

SCHEDULES

SCHEDULE 5

FILM TAX RELIEF: FURTHER PROVISIONS

PART 2

CERTIFICATION OF BRITISH FILMS FOR PURPOSES OF FILM TAX RELIEF

- 15 For section 6 of the Films Act 1985 (c. 21) (certification of master negatives, tapes and discs for purposes of section 72 of FA 1982) substitute—

“6 Certification of British films

Schedule 1 to this Act has effect with respect to the certification by the Secretary of State of a film as a British film for the purposes of film tax relief.”.

- 16 For the heading to Schedule 1 to that Act substitute “Certification of British films for purposes of film tax relief”.
- 17 For paragraph 1 of that Schedule substitute—

“Preliminary

- 1 (1) In this Schedule—

“film” includes any record, however made, of a sequence of visual images that is capable of being used as a means of showing that sequence as a moving picture;

“film production company” has the same meaning as in Chapter 3 of Part 3 of the Finance Act 2006 (see section 32 of that Act).

- (2) For the purposes of this Schedule each part of a series of films is treated as a separate film, unless—

- (a) the films form a series with not more than 26 parts,
- (b) the combined playing time is not more than 26 hours, and
- (c) the series constitutes a self-contained work or is a series of documentaries with a common theme,

in which case the films are treated as a single film.

- (3) References in this Schedule to a film include the film soundtrack.

- (4) For the purposes of this Schedule a film is completed when it is first in a form in which it can reasonably be regarded as ready for copies of it to be made and distributed for presentation to the general public.”.

- 18 For paragraph 2 of that Schedule substitute—

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“Applications for certification

- 2 (1) The film production company may apply to the Secretary of State for the certification of a film as a British film.
- (2) The application may be for an interim or final certificate.
- (3) An interim certificate is a certificate granted before the film is completed that the film, if completed in accordance with the proposals set out in the application, will be a British film.
- (4) A final certificate is a certificate granted after the film is completed that the film is a British film.
- (5) The applicant must—
- (a) produce to the Secretary of State such books or other documents relating to the application, and
 - (b) provide the Secretary of State with such other information with respect to it,
- as the Secretary of State may require for the purposes of determining the application.
- (6) The Secretary of State may require information provided for the purposes of the application to be accompanied by a statutory declaration, by the person providing it, as to the truth of the information.”

19 For paragraph 3 of that Schedule substitute—

“Certification and withdrawal of certification

- 3 (1) If the Secretary of State is satisfied that the requirements are met for interim or final certification of a film as a British film, he shall certify the film accordingly.
- (2) If the Secretary of State is not satisfied that those requirements are met, he shall refuse the application.
- (3) An interim certificate—
- (a) may be given subject to conditions, and (unless the Secretary of State directs otherwise) is of no effect if the conditions are not met;
 - (b) may be expressed to expire after a specified period, and (unless the Secretary of State directs otherwise) ceases to have effect at the end of that period; and
 - (c) ceases to have effect when a final certificate is issued.
- (4) If it appears to the Secretary of State that a film certified by him under this Schedule ought not to have been certified, he shall revoke its certification.

Unless the Secretary of State directs otherwise, a certificate that is revoked is treated as never having had effect.”

20 In paragraph 4 of that Schedule (British films for purposes of the Schedule), for sub-paragraphs (1) to (3) substitute—

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- “(1) A film is a British film for the purposes of this Schedule if it passes the relevant cultural test (see paragraph 4A, 4B or 4C).”
- 21 (1) Paragraph 5 of that Schedule (excluded films) is amended as follows.
- (2) For sub-paragraph (1) substitute—
- “(1) A film must not be certified as a British film for the purposes of this Schedule if parts of the film whose playing time exceeds 10% of the total playing time of the film are derived from a previous film, unless—
- (a) the two films have the same film production company or producer, and
- (b) the previous film has not been certified under this Schedule.”
- (3) After sub-paragraph (2) insert—
- “(3) For the purposes of this paragraph—
- (a) the film soundtrack shall be left out of account;
- (b) “producer” means the person by whom the arrangements necessary for the making of the film are undertaken;
- (c) in relation to certification before the commencement of Chapter 3 of Part 3 of the Finance Act 2006, references to certification of a film shall be read as references to certification of the master negative, tape or disc of the film.”
- 22 In paragraph 9 of that Schedule (determination of disputes) for the words from “any decision of the Secretary of State” to “may” substitute “any decision of the Secretary of State under paragraph 3 may”.
- 23 In paragraph 10 of that Schedule (regulations and orders)—
- (a) in sub-paragraph (1)(c), for “2(4)” substitute “2(6);
- (b) in sub-paragraph (2), for “4 to 8” substitute “4 to 5”.

Confidentiality of information

- 24 (1) Section 18(1) of the Commissioners for Revenue and Customs Act 2005 (c. 11) (restriction on disclosure by Revenue and Customs officials) does not prevent disclosure to the Secretary of State for the purposes of his functions under Schedule 1 to the Films Act 1985 (c. 21) (certification of films as British films for the purposes of film tax relief).
- (2) Information so disclosed may be disclosed to the UK Film Council.
- (3) A person to whom information is disclosed under sub-paragraph (1) or (2) may not otherwise disclose it except—
- (a) for the purposes of the Secretary of State’s functions under Schedule 1 to the Films Act 1985 (c. 21),
- (b) if the disclosure is authorised by an enactment,
- (c) in pursuance of an order of a court,
- (d) for the purposes of a criminal investigation or legal proceedings (whether civil or criminal) connected with the operation of that Schedule or this Chapter,
- (e) with the consent of the Commissioners for Her Majesty’s Revenue and Customs, or

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(f) with the consent of each person to whom the information relates.

- (4) The references in this paragraph to the functions of the Secretary of State under Schedule 1 to the Films Act 1985 do not include those functions in so far as they are exercised in relation to a film that commenced principal photography before 1st April 2006.

Wrongful disclosure

- 25 (1) A person commits an offence if—
- (a) he discloses information about a person in contravention of paragraph 24(3), and
 - (b) the person’s identity is specified in the disclosure, or can be deduced from it.
- (2) In sub-paragraph (1) “information about a person” means revenue and customs information relating to a person within the meaning of section 19(1) of the Commissioners for Revenue and Customs Act 2005 (c. 11) (wrongful disclosure).
- (3) It is a defence for a person charged with an offence under this paragraph to prove that he reasonably believed—
- (a) that the disclosure was lawful, or
 - (b) that the information had already and lawfully been made available to the public.
- (4) A person guilty of an offence under this paragraph is liable—
- (a) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine or both, or
 - (b) on summary conviction, to imprisonment for a term not exceeding twelve months or a fine not exceeding the statutory maximum or both.
- (5) A prosecution for an offence under this paragraph may be brought in England and Wales only—
- (a) by the Director of Revenue and Customs Prosecutions, or
 - (b) with the consent of the Director of Public Prosecutions.
- (6) A prosecution for an offence under this paragraph may be brought in Northern Ireland only—
- (a) by the Commissioners for Her Majesty’s Revenue and Customs, or
 - (b) with the consent of the Director of Public Prosecutions for Northern Ireland.
- (7) In the application of this paragraph—
- (a) in England and Wales, in relation to an offence committed before the commencement of section 282 of the Criminal Justice Act 2003 (c. 44), or
 - (b) in Scotland or Northern Ireland,
- the reference in sub-paragraph (4)(b) to twelve months shall be read as a reference to six months.