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SCHEDULES

SCHEDULE 4

Section 36

TAX RELIEF FOR THEATRICAL PRODUCTION

PART 1

AMENDMENTS OF CTA 2009

1 Before Part 16 of CTA 2009 insert—

“PART 15C

THEATRICAL PRODUCTIONS

Introduction

Overview

1217(F) This Part contains provision about tax relief for production companies in respect of their theatrical productions.

- (2) Sections 1217FA to 1217FC define “production company” and “theatrical production”.
- (3) Section 1217G sets out the conditions a production company must meet to qualify for relief in relation to its theatrical production.
- (4) Section 1217H provides for relief by way of additional deductions in respect of certain expenditure (and section 1217J is about the amount of the additional deduction).
- (5) This Part also contains provision—
 - (a) for a company that claims relief to be treated as carrying on a separate trade relating to the theatrical production (see section 1217H(3)), and
 - (b) about the calculation of the profits and losses of that trade (see sections 1217I to 1217IF).
- (6) Sections 1217K to 1217KC—
 - (a) provide for relief by way of payments (called “theatre tax credits”) to be made on the company's surrender of certain losses of that trade, and
 - (b) set out an upper limit on relief, in connection with State aid legislation.

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- (7) Sections 1217LA and 1217LB are about certain cases involving tax avoidance arrangements or arrangements entered into otherwise than for genuine commercial reasons.
- (8) Sections 1217M to 1217MC contain provision about the use of losses of the separate trade (including provision about relief for terminal losses).
- (9) Sections 1217N and 1217NA are concerned with the provisional nature of relief given for periods preceding the period in which the company ceases to carry on the separate theatrical trade.

“Theatrical production”

1217FA(1) In this Part “theatrical production” means a dramatic production or a ballet (and any ballet is therefore a theatrical production, whether or not it is also a dramatic production).

But see section 1217FB.

- (2) “Dramatic production” means a production of a play, opera, musical, or other dramatic piece (whether or not involving improvisation) in relation to which the following conditions are met—
 - (a) the actors, singers, dancers or other performers are to give their performances wholly or mainly through the playing of roles,
 - (b) each performance in the proposed run of performances is to be live, and
 - (c) the presentation of live performances is the main object, or one of the main objects, of the company's activities in relation to the production.
- (3) “Dramatic piece” may also include, for example, a show that is to be performed by a circus.
- (4) For the purposes of this section a performance is “live” if it is to an audience before whom the performers are actually present.

Productions not regarded as theatrical

1217FB(1) A dramatic production or ballet is not regarded as a theatrical production if—

- (a) the main purpose, or one of the main purposes, for which it is made is to advertise or promote any goods or services,
 - (b) the performances are to consist of or include a competition or contest,
 - (c) a wild animal is to be used in any performance,
 - (d) the production is of a sexual nature (see subsection (3)), or
 - (e) the making of a relevant recording is the main object, or one of the main objects, of the company's activities in relation to the production.
- (2) For the purposes of subsection (1)(c) an animal is used in a performance if the animal performs, or is shown, in the course of the performance.

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- (3) A production is of a sexual nature for the purposes of subsection (1)(d) if the performances are to include any content the nature of which is such that, ignoring financial gain, it would be reasonable to assume the content to be included solely or principally for the purpose of sexually stimulating any member of the audience (whether by verbal or other means).
- (4) “Relevant recording” means a recording of a performance—
- (a) as a film (or part of a film) for exhibition to the paying general public at the commercial cinema, or
 - (b) for broadcast to the general public.
- (5) In this section—
- “broadcast” means broadcast by any means (including television, radio or the internet);
 - “film” has the same meaning as in Part 15 (see section 1181);
 - “wild animal” means an animal of a kind which is not commonly domesticated in the British Islands (and in this definition “animal” has the meaning given by section 1(1) of the Animal Welfare Act 2006).

“Production company”

- 1217F(1) A company is the production company in relation to a theatrical production if the company (acting otherwise than in partnership)—
- (a) is responsible for producing, running and closing the theatrical production,
 - (b) is actively engaged in decision-making during the production, running and closing phases,
 - (c) makes an effective creative, technical and artistic contribution to the production, and
 - (d) directly negotiates for, contracts for and pays for rights, goods and services in relation to the production.
- (2) No more than one company can be the production company in relation to a theatrical production.
- (3) If more than one company meets the conditions in subsection (1) in relation to a theatrical production, the company that is most directly engaged in the activities mentioned in subsection (1) is the production company.
- (4) If there is no company meeting the conditions in subsection (1), there is no production company in relation to the production.

