 2027.

*Closure of existing regimes to new productions*

- 17 A company is not to be treated as carrying on a separate trade under Part 15, 15A or 15B of CTA 2009 if the trade would be treated under that Part as beginning on or after 1 April 2025.

*Opting into new regime during transitional period*

- 18 (1) If a company makes an election under section 1179B(1) of CTA 2009 in its company tax return for an accounting period beginning before 1 January 2024 –
- (a) Part 14A of CTA 2009 applies further to that election only as respects the portion of the accounting period that falls on or after that date, and
  - (b) the relevant existing regime applies as respects the portion of the accounting period that falls before that date.
- (2) If a company makes an election under section 1179B(1) of CTA 2009 in its company tax return for an accounting period beginning on or after 1 January 2024, the relevant existing regime does not apply in relation to that accounting period or any subsequent accounting period, subject to sub-paragraphs (3) and (4).
- (3) If a company makes an election under section 1179B(1) of CTA 2009 in its company tax return for an accounting period beginning on or before but ending after the relevant closure date, it may further elect in the return for sub-paragraph (4) to apply.
- (4) If it does so –
- (a) Part 14A of CTA 2009 applies further to the election under section 1179B(1) of CTA 2009 only as respects the portion of the accounting period that falls after the relevant closure date, and
  - (b) the relevant existing regime applies as respects the portion of the accounting period that falls on or before that date.
- (5) Where, by virtue of this paragraph, different Parts of CTA 2009 apply as respects different portions of an accounting period, the portions are to be treated as separate accounting periods for the purposes of –
- (a) those Parts, and
  - (b) paragraphs 19 to 24 (but not for other corporation tax purposes).
- (6) For the purposes of this paragraph –
- (a) the “relevant existing regime” means –
    - (i) Part 15 of CTA 2009, if the election under section 1179B(1) of that Act relates to a film;
    - (ii) Part 15A of CTA 2009, if the election under section 1179B(1) of that Act relates to a television programme;
    - (iii) Part 15B of CTA 2009, if the election under section 1179B(1) of that Act relates to a video game;
  - (b) references to the application of the relevant existing regime are to its application in relation to that film, television programme or video game;
  - (c) the “relevant closure date” is –

- (i) 31 March 2025, in the case of a film or television programme whose principal photography has not begun, or a video game whose production has not begun, by the end of that date;
  - (ii) 31 March 2027, in any other case.
- (7) Nothing in this paragraph expands the circumstances in which the relevant existing regime can apply (except by making it apply as respects a portion of an accounting period).

*Productions not moving into new regime*

- 19 (1) Sub-paragraphs (2) and (3) apply if, but for this paragraph, Part 15, 15A or 15B of CTA 2009 would apply to a company in relation to a film, television programme or video game as respects an accounting period beginning on or before but ending after the relevant closure date.
- (2) The company is to be treated for the purposes of the Part in question as if, at the end of the relevant closure date, it—
- (a) ceased the separate trade that it is treated as carrying on under that Part, and
  - (b) abandoned its activities in relation to the film, television programme or video game.
- (3) No election under section 1179B(1) of CTA 2009 may be made in relation to the film, television programme or video game.
- (4) The date that is the relevant closure date for the purposes of paragraph 18 is also the relevant closure date for the purposes of this paragraph.

*Continuity between regimes: taxation as separate trade*

- 20 (1) Sub-paragraphs (2) to (5) apply if—
- (a) a company is treated as carrying on a separate trade under Part 15, 15A or 15B of CTA 2009 in an accounting period (“AP1”),
  - (b) in the next accounting period (“AP2”), the company is treated as carrying on a separate trade under Part 14A of CTA 2009, and
  - (c) both trades relate to the same film, television programme or video game.
- (2) The separate trade that the company is treated as carrying on in AP2 is to be treated as a continuation of the separate trade that the company was treated as carrying on in AP1.
- (3) Accordingly, section 1179BA(2) of CTA 2009 does not apply.
- (4) If a new period of account does not begin when AP2 begins, a new period of account is to be treated as beginning at that time for the purposes of—
- (a) section 1189, 1216BA or 1217BA of CTA 2009 (as it applies in relation to AP1), and
  - (b) section 1179BB of CTA 2009 (as it applies in relation to AP2).

