

# SCHEDULES

## SCHEDULE 6

Section 21

### RELIEF FOR PRODUCTION OF MUSEUM AND GALLERY EXHIBITIONS

#### PART 1

##### AMENDMENT OF CTA 2009

1 After Part 15D of CTA 2009 insert—

#### “PART 15E

##### MUSEUMS AND GALLERIES EXHIBITION TAX RELIEF

#### CHAPTER 1

##### INTRODUCTION

##### *Overview*

#### **1218ZA Overview**

- (1) This Part is about the production of museum and gallery exhibitions, and applies for corporation tax purposes.
- (2) This Chapter explains what is meant by “exhibition” and “touring exhibition” and how a company comes to be treated as the primary production company or a secondary production company for an exhibition.
- (3) Chapter 2 is about the taxation of the activities of a production company and includes—
  - (a) provision for the company’s activities in relation to its exhibition to be treated as a separate trade, and
  - (b) provision about the calculation of the profits and losses of that trade.
- (4) Chapter 3 is about relief (called “museums and galleries exhibition tax relief”) which may be given to a production company in relation to an exhibition—
  - (a) by way of additional deductions to be made in calculating the profits or losses of the company’s separate trade, or
  - (b) by way of a payment (a “museums and galleries exhibition tax credit”) to be made on the company’s surrender of losses from that trade,

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and describes the conditions a company must meet to qualify for museums and galleries exhibition tax relief.

- (5) Chapter 4 contains provision about the use of losses of the separate trade (including provision about relief for terminal losses).
- (6) Chapter 5 provides—
  - (a) for relief under Chapters 3 and 4 to be given on a provisional basis, and
  - (b) for such relief to be withdrawn if it turns out that conditions that must be met for such relief to be given are not actually met.

### *Interpretation*

#### **1218ZAA “Exhibition”**

- (1) In this Part “exhibition” means a curated public display of an organised collection of objects or works (or of a single object or work) considered to be of scientific, historic, artistic or cultural interest.
- (2) But a display is not an exhibition if—
  - (a) it is organised in connection with a competition of any kind,
  - (b) its main purpose, or one of its main purposes, is to sell anything displayed or to advertise or promote any goods or services,
  - (c) it includes a live performance by any person,
  - (d) anything displayed is for sale, or
  - (e) anything displayed is alive.
- (3) Subsection (2) does not prevent a display being an exhibition if it includes a live performance by a person which is merely incidental to, or forms a merely incidental part of, the collection displayed.
- (4) A display is “public” if the general public is admitted to it, whether or not the public is charged for admission.
- (5) A display does not fall outside subsection (4) just because visitors other than the general public are admitted to it for a single session or a small number of sessions.

#### **1218ZAB “Touring exhibition”**

- (1) In this Part an exhibition is a “touring exhibition” if conditions A to E are met.
- (2) Condition A is that—
  - (a) there is a primary production company for the exhibition (see section 1218ZAC), and
  - (b) the primary production company is within the charge to corporation tax.
- (3) Condition B is that the primary production company intends, when planning the exhibition, that conditions C, D and E should be met in relation to it.
- (4) Condition C is that the exhibition is held at two or more venues.

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- (5) Condition D is that at least 25% of the objects or works displayed at the first venue at which the exhibition is held are also displayed at every subsequent venue at which the exhibition is held.
- (6) Condition E is that the period between the deinstalling of the exhibition at one venue and the installation of the exhibition at the next venue does not exceed 6 months.

### **1218ZAC Primary production company**

- (1) In this Part a company is the primary production company for an exhibition if the company (acting otherwise than in partnership) meets conditions A and B.
- (2) Condition A is that the company—
  - (a) makes an effective creative, technical or artistic contribution to the exhibition, and
  - (b) directly negotiates for, contracts for and pays for rights, goods and services in relation to the exhibition.
- (3) Condition B is that—
  - (a) where the exhibition is held at just one venue, the company is responsible for the production of the exhibition at that venue;
  - (b) where the exhibition is held at two or more venues, the company is responsible for the production of the exhibition at (at least) the first of those venues.
- (4) For the purposes of this section and section [1218ZAD](#), a company is responsible for the production of the exhibition at a venue if—
  - (a) it is responsible for producing and running the exhibition at the venue,
  - (b) where the exhibition is at the venue for a limited time, it is responsible for deinstalling and closing the exhibition at the venue, and
  - (c) it is actively engaged in decision-making in relation to the exhibition at the venue.
- (5) If more than one company meets conditions A and B in relation to the production of the exhibition, the company that most directly meets those conditions is the primary production company for the exhibition.
- (6) If no company meets conditions A and B in relation to the production of the exhibition, there is no primary production company for the exhibition.

### **1218ZAD Secondary production company**

- (1) If an exhibition is held at two or more venues, there may be one or more secondary production companies for the exhibition.
- (2) In this Part a company is the secondary production company for an exhibition at a venue if the company meets conditions C and D.
- (3) Condition C is that the company (acting otherwise than in partnership) is responsible for the production of the exhibition at the venue.

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- (4) Condition D is that the company is not the primary production company.
- (5) If more than one company meets conditions C and D in relation to the production of the exhibition at the venue, the company that is most directly responsible for the production of the exhibition at the venue is the secondary production company for the exhibition at the venue.
- (6) If no company meets conditions C and D in relation to the production of the exhibition at the venue, there is no secondary production company for the exhibition at the venue.