Companies qualifying for relief

How a company qualifies for relief

- 1217G(1) A company qualifies for relief in relation to a theatrical production if—
- (a) it is the production company in relation to the production, and
 - (b) the commercial purpose condition (see section 1217GA) and the EEA expenditure condition (see section 1217GB) are met.

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- (2) There is further provision relating to subsection (1) in section 1217LA (tax avoidance arrangements).

The commercial purpose condition

1217GA) The “commercial purpose condition” is that at the beginning of the production phase the company intends that all, or a high proportion of, the live performances that it proposes to run will be—

- (a) to paying members of the general public, or
- (b) provided for educational purposes.

- (2) The reference in subsection (1) to “live performances” is to be read in accordance with section 1217FA(4).

- (3) A performance is not regarded as provided for educational purposes if the production company is, or is associated with, a person who—

- (a) has responsibility for the beneficiaries, or
- (b) is otherwise connected with the beneficiaries (for instance, by being their employer).

- (4) For the purposes of subsection (3), a production company is associated with a person (“P”) if—

- (a) P controls the production company, or
- (b) P is a company which is controlled by the production company or by a person who also controls the production company.

- (5) In this section—

“the beneficiaries” means persons for whose benefit the performance will or may be provided;

“control” has the same meaning as in Part 10 of CTA 2010 (see section 450 of that Act).

The EEA expenditure condition

1217GB) The “EEA expenditure condition” is that at least 25% of the core expenditure on the theatrical production incurred by the company is EEA expenditure.

- (2) In this Part “EEA expenditure” means expenditure on goods or services that are provided from within the European Economic Area.

- (3) Any apportionment of expenditure as between EEA and non-EEA expenditure for the purposes of this Part is to be made on a just and reasonable basis.

- (4) The Treasury may by regulations—

- (a) amend the percentage specified in subsection (1);
- (b) amend subsection (2).

- (5) See also sections 1217N and 1217NA (which are about the giving of relief provisionally on the basis that the EEA expenditure condition will be met).

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“Core expenditure”

- 1217G(1) In this Part “core expenditure”, in relation to a theatrical production, means expenditure on the activities involved in—
- (a) producing the production, and
 - (b) closing the production.
- (2) The reference in subsection (1)(a) to “expenditure on the activities involved in producing the production”—
- (a) does not include expenditure on any matters not directly involved in producing the production (for instance, financing, marketing, legal services or storage);
 - (b) does not include expenditure on the ordinary running of the production; but expenditure incurred on or after the date of the first performance of the production to the paying general public may fall within subsection (1)(a) (for instance, if it is incurred in connection with a substantial recasting or a substantial redesign of the set).

Claim for additional deduction

Claim for additional deduction

- 1217H(1) A company which qualifies for relief in relation to a theatrical production may claim an additional deduction in relation to the production.
- (2) A claim under subsection (1) is made with respect to an accounting period.
- (See Schedule 18 to FA 1998, and in particular Part 9D, for provision about the procedure for making claims.)
- (3) Where a company has made a claim under subsection (1)—
- (a) the company's activities in relation to the theatrical production are treated for corporation tax purposes as a trade separate from any other activities of the company (including activities in relation to any other theatrical production), and
 - (b) the company is entitled to make an additional deduction, in accordance with section 1217J, in calculating the profit or loss of the separate trade for the accounting period concerned.
- (4) The company is treated as beginning to carry on the separate trade—
- (a) when the production phase begins, or
 - (b) if earlier, at the time of the first receipt by the company of any income from the theatrical production.
- (5) Where the company tax return in which a claim under subsection (1) is made is for an accounting period later than that in which the company begins to carry on the separate trade, the company must make any amendments of company tax returns for earlier periods that may be necessary.
- (6) Any amendment or assessment necessary to give effect to subsection (5) may be made despite any limitation on the time within which an amendment or assessment may normally be made.

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- (7) If the company ceases at any time to meet the conditions in section 1217FC(1) (meaning of “production company”) in relation to the production, it is treated as ceasing to carry on the separate trade at that time.

