

CORPORATION TAX ACT 2009

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 15: Film production

Overview

Chapter 2: Taxation of activities of film production company

Section 1188: Activities of film production company treated as a separate trade

3021. This section treats a film production company's activities in relation to the film as a separate trade for corporation tax purposes and provides for when that trade is treated as starting. It is based on section 37 of, and paragraphs 2 and 3 of Schedule 4 to, FA 2006.
3022. *Subsection (3)* introduces the label "the separate film trade" in this Chapter as a means of avoiding cumbersome references such as "the separate trade that a film production company is treated as carrying on in relation to the film in respect of which it is the film production company".

Section 1189: Calculation of profits or losses of separate film trade

3023. This section provides rules for bringing into account income from the film (as defined) and costs of the film (as defined) in calculating the profit or loss of the separate film trade for a period of account. It is based on paragraph 7 of Schedule 4 to FA 2006.

Section 1190: Income from the film

3024. This section gives the meaning in this Chapter of the term "income from the film". It is based on paragraph 6 of Schedule 4 to FA 2006.
3025. *Subsection (3)* provides that capital receipts are treated as having a revenue nature for this purpose. So, for instance, all receipts from the sale of the film will be treated as income for the purposes of this section.

Section 1191: Costs of the film

3026. This section gives the meaning in this Chapter of the term "costs of the film". It is based on paragraph 5 of Schedule 4 to FA 2006.
3027. *Subsection (3)* prevents expenditure being treated as capital purely because it is on the creation of the film. It does not therefore apply to, say, capital expenditure on plant and machinery since that would be capital regardless of the creation of the film.

Section 1192: When costs are taken to be incurred

3028. This section makes provision about when costs are taken to be incurred. It is based on paragraph 9 of Schedule 4 to FA 2006.

*These notes refer to the Corporation Tax Act 2009
(c.4) which received Royal Assent on 26 March 2009*

3029. To prevent avoidance costs are, for instance, not to be treated as incurred before they are the subject of an unconditional obligation and are reflected in the state of completion of the work in progress.

Section 1193: Pre-trading expenditure

3030. This section allows expenditure incurred on development of the film, but before the separate film trade starts, to be treated as incurred immediately after the separate film trade starts. It is based on paragraph 4 of Schedule 4 to FA 2006.
3031. If pre-trading expenditure is treated in this fashion, the company must amend any company tax returns that have previously taken account of the same expenditure.

Section 1194: Estimates

3032. This section provides that estimates for the purposes of this Chapter are to be made at the balance sheet date and on a just and reasonable basis. It is based on paragraph 8 of Schedule 4 to FA 2006.
3033. The section provides that any estimate is to be made on a “just and reasonable basis”. The source legislation refers to “fair and reasonable”. The formulation used in this section has generally been adopted in ITTOIA and ITA. See *Change 12* in Annex 1.