## CHAPTER 2

### TAXATION OF ACTIVITIES OF PRODUCTION COMPANY

#### *Separate exhibition trade*

#### **1218ZB Separate exhibition trade**

- (1) Subsection (2) applies to a company in relation to an exhibition if, and only for so long as, the company qualifies for museums and galleries exhibition tax relief in relation to the production of the exhibition (see section 1218ZCA).
- (2) The company's activities in relation to the production of the exhibition are treated as a trade separate from any other activities of the company (including activities in relation to the production of any other exhibition).
- (3) In this Part the separate trade mentioned in subsection (2) is called "the separate exhibition trade".
- (4) Subsections (5) and (6) apply where the company is the primary production company for the exhibition.
- (5) The company is treated as beginning to carry on the separate exhibition trade—
  - (a) at the beginning of the production stage of the exhibition at the first venue at which it is held, or
  - (b) if earlier, at the time of the first receipt by the company of any income from the production of the exhibition.
- (6) The company is treated as ceasing to carry on the separate trade when the exhibition closes at the last venue at which it is held.
- (7) Subsections (8) and (9) apply where the company is a secondary production company for the exhibition.
- (8) The company is treated as beginning to carry on the separate exhibition trade—
  - (a) at the beginning of the production stage of the exhibition at the first venue for which the company is the secondary production company, or

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- (b) if earlier, at the time of the first receipt by the company of any income from the production of the exhibition.
- (9) The company is treated as ceasing to carry on the separate trade when the exhibition closes at the last venue for which the company is the secondary production company.

*Profits and losses of separate exhibition trade*

**1218ZBA Calculation of profits or losses of separate exhibition trade**

- (1) This section applies for the purpose of calculating the profits or losses of the separate exhibition trade.
- (2) For the first period of account during which the separate exhibition trade is carried on, the following are brought into account—
  - (a) as a debit, the costs of the production of the exhibition incurred to date;
  - (b) as a credit, the proportion of the estimated total income from that production treated as earned at the end of that period.
- (3) 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 production of the exhibition incurred 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 that production treated as earned at the end of that period and the amount corresponding to PI for the previous period.
- (4) 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;  
T is the estimated total cost of the production of the exhibition;  
I is the estimated total income from the production of the exhibition.

**1218ZBB Income from the production**

- (1) References in this Chapter to income from a production of an exhibition are to any receipts by the company in connection with the production or exploitation of the exhibition.
- (2) This includes—
  - (a) receipts from the sale of tickets or of rights in the exhibition;
  - (b) royalties or other payments in connection with the exploitation of the exhibition or aspects of it (such as a particular exhibit);
  - (c) payments for rights to produce merchandise;

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- (d) a grant designated as made for the purposes of the exhibition;
- (e) receipts by the company by way of a profit share agreement.

#### **1218ZBC Costs of the production**

- (1) References in this Chapter to the costs of a production of an exhibition are to expenditure incurred by the company on—
  - (a) activities involved in developing, producing, running, deinstalling and closing the exhibition, or
  - (b) activities with a view to exploiting the exhibition.
- (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.

#### **1218ZBD When costs are taken to be incurred**

- (1) For the purposes of this Chapter, the costs that have been incurred on a production of an exhibition at a given time do not include any amount that has not been paid unless it is the subject of an unconditional obligation to pay.
- (2) Where an obligation to pay an amount is linked to income being earned from the production of the exhibition, the obligation is not treated as having become unconditional unless an appropriate amount of income is or has been brought into account under section [1218ZBA](#).

#### **1218ZBE Pre-trading expenditure**

- (1) This section applies if, before the company begins to carry on the separate exhibition trade, it incurs expenditure on activities falling within section [1218ZBC\(1\)\(a\)](#).
- (2) The expenditure may be treated as expenditure of the separate exhibition 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.

#### **1218ZBF Estimates**

Estimates for the purposes of section [1218ZBA](#) 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.

## CHAPTER 3

### MUSEUMS AND GALLERIES EXHIBITION TAX RELIEF

#### *Introduction*

#### **1218ZC Overview of museums and galleries exhibition tax relief**

- (1) Relief under this Chapter (“museums and galleries exhibition tax relief”) is given by way of—
  - (a) additional deductions (see sections [1218ZCE](#) to [1218ZCG](#)), and
  - (b) museums and galleries exhibition tax credits (see sections [1218ZCH](#) to [1218ZCK](#)).
- (2) See Schedule 18 to FA 1998 (in particular, Part 9D) for provision about the procedure for making claims for museums and galleries exhibition tax relief.

#### *Companies qualifying for museums and galleries exhibition tax relief*

#### **1218ZCA Companies qualifying for museums and galleries exhibition tax relief**

- (1) A company qualifies for museums and galleries exhibition tax relief in relation to the production of an exhibition if conditions A to D are met.
- (2) Condition A is that the company is—
  - (a) the primary production company for the exhibition, or
  - (b) a secondary production company for the exhibition.
- (3) Condition B is that the company is—
  - (a) a charitable company which maintains a museum or gallery,
  - (b) wholly owned by a charity which maintains a museum or gallery, or
  - (c) wholly owned by a local authority which maintains a museum or gallery.

See section [1218ZCB](#) for the interpretation of paragraphs (b) and (c).

