



Finance Act 2005

2005 CHAPTER 7

PART 2

INCOME TAX, CORPORATION TAX AND CAPITAL GAINS TAX

CHAPTER 6

FILM RELIEF

Deferred income agreements

60 Deferred income agreements which exist when relief claimed

- (1) This section applies where—
 - (a) in relation to a trade or business (“the relevant trade”), a company (“C”) makes a claim on or after 2nd December 2004 under section 42 of F(No 2)A 1992 for a deduction for a relevant period in respect of expenditure relating to a film (“the claim”), and
 - (b) when the claim is made, one or more deferred income agreements in respect of the film exist to which C is or has been a party and which C entered into on or after 2nd December 2004.
- (2) C is to be treated for corporation tax purposes as receiving, in the relevant period in respect of which the claim is made, an amount of income from the relevant trade equal to the amount of excess relief.
- (3) If, at the time immediately after the end of the 15 year period, C is carrying on the relevant trade, C is to be treated for the purposes of section 40B of F(No 2)A 1992 (allocation of expenditure to periods) as incurring at that time relevant film expenditure of an amount equal to the amount of excess relief.
- (4) The “amount of excess relief” is the amount given by the following formula—

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$$D \times \left(1 - \frac{T1}{T2} \right)$$

where—

D is the amount which C is entitled to deduct under section 42 of F(No 2)A 1992 by virtue of the claim;

T1 is the number of days in the 15 year period;

T2 is the number of days in the period which begins with the operative date and ends with the final deferral date.

- (5) The “15 year period” means the period of 15 years which begins with the operative date.
- (6) The “operative date” means—
- (a) where the claim is only in respect of expenditure incurred on the acquisition of the original master version of the film, the date of that acquisition, and
 - (b) in any other case, the date upon which the film is completed.
- (7) The “final deferral date” means—
- (a) the last date of deferral in relation to the deferred income agreement mentioned in subsection (1)(b) (see section 61), or
 - (b) where there is more than one such agreement, the date which is the latest of the last dates of deferral in relation to those agreements.
- (8) “Relevant film expenditure” means expenditure of a revenue nature on the production or acquisition of the original master version of the film.
- (9) Any income received in a relevant period by virtue of this section is in addition to any other income received in that period.
- (10) This section is deemed to have come into force on 2nd December 2004.

61 Meaning of “deferred income agreement in respect of a film”

- (1) For the purposes of section 60, a “deferred income agreement in respect of a film” means an agreement which satisfies condition A or condition B.
- (2) Condition A is that the agreement (whether or not it supplements or varies another agreement)—
- (a) guarantees to any person an amount of income arising from the exploitation of the film, and
 - (b) has the effect that the last date of deferral is a date after the end of the 15 year period.
- (3) Condition B is that the agreement—
- (a) supplements or varies another agreement (“the earlier agreement”) which guarantees to any person an amount of income arising from the exploitation of the film, and
 - (b) has the effect that the last date of deferral is a date which is after the end of the 15 year period and after the last date of deferral (if any) in relation to the earlier agreement.

- (4) The “last date of deferral” means the last date upon which an amount of the guaranteed income will or may arise.
- (5) It does not matter whether any of the agreements mentioned in subsection (2) or (3) existed before 2nd December 2004.
- (6) For the purposes of this section—
 - (a) “agreement” means an agreement or series of agreements, and
 - (b) an agreement “guarantees” an amount of income if the agreement, or any part of it, is designed to secure the receipt of that amount (or at least that amount) of income.
- (7) This section is deemed to have come into force on 2nd December 2004.

62 Deferred income agreements entered into after relief claimed

- (1) This section applies where—
 - (a) on or after 2nd December 2004, a company (“C”) enters into a deferred income agreement in respect of a film in the course of carrying on a trade or business (“the relevant trade”), and
 - (b) before C entered into the agreement, a claim was made under section 42 of F(No 2)A 1992, in relation to the relevant trade, for a deduction for a relevant period in respect of expenditure relating to the film (“the claim”).
- (2) C is to be treated for corporation tax purposes as receiving, in the relevant period in which C entered into the deferred income agreement, an amount of income from the relevant trade equal to the net excess relief.
- (3) If, at the time immediately after the end of the 15 year period, C is carrying on the relevant trade, C is to be treated for the purposes of section 40B of F(No 2)A 1992 (allocation of expenditure to periods) as incurring at that time relevant film expenditure of an amount equal to the net excess relief.
- (4) The “net excess relief” is the amount of excess relief reduced (but not below nil) by the recovered amount (if any).
- (5) The “amount of excess relief” is the amount given by the following formula—