- (5) For the purposes of section 1179BB(3) of CTA 2009 as it applies in relation to AP2, the references to the corresponding amounts for the previous period are to be read as references to the corresponding amounts brought into account under section 1189, 1216BA or 1217BA of that Act for AP1.

*Continuity between regimes: calculation of expenditure credit*

- 21 (1) Sub-paragraphs (3) and (4) apply if –
- (a) a company is entitled to audiovisual expenditure credit or video game expenditure credit under Chapter 3 of Part 14A of CTA 2009 for an accounting period, and
  - (b) in respect of an earlier accounting period, the company was entitled to, and claimed –
    - (i) film tax relief under Chapter 3 of Part 15 of CTA 2009,
    - (ii) television tax relief under Chapter 3 of Part 15A of that Act, or
    - (iii) video games tax relief under Chapter 3 of Part 15 of that Act, and
  - (c) both entitlements relate to the same film, television programme or video game.
- (2) In those sub-paragraphs, the earliest accounting period within sub-paragraph (1)(a) is “AP2” and the latest accounting period within sub-paragraph (1)(b) is “AP1”.
- (3) For the purposes of step 1 in section 1179CA(1) of CTA 2009 as it applies in relation to AP2, the reference to relevant global expenditure includes the amount that was “qualifying expenditure incurred to date” for the purposes of section 1200(1) or (2), 1216CG(1) or (2) or 1217CG(1) or (2) of that Act in relation to AP1.
- (4) For the purposes of step 4 in section 1179CA(1) of CTA 2009 as it applies in relation to AP2, the reference to the company’s qualifying expenditure to date in the accounting period for which it was last entitled to, and claimed, an expenditure credit is to be read as a reference to the amount taken as ‘E’ for the purposes of section 1200(1) or (2), 1216CG(1) or (2) or 1217CG(1) or (2) of that Act in relation to AP1.

*Continuity between regimes: British certification*

- 22 (1) A certificate issued under section 1216CD or 1217CD of CTA 2009 continues to have effect for the purposes of Part 14A of that Act as if it were a certificate issued under section 1179DM or (as the case may be) 1179FF in that Part.
- (2) In relation to such a certificate, the references to revocation or ceasing to be in force in sections 1216EA and 1217EA of CTA 2009 (as they continue to apply in relation to accounting periods beginning before 1 April 2027) include revocation or ceasing to be in force under section 1179DM or (as the case may be) 1179FF of that Act.

- (3) The repeal of Parts 15, 15A and 15B of CTA 2009 does not affect the requirement in section 1213(3), 1216EA(3) or 1217EA(3) of that Act so far as it relates to entitlements in accounting periods beginning before 1 April 2027 (even if the “completion period” begins on or after that date).
- (4) In sections 1216EA(3) and (5) and 1217EA(3) and (5) of CTA 2009 (as they continue to apply in relation to accounting periods beginning before 1 April 2027), the references to a final certificate include reference to a final certificate issued under section 1179DM or (as the case may be) 1179FF of that Act.

*Continuity between regimes: UK expenditure (films and television programmes)*

- 23 The repeal of Parts 15 and 15A of CTA 2009 does not affect the requirement in section 1214(3) or 1216EB(3) of that Act, so far as it relates to entitlements in accounting periods beginning before 1 April 2027 (even if the “completion period” begins on or after that date).

*Transition of video games from European expenditure condition to UK expenditure condition*

- 24 (1) Sub-paragraphs (3) and (4) apply if—
- (a) a company makes an election under section 1179B(1) in relation to a video game in its company tax return for an accounting period (“the opt-in period”),
  - (b) no earlier accounting period was the completion period, and
  - (c) in an earlier accounting period, the company was entitled to, and claimed, special video games relief in respect of that video game.
- (2) In this paragraph, “special video games relief” and “completion period” have the meanings given by section 1217E(1) of CTA 2009.
- (3) Subsections (3) and (4) of section 1217EB of CTA 2009 apply as if the video game had been completed at the end of the accounting period preceding the opt-in period (and, accordingly, as if that period were the completion period).
- (4) In section 1179FI of CTA 2009 as it applies in relation to the video game, the references to core expenditure are to be read as limited to core expenditure incurred in or after the opt-in period.