- (4) Condition C is that at the beginning of the planning stage, the company intends that the exhibition should be public (within the meaning given by section [1218ZAA](#)).
- (5) Condition D is that the EEA expenditure condition is met (see section [1218ZCC](#)).
- (6) For the purposes of subsection (3) “museum or gallery” includes—
  - (a) a library or archive, and
  - (b) a site where a collection of objects or works (or a single object or work) considered to be of scientific, historic, artistic or cultural interest is exhibited outdoors (or partly outdoors).

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- (7) There is further related provision in section [1218ZCM](#) (tax avoidance arrangements).

**1218ZCB Interpretation of section [1218ZCA\(3\)\(b\)](#) and [\(c\)](#)**

- (1) For the purposes of section [1218ZCA\(3\)\(b\)](#) a company is “wholly owned by a charity which maintains a museum or gallery” if condition A or B is met.
- (2) Condition A is that—
  - (a) the company has an ordinary share capital, and
  - (b) every part of that share capital is owned by—
    - (i) a charity which maintains a museum or gallery, or
    - (ii) two charities, each of which maintains a museum or gallery.
- (3) Condition B is that—
  - (a) the company is limited by guarantee,
  - (b) there are no more than two beneficiaries of the company, and
  - (c) the beneficiary, or each beneficiary, is—
    - (i) a charity which maintains a museum or gallery, or
    - (ii) a company wholly owned by a charity which maintains a museum or gallery.
- (4) For the purposes of section [1218ZCA\(3\)\(c\)](#) a company is “wholly owned by a local authority” if—
  - (a) where the company has an ordinary share capital, every part of that share capital is owned by the local authority, or
  - (b) where the company is limited by guarantee, the local authority is the sole beneficiary of the company.
- (5) Ordinary share capital of a company is treated as owned by a charity or a local authority if the charity or local authority (as the case may be)—
  - (a) directly or indirectly owns that share capital within the meaning of Chapter 3 of Part 24 of CTA 2010, or
  - (b) would be taken so to own it if references in that Chapter to a body corporate included references to a charity or local authority which is not a body corporate.
- (6) A beneficiary of a company is a person who—
  - (a) is beneficially entitled to participate in the company’s divisible profits, or
  - (b) will be beneficially entitled to share in any of the company’s net assets available for distribution on its winding up.
- (7) In this section “museum or gallery” has the same meaning it has for the purposes of section [1218ZCA](#).

**1218ZCC The EEA expenditure condition**

- (1) The “EEA expenditure condition” is that at least 25% of the core expenditure on the production of the exhibition incurred by the company is EEA expenditure.



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- (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 1218ZE and 1218ZEA (which are about the giving of relief provisionally on the basis that the EEA expenditure condition will be met).

### **1218ZCD “Core expenditure”**

- (1) Subject to the following provisions of this section, in this Part “core expenditure”, in relation to a company’s production of an exhibition, means expenditure on the activities involved in producing, deinstalling and closing the exhibition at every relevant venue.
- (2) For the purposes of subsection (1) a venue is a “relevant venue” in relation to a company if the company’s activities in relation to the exhibition at the venue form part of the company’s separate exhibition trade.
- (3) Expenditure on the activities involved in deinstalling and closing the exhibition at a venue is core expenditure only if the period between the opening and closing of the exhibition at the venue is 12 months or less.
- (4) Expenditure on the storage of exhibits for an exhibition which is held at just one venue is not core expenditure.
- (5) Where a company incurs expenditure on the storage of exhibits for an exhibition which is held at two or more venues, the amount of such expenditure which is core expenditure is limited to the amount of relevant storage expenditure (if any) incurred by the company in respect of a period of 4 months or less.
- (6) For the purposes of subsection (5) expenditure in relation to the exhibition is “relevant storage expenditure” if—
  - (a) the expenditure is incurred in respect of the storage of exhibits between the deinstallation of the exhibition at one venue and the opening of the exhibition at the next venue, and
  - (b) the exhibits are not stored at a venue at which the exhibition has been held or is to be held.
- (7) Expenditure of the following kinds is not core expenditure—
  - (a) expenditure on any matters not directly involved with putting on the exhibition (for instance, financing, marketing, legal services and promotional events),
  - (b) speculative development expenditure on initial exhibition concepts and feasibility,
  - (c) expenditure on the ordinary running of the exhibition (for instance, invigilation and the maintenance of exhibits),

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- (d) expenditure in relation to any live performance,
- (e) expenditure on further development of the exhibition during the running stage,
- (f) expenditure on purchasing the exhibits, and
- (g) expenditure on infrastructure, unless that expenditure is incurred solely for the purposes of the exhibition.

#### *Additional deduction*

### **1218ZCE Claim for additional deduction**

- (1) A company which qualifies for museums and galleries exhibition tax relief in relation to the production of an exhibition may claim an additional deduction in relation to the production.
- (2) A claim under subsection (1) is made with respect to an accounting period.
- (3) Where a company has made a claim, the company is entitled to make an additional deduction, in accordance with section 1218ZCF, in calculating the profit or loss of the separate exhibition trade for the accounting period concerned.
- (4) Where the company tax return in which a claim is made is for an accounting period later than that in which the company begins to carry on the separate exhibition trade, the company must make any amendments of company tax returns for earlier periods that may be necessary.
- (5) Any amendment or assessment necessary to give effect to subsection (4) may be made despite any limitation on the time within which an amendment or assessment may normally be made.

### **1218ZCF Amount of additional deduction**

- (1) The amount of an additional deduction to which a company is entitled as a result of a claim under section 1218ZCE is calculated as follows.
- (2) For the first period of account during which the separate exhibition 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).
- (5) If a period of account of the separate exhibition 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.