The separate theatrical trade

Introduction to sections 1217IA to 1217IF

1217I Where a company is treated under section 1217H(3)(a) as carrying on a separate trade (“the separate theatrical trade”), the profits or losses of the trade are calculated for corporation tax purposes in accordance with sections 1217IA to 1217IF.

Calculation of profits or losses of separate theatrical trade

- 1217IA(1) For the first period of account during which the separate theatrical trade is carried on, the following are brought into account—
- (a) as a debit, the costs of the theatrical production incurred (and represented in work done) to date;
 - (b) as a credit, the proportion of the estimated total income from the production treated as earned at the end of that period.
- (2) For subsequent periods of account the following are brought into account—
- (a) as a debit, the difference between the amount (“C”) of the costs of the theatrical production incurred (and represented in work done) to date and the amount corresponding to C for the previous period, and
 - (b) as a credit, the difference between the proportion (“PI”) of the estimated total income from the production treated as earned at the end of that period and the amount corresponding to PI for the previous period.
- (3) The proportion of the estimated total income treated as earned at the end of a period of account is—

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

where—

C is the total to date of costs incurred (and represented in work done);

T is the estimated total cost of the theatrical production;

I is the estimated total income from the theatrical production.

Income from the production

1217IB(1) References in this Part to income from a theatrical production are to any receipts by the company in connection with the making or exploitation of the production.

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- (2) This includes—
- (a) receipts from the sale of tickets or of rights in the theatrical production;
 - (b) royalties or other payments for use of aspects of the theatrical production (for example, characters or music);
 - (c) payments for rights to produce merchandise;
 - (d) receipts by the company by way of a profit share agreement.
- (3) Receipts that (apart from this subsection) would be regarded as being of a capital nature are treated as being of a revenue nature.

Costs of the production

- 1217I(1) References in this Part to the costs of a theatrical production are to expenditure incurred by the company on—
- (a) the activities involved in developing, producing, running and closing the production, or
 - (b) activities with a view to exploiting the production.
- (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.
- (3) Expenditure which, apart from this subsection, would be regarded as being of a capital nature only because it is incurred on the creation of an asset (i.e. the theatrical production) is treated as being of a revenue nature.

When costs are taken to be incurred

- 1217I(1) For the purposes of this Part, the costs that have been incurred on a theatrical production at a given time—
- (a) are those costs of the production that are represented in the state of completion of the work in progress, but
 - (b) do not include any amount that has not been paid unless it is the subject of an unconditional obligation to pay.
- (2) In accordance with subsection (1)(a)—
- (a) payments in advance of work to be done are ignored until the work has been carried out;
 - (b) deferred payments are recognised to the extent that the goods or services in question are represented in the state of completion of the work in progress (but this is subject to subsection (1)(b)).
- (3) Where an obligation to pay an amount is linked to income being earned from the theatrical production, the obligation is not treated as having become unconditional unless an appropriate amount of income is or has been brought into account under section 1217IA.
- (4) In determining for the purposes of this Part the amount of costs incurred on a theatrical production at the end of a period of account, any amount that has not been paid 4 months after the end of that period is to be ignored.

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Pre-trading expenditure

1217I(1) This section applies if, before the company begins to carry on the separate theatrical trade, it incurs expenditure on activities falling within section 1217IC(1)(a).

- (2) The expenditure may be treated as expenditure of the separate theatrical trade and as if incurred immediately after the company begins to carry on that trade.
- (3) If expenditure so treated has previously been taken into account for other tax purposes, the company must amend any relevant company tax return accordingly.
- (4) Any amendment or assessment necessary to give effect to subsection (3) may be made despite any limitation on the time within which an amendment or assessment may normally be made.

Estimates

1217IF Estimates for the purposes of section 1217IA must be made as at the balance sheet date for each period of account, on a just and reasonable basis taking into consideration all relevant circumstances.

Amount of additional deduction

Amount of additional deduction

1217J(1) The amount of an additional deduction to which a company is entitled as a result of a claim under section 1217H is calculated as follows.

- (2) For the first period of account during which the separate theatrical trade is carried on, the amount of the additional deduction is E, where—

E is—

- (a) so much of the qualifying expenditure incurred to date as is EEA expenditure, or
- (b) if less, 80% of the total amount of qualifying expenditure incurred to date.