*Transfer of terminal losses between productions in existing and new regimes*

- 25 (1) In section 1179BG(1)(a) of CTA 2009, the reference to the separate production trade is to be read as including reference to a separate trade carried on under Part 15, 15A or 15B of CTA 2009.
- (2) Section 1179BG(1)(d) of CTA 2009 is to be taken as satisfied where—
- (a) the ceased trade was carried on under Part 15 or 15A of CTA 2009 and the other trade relates to a film or television programme, or
  - (b) the ceased trade was carried on under Part 15B of CTA 2009 and the other trade relates to a video game.

- (3) Paragraphs (a) and (b) of section 1211(1) of CTA 2009 are to be taken as satisfied where a company ceases to carry on a separate production trade under Part 14A of CTA 2009 in relation to a film (and that company and that trade are respectively “company A” and “trade X” in the resulting application of section 1211).
- (4) Paragraphs (a) and (b) of section 1216DC(1) of CTA 2009 are to be taken as satisfied where a company ceases to carry on a separate production trade under Part 14A of CTA 2009 in relation to a television programme (and that company and that trade are respectively “company A” and “trade X” in the resulting application of section 1216DC).
- (5) Paragraphs (a) and (b) of section 1217DC(1) of CTA 2009 are to be taken as satisfied where a company ceases to carry on a separate production trade under Part 14A of CTA 2009 in relation to a video game (and that company and that trade are respectively “company A” and “trade X” in the resulting application of section 1217DC).

## PART 6

### THEATRICAL PRODUCTIONS

#### *Meaning of “theatrical production”*

- 26 (1) Section 1217FA of CTA 2009 (meaning of “theatrical production”) is amended as follows.
  - (2) In subsection (2)–
    - (a) in the words before paragraph (a), for “relevant” substitute “other”;
    - (b) for paragraph (a) substitute–
      - “(a) the primary focus of the play, opera, musical or dramatic piece is the depiction of a story, or a number of related or unrelated stories, through the playing of roles by performers (whether actors, singers, dancers or others),”;
      - (c) after paragraph (ba) (but before the “and” at the end) insert–
        - “(bb) it is reasonable to expect that the main purpose of the audience members will be to observe the performance (rather than, for example, to undertake tasks facilitated or accompanied by the performance),”.
  - (3) Omit subsection (3A).
  - (4) Those amendments have effect in relation to a theatrical production only where the production phase begins on or after 1 April 2024.

#### *Meaning of “core expenditure”*

- 27 (1) In section 1217GC(2) of CTA 2009 (expenditure that is not “core expenditure” on theatrical production), 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*

- 28 In section 1217IC of CTA 2009 (costs of theatrical production), 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*

- 29 (1) Part 15C of CTA 2009 (theatrical productions) is amended as follows.

- (2) In section 1217GB (European expenditure condition)—

- (a) in subsection (1), for “25%” substitute “10%”;  
(b) 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.”

- (3) In each of the following provisions, for “European” (in each place it occurs) substitute “UK”—

- (a) section 1217G(1)(b) (conditions for production to qualify for relief);  
(b) section 1217GB, except subsection (2) (but including the heading and the word “non-European” in subsection (3));  
(c) section 1217N(2) (provisional satisfaction of European expenditure condition);  
(d) section 1217NA(1), (2) and (3) (European expenditure condition provisionally satisfied not later satisfied).

- (4) In section 1217OB (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 1217GB;  
“UK expenditure condition” has the meaning given by section 1217GB.”

- 30 (1) This paragraph makes transitional provision in connection with paragraph 29.

- (2) The amendments made by that paragraph do not apply in relation to a theatrical production if—

- (a) it has entered production before 1 April 2024, and  
(b) the separate theatrical trade in respect of it ceases before 1 April 2025.

- (3) Sub-paragraph (4) applies if—
- (a) a theatrical production has entered production before 1 April 2024,
  - (b) the separate theatrical trade in respect of the production 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 theatrical production incurred before 1 April 2025 that is European expenditure, and
  - (d) that statement shows that, as respects 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 1217H of CTA 2009, or
  - (b) a tax credit under section 1217K 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 1217H 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 1217KA of that Act.
- (6) Sub-paragraph (7) applies in relation to a theatrical production in respect of which the separate theatrical trade continues on or after 1 April 2025.
- (7) The reference in section 1217NA(1) of CTA 2009, as amended by paragraph 29, to a statement having been made under section 1217N(2) of that Act includes reference to a statement having been made in relation to the European expenditure condition under that provision before it was amended by paragraph 29.
- (8) But the application of section 1217NA(1) of CTA 2009 as so amended is subject to sub-paragraph (4) (where that sub-paragraph applies).
- (9) In this paragraph—
- “theatrical production”, “separate theatrical trade”, “production company” and “core expenditure” have the same meanings as in Part 15C of CTA 2009;
  - “UK expenditure condition” has the same meaning as in that Part after the amendments made by paragraph 29;
  - “European expenditure” and “European expenditure condition” have the same meanings as in that Part before the amendments made by paragraph 29.
- (10) For the purposes of this paragraph, a theatrical production “enters production” when core expenditure is first incurred on it.