### **1218ZCG “Qualifying expenditure”**

- (1) In this Chapter “qualifying expenditure”, in relation to the production of an exhibition, means core expenditure (see section 1218ZCD) on the production that—
  - (a) falls to be taken into account under sections 1218ZBA to 1218ZBF in calculating the profit or loss of the separate exhibition trade for tax purposes,
  - (b) is not expenditure which is otherwise relievable, and
  - (c) is incurred on or before 31 March 2022.
- (2) For the purposes of this section expenditure is “otherwise relievable” if it is expenditure in respect of which (assuming a claim were made) the company would be entitled to—
  - (a) an R&D expenditure credit under Chapter 6A of Part 3,
  - (b) relief under Part 13 (additional relief for expenditure on research and development),
  - (c) film tax relief under Chapter 3 of Part 15,
  - (d) television tax relief under Chapter 3 of Part 15A,
  - (e) video games tax relief under Chapter 3 of Part 15B,
  - (f) an additional deduction under Part 15C (theatrical productions),
  - (g) a theatre tax credit under Part 15C, or
  - (h) orchestra tax relief under Chapter 3 of Part 15D.
- (3) The Treasury may by regulations amend paragraph (c) of subsection (1) so as to substitute a later date for the date for the time being specified in that paragraph.

### *Museums and galleries exhibition tax credits*

### **1218ZCH Museums and galleries exhibition tax credit claimable if company has surrenderable loss**

- (1) A company which qualifies for museums and galleries exhibition tax relief in relation to the production of an exhibition may claim a museums and galleries exhibition tax credit in relation to the production for an accounting period in which the company has a surrenderable loss.
- (2) Section 1218ZCI 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.

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- (4) Subject to section 1218ZCK, the amount of the museums and galleries exhibition 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 exhibition is a touring exhibition (see section 1218ZAB), or
  - (b) 20% of the amount of the loss surrendered if the exhibition is not a touring exhibition.
- (5) The company's available loss for the accounting period (see section 1218ZCI(2)) is reduced by the amount surrendered.

#### **1218ZCI Amount of surrenderable loss**

- (1) The company's surrenderable loss in the accounting period is—
- (a) the company's available loss for the period in the separate exhibition 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 exhibition 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 1218ZCH, or
  - (b) carried forward under section 45 or 45B of CTA 2010 and set against profits of the separate exhibition trade.

- (4) For the first period of account during which the separate exhibition trade is carried on, the available qualifying expenditure is the amount that is E for that period for the purposes of section 1218ZCF(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 1218ZCF(3), and

S is the total amount previously surrendered under section 1218ZCH.

- (6) If a period of account of the separate exhibition 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.

### **1218ZCJ Payment in respect of museums and galleries exhibition tax credit**

- (1) If a company—
  - (a) is entitled to a museums and galleries exhibition 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 museums and galleries exhibition tax credit, or
  - (b) interest on a museums and galleries exhibition 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 museums and galleries exhibition 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 museums and galleries exhibition 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, or
  - (b) 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 museums and galleries exhibition tax credit is not income of the company for any tax purpose.

### **1218ZCK Maximum museums and galleries exhibition tax credits payable**

- (1) Subsections (2) and (3) prescribe the maximum amount of museums and galleries exhibition tax credits which may be paid to a company under section 1218ZCJ in respect of the company’s separate exhibition trade.
- (2) Where the separate exhibition trade relates to the production of a touring exhibition, the maximum amount which may be paid to the company is £100,000.

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- (3) Where the separate exhibition trade relates to the production of an exhibition which is not a touring exhibition, the maximum amount which may be paid to the company is £80,000.
- (4) In accordance with [Commission Regulation \(EU\) No. 651/2014](#) of 17 June 2014 declaring certain categories of aid compatible with the internal market, the total amount of museums and galleries exhibition tax credits payable under section [1218ZCJ](#) in the case of any undertaking is not to exceed 75 million euros per year.

#### **1218ZCL No account to be taken of amount if unpaid**

- (1) In determining for the purposes of this Chapter the amount of costs incurred on a production of an exhibition at the end of a period of account, ignore any amount that has not been paid 4 months after the end of that period.
- (2) This is without prejudice to the operation of section [1218ZBD](#) (when costs are taken to be incurred).

*Anti-avoidance etc*

#### **1218ZCM Tax avoidance arrangements**

- (1) A company does not qualify for museums and galleries exhibition tax relief in relation to the production of an exhibition 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.

#### **1218ZCN Transactions not entered into for genuine commercial reasons**

- (1) A transaction is to be ignored for the purpose of determining museums and galleries exhibition tax relief so far as the transaction is attributable to arrangements (other than tax avoidance arrangements) entered into otherwise than for genuine commercial reasons.
- (2) In this section “arrangements” and “tax avoidance arrangements” have the same meaning as in section [1218ZCM](#).

## CHAPTER 4

### LOSSES OF SEPARATE EXHIBITION TRADE

#### **1218ZD Application of sections 1218ZDA to 1218ZDC**

- (1) Sections 1218ZDA to 1218ZDC apply to a company which is treated under section 1218ZB(2) as carrying on a separate trade in relation to the production of an exhibition.
- (2) In those sections “the completion period” means the accounting period in which the company ceases to carry on the separate exhibition trade.