$$D \times \left(1 - \frac{T1}{T2} \right)$$

where—

D is the amount which there was an entitlement to deduct under section 42 of F(No 2)A 1992 by virtue of the claim;
T1 is the number of days in the 15 year period;
T2 is the number of days in the period which begins with the operative date and ends with the final deferral date.

- (6) The “recovered amount” means the total of—
 - (a) the amount (if any) treated under section 60 as income received by C from the relevant trade as a result of any application of that section in relation to the claim as a result of C’s entry into any deferred income agreement in respect of the film concerned, and

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- (b) the total of any amounts treated under this section as income received by C from the relevant trade as a result of any previous application of this section in relation to the claim as a result of C's entry into any previous relevant agreements.
- (7) The "15 year period" means the period of 15 years which begins with the operative date.
- (8) The "operative date" means—
- (a) where the claim is only in respect of expenditure incurred on the acquisition of the original master version of the film, the date of that acquisition, and
 - (b) in any other case, the date upon which the film is completed.
- (9) For the purposes of this section—
- (a) "deferred income agreement in respect of a film" has the same meaning as it has for the purposes of section 60,
 - (b) the "final deferral date" means the last date of deferral in relation to the deferred income agreement mentioned in subsection (1)(a) (see section 61),
 - (c) "previous relevant agreement" means a deferred income agreement in respect of the film concerned which was entered into by C after the claim was made and before the entry into the deferred income agreement mentioned in subsection (1)(a), and
 - (d) "relevant film expenditure" means expenditure of a revenue nature on the production or acquisition of the original master version of the film.
- (10) It does not matter for the purposes of subsection (1) whether the claim was made before, or on or after, 2nd December 2004.
- (11) Any income received in a relevant period by virtue of this section is in addition to any other income received in that period.
- (12) This section is deemed to have come into force on 2nd December 2004.

63 Sections 60 to 62: supplementary

- (1) For the purposes of sections 60 to 62 a company is not to be regarded as entering into an agreement on or after 2nd December 2004 where the company entered into the agreement in pursuance of an obligation of the company which immediately before that date was an unconditional obligation.
- (2) In determining, for the purposes of subsection (1), whether an obligation in pursuance of which a company entered into an agreement was an unconditional obligation immediately before 2nd December 2004, the obligation is not to be regarded as a conditional obligation at that time by reason only that it was contingent on a condition the fulfilment of which was outside the control of the company.
- (3) For the purposes of this section and sections 60 to 62—
- "film" is to be construed in accordance with paragraph 1 of Schedule 1 to the Films Act 1985 (c. 21);
 - "original master version" is to be construed in accordance with section 43 of F(No 2)A 1992;
 - "relevant period" has the meaning given in section 40B of that Act.

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- (4) For the purposes of sections 60 to 62 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.
- (5) This section is deemed to have come into force on 2nd December 2004.

64 Transitional provision for years of assessment before the year 2005-06

- (1) Section 60 has effect, for income tax purposes, for the year 2004-05 and earlier years of assessment as if—
 - (a) in paragraph (a) of subsection (1), for “company” there were substituted “person”, and
 - (b) in subsection (2) for “corporation tax” there were substituted “income tax”.
- (2) Section 62 has effect, for income tax purposes, for the year 2004-05 and earlier years of assessment as if—
 - (a) in paragraph (a) of subsection (1), for “company” there were substituted “person”, and
 - (b) in subsection (2) for “corporation tax” there were substituted “income tax”.
- (3) Section 63 has effect, for income tax purposes, for the year 2004-05 and earlier years of assessment as if, in subsections (1) and (2), for “company” there were substituted “person”.
- (4) This section is deemed to have come into force on 2nd December 2004.