*EEA expenditure no longer to qualify for relief*

- 31 In section 1217J(2) and (3) of CTA 2009 (amount of relief for theatrical production), for “European” substitute “UK”.
- 32 (1) This paragraph makes transitional provision in connection with paragraph 31.
- (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 1217J of CTA 2009 (amount of relief for theatrical production).
- (4) The references in subsections (2) and (3) of that section (as amended by paragraph 31) 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 theatrical production 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 production as if “2025” were substituted for “2024”.
- (6) In this paragraph –
- “theatrical production”, “production company” and “core expenditure” have the same meanings as in Part 15C of CTA 2009;
- “UK expenditure” has the same meaning as in that Part after the amendments made by paragraph 29;
- “European expenditure” has the same meaning as in that Part before the amendments made by paragraph 29.
- (7) For the purposes of sub-paragraph (5), a theatrical production “enters production” when core expenditure is first incurred on it.

*Certain payments to connected parties no longer to qualify for relief*

- 33 (1) Section 1217JA of CTA 2009 (expenditure on theatrical productions that qualifies for relief) is amended as follows.
- (2) In subsection (2), after paragraph (b) insert –
- “(c) any expenditure to the extent that it represents connected party profit.”
- (3) After subsection (2) insert –
- “(3) For the purposes of subsection (2)(c), expenditure represents connected party profit –

- (a) if it is a payment, or other transfer of value, to a person (“C”) in exchange for something supplied by that person,
  - (b) if the company is connected with C, and
  - (c) if, and to the extent that, the amount of the payment or value exceeds the expenditure incurred by C in supplying that thing.
- (4) If—
- (a) the supply by C to the production company is one of a sequence of transactions in which the thing supplied has been supplied by one person to another, and
  - (b) each transacting party in the sequence is connected to at least one other transacting party in the sequence,
- the reference to C in subsection (3)(c) is to be read as a reference to the supplier in the first transaction in that sequence.”
- (4) Those amendments have effect in relation to expenditure incurred on or after 1 April 2024.

*Relief to be available only for going concerns*

- 34 (1) After section 1217KC of CTA 2009 insert—

*“Restriction of relief to going concerns*

**1217KD No claim if company not going concern**

- (1) A company may make a claim under section 1217H or section 1217K only at a time when it is a going concern.
- (2) For the purposes of this section, a company is a going concern if—
  - (a) its latest published accounts were prepared on a going concern basis, and
  - (b) nothing in those accounts indicates that they were prepared on that basis only because of an entitlement or expected entitlement to relief under this Part.
- (3) But a company is not a going concern if it is in administration or liquidation.
- (4) 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.
- (5) 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.
- (6) If—
- (a) a company transfers the separate theatrical trade to another company that is a member of the same group of companies for the purposes of Part 5 of CTA 2010 (group relief), and
  - (b) only by reason of that transfer, the transferring company’s accounts are not prepared on a going concern basis,
- the accounts are to be treated for the purposes of subsection (2) as if they were prepared on a going concern basis.
- (7) For the purposes of subsection (6), a company transfers the separate theatrical trade to another company if, as a result of any transaction or sequence of transactions between the companies, the first company ceases to carry on the separate theatrical trade and the other company begins to carry on (in the course of a trade) the activities that comprised that trade.
- (8) Section 436(2) of the Companies Act 2006 (meaning of “publication” of documents) has effect for the purposes of this section.”
- (2) That amendment has effect in relation to claims made on or after 1 April 2024.

## PART 7

### ORCHESTRAL CONCERTS

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

- 35 (1) In section 1217QA of CTA 2009 (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 only if the first concert in the series takes place on or after 1 April 2024.