#### **1218ZDA Restriction on use of losses before completion period**

- (1) This section applies if a loss is made by the company in the separate exhibition trade in an accounting period preceding the completion period.
- (2) The loss is not available for loss relief, except to the extent that the loss may be carried forward under section 45 or 45B of CTA 2010 to be deducted from profits of the separate exhibition trade in a subsequent period.
- (3) If the loss is carried forward under section 45 or 45B of CTA 2010 and deducted from profits of the separate exhibition trade in a subsequent period, the deduction is to be ignored for the purposes of section 269ZB of CTA 2010 (restriction on deductions from trading profits).
- (4) In this section “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.

#### **1218ZDB Use of losses in the completion period**

- (1) Subsection (2) applies if a loss made in the separate exhibition trade is carried forward under section 45 or 45B of CTA 2010 to the completion period.
- (2) So much (if any) of the loss as is not attributable to museums and galleries exhibition tax relief (see subsection (4)) may be treated for the purposes of section 37 and Part 5 of CTA 2010 as if it were a loss made in the completion period.
- (3) If a loss is made in the separate exhibition 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 museums and galleries exhibition tax relief (see subsection (4)).
- (4) The amount of a loss in any period that is attributable to museums and galleries exhibition tax relief is found by—

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- (a) calculating what the amount of the loss would have been if there had been no additional deduction under Chapter 3 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 a loss surrendered, or treated as carried forward, under section 1218ZDC (terminal losses).

### **1218ZDC Terminal losses**

- (1) This section applies if—
- (a) the company ceases to carry on the separate exhibition trade, and
  - (b) if the company had not ceased to carry on that trade, it could have carried forward an amount under section 45 or 45B 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 exhibition trade is referred to as “trade 1”.

- (2) If company A—
- (a) is treated under section 1218ZB(2) as carrying on a separate trade in relation to the production of another exhibition (“trade 2”), and
  - (b) is carrying on trade 2 when it ceases to carry on trade 1,
- company A may (on making a claim) make an election under subsection (3).
- (3) The election is to have the terminal loss (or a part of it) treated—
- (a) in a case where the loss could have been carried forward under section 45 of CTA 2010 had trade 1 not ceased, as if it were a loss carried forward under that section to be set against the profits of trade 2 of the first accounting period beginning after the cessation and so on, and
  - (b) in a case where the loss could have been carried forward under section 45B of CTA 2010 had trade 1 not ceased, as if it were a loss made in trade 2 which has been carried forward under that section to the first accounting period beginning after the cessation.
- (4) Subsection (5) applies if—
- (a) another company (“company B”) is treated under section 1218ZB(2) as carrying on a separate trade (“company B’s trade”) in relation to the production of—
    - (i) the exhibition which is the subject of trade 1, or
    - (ii) another exhibition,
  - (b) company B is carrying on company B’s 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 a part of it) to company B.
- (6) On the making of a claim by company B the amount surrendered is treated—
- (a) in a case where the amount could have been carried forward under section 45 of CTA 2010 had trade 1 not ceased, as if it were a loss



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- carried forward by company B under that section to be set against the profits of company B's trade of the first accounting period beginning after the cessation and so on, and
- (b) in a case where the amount could have been carried forward under section 45B of CTA 2010 had trade 1 not ceased, as if it were a loss made in company B's trade which has been carried forward under that section to the first accounting period beginning after the cessation.
- (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).
- (9) A deduction under section 45 or 45B of CTA 2010 which is made in reliance on this section is to be ignored for the purposes of section 269ZB of that Act (restriction on deductions from trading profits).

## CHAPTER 5

### PROVISIONAL ENTITLEMENT TO RELIEF

#### 1218ZE Provisional entitlement to relief

- (1) In relation to a company and the production of an exhibition, "interim accounting period" means any accounting period that—
- (a) is one in which the company carries on the separate exhibition trade, and
- (b) precedes the accounting period in which it ceases to do so.
- (2) A company is not entitled to museums and galleries exhibition tax relief for an interim accounting period unless—
- (a) its company tax return for the period states the amount of planned core expenditure on the production of the exhibition that is EEA expenditure (see section 1218ZCC(2)), and
- (b) that amount is such as to indicate that the EEA expenditure condition (see section 1218ZCC) will be met.

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

#### 1218ZEA Clawback of provisional relief

- (1) If a statement is made under section 1218ZE(2) but it subsequently appears that the EEA expenditure condition will not be met on the company's ceasing to carry on the separate exhibition trade, the company—
- (a) is not entitled to museums and galleries exhibition tax relief for any period for which its entitlement depended on such a statement, and

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- (b) must amend accordingly its company tax return for any such period.
- (2) When a company ceases to carry on the separate exhibition 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 exhibition trade, and
  - (b) be accompanied by a final statement of the amount of the core expenditure on the production of the exhibition that is EEA expenditure.
- (3) If that statement shows that the EEA expenditure condition is not met—
  - (a) the company is not entitled to museums and galleries exhibition tax relief or to relief under section 1218ZDC (transfer of terminal losses) for any period, and
  - (b) must amend accordingly its company tax return for any period for which such relief was claimed.
- (4) 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.

## CHAPTER 6

### INTERPRETATION

#### **1218ZF Regulations about activities in relation to an exhibition**

The Treasury may by regulations amend section 1218ZBC (costs of the production) or 1218ZCD (“core expenditure”) 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, deinstalling or closing—

- (a) an exhibition, or
- (b) an exhibition of a specified description.

