

## SCHEDULES

### SCHEDULE 3

Section 4

#### THEATRICAL PRODUCTIONS

#### PART 1

#### AMENDMENTS OF PART 15C OF CTA 2009

##### *Introduction*

1 Part 15C of CTA 2009 (theatrical productions) is amended as follows.

##### *Meaning of “theatrical production”*

- 2 (1) Section 1217FA (meaning of “theatrical production”) is amended as follows.
- (2) In subsection (2)—
- (a) in the words before paragraph (a), for “relevant” substitute “other”;
  - (b) for paragraph (a) substitute—
    - “(a) the primary focus of the play, opera, musical or dramatic piece is the depiction of a story, or a number of related or unrelated stories, through the playing of roles by performers (whether actors, singers, dancers or others),”;
  - (c) after paragraph (ba) (but before the following “and”) insert—
    - “(bb) it is reasonable to expect that the main purpose of the audience members will be to observe the performance (rather than, for example, to undertake tasks facilitated or accompanied by the performance),”.
- (3) Omit subsection (3A).
- (4) Those amendments have effect in relation to a theatrical production the production phase of which begins on or after 1 April 2024.

##### *Meaning of “core expenditure”*

- 3 (1) In section 1217GC(2) (expenditure that is not “core expenditure” on theatrical production), in paragraph (a), for “or storage” substitute “, storage, or the provision of incidental goods or services to members of the audience”.
- (2) That amendment has effect in relation to expenditure incurred on or after 1 April 2024.

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*Provision to emphasise that capital expenditure does not generally qualify for relief*

- 4 In section 1217IC (costs of theatrical production), in subsection (3), at the end insert—

“(As to other capital expenditure, see section 53 and subsection (2).)”

*UK expenditure threshold to replace EEA expenditure threshold*

- 5 (1) In section 1217GB (European expenditure condition)—
- (a) in the heading, for “European” substitute “UK”;
  - (b) in subsection (1)—
    - (i) for “European” (in both places it occurs) substitute “UK”;
    - (ii) for “25%” substitute “10%”;
  - (c) for subsection (2) substitute—
 

“(2) In this Part “UK expenditure” means expenditure on goods or services that are used or consumed in the United Kingdom.”;
  - (d) in subsection (3), for “European and non-European expenditure” substitute “expenditure that is and is not UK expenditure”;
  - (e) in subsection (5), for “European” substitute “UK”.
- (2) In each of the following provisions, for “European” (in each place it occurs) substitute “UK”—
- (a) section 1217G(1)(b) (conditions for production to qualify for relief);
  - (b) section 1217N(2) (provisional satisfaction of European expenditure condition);
  - (c) section 1217NA(1), (2) and (3) (European expenditure condition provisionally satisfied not later satisfied).
- (3) In section 1217OB (defined terms)—
- (a) omit the definitions of “European expenditure” and “European expenditure condition”;
  - (b) at the end insert—
 

““UK expenditure” has the meaning given by section 1217GB;  
“UK expenditure condition” has the meaning given by section 1217GB.”
- (4) In Schedule 4 (index of defined expressions)—
- (a) omit the entries for “European expenditure (in Part 15C)” and “European expenditure condition (in Part 15C)”;
  - (b) at the appropriate places insert—

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“UK expenditure (in Part 15C) section 1217GB(2)”;

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“UK expenditure condition (in section 1217GB(1)).  
Part 15C)

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- (5) For transitional provision in relation to this paragraph, see paragraph 11.

*EEA expenditure not to qualify for relief*

- 6 (1) In section 1217J(2) and (3) (amount of relief for theatrical production), for “European” substitute “UK”.
- (2) For transitional provision in relation to this paragraph, see paragraph 12.

*Profit element of non-arm's-length payments to connected parties not to qualify for relief*

- 7 (1) Section 1217JA (expenditure on theatrical productions that qualifies for relief) is amended as follows.
- (2) In subsection (1)(b), after “(2)” insert “or (3)”.
- (3) After subsection (2) insert—
- “(3) Expenditure is excluded to the extent that it represents connected party profit, unless subsection (5) applies.
- (4) For the purposes of subsection (3), expenditure represents connected party profit—
- (a) if it is a payment to a person (“C”) in exchange for something supplied by that person,
- (b) if the company is connected with C, and
- (c) if, and to the extent that, the amount of the payment exceeds the expenditure incurred by C in supplying that thing.
- (5) This subsection applies if the amount of the payment is no more than would have been the case had the transaction been entered into at arm’s length.
- (6) A transaction would have been entered into “at arm’s length” if it made “the arm’s length provision” within the meaning of Part 4 of TIOPA 2010 (and for this purpose any limitation on the application of that Part is to be disregarded).
- (7) Subsections (8) and (9) apply if—
- (a) the supply by C to the production company is one of a sequence of transactions in which the thing supplied has been supplied by one person to another, and
- (b) either—
- (i) each transacting party in the sequence is connected to at least one other transacting party in the sequence, or
- (ii) each transaction in the sequence is entered into in furtherance of a single scheme or arrangement (of whatever kind, and whether or not legally enforceable).
- (8) The reference to C in subsection (4)(c) is to be read as a reference to the supplier in the first transaction in the sequence.
- (9) The reference to the transaction in subsection (5) is to be read as including each transaction in the sequence.
- (10) In this section, “payment” includes any transfer of value.”
- (4) Those amendments have effect in relation to expenditure incurred on or after 1 April 2024.

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*Amendment of R&D exclusion*

- 8 (1) In section 1217JA (expenditure qualifying for theatre relief), for subsection (2) substitute—
- (a) in paragraph (a), for “is entitled to” substitute “would be able to claim”;
  - (b) in paragraph (b), for “has obtained” substitute “would be able to claim”.
- (2) Those amendments have effect in relation to expenditure incurred on or after 1 April 2024.