#### *Meaning of “core expenditure”*

- 36 (1) In section 1217RC(3) of CTA 2009 (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*

- 37 In section 1217QD of CTA 2009 (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*

- 38 (1) Part 15D of CTA 2009 (orchestral concerts) is amended as follows.
- (2) In section 1217RB (European expenditure condition)—
- (a) in subsection (1), for “25%” substitute “10%”;
  - (b) 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.”
- (3) 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 1217RB (European expenditure condition), except subsection (2) (but including the heading and the word “non-European” in subsection (3));
  - (c) section 1217T(2) (provisional satisfaction of European expenditure condition);
  - (d) section 1217TA(1), (2) and (3) (European expenditure condition provisionally satisfied not later satisfied).
- (4) 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 1217GB;  
 “UK expenditure condition” has the meaning given by section 1217GB.”

- 39 (1) This paragraph makes transitional provision in relation to paragraph 38.
- (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, as respects 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 38(3)(d), to a statement having been made under section 1217I(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 38;
  - “European expenditure” and “European expenditure condition” have the same meanings as in that Part before the amendments made by paragraph 38.
- (10) For the purposes of this paragraph, an orchestral concert or concert series “enters production” when core expenditure is first incurred on it.

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*EEA expenditure no longer to qualify for relief*

- 40 In section 1217RE(2) and (3) of CTA 2009 (amount of relief for orchestral concert), for “European” substitute “UK”.
- 41 (1) This paragraph makes transitional provision in connection with paragraph 40.
- (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 40) 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 38;
- “European expenditure” has the same meaning as in that Part before the amendments made by paragraph 38.
- (7) For the purposes of sub-paragraph (5), an orchestral concert or concert series “enters production” when core expenditure is first incurred on it.

*Certain payments to connected parties no longer to qualify for relief*

- 42 (1) Section 1217RF of CTA 2009 (expenditure that qualifies for orchestra tax relief) is amended as follows.
- (2) In subsection (2) –
- (a) omit the “and” at the end of paragraph (a);
- (b) at the end of paragraph (b) insert “, and
- (c) does not represent connected party profit.”



- (3) After subsection (2) insert—
- “(3) For the purposes of subsection (2)(c), expenditure represents connected party profit—
- (a) if it is a payment, or other transfer of value, 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 or value exceeds the expenditure incurred by C in supplying, transferring or doing that thing.
- (4) If—
- (a) the supply by C to the production company is one of a sequence of transactions in which the thing supplied has been supplied by one person to another, and
  - (b) each transacting party in the sequence is connected to at least one other transacting party in the sequence,
- the reference to C in subsection (3)(c) is to be read as a reference to the supplier in the first transaction in that sequence.”
- (4) Those amendments have effect in relation to expenditure incurred on or after 1 April 2024.

*Relief to be available only for going concerns*

- 43 (1) After section 1217RK of CTA 2009 insert—

*“Restriction of relief to going concerns*

**1217RKA No claim if company not going concern**

- (1) A company may make a claim under section 1217RD or section 1217RG only at a time when it is a going concern.
- (2) For the purposes of this section, a company is a going concern if—
  - (a) its latest published accounts were prepared on a going concern basis, and
  - (b) nothing in those accounts indicates that they were prepared on that basis only because of an entitlement or expected entitlement to relief under this Part.
- (3) But a company is not a going concern if it is in administration or liquidation.
- (4) 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.
- (5) 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.
- (6) If—
  - (a) a company transfers the separate orchestral trade to another company that is a member of the same group of companies for the purposes of Part 5 of CTA 2010 (group relief), and
  - (b) only by reason of that transfer, the transferring company’s accounts are not prepared on a going concern basis,
 the accounts are to be treated for the purposes of subsection (2) as if they were prepared on a going concern basis.
- (7) For the purposes of subsection (6), a company transfers the separate orchestral trade to another company if, as a result of any transaction or sequence of transactions between the companies, the first company ceases to carry on the separate orchestral trade and the other company begins to carry on (in the course of a trade) the activities that comprised that trade.
- (8) Section 436(2) of the Companies Act 2006 (meaning of “publication” of documents) has effect for the purposes of this section.”
- (2) That amendment has effect in relation to claims made on or after 1 April 2024.

## PART 8

### MUSEUM AND GALLERY EXHIBITIONS

#### *Museum and gallery exhibitions not to be wholly remote*

- 44 (1) In section 1218ZAA of CTA 2009 (meaning of “exhibition”), after subsection (4) insert—
  - “(4A) “Admitted” means admitted in person to the venue where the objects or works are displayed.”
- (2) That amendment has effect in relation to an exhibition only where the production phase begins on or after 1 April 2024.

