

SCHEDULES

SCHEDULE 4

Section 37

TAXATION OF ACTIVITIES OF FILM PRODUCTION COMPANY

Films to which this Schedule applies

- 1 The provisions of this Schedule apply in relation to films that commence principal photography on or after 1st April 2006.

Activities treated as separate trade

- 2 The activities of the film production company in relation to such a film are treated as a trade separate from any other activities of the company (and from any activities in relation to any other film).

When the trade begins

- 3 The film production company is treated as starting to carry on the trade—
 - (a) when pre-production of the film begins, or
 - (b) if earlier, when any income from the film is received by the company.

Pre-trading expenditure

- 4 (1) Where a company incurs expenditure on development of a film and subsequently begins to carry on a trade as the film production company in relation to the film, the expenditure may be treated as expenditure of that trade and as if incurred immediately after the company began to carry it on.
 - (2) If expenditure so treated has previously been taken into account for other tax purposes, the company must amend any relevant company tax return accordingly.
 - (3) Any amendment or assessment necessary to give effect to sub-paragraph (2) may be made notwithstanding any limitation on the time within which an amendment or assessment may normally be made.

Costs of the film

- 5 (1) References in this Schedule to the costs of the film are to expenditure incurred by the company on—
 - (a) film-making activities in connection with the film, or
 - (b) activities with a view to exploiting the film.
- (2) This is subject to any provision of the Corporation Tax Acts prohibiting the making of a deduction, or restricting the extent to which a deduction is allowed, in calculating the profits of a trade.

Status: This is the original version (as it was originally enacted).

- (3) Expenditure that (apart from this provision) would be regarded as of a capital nature by reason only of being incurred on the creation of an asset (the film) is treated as being of a revenue nature.

Income from the film

- 6 (1) References in this Schedule to income from the film are to any receipts by the company in connection with the making or exploitation of the film.
- (2) This includes—
- (a) receipts from the sale of the film or rights in it;
 - (b) royalties or other payments for use of the film or aspects of it (for example, characters or music);
 - (c) payments for rights to produce games or other merchandise;
 - (d) receipts by the company by way of a profit share agreement.
- (3) Receipts that (apart from this provision) would be regarded as of a capital nature are treated as being of a revenue nature.

Calculation of profit or loss

- 7 (1) For the first period of account there shall be brought into account in determining profit or loss—
- (a) as a debit, the costs of the film incurred (and represented in work done) to date, and
 - (b) as a credit, the proportion of the estimated total income from the film treated as earned at the end of that period.
- (2) For any period of account after the first there shall be brought into account in determining profit or loss—
- (a) as a debit, the difference between the amount of the costs of the film incurred (and represented in work done) to date and the corresponding amount for the previous period, and
 - (b) as a credit, the difference between the proportion of the estimated total income from the film treated as earned at the end of that period and the corresponding amount for the previous period.
- (3) The proportion of estimated total income treated as earned at the end of any period of account is determined using the formula:

$$\frac{C}{T} \times I$$

where—

- C is the total to date of costs incurred (and reflected in work done),
- T is the estimated total cost of the film, and
- I is the estimated total income from the film.

Estimates

- 8 Estimates for the purposes of this Schedule must be made as at the balance sheet date for each period of account, on a fair and reasonable basis taking into consideration all relevant circumstances.

When costs are taken to be incurred

- 9 (1) For the purposes of this Schedule 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 ignored until the work has been carried out, and
 - (b) deferred payments are recognised to the extent that the work is represented in the state of completion.
- (3) The costs incurred on a film shall be taken to include an amount that has not been paid only if it is the subject of an unconditional obligation to pay.
- (4) Where an obligation is linked to income being earned from the film 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.

Exclusion of expenditure relieved under other provisions

- 10 Expenditure in respect of which relief has been given under—
- (a) section 40B, 41 or 42 of F(No.2)A 1992,
 - (b) section 48 of F(No.2)A 1997, or
 - (c) section 135, 136 to 138A or 139 to 142 of ITTOIA 2005,
- shall not be taken into account for the purposes of this Schedule.