- (3) For any period of account after the first, the amount of the additional deduction is—

$$E - P$$

where—

E is—

- (a) so much of the qualifying expenditure incurred to date as is EEA expenditure, or
- (b) if less, 80% of the total amount of qualifying expenditure incurred to date, and

P is the total amount of the additional deductions given for previous periods.

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- (4) The Treasury may by regulations amend the percentage specified in subsection (2) or (3).

“Qualifying expenditure”

1217J(A) In this Part “qualifying expenditure”, in relation to a theatrical production, means core expenditure (see section 1217GC) on the theatrical production that—

- (a) falls to be taken into account under sections 1217IA to 1217IF in calculating the profit or loss of the separate theatrical trade for tax purposes, and
 - (b) is not excluded by subsection (2).
- (2) The following expenditure is excluded—
- (a) expenditure in respect of which the company is entitled to an R&D expenditure credit under Chapter 6A of Part 3;
 - (b) expenditure in respect of which the company has obtained relief under Part 13 (additional relief for expenditure on research and development).

Theatre tax credits

Theatre tax credit claimable if company has surrenderable loss

1217K(A) A company which—

- (a) is treated under section 1217H(3) as carrying on a separate trade during the whole or part of an accounting period, and
 - (b) has a surrenderable loss in that period,
- may claim a theatre tax credit for that accounting period.
- (2) Section 1217KA sets out how to calculate the amount of any surrenderable loss that the company has in the accounting period.
- (3) A company making a claim may surrender the whole or part of its surrenderable loss in the accounting period.
- (4) The amount of the theatre tax credit to which a company making a claim is entitled for the accounting period is—
- (a) 25% of the amount of the loss surrendered if the theatrical production is a touring production, or
 - (b) 20% of the amount of the loss surrendered if the theatrical production is not a touring production.
- (5) The company's available loss for the accounting period (see section 1217KA(2)) is reduced by the amount surrendered.
- (6) A theatrical production is a “touring production” only if the company intends at the beginning of the production phase—
- (a) that it will present performances of the production in 6 or more separate premises, or

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- (b) that it will present performances of the production in at least two separate premises and that the number of performances will be at least 14.

- (7) See Schedule 18 to FA 1998 (in particular, Part 9D) for provision about the procedure for making claims under subsection (1).

Amount of surrenderable loss

1217K(1) The company's surrenderable loss in the accounting period is—

- (a) the company's available loss for the period in the separate theatrical trade (see subsections (2) and (3)), or
(b) if less, the available qualifying expenditure for the period (see subsections (4) and (5)).

(2) The company's available loss for an accounting period is—

$$L + RUL$$

where—

L is the amount of the company's loss for the period in the separate theatrical trade, and

RUL is the amount of any relevant unused loss of the company (see subsection (3)).

- (3) The “relevant unused loss” of a company is so much of any available loss of the company for the previous accounting period as has not been—
(a) surrendered under section 1217K, or
(b) carried forward under section 45 of CTA 2010 and set against profits of the separate theatrical trade.
- (4) For the first period of account during which the separate theatrical trade is carried on, the available qualifying expenditure is the amount that is E for that period for the purposes of section 1217J(2).

(5) For any period of account after the first, the available qualifying expenditure is—

$$E - S$$

where—

E is the amount that is E for that period for the purposes of section 1217J(3), and

S is the total amount previously surrendered under section 1217K.

- (6) If a period of account of the separate theatrical trade does not coincide with an accounting period, any necessary apportionments are to be made by reference to the number of days in the periods concerned.

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Payment in respect of theatre tax credit

1217K(B) If a company—

- (a) is entitled to a theatre tax credit for an accounting period, and
- (b) makes a claim,

the Commissioners for Her Majesty's Revenue and Customs (“the Commissioners”) must pay the amount of the credit to the company.

(2) An amount payable in respect of—

- (a) a theatre tax credit, or
- (b) interest on a theatre tax credit under section 826 of ICTA,

may be applied in discharging any liability of the company to pay corporation tax.

To the extent that it is so applied the Commissioners' liability under subsection (1) is discharged.

(3) If the company's company tax return for the accounting period is enquired into by the Commissioners, no payment in respect of a theatre tax credit for that period need be made before the Commissioners' enquiries are completed (see paragraph 32 of Schedule 18 to FA 1998).