*Restriction where tax liabilities outstanding: meaning of “payment period”*

- 9 In section 1217KB (payment in respect of theatre tax credit), after subsection (4) insert—
- “(4A) For the purposes of subsection (4), a “payment period” is—
- (a) in relation to PAYE regulations or Class 1 national insurance contributions, a period—
    - (i) which ends on the fifth day of a month, and
    - (ii) for which the company is liable to account for income tax and national insurance contributions to an officer of Revenue and Customs;
  - (b) in relation to section 966 of ITA 2007, a period for which the company is required to make a return as described in section 969(1)(b) of that Act.”

*Relief not to be available for companies in insolvency*

- 10 (1) After section 1217KC insert—

*“Companies in insolvency*

**1217KD No claim if company in administration or liquidation**

- (1) A company may not make a claim under section 1217H or section 1217K at a time when it is in administration or liquidation.
  - (2) For the purposes of this section, a company is in administration if—
    - (a) it is in administration under Part 2 of the Insolvency Act 1986 or Part 3 of the Insolvency (Northern Ireland) Order 1989 ([S.I. 1989/2405 \(N.I. 19\)](#)), or
    - (b) a corresponding situation under the law of a country or territory outside the United Kingdom exists in relation to the company.
  - (3) For the purposes of this section, a company is in liquidation if—
    - (a) it is in liquidation within the meaning of section 247 of that Act or Article 6 of that Order, or
    - (b) a corresponding situation under the law of a country or territory outside the United Kingdom exists in relation to the company.”
- (2) That amendment has effect in relation to claims made on or after 1 April 2024.

## PART 2

### CHANGES FROM EUROPEAN TO UK EXPENDITURE: TRANSITIONAL PROVISION

#### *Transitional provision in relation to paragraph 5*

- 11 (1) This paragraph makes transitional provision in connection with paragraph 5.
- (2) The amendments made by that paragraph do not apply in relation to a theatrical production if—
- (a) it has entered production before 1 April 2024, and
  - (b) the separate theatrical trade in respect of it ceases before 1 April 2025.
- (3) Sub-paragraph (4) applies if—
- (a) a theatrical production has entered production before 1 April 2024,
  - (b) the separate theatrical trade in respect of the production continues on or after 1 April 2025,
  - (c) the production company's company tax return for the first accounting period that ends on or after 1 April 2025 is accompanied by a statement of the amount of the core expenditure on the theatrical production incurred before 1 April 2025 that is European expenditure, and
  - (d) that statement shows that, in respect of core expenditure incurred before 1 April 2025, the European expenditure condition is met.
- (4) The company's entitlement to—
- (a) an additional deduction under section 1217H of CTA 2009, or
  - (b) a tax credit under section 1217K of that Act,
- is unaffected by a failure to meet the UK expenditure condition so far as the entitlement derives from expenditure incurred before 1 April 2025.
- (5) For the purposes of sub-paragraph (4), an entitlement to a tax credit under section 1217H of CTA 2009 derives from expenditure incurred before 1 April 2025 to the extent that it would arise if only costs incurred and income received before that date were taken into account in calculating the surrenderable loss of the company for the purposes of section 1217KA of that Act.
- (6) Sub-paragraph (7) applies in relation to a theatrical production in respect of which the separate theatrical trade continues on or after 1 April 2025.
- (7) The reference in section 1217NA(1) of CTA 2009, as amended by paragraph 5, to a statement having been made under section 1217N(2) of that Act includes reference to a statement having been made in relation to the European expenditure condition under that provision before it was amended by paragraph 5.
- (8) But the application of section 1217NA(1) of CTA 2009 as so amended is subject to sub-paragraph (4) (where that sub-paragraph applies).
- (9) In this paragraph—
- “theatrical production”, “separate theatrical trade”, “production company” and “core expenditure” have the same meanings as in Part 15C of CTA 2009;
  - “UK expenditure condition” has the same meaning as in that Part after the amendments made by paragraph 5;

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“European expenditure” and “European expenditure condition” have the same meanings as in that Part before the amendments made by paragraph 5.

- (10) For the purposes of this paragraph, a theatrical production “enters production” when core expenditure is first incurred on it.

*Transitional provision in relation to paragraph 6*

- 12 (1) This paragraph makes transitional provision in relation to paragraph 6.
- (2) The amendments made by that paragraph have effect in relation to accounting periods ending on or after 1 April 2024.
- (3) Sub-paragraph (4) applies in a case where expenditure incurred before 1 April 2024 is to be taken into account as qualifying expenditure for the purposes of section 1217J of CTA 2009 (amount of relief for theatrical production).
- (4) The references in subsections (2) and (3) of that section (as amended by paragraph 6) to so much of the qualifying expenditure incurred to date as is UK expenditure are to be read as references to so much of the qualifying expenditure incurred to date as—
- (a) has been incurred before 1 April 2024 and is European expenditure, or
  - (b) has been incurred on or after that date and is UK expenditure.
- (5) But if the theatrical production in relation to which sub-paragraph (4) applies has entered production before 1 April 2024, the production company may elect for that sub-paragraph to have effect in relation to that production as if “2025” were substituted for “2024”.
- (6) In this paragraph—
- “theatrical production”, “production company” and “core expenditure” have the same meanings as in Part 15C of CTA 2009;
  - “UK expenditure” has the same meaning as in that Part after the amendments made by paragraph 5;
  - “European expenditure” has the same meaning as in that Part before the amendments made by paragraph 5.
- (7) For the purposes of sub-paragraph (5), a theatrical production “enters production” when core expenditure is first incurred on it.