#### *Meaning of “core expenditure”*

- 45 (1) In section 1218ZCD(7) of CTA 2009 (expenditure that is not “core expenditure” on museum or gallery exhibition), in paragraph (a), for “and

promotional events” substitute “, promotional events, and the provision of incidental goods or services to visitors”.

- (2) That amendment has effect in relation to expenditure incurred on or after 1 April 2024.

*UK expenditure threshold to replace European expenditure threshold*

46 (1) Part 15E of CTA 2009 (museum and gallery exhibitions) is amended as follows.

(2) In section 1218ZCC (European expenditure condition) –

- (a) in subsection (1), for “25%” substitute “10%”;  
(b) 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.”

(3) In each of the following provisions, for “European” (in each place it occurs) substitute “UK” –

- (a) section 1218ZCA(4) (need to meet European expenditure condition to qualify for relief);  
(b) section 1218ZCC (European expenditure condition), except subsection (2) (but including the heading and the word “non-European” in subsection (3));  
(c) section 1218ZE(2) (provisional satisfaction of European expenditure condition);  
(d) section 1218ZEA(1), (2) and (3) (European expenditure condition provisionally satisfied not later satisfied).

(4) In section 1218ZFA (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 1217GB;  
“UK expenditure condition” has the meaning given by section 1217GB.”

47 (1) This paragraph makes transitional provision in relation to paragraph 46.

(2) The amendments made by that paragraph do not have effect in relation to an exhibition if –

- (a) it has entered production before 1 April 2024, and  
(b) the separate exhibition trade in respect of it ceases before 1 April 2025.

(3) Sub-paragraph (4) applies if –

- (a) an exhibition has entered production before 1 April 2024,  
(b) the separate exhibition trade in respect of the exhibition 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 exhibition incurred before 1 April 2025 that is European expenditure, and
  - (d) that statement shows that, as respects 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 1218ZCE of CTA 2009, or
  - (b) a tax credit under section 1218ZCH 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 1218ZCH 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 1218ZCI of that Act.
- (6) Sub-paragraph (7) applies in relation to an exhibition in respect of which the separate exhibition trade continues on or after 1 April 2025.
- (7) The reference in section 1218ZEA(1) of CTA 2009, as amended by paragraph 46(3)(d), to a statement having been made under section 1218ZE(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 1218ZEA(1) of CTA 2009 as so amended is subject to sub-paragraph (4) (where that sub-paragraph applies).
- (9) In this paragraph—
- “exhibition”, “separate exhibition trade”, “production company” and “core expenditure” have the same meanings as in Part 15E of CTA 2009;
  - “UK expenditure” and “UK expenditure condition” have the same meanings as in that Part after the amendments made by paragraph 46;
  - “European expenditure” and “European expenditure condition” have the same meanings as in that Part before the amendments made by paragraph 46.
- (10) For the purposes of this paragraph, an exhibition “enters production” when core expenditure is first incurred on it.

*EEA expenditure no longer to qualify for relief*

- 48 In section 1218ZCF(2) and (3) (amount of relief for museum or gallery exhibition), for “European” substitute “UK”.

- 49 (1) This paragraph makes transitional provision in connection with paragraph 48.
- (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 1218ZCF of CTA 2009 (amount of relief for museum or gallery exhibition).
- (4) The references in subsections (2) and (3) of that section (as amended by paragraph 48) 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 exhibition 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 exhibition as if “2025” were substituted for “2024”.
- (6) In this paragraph –
- “exhibition”, “production company” and “core expenditure” have the same meanings as in Part 15E of CTA 2009;
- “UK expenditure” has the same meaning as in that Part after the amendments made by paragraph 46;
- “European expenditure” has the same meanings as in that Part before the amendments made by paragraph 46.
- (7) For the purposes of sub-paragraph (5), an exhibition “enters production” when core expenditure is first incurred on it.