In those circumstances the Commissioners may make a payment on a provisional basis of such amount as they consider appropriate.

(4) No payment need be made in respect of a theatre tax credit for an accounting period before the company has paid to the Commissioners any amount that it is required to pay for payment periods ending in that accounting period—

- (a) under PAYE regulations,
- (b) under section 966 of ITA 2007 (visiting performers), or
- (c) in respect of Class 1 national insurance contributions under Part 1 of the Social Security Contributions and Benefits Act 1992 or Part 1 of the Social Security Contributions and Benefits (Northern Ireland) Act 1992.

(5) A payment in respect of a theatre tax credit is not income of the company for any tax purpose.

Limit on State aid

1217K(C) The total amount of any theatre tax credits payable under section 1217KB in the case of any undertaking is not to exceed 50 million euros per year.

(2) In this section “undertaking” has the same meaning as in the General Block Exemption Regulation.

(3) In this section “the General Block Exemption Regulation” means any regulation that—

- (a) is for the time being in force under Article 1 of Council Regulation (EC) No 994/98, and
- (b) makes, in relation to aid in favour of culture and heritage conservation, the declaration provided for by that Article.

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Anti-avoidance etc

Tax avoidance arrangements

1217L(A) A company does not qualify for relief in relation to a theatrical production if there are any tax avoidance arrangements relating to the production.

(2) Arrangements are “tax avoidance arrangements” if their main purpose, or one of their main purposes, is the obtaining of a tax advantage.

(3) In this section—

“arrangements” includes any scheme, agreement or understanding, whether or not legally enforceable;

“tax advantage” has the meaning given by section 1139 of CTA 2010.

Transactions not entered into for genuine commercial reasons

1217L(B) A transaction is to be ignored for the purpose of determining a relief mentioned in subsection (2) so far as the transaction is attributable to arrangements (other than tax avoidance arrangements) entered into otherwise than for genuine commercial reasons.

(2) The reliefs mentioned in subsection (1) are—

(a) any additional deduction which a company may make under this Part, and

(b) any theatre tax credit to be given to a company.

(3) In this section “arrangements” and “tax avoidance arrangements” have the same meaning as in section 1217LA.

Use of losses

Application of sections 1217MA to 1217MC

1217M(I) Sections 1217MA to 1217MC apply to a company that is treated under section 1217H(3) as carrying on a separate trade in relation to a theatrical production.

(2) In those sections—

“the completion period” means the accounting period in which the company ceases to carry on the separate theatrical trade;

“loss relief” includes any means by which a loss might be used to reduce the amount in respect of which a company, or any other person, is chargeable to tax.

Restriction on use of losses before completion period

1217M(AI) Subsection (2) applies if a loss is made by the company in the separate theatrical trade in an accounting period preceding the completion period.

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- (2) The loss is not available for loss relief, except to the extent that the loss may be carried forward under section 45 of CTA 2010 to be set against profits of the separate theatrical trade in a subsequent period.

Use of losses in the completion period

1217MB) Subsection (2) applies if a loss made in the separate theatrical trade is carried forward under section 45 of CTA 2010 to the completion period.

- (2) So much (if any) of the loss as is not attributable to relief under section 1217H (see subsection (4)) may be treated for the purposes of loss relief as if it were a loss made in the completion period.
- (3) If a loss is made in the separate theatrical trade in the completion period, the amount of the loss that may be—
- (a) deducted from total profits of the same or an earlier period under section 37 of CTA 2010, or
 - (b) surrendered as group relief under Part 5 of that Act,
- is restricted to the amount (if any) that is not attributable to relief under section 1217H.
- (4) The amount of a loss in any period that is attributable to relief under section 1217H is found by—
- (a) calculating what the amount of the loss would have been if there had been no additional deduction under that section in that or any earlier period, and
 - (b) deducting that amount from the total amount of the loss.
- (5) This section does not apply to loss surrendered, or treated as carried forward, under section 1217MC (terminal losses).

Terminal losses

1217MQ) This section applies if—

- (a) the company ceases to carry on the separate theatrical trade, and
- (b) if the company had not ceased to carry on the separate theatrical trade, it could have carried forward an amount under section 45 of CTA 2010 to be set against profits of that trade in a later period (“the terminal loss”).

Below in this section the company is referred to as “company A” and the separate theatrical trade is referred to as “trade 1”.

