



# Capital Allowances Act 1990

## 1990 CHAPTER 1

### PART II

#### MACHINERY AND PLANT

### CHAPTER VII

#### MISCELLANEOUS EXPENDITURE

#### **68 Exclusion of certain expenditure relating to films, tapes and discs**

(1) Expenditure which—

- (a) is incurred on the production or acquisition of a film, tape or disc, and
- (b) would, apart from this subsection, constitute capital expenditure on the provision of machinery or plant for the purposes of this Part,

shall be regarded for the purposes of the Tax Acts as expenditure of a revenue nature unless it is expenditure falling within subsection (9) below.

(2) In this section—

- (a) any reference to a film is a reference to an original master negative of the film and its soundtrack, if any;
- (b) any reference to a tape is a reference to an original master film tape or original master audio tape; and
- (c) any reference to a disc is a reference to an original master film disc or original master audio disc;

and any reference to the acquisition of a film, tape or disc includes a reference to the acquisition of any description of rights in a film, tape or disc.

(3) Subject to the following provisions of this section, in computing the profits or gains accruing to any person from a trade or business which consists of or includes the exploitation of a film, tape or disc, expenditure which—

- (a) is incurred on the production or acquisition of a film, tape or disc, and

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*Status: This is the original version (as it was originally enacted).*

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- (b) is expenditure of a revenue nature (whether by virtue of subsection (1) above or otherwise),
- shall be allocated to relevant periods in accordance with subsections (4) to (6) below; and in this section “relevant period” means a period for which the accounts of the trade or business concerned are made up or, if those accounts are not made up for any period, a period the profits or gains of which are taken into account in assessing the income of the trade or business for any chargeable period.
- (4) Subject to the following provisions of this section, the amount of expenditure falling within subsection (3) above which falls to be allocated to any relevant period shall be such as is just and reasonable, having regard to—
- (a) the amount of that expenditure which remains unallocated at the beginning of that period;
  - (b) the proportion which the estimated value of the film, tape or disc which is realised in that period (whether by way of income or otherwise) bears to the aggregate of the value so realised and the estimated remaining value of the film, tape or disc at the end of that period; and
  - (c) the need to bring the whole of the expenditure falling within subsection (3) above into account over the time during which the value of the film, tape or disc is expected to be realised.
- (5) In addition to any expenditure which is allocated to a relevant period in accordance with subsection (4) above, if a claim is made in that behalf not later than two years after the end of that period, there shall also be allocated to that period so much of the unallocated expenditure as is specified in the claim and does not exceed the difference between—
- (a) the amount allocated to that period in accordance with subsection (4) above; and
  - (b) the value of the film, tape or disc which is realised in that period (whether by way of income or otherwise).
- (6) As respects any relevant period, “the unallocated expenditure” referred to in subsection (5) above is that expenditure falling within subsection (3) above—
- (a) which does not fall to be allocated to that period in accordance with subsection (4) above; and
  - (b) which has not been allocated to any earlier relevant period in accordance with subsection (4) or (5) above.
- (7) Subsections (3) to (6) above do not apply to the profits or gains of a trade in which the film, tape or disc concerned constitutes trading stock, as defined in section 100(2) of the principal Act.
- (8) In a case where any expenditure on the production or acquisition of a film, tape or disc is expenditure to which subsection (1) above applies, the sums received from the disposal of that film, tape or disc shall be regarded for the purposes of the Tax Acts as receipts of a revenue nature (if they would not be so regarded apart from this subsection); and the reference in this subsection to sums received from the disposal of any film, tape or disc shall be construed as including—
- (a) sums received from the disposal of any interest or right in or over the film, tape or disc, including an interest or right created by the disposal; and
  - (b) insurance or compensation moneys and other moneys of a like nature which are derived from the film, tape or disc.

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- (9) Subsections (1) to (8) above do not apply to expenditure which is incurred—
- (a) by a person who carries on a trade or business which consists of or includes the exploitation of films, tapes or discs; and
  - (b) on the production or acquisition of a film, tape or disc which is certified by the Secretary of State under Schedule 1 to the Films Act 1985 as a qualifying film, tape or disc for the purposes of this section and the value of which is expected to be realisable over a period of not less than two years.
- (10) In this section “expenditure of a revenue nature” means expenditure which, if it were incurred in the course of a trade the profits or gains of which are chargeable to tax under Case I of Schedule D, would be taken into account for the purpose of computing the profits, gains or losses of the trade; and “receipts of a revenue nature” means receipts which, if they were receipts of such a trade, would be taken into account for that purpose.