*Certain payments to connected parties no longer to qualify for relief*

- 50 (1) Section 1218ZCG of CTA 2009 (expenditure that qualifies for museums and galleries exhibition tax relief) is amended as follows.
- (2) In subsection (1), after paragraph (b) (but before the “and” at the end) insert –
- “(ba) does not represent connected party profit;”
- (3) After subsection (2) insert –
- “(2A) For the purposes of subsection (1)(ba), expenditure represents connected party profit –
- (a) if it is a payment, or other transfer of value, 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 or value exceeds the expenditure incurred by C in supplying, transferring or doing that thing.
- (2B) If—
  - (a) the supply by C to the production company is one of a sequence of transactions in which the thing supplied has been supplied by one person to another, and
  - (b) each transacting party in the sequence is connected to at least one other transacting party in the sequence,
 the reference to C in subsection (2A)(c) is to be read as a reference to the supplier in the first transaction in that sequence.”
- (4) Those amendments have effect in relation to expenditure incurred on or after 1 April 2024.

*Relief to be available only for going concerns*

- 51 (1) After section 1218ZCL of CTA 2009 insert—

*“Restriction of relief to going concerns*

**1218ZCLA No claim if company not going concern**

- (1) A company may make a claim under section 1218ZCE or section 1218ZCH only at a time when it is a going concern.
- (2) For the purposes of this section, a company is a going concern if—
  - (a) its latest published accounts were prepared on a going concern basis, and
  - (b) nothing in those accounts indicates that they were prepared on that basis only because of an entitlement or expected entitlement to relief under this Part.
- (3) But a company is not a going concern if it is in administration or liquidation.
- (4) 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.
- (5) 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.

- (6) If—
    - (a) a company transfers the separate exhibition trade to another company that is a member of the same group of companies for the purposes of Part 5 of CTA 2010 (group relief), and
    - (b) only by reason of that transfer, the transferring company’s accounts are not prepared on a going concern basis,  
the accounts are to be treated for the purposes of subsection (2) as if they were prepared on a going concern basis.
  - (7) For the purposes of subsection (6), a company transfers the separate exhibition trade to another company if, as a result of any transaction or sequence of transactions between the companies, the first company ceases to carry on the separate exhibition trade and the other company begins to carry on (in the course of a trade) the activities that comprised that trade.
  - (8) Section 436(2) of the Companies Act 2006 (meaning of “publication” of documents) has effect for the purposes of this section.”
- (2) That amendment has effect in relation to claims made on or after 1 April 2024.

## PART 9

### GENERAL ADMINISTRATIVE MATTERS

#### *Power to recover overpaid credit*

- 52 (1) In paragraph 52 of Schedule 18 to FA 1998 (recovery of excessive payments)—
- (a) in sub-paragraph (1), in the words before paragraph (a), for “paragraph” substitute “sub-paragraph”;
  - (b) in sub-paragraph (2)—
    - (i) for “This paragraph” substitute “Sub-paragraph (1)”;
    - (ii) omit paragraphs (bd) to (bi);
  - (c) in sub-paragraph (2A), after paragraph (c) insert—  
“(d) creative sector credit”;
  - (d) after sub-paragraph (2A) insert—  
“(2B) In this paragraph, “creative sector credit” means—
    - (a) audiovisual expenditure credit or video game expenditure credit under Chapter 3 of Part 14A of the Corporation Tax Act 2009,
    - (b) film tax credit under Part 15 of that Act,
    - (c) television tax credit under Part 15A of that Act,
    - (d) video game credit under Part 15B of that Act,
    - (e) theatre tax credit under Part 15C of that Act,
    - (f) orchestra tax credit under Part 15D of that Act, or

- (g) museums and galleries exhibition credit under Part 15E of that Act.”;
- (e) in sub-paragraph (5) –
  - (i) omit paragraphs (ae) and (ag) to (ak);
  - (ii) before paragraph (b) insert –
    - “(al) an amount of creative sector credit paid to a company for an accounting period, or”;
  - (iii) in the words after paragraph (b), for the words from “the” to the end substitute “that accounting period”.
- (2) Those amendments have effect in relation to accounting periods beginning on or after 1 April 2024.

*Time limit for claims*

- 53 (1) In paragraph 83W(1) of Schedule 18 to FA 1998 (time limits for claims under Parts 15 to 15E of CTA 2009), for the words from “first” to the end substitute “end of the period of –
- (a) two years beginning with the last day of the period of account to which the claim relates, in a case where that period is not longer than 18 months, or
  - (b) 42 months beginning with the first day of the period of account to which the claim relates, in any other case.”
- (2) That amendment has effect in relation to accounting periods beginning on or after 1 April 2024.