- (2) If company A—
- (a) is treated under section 1217H(3) as carrying on a separate theatrical trade in relation to another theatrical production (“trade 2”), and
 - (b) is carrying on trade 2 when it ceases to carry on trade 1,
- company A may (on making a claim) elect to transfer the terminal loss (or a part of it) to trade 2.
- (3) If company A makes an election under subsection (2), the terminal loss (or part of the loss) is treated as if it were a loss brought forward under section 45

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of CTA 2010 to be set against the profits of trade 2 of the first accounting period beginning after the cessation and so on.

- (4) Subsection (5) applies if—
- (a) another company (“company B”) is treated under section 1217H(3) as carrying on a separate theatrical trade (“company B's trade”) in relation to another theatrical production,
 - (b) company B is carrying on that trade when company A ceases to carry on trade 1, and
 - (c) company B is in the same group as company A for the purposes of Part 5 of CTA 2010 (group relief).
- (5) Company A may surrender the loss (or part of it) to company B.
- (6) On the making of a claim by company B the amount surrendered is treated as if it were a loss brought forward by company B under section 45 of CTA 2010 to be set against the profits of company B's trade of the first accounting period beginning after the cessation and so on.
- (7) The Treasury may by regulations make administrative provision in relation to the surrender of a loss under subsection (5) and the resulting claim under subsection (6).
- (8) “Administrative provision” means provision corresponding, subject to such adaptations or other modifications as appear to the Treasury to be appropriate, to that made by Part 8 of Schedule 18 to FA 1998 (company tax returns: claims for group relief).

Provisional entitlement to relief

Provisional entitlement to relief

1217N) In relation to a company that has made a claim under section 1217H in relation to a theatrical production, “interim accounting period” means any accounting period that—

- (a) is one in which the company carries on the separate theatrical trade, and
 - (b) precedes the accounting period in which it ceases to do so.
- (2) A company is not entitled to relief under any of the relieving provisions for an interim accounting period unless—
- (a) its company tax return for the period states the amount of planned core expenditure on the theatrical production that is EEA expenditure, and
 - (b) that amount is such as to indicate that the EEA expenditure condition (see section 1217GB) will be met in relation to the production.

If those requirements are met, the company is provisionally treated in relation to that period as if the EEA expenditure condition were met.

- (3) In this section “the relieving provisions” means—
- (a) section 1217H (additional deduction),
 - (b) section 1217K (theatre tax credits), and
 - (c) section 1217MC (terminal losses).

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Clawback of provisional relief

- 1217N(1) If a statement is made under section 1217N(2) but it subsequently appears that the EEA expenditure condition will not be met on the company's ceasing to carry on the separate theatrical trade, the company—
- (a) is not entitled to relief under any of the relieving provisions for any period for which its entitlement depended on such a statement, and
 - (b) must amend its company tax return for any such period accordingly.
- (2) When a company which has made a claim under section 1217H ceases to carry on the separate theatrical trade, the company's company tax return for the period in which that cessation occurs must—
- (a) state that the company has ceased to carry on the separate theatrical trade, and
 - (b) be accompanied by a final statement of the amount of the core expenditure on the theatrical production that is EEA expenditure.
- (3) If that statement shows that the EEA expenditure condition is not met—
- (a) the company is not entitled to relief under any of the relieving provisions for any period,
 - (b) the company is treated for corporation tax purposes as if section 1217H(3)(a) (treatment as a separate trade) did not apply in relation to the theatrical production for any period, and
 - (c) accordingly, sections 1217MA and 1217MB (provisions about use of losses) do not apply in relation to the theatrical production for any period.
- (4) Where subsection (3) applies, the company must amend its company tax return for any period in which (or in any part of which) it was treated as carrying on a separate trade relating to the theatrical production.
- (5) Any amendment or assessment necessary to give effect to this section may be made despite any limitation on the time within which an amendment or assessment may normally be made.
- (6) In this section “the relieving provisions” has the same meaning as in section 1217N.

Interpretation

Activities involved in developing, producing, running or closing a production

- 1217O The Treasury may by regulations amend section 1217GC (core expenditure) or 1217IC (costs of production) for the purpose of providing that activities of a specified description are, or are not, to be regarded as activities involved in developing or (as the case may be) producing, running or closing—
- (a) a theatrical production, or
 - (b) a theatrical production of a specified description.

