

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

CORPORATION TAX ACT 2009

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 15: Film production

Overview

Chapter 3: Film tax relief

Section 1195: Availability and overview of film tax relief

3034. This section gives an overview of the Chapter and gives signposts to film tax relief and to the three conditions that must be satisfied in order for the relief to be available. It is new.

Section 1196: Intended theatrical release

3035. This section sets out the condition about intended theatrical release. It is based on section 39 of FA 2006.

Section 1197: British film

3036. This section sets out the condition about certification as a British film. It is based on section 40 of FA 2006.

Section 1198: UK expenditure

3037. This section sets out conditions about the minimum percentage of core expenditure that must be UK expenditure and gives the Treasury power to alter that percentage. It is based on section 41 of FA 2006.

Section 1199: Additional deduction for qualifying expenditure

3038. This section allows a company, entitled to film tax relief, to claim additional trading deductions in respect of core expenditure on the film and gives the Treasury powers in relation to such additional deductions. It is based on paragraphs 1 to 3 of Schedule 5 to FA 2006.

Section 1200: Amount of additional deduction

3039. This section sets out the amount of additional deduction for which a claim may be made under section 1199 and gives the Treasury power to alter the percentages in subsections (1) and (2). It is based on paragraphs 4 and 5 of Schedule 5 to FA 2006.

3040. *Subsection (3)* provides for a higher rate of enhancement if the film is a limited-budget film.

Section 1201: Film tax credit claimable if company has surrenderable loss

3041. This section allows a company, entitled to film tax relief, to surrender a tax loss for a payment if it has a surrenderable loss for the accounting period concerned. It is based on paragraph 6 of Schedule 5 to FA 2006.

Section 1202: Surrendering of loss and amount of film tax credit

3042. This section allows a company to claim a film tax credit for only part of its surrenderable loss and quantifies the film tax credit. It is based on paragraphs 7, 8 and 11 of Schedule 5 to FA 2006.

3043. *Subsection (3)* provides for a higher payable credit rate if the film is a limited-budget film.

3044. *Subsection (4)* provides that the company's loss is reduced by the amount for which it claims a film tax credit.

Section 1203: Payment in respect of film tax credit

3045. This section requires the Commissioners for HMRC to pay to the company any film tax credit to which it is entitled and for which a claim has been made. It is based on paragraphs 9, 10 and 14 of Schedule 5 to FA 2006.

3046. Various circumstances in which a payment need not be made are set out. These include cases where the company has not yet made certain payments that it is required to make.

3047. *Subsection (5)* provides that a payment in respect of film tax credit does not count as income of the company.

Section 1204: No account to be taken of amount if unpaid

3048. This section requires costs that remain unpaid four months after the end of a period of account to be treated, for the purposes of this Chapter, as if they had not been incurred by the end of that period. It is based on paragraph 12 of Schedule 5 to FA 2006.

3049. The restriction in this section is additional to that in section 1192. Section 1192 is concerned with whether, and when, a trading deduction may be made in respect of expenditure in calculating the profit or loss of the single film trade. The further restriction in this section applies in deciding whether (and, if so, how much of) an additional trading deduction may be claimed or a trading loss may be surrendered for payment.

Section 1205: Artificially inflated claims for additional deduction or film tax credit

3050. This section requires transactions to be ignored for film tax relief purposes if they are attributable to arrangements whose sole or main purpose is obtaining, or increasing, entitlement to that relief. It is based on paragraph 13 of Schedule 5 to FA 2006.

Section 1206: Confidentiality of information

3051. This section permits disclosure of information by HMRC for the purpose of the Secretary of State's functions relating to certification of films, but prevents the recipient of such information making further disclosure except in specified cases. It is based on paragraph 24 of Schedule 5 to FA 2006.

Section 1207: Wrongful disclosure

3052. This section makes it an offence to disclose information in contravention of section 1206(3) if the disclosure reveals, or one can deduce, the identity of the person to whom the information relates. It is based on paragraph 25 of Schedule 5 to FA 2006.

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3053. *Subsection (6)(b)* does not reproduce the reference to “Scotland” in paragraph 25(7) of Schedule 5 to FA 2006. That is because section 45(1) of the [Criminal Proceedings etc \(Reform\) \(Scotland\) Act 2007 \(ASP 6\)](#) (brought into force on 10 December 2007) has the effect that the 12 month limit in paragraph 25(4)(b) of Schedule 5 to FA 2006 applies in Scotland.