



Finance Act 2006

2006 CHAPTER 25

PART 3

INCOME TAX, CORPORATION TAX AND CAPITAL GAINS TAX

CHAPTER 3

FILMS AND SOUND RECORDINGS

Film losses

43 Films: restriction on use of losses while film in production

- (1) This section applies to restrict the use that may be made of a film production company's trading loss for an accounting period before—
 - (a) that in which the film is completed, or
 - (b) where the company does not complete the film, that in which it abandons film-making activities in relation to the film.
- (2) A trading loss for such a period is not available for loss relief except to the extent that it may be carried forward under section 393(1) of ICTA to be set against profits of the same trade in a later period.
- (3) In this section “loss relief” includes any means by which a loss might be used to reduce the amount in respect of which the film production company, or any other person, is chargeable to tax.

44 Films: use of losses in later periods

- (1) This section applies—
 - (a) to the accounting period—
 - (i) in which the film is completed, or

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- (ii) if the film production company does not complete the film, in which it abandons film-making activities in relation to the film, and
 - (b) to any subsequent accounting period during which the trade continues.
- (2) Where a trading loss is carried forward to any such period under section 393(1) of ICTA from an earlier period in relation to which section 43 applied (restriction on use of losses while film is in production), so much (if any) of the loss as is not attributable to film tax relief may be treated for the purposes of loss relief as if it were a loss incurred in the period to which it is carried forward.
- (3) The amount of the trading loss for an accounting period to which this section applies that may be—
 - (a) set against other profits of the same or an earlier period under section 393A of ICTA, or
 - (b) surrendered as group relief under section 403 of that Act,
 - is restricted to the amount (if any) that is not attributable to film tax relief.
- (4) For the purposes of this section the amount of a trading loss in any period that is attributable to film tax relief is calculated by deducting from the total amount of the loss the amount there would have been if there had been no additional deduction under Schedule 5 in that or any earlier period.
- (5) In this section “loss relief” includes any means by which a loss might be used to reduce the amount in respect of which the film production company, or any other person, is chargeable to tax.
- (6) This section does not apply to a loss to the extent that it is carried forward or surrendered under section 45 (terminal losses).

45 Films: terminal losses

- (1) This section applies where—
 - (a) a film production company (“company A”) ceases to carry on a trade in relation to a qualifying film, and
 - (b) if the company had not ceased to carry on the trade, it could have carried forward an amount under section 393(1) of ICTA 1988 to be set against profits of the same trade in a later period (the “terminal loss”).
- (2) If on cessation of the trade company A is carrying on a trade in relation to another qualifying film, it may on making a claim elect that the terminal loss or a part of it shall be treated as if it were a loss brought forward under section 393(1) to be set against profits of that other trade in the accounting period following that at the end of which the cessation takes place.
- (3) If on cessation of the trade carried on by company A there is another film production company (“company B”) which—
 - (a) is carrying on a trade in relation to a qualifying film (its “qualifying trade”), and
 - (b) is in the same group as company A for the purposes of Chapter 4 of Part 10 of ICTA (group relief),
 the whole or part of the terminal loss may be surrendered by company A to company B.

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- (4) On the making of a claim by company B the amount surrendered shall be treated as if it were a loss brought forward by that company under section 393(1) to be set against the profits of its qualifying trade for the accounting period of that company following that in which or at the end of which the cessation takes place of the qualifying trade carried on by company A.
- (5) The Treasury may, in relation to the surrender of a loss under subsection (3) and the resulting claim under subsection (4), make provision by regulations corresponding, subject to such adaptations or other modifications as appear to them to be appropriate, to that made by Part 8 of Schedule 18 to FA 1998 (company tax returns: claims for group relief).
- (6) In this section—
- (a) references to the trade carried on by a film production company in relation to a film are to the trade that it is treated as carrying on under Schedule 4, and
 - (b) references to a qualifying film are to a film that meets the conditions for film tax relief (see section 38).

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