#### **1218ZFA Interpretation**

In this Part—

“company tax return” has the same meaning as in Schedule 18 to FA 1998 (see paragraph 3(1) of that Schedule);

“core expenditure” has the meaning given by section 1218ZCD;

“costs”, in relation to an exhibition, has the meaning given by section 1218ZBC;

“EEA expenditure” has the meaning given by section 1218ZCC(2);

“EEA expenditure condition” has the meaning given by section 1218ZCC;

“exhibition” has the meaning given by section 1218ZAA;

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“income”, in relation to an exhibition, has the meaning given by section 1218ZBB;

“museums and galleries exhibition tax relief” is to be read in accordance with Chapter 3 (see in particular section 1218ZC(1));

“primary production company” has the meaning given by section 1218ZAC;

“qualifying expenditure” has the meaning given by section 1218ZCG;

“secondary production company” has the meaning given by section 1218ZAD;

“the separate exhibition trade” is to be read in accordance with section 1218ZB;

“touring exhibition” has the meaning given by section 1218ZAB.”

## PART 2

### CONSEQUENTIAL AMENDMENTS

#### ICTA

- 2 (1) Section 826 of ICTA (interest on tax overpaid) is amended as follows.
- (2) In subsection (1), after paragraph (fd) insert—
  - “(fe) a payment of museums and galleries exhibition tax credit falls to be made to a company; or”.
- (3) In subsection (3C), for “or orchestra tax credit” substitute “, orchestra tax credit or museums and galleries exhibition tax credit”.
- (4) In subsection (8A)—
  - (a) in paragraph (a), for “or (fd)” substitute “, (fd) or (fe)”, and
  - (b) in paragraph (b)(ii), after “orchestra tax credit” insert “or museums and galleries exhibition tax credit”.
- (5) In subsection (8BA), after “orchestra tax credit” (in both places) insert “or museums and galleries exhibition tax credit”.

#### FA 1998

- 3 Schedule 18 to FA 1998 (company tax returns, assessments and related matters) is amended in accordance with paragraphs 4 to 6.
- 4 In paragraph 10 (other claims and elections to be included in return), in sub-paragraph (4), for “or 15D” substitute “, 15D or 15E”.
- 5 (1) Paragraph 52 (recovery of excessive repayments etc) is amended as follows.
- (2) In sub-paragraph (2), after paragraph (bh) insert—
  - “(bi) museums and galleries exhibition tax credit under Part 15E of that Act,”.
- (3) In sub-paragraph (5)—
  - (a) after paragraph (aj) insert—

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- “(ak) an amount of museums and galleries exhibition tax credit paid to a company for an accounting period,” and
  - (b) in the words after paragraph (b), after “(aj)” insert “, (ak)”.
- 6 In Part 9D (certain claims for tax relief)—
- (a) in the heading, for “or 15D” substitute “, 15D or 15E”, and
  - (b) in paragraph 83S (introduction), after sub-paragraph (f) insert—
    - “(g) museums and galleries exhibition tax relief.”

#### *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 (f) and after paragraph (g) insert “, and
- (h) Chapter 3 of Part 15E of that Act (museums and galleries exhibition 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 paragraph (ivd) and after that paragraph insert—
- “(ive) a museums and galleries exhibition tax credit under Chapter 3 of Part 15E of that Act, or”.

#### *CTA 2009*

- 9 CTA 2009 is amended in accordance with paragraphs 10 to 14.
- 10 In section 104BA (restriction on claiming other tax reliefs), after subsection (4) insert—
- “(5) For provision prohibiting an R&D expenditure credit being given under this Chapter and relief being given under Chapter 3 of Part 15E (museums and galleries exhibition tax relief), see section 1218ZCG(2).”
- 11 In Part 8 (intangible fixed assets), in Chapter 10 (excluded assets), after section 808D insert—

#### **“808E Assets representing expenditure incurred in course of separate exhibition trade**

- (1) This Part does not apply to an intangible fixed asset held by a museums and galleries exhibition production company so far as the asset represents expenditure on an exhibition that is treated under Part 15E as expenditure of a separate trade (see particularly sections 1218ZB and 1218ZBE).
- (2) In this section—
  - “exhibition” has the same meaning as in Part 15E (see section 1218ZAA);
  - “museums and galleries exhibition production company” means a company which, for the purposes of that Part, is the primary production company or a secondary production company for an exhibition (see sections 1218ZAC and 1218ZAD).”

- 12 In section 1040ZA (restriction on claiming other tax reliefs), after subsection (4) insert—
- “(5) For provision prohibiting relief being given under this Part and under Chapter 3 of Part 15E (museums and galleries exhibition tax relief), see section 1218ZCG(2).”
- 13 In section 1310 (orders and regulations), in subsection (4), after paragraph (eo) insert—
- “(ep) section 1218ZCC (EEA expenditure condition),  
(eq) section 1218ZCF (amount of additional deduction),  
(er) section 1218ZF (regulations about activities in relation to exhibition),”.
- 14 In Schedule 4 (index of defined expressions), insert at the appropriate places—
- |  |                     |
|--|---------------------|
| “company tax return (in Part 15E)                          | section 1218ZFA”    |
| “core expenditure (in Part 15E)                            | section 1218ZCD”    |
| “costs, in relation to an exhibition (in Part 15E)         | section 1218ZBC”    |
| “EEA expenditure (in Part 15E)                             | section 1218ZCC(2)” |
| “EEA expenditure condition (in Part 15E)                   | section 1218ZCC”    |
| “exhibition (in Part 15E)                                  | section 1218ZAA”    |
| “income, in relation to an exhibition (in Part 15E)        | section 1218ZBB”    |
| “museums and galleries exhibition tax relief (in Part 15E) | section 1218ZC(1)”  |
| “primary production company (in Part 15E)                  | section 1218ZAC”    |
| “qualifying expenditure (in Part 15E)                      | section 1218ZCG”    |
| “secondary production company (in Part 15E)                | section 1218ZAD”    |
| “separate exhibition trade (in Part 15E)                   | section 1218ZB”     |
| “touring exhibition (in Part 15E)                          | section 1218ZAB”.   |