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“Company tax return”

1217OA In this Part “company tax return” has the same meaning as in Schedule 18 to FA 1998 (see paragraph 3(1) of that Schedule).

Index

1217OB In this Part—

“commercial purpose condition” has the meaning given by section 1217GA;

“company tax return” has the meaning given by section 1217OA;

“core expenditure” has the meaning given by section 1217GC;

“costs”, in relation to a theatrical production, has the meaning given by section 1217IC;

“EEA expenditure” has the meaning given by section 1217GB;

“EEA expenditure condition” has the meaning given by section 1217GB;

references to “income from a theatrical production” are to be read in accordance with section 1217IB;

“production company” has the meaning given by section 1217FC;

“qualifying expenditure” has the meaning given by section 1217JA;

references to the “separate theatrical trade” are to be read in accordance with section 1217I;

“theatrical production” has the meaning given by section 1217FA (read with section 1217FB).”

Commencement Information

- II** Sch. 4 para. 1 partly in force at Royal Assent; sch. 4 para. 1 in force at Royal Assent for specified purposes, see [Sch. 4 para. 16](#)

VALID FROM 22/08/2014

PART 2

CONSEQUENTIAL AMENDMENTS

ICTA

- 2 (1) Section 826 of the Income and Corporation Taxes Act 1988 (interest on tax overpaid) is amended as follows.
- (2) In subsection (1), after paragraph (fb) insert—
“(fc) a payment of theatre tax credit falls to be made to a company; or”.
- (3) In subsection (3C), for “or video game tax credit” substitute “ , video game tax credit or theatre tax credit ”.

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- (4) In subsection (8A)—
- (a) in paragraph (a) for “or (f)” substitute “ (f), (fa), (fb) or (fc) ”, and
 - (b) in paragraph (b)(ii), after “video game tax credit” insert “ or theatre tax credit ”.
- (5) In subsection (8BA), after “video game tax credit” (in both places) insert “ or theatre tax credit ”.

FA 1998

3 Schedule 18 to FA 1998 (company tax returns, assessments and related matters) is amended as follows.

4 In paragraph 10 (other claims and elections to be included in return), in sub-paragraph (4)—

- (a) before “claims” insert “ certain ”;
- (b) for “or 15B” substitute “ , 15B or 15C ”.

5 (1) Paragraph 52 (recovery of excessive overpayments etc) is amended as follows.

(2) In sub-paragraph (2), after paragraph (bf) insert—
“(bg) theatre tax credit under Part 15C of that Act.”.

(3) In sub-paragraph (5)—

- (a) after paragraph (ah) insert—
“(ai) an amount of theatre tax credit paid to a company for an accounting period.”;
- (b) in the words after paragraph (b), after “(ah)” insert “ , (ai) ”.

6 (1) Part 9D (certain claims for tax relief) is amended as follows.

(2) In paragraph 83S (introduction), after paragraph (c) insert—
“(d) an additional deduction under Part 15C of CTA 2009,
(e) a theatre tax credit under that Part of that Act.”

(3) The heading of that Part becomes “ CLAIMS FOR TAX RELIEF UNDER PART 15, 15A, 15B OR 15C OF THE CORPORATION TAX ACT 2009 ”.

CAA 2001

7 In Schedule A1 to CAA 2001 (first-year tax credits), in paragraph 11(4), omit the “and” at the end of paragraph (d) and after paragraph (e) insert “, and
(f) section 1217K of that Act (theatre tax credits).”

FA 2007

8 In Schedule 24 to FA 2007 (penalties for errors), in paragraph 28(fa) (meaning of “corporation tax credit”), omit the “or” at the end of sub-paragraph (ivb) and after that sub-paragraph insert—
“(ivc) a theatre tax credit under section 1217K of that Act, or”.

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CTA 2009

9 In section 104BA of CTA 2009 (R&D expenditure credits: restrictions on claiming other tax reliefs), after subsection (3) insert—

“(4) For provision prohibiting an R&D expenditure credit being given under this Chapter and relief being given under section 1217H or 1217K (theatrical productions: additional deduction or theatre tax credit), see section 1217JA(2).”