65 Corresponding provision in ITTOIA 2005

- (1) After section 142 of ITTOIA 2005 (when expenditure is incurred) insert—

“Deferred income agreements

142A Deferred income agreements which exist when deduction made

- (1) This section applies where—
 - (a) in calculating the profits of a relevant period of a trade carried on by a person (“P”), a deduction is made under any of sections 138 to 140 in respect of expenditure relating to a film (“the relevant expenditure”), and
 - (b) when the deduction is made, one or more deferred income agreements in respect of the film exist to which P is or has been a party and which P entered into on or after 2nd December 2004.
- (2) An amount equal to the amount of excess relief is brought into account as a receipt in calculating the profits of the trade of the relevant period in respect of which the deduction was made.
- (3) If, at the time immediately after the end of the 15 year period, P is carrying on the trade, P is to be treated for the purposes of section 135 (normal rules for allocating expenditure to periods) as incurring at that time relevant film expenditure of an amount equal to the amount of excess relief.

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- (4) The “amount of excess relief” is the amount given by the following formula—

$$D \times \left(1 - \frac{T1}{T2} \right)$$

where—

- D is the amount of the deduction allowed;
 - T1 is the number of days in the 15 year period;
 - T2 is the number of days in the period which begins with the operative date and ends with the final deferral date.
- (5) The “15 year period” means the period of 15 years which begins with the operative date.
- (6) The “operative date” means—
- (a) where the relevant expenditure is acquisition expenditure only, the date of the acquisition in question, and
 - (b) in any other case, the date upon which the film is completed.
- (7) The “final deferral date” means—
- (a) the last date of deferral in relation to the deferred income agreement mentioned in subsection (1)(b) (see section 142B), or
 - (b) where there is more than one such agreement, the date which is the latest of the last dates of deferral in relation to those agreements.
- (8) “Relevant film expenditure” means production or acquisition expenditure relating to the original master version of the film.

142B Meaning of “deferred income agreement in respect of a film”

- (1) For the purposes of section 142A, a “deferred income agreement in respect of a film” means an agreement which satisfies condition A or condition B.
- (2) Condition A is that the agreement (whether or not it supplements or varies another agreement)—
- (a) guarantees to any person an amount of income arising from the exploitation of the film, and
 - (b) has the effect that the last date of deferral is a date after the end of the 15 year period.
- (3) Condition B is that the agreement—
- (a) supplements or varies another agreement (“the earlier agreement”) which guarantees to any person an amount of income arising from the exploitation of the film, and
 - (b) has the effect that the last date of deferral is a date which is after the end of the 15 year period and after the last date of deferral (if any) in relation to the earlier agreement.
- (4) The “last date of deferral” means the last date upon which an amount of the guaranteed income will or may arise.
- (5) It does not matter whether any of the agreements mentioned in subsection (2) or (3) existed before 2nd December 2004.

- (6) For the purposes of this section—
- (a) “agreement” means an agreement or series of agreements, and
 - (b) an agreement “guarantees” an amount of income if the agreement, or any part of it, is designed to secure the receipt of that amount (or at least that amount) of income.

142C Deferred income agreements entered into after deduction made

- (1) This section applies where—
- (a) on or after 2nd December 2004, a person (“P”) enters into a deferred income agreement in respect of a film in the course of carrying on a trade, and
 - (b) before P entered into the agreement, event A or event B occurred in relation to the trade in respect of expenditure relating to the film (“the relevant expenditure”).
- (2) Event A occurs in relation to a trade in respect of expenditure relating to a film when a deduction is made under any of sections 138 to 140 in respect of that expenditure in calculating the profits of the trade of a relevant period (“the deduction”).
- (3) Event B occurs in relation to a trade in respect of expenditure relating to a film when a claim is made under section 42 of F(No 2)A 1992, in relation to the trade, for a deduction for a relevant period in respect of that expenditure (“the claim”).
- It does not matter whether the claim is made before, or on or after, 2nd December 2004.
- (4) An amount equal to the net excess relief is brought into account as a receipt in calculating the profits of the trade of the relevant period in which P entered into the deferred income agreement.
- (5) If, at the time immediately after the end of the 15 year period, P is carrying on the trade, P is to be treated for the purposes of section 135 (normal rules for allocating expenditure to periods) as incurring at that time relevant film expenditure of an amount equal