*FA 2009*

- 15 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 (h) and after paragraph (i) insert “, or
  - (j) a payment of museums and galleries exhibition tax credit under Chapter 3 of Part 15E of CTA 2009 for an accounting period.”;
  - (b) in sub-paragraph (4), for “(i)” substitute “(j)”.

*CTA 2010*

- 16 In Part 8B of CTA 2010 (trading profits taxable at Northern Ireland rate), in section 357H(7) (introduction), after “Chapter 14A for provision about orchestra tax relief,” insert “Chapter 14B for provision about museums and galleries exhibition tax relief.”
- 17 In Part 8B of CTA 2010, after section 357UQ insert—

**“CHAPTER 14B**

## MUSEUMS AND GALLERIES EXHIBITION TAX RELIEF

*Introductory***357UR Introduction and interpretation**

- (1) This Chapter makes provision about the operation of Part 15E of CTA 2009 (museums and galleries exhibition tax relief) in relation to expenditure incurred by a company in an accounting period in which it is a Northern Ireland company.
- (2) In this Chapter—
  - (a) “Northern Ireland expenditure” means expenditure incurred in a trade to the extent that the expenditure forms part of the Northern Ireland profits or Northern Ireland losses of the trade;
  - (b) “the separate exhibition trade” has the same meaning as in Part 15E of CTA 2009 (see section [1218ZB\(3\)](#) of that Act);
  - (c) “qualifying expenditure” has the same meaning as in Chapter 3 of that Part (see section [1218ZCG](#) of that Act).
- (3) References in Part 15E of CTA 2009 to “museums and galleries exhibition tax relief” include relief under this Chapter.

*Museums and galleries exhibition tax relief*

**357US Northern Ireland additional deduction**

- (1) In this Chapter “a Northern Ireland additional deduction” means so much of a deduction under section 1218ZCE of CTA 2009 (claim for additional deduction) as is calculated by reference to qualifying expenditure that is Northern Ireland expenditure.
- (2) A Northern Ireland additional deduction forms part of the Northern Ireland profits or Northern Ireland losses of the separate exhibition trade.

**357UT Northern Ireland supplementary deduction**

- (1) This section applies where—
  - (a) a company is entitled under section 1218ZCE of CTA 2009 to an additional deduction in calculating the profit or loss of the separate exhibition trade in an accounting period,
  - (b) the company is a Northern Ireland company in the period,
  - (c) the additional deduction is wholly or partly a Northern Ireland additional deduction, and
  - (d) any of the following conditions is met—
    - (i) the company does not have a surrenderable loss in the accounting period;
    - (ii) the company has a surrenderable loss in the accounting period, but does not make a claim under section 1218ZCH of CTA 2009 (museums and galleries exhibition tax credit claimable if company has surrenderable loss) for the period;
    - (iii) the company has a surrenderable loss in the accounting period and makes a claim under that section for the period, but the amount of Northern Ireland losses surrendered on the claim is less than the Northern Ireland additional deduction.
- (2) The company is entitled to make another deduction (“a Northern Ireland supplementary deduction”) in respect of qualifying expenditure.
- (3) See section 357UU for provision about the amount of the Northern Ireland supplementary deduction.
- (4) The Northern Ireland supplementary deduction—
  - (a) is made in calculating the profit or loss of the separate exhibition trade, and
  - (b) forms part of the Northern Ireland profits or Northern Ireland losses of the separate exhibition trade.
- (5) In this section “surrenderable loss” has the meaning given by section 1218ZCI of CTA 2009.

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### **357UU Northern Ireland supplementary deduction: amount**

- (1) This section contains provision for the purposes of section 357UT(2) about the amount of the Northern Ireland supplementary deduction.
- (2) If the accounting period falls within only one financial year, the amount of the Northern Ireland supplementary deduction is—

$$(A - B) \times \left( \frac{(MR - NIR)}{NIR} \right)$$

where—

A is the amount of the Northern Ireland additional deduction brought into account in the accounting period;

B is the amount of Northern Ireland losses surrendered in any claim under section 1218ZCH of CTA 2009 for the accounting period;

MR is the main rate for the financial year;

NIR is the Northern Ireland rate for the financial year.

- (3) If the accounting period falls within more than one financial year, the amount of the Northern Ireland supplementary deduction is determined by taking the following steps.

#### *Step 1*

Calculate, for each financial year, the amount that would be the Northern Ireland supplementary deduction for the accounting period if it fell within only that financial year (see subsection (2)).

#### *Step 2*

Multiply each amount calculated under step 1 by the proportion of the accounting period that falls within the financial year for which it is calculated.

#### *Step 3*

Add together each amount found under step 2.