10 In Part 8 of CTA 2009 (intangible fixed assets), in Chapter 10 (excluded assets), before section 809 insert—

Assets representing expenditure incurred in course of separate theatrical trade

“808Q) This Part does not apply to an intangible fixed asset held by a theatrical production company so far as the asset represents expenditure on a theatrical production that is treated under Part 15C as expenditure of a separate trade (see particularly sections 1217H and 1217IE).

(2) In this section—

“theatrical production” has the same meaning as in Part 15C (see section 1217FA);

“theatrical production company” means a company which, for the purposes of that Part, is the production company in relation to a theatrical production (see section 1217FC).”

11 In section 1040ZA of CTA 2009 (additional relief for expenditure on research and development), after subsection (3) insert—

“(4) For provision prohibiting relief being given under this Part and under section 1217H or 1217K (theatrical productions: additional deduction or theatre tax credit), see section 1217JA(2).”

12 In section 1310 of CTA 2009 (orders and regulations), in subsection (4), after paragraph (ej) insert—

“(ek) section 1217GB(4) (EEA expenditure condition),
(el) section 1217J(4) (amount of additional deduction),
(em) section 1217O (activities involved in developing, producing, running or closing a production).”

13 In Schedule 4 to CTA 2009 (index of defined expressions) at the appropriate place insert—

“commercial purpose condition (in Part section 1217OB”;
15C)

“company tax return (in Part 15C) section 1217OA”;

“core expenditure (in Part 15C) section 1217GC”;

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“costs of a theatrical production (in Part section 1217IC”;
 15C)

“EEA expenditure (in Part 15C) section 1217GB”;

“EEA expenditure condition (in Part section 1217OB”;
 15C)

“income from a theatrical production section 1217IB”;
 (in Part 15C)

“production company (in Part 15C) section 1217FC”;

“qualifying expenditure (in Part 15C) section 1217JA”;

“the separate theatrical trade (in Part section 1217OB”;
 15C)

“theatrical production (in Part 15C) section 1217FA”.

FA 2009

14 In Schedule 54A to FA 2009 (which is prospectively inserted by F(No. 3)A 2010 and contains provision about the recovery of certain amounts of interest paid by HMRC), in paragraph 2—

- (a) in sub-paragraph (2), omit the “or” at the end of paragraph (f) and after paragraph (g) insert “, or
- (h) a payment of theatre tax credit under section 1217K of CTA 2009 for an accounting period.”;
- (b) in sub-paragraph (4), for “(e)” substitute “(h) ”.

PROSPECTIVE

CTA 2010

15 (1) Section 357CG of CTA 2010 (profits arising from the exploitation of patents etc: adjustments in calculating profits of trade) is amended as follows.

- (2) In subsection (3), omit the “and” at the end of paragraph (c) and after paragraph (d) insert “, and
- (e) the amount of any additional deduction for the accounting period obtained by the company under Part 15C of CTA 2009 in respect of qualifying expenditure on a theatrical production.”

(3) In subsection (6)—

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- (a) in the definition of “qualifying expenditure”, omit the “and” at the end of paragraph (a) and after paragraph (b) insert “, and
- (c) in relation to a company that is the production company (as defined in section 1217FC of that Act) in relation to a theatrical production, has the same meaning as in Part 15C of that Act,”;
- (b) omit the “and” at the end of the definition of “television production company” and after that definition insert—
- ““theatrical production” has the same meaning as in Part 15C of CTA 2009 (see section 1217FA of that Act), and”.

PROSPECTIVE

PART 3

COMMENCEMENT

- 16 (1) Any power to make regulations conferred on the Treasury by virtue of this Schedule comes into force on the day on which this Act is passed.
- (2) So far as not already brought into force by sub-paragraph (1), the amendments made by this Schedule come into force in accordance with provision contained in an order made by the Treasury.
- (3) An order under sub-paragraph (2) may make different provision for different purposes.
- 17 (1) The amendments made by this Schedule have effect in relation to accounting periods beginning on or after 1 September 2014.
- (2) Sub-paragraph (3) applies where a company has an accounting period beginning before 1 September 2014 and ending on or after that date (“the straddling period”).
- (3) For the purposes of Part 15C of CTA 2009—
- (a) so much of the straddling period as falls before 1 September 2014, and so much of that period as falls on or after that date, are treated as separate accounting periods, and
- (b) any amounts brought into account for the purposes of calculating for corporation tax purposes the profits of a trade for the straddling period are apportioned to the two separate accounting periods on such basis as is just and reasonable.

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