These notes refer to the Corporation Tax (Northern Ireland) Act 2015 (c.21) which received Royal Assent on 26 March 2015

CORPORATION TAX (NORTHERN IRELAND) ACT 2015

EXPLANATORY NOTES

SECTION 1: TRADING PROFITS TAXABLE AT THE NORTHERN IRELAND RATE

Chapter 8

42. Part 8 of CTA 2009 sets out how a company's gains and losses in connection with intangible fixed assets are calculated and brought into account for corporation tax purposes. Chapter 8 deals with the calculation of Northern Ireland profits or losses where the company holds intangible fixed assets within Part 8 of CTA 2009 for the purpose of a trade carried on by it in Northern Ireland.

43. Where Chapter 8 applies, the basic rules for computing Northern Ireland profits are determined without regard to any intangible fixed assets held by the company for the purposes of its Northern Ireland trade. After this amount has been determined, the total "Northern Ireland intangible credits" for the period are added and the total "Northern Ireland intangibles debits" for the period are subtracted.

44. Chapter 8 provides separate definitions for Northern Ireland intangibles credits and debits depending on whether the company is a Northern Ireland company by virtue of the SME condition (NI SME) or by virtue of the large company condition (NI large company). Both definitions use the terms "pre-commencement asset", "realisation credit", "realisation debit" and "Northern Ireland element", which are defined elsewhere in Chapter 8.

45. Where the company is an NI SME, the Northern Ireland intangibles credits are the credits treated under Part 8 of CTA 2009 as receipts of a qualifying trade for the period, except for credits from pre-commencement assets and realisation credits, together with the Northern Ireland element of each realisation credit. Where the company carries on an excluded activity there is an additional restriction to exclude credits attributable to assets held for the purpose of the excluded activity.

46. The Northern Ireland intangible debits for an NI SME are calculated in the same way with the simple replacement of "credit" with "debit" and "receipt" with "expense".

47. Where the company is an NI large company, the definition of the Northern Ireland intangibles credits and debits is the same as that of an NI SME with the additional requirement that credits or debits treated as receipts or expenses of a qualifying trade would, in accordance with the separate enterprise principle, be attributable to the company's NIRE. If the company carries on an excluded activity, the credits or debits attributable to assets held for the purpose of that activity are excluded.

48. A realisation credit or realisation debit is a credit or debit which is brought into account under Chapter 4 of Part 8 of CTA 2009, is treated under section 747 of that Act as a receipt or expense of the trade, and does not relate to a pre-commencement asset (see section 357OD).

49. The Northern Ireland element of a realisation credit or debit is the amount that will be charged or relieved at the Northern Ireland rate of corporation tax. It is calculated in accordance with provisions which take account of the extent to which the intangible fixed asset in question has been held for the purposes of an activity that is subject to the Northern Ireland rate.

50. An intangible fixed asset is a “pre-commencement asset” if it was created before the commencement day (as defined at section 5 of the Act; see paragraph 156 below). The general rule is that intangible fixed assets are treated as having been created before the commencement day if they were held by the company or another person at any time before that day. This rule is subject to two provisions which cover goodwill and film production.

51. Goodwill is treated as created before the commencement day in a case in which the business in question was carried on by any person before that date and on or after the commencement day in any other case.

52. In the case of an asset representing production expenditure on a film, the asset is treated as created when the film is completed.

53. Chapter 8 provides that where the company has fungible assets, and section 858 of CTA 2009 has treated some of those assets as an asset created on or after 1 April 2002, that post 1 April 2002 asset may be further divided into two assets for the purpose of the Chapter 8 commencement rule; one such asset treated as a pre-commencement asset and therefore treated as created before the commencement day, and the other as one created after the commencement day. There are special rules regarding the realisation and acquisition of fungible assets.

54. Any realisation is treated as diminishing the pre-commencement asset first. There are also rules to identify any realisations and acquisitions that are essentially diminishing the pre-commencement asset while increasing the post-commencement asset.

55. There are rules covering the situation where a company acquires an intangible fixed asset from another person where the acquired asset is created on or after the commencement day and that asset derives its value in whole or part from any other asset which was a pre-commencement asset. In such circumstances the acquired asset is treated as a pre-commencement asset so far as its value derives from that other asset. Where appropriate the acquired asset is treated as two separate assets, one a pre-commencement asset and the other a post-commencement asset.

56. There are also rules covering the situation where a company acquires an intangible fixed asset as a consequence of, or otherwise in connection with, the disposal of a pre-commencement asset by another person. In such cases the acquired asset is treated as a pre-commencement asset for the purposes of this Chapter.

57. For related provisions about the disposal by a company that is not a Northern Ireland company of an intangible fixed asset that has previously been held in circumstances where credits and debits relating to it were or would have been subject to the Northern Ireland rate, see the amendment made by paragraph 1 of Schedule 2 (see paragraph 147 below).