### **357UV Museums and galleries exhibition tax credit: Northern Ireland supplementary deduction ignored**

For the purpose of determining the available loss of a company under section 1218ZCI of CTA 2009 (amount of surrenderable loss) for any accounting period, any Northern Ireland supplementary deduction made by the company in the period (and any Northern Ireland supplementary deduction made in any previous accounting period) is to be ignored.

*Losses of separate exhibition trade*

### **357UW Restriction on use of losses before completion period**

- (1) Section 1218ZDA of CTA 2009 (restriction on use of losses before completion period) has effect subject as follows.



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- (2) The reference in subsection (1) of that section to a loss made in the separate exhibition trade in an accounting period preceding the completion period is, if the company is a Northern Ireland company in that period, a reference to—
  - (a) any Northern Ireland losses of the trade of the period, or
  - (b) any mainstream losses of the trade of the period;and references to losses in subsections (2) and (3) of that section are to be read accordingly.
- (3) Subsection (4) applies if a Northern Ireland company has, in an accounting period preceding the completion period—
  - (a) both Northern Ireland losses of the trade and mainstream profits of the trade, or
  - (b) both mainstream losses of the trade and Northern Ireland profits of the trade.
- (4) The company may make a claim under section 37 (relief for trade losses against total profits) for relief for the losses mentioned in subsection (3)(a) or (b).
- (5) But relief on such a claim is available only—
  - (a) in the case of a claim for relief for Northern Ireland losses, against mainstream profits of the trade of the same period;
  - (b) in the case of a claim for relief for mainstream losses, against Northern Ireland profits of the trade of the same period.
- (6) In this section “the completion period” has the same meaning as in section 1218ZDA of CTA 2009 (see section 1218ZD(2) of that Act).

### **357UX Use of losses in the completion period**

- (1) Section 1218ZDB of CTA 2009 (use of losses in the completion period) has effect subject as follows.
- (2) The reference in subsection (1) of that section to a loss made in the separate exhibition trade is, in relation to a loss made in a period in which the company is a Northern Ireland company, a reference to—
  - (a) any Northern Ireland losses of the trade of the period, or
  - (b) any mainstream losses of the trade of the period;and references to losses in subsections (2) and (4) of that section are to be read accordingly.
- (3) The references in subsection (3) of that section to a loss made in the separate exhibition trade in the completion period are, where the company is a Northern Ireland company in the period, references to—
  - (a) any Northern Ireland losses of the trade of the period, or
  - (b) any mainstream losses of the trade of the period;and references to losses in subsection (4) of that section are to be read accordingly.
- (4) Subsection (4) of that section has effect, in relation to Northern Ireland losses, as if the reference to an additional deduction under Chapter 3 of Part

15E of CTA 2009 included a reference to a Northern Ireland supplementary deduction under this Chapter.

### **357UY Terminal losses**

(1) Section 1218ZDC of CTA 2009 (terminal losses) has effect subject as follows.

(2) Where—

(a) a company makes an election under subsection (3) of that section (election to treat terminal loss as loss brought forward of different trade) in relation to all or part of a terminal loss, and

(b) the terminal loss is a Northern Ireland loss,

that subsection has effect as if the reference in it to a loss brought forward were to a Northern Ireland loss brought forward.

(3) Where—

(a) a company makes a claim under subsection (6) of that section (claim to treat terminal loss as loss brought forward by different company) in relation to part or all of a terminal loss, and

(b) the terminal loss is a Northern Ireland loss,

that subsection has effect as if the reference in it to a loss brought forward were to a Northern Ireland loss brought forward.”

18 (1) Schedule 4 to CTA 2010 (index of defined expressions) is amended as follows.

(2) In the entry for “Northern Ireland expenditure”—

(a) for “14A” substitute “14B”, and

(b) for “and 357UJ(2)” substitute “, 357UJ(2) and 357UR(2)”.

(3) Insert at the appropriate places—

“qualifying expenditure (in Chapter 14B of Part 8B) | section 357UR(2)”

“the separate exhibition trade (in Chapter 14B of Part 8B) | section 357UR(2)”

### *FA 2016*

19 In Schedule 24 to FA 2016 (tax advantages constituting the grant of state aid), in Part 1, in the table headed “*Creative tax reliefs*”, after the entry for “Orchestra tax relief” insert—

““Museums and galleries exhibition tax relief | Part 15E of CTA 2009”

## **PART 3**

### **COMMENCEMENT**

20 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.

- 21 (1) The amendments made by the following provisions of this Schedule have effect in relation to accounting periods beginning on or after 1 April 2017—
- (a) Part 1, and
  - (b) in Part 2, paragraphs 2 to 15 and 19.
- (2) Sub-paragraph (3) applies where a company has an accounting period beginning before 1 April 2017 and ending on or after that date (“the straddling period”).
- (3) For the purposes of Part 15E of CTA 2009—
- (a) so much of the straddling period as falls before 1 April 2017, and so much of that period as falls on or after that date, are 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.
- 22 (1) Section 4 of CT(NI)A 2015 (power to make consequential amendments) has effect as if paragraphs 16 to 18 of this Schedule were contained in that Act.
- (2) Section 5(4) to (6) of CT(NI)A 2015 (commencement) has effect as if—
- (a) references to Part 8B of CTA 2010 were to that Part as amended by paragraphs 16 and 17 of this Schedule, and
  - (b) references to the amendments made by Schedules 1 and 2 to CT(NI)A 2015 included the amendments made by paragraph 18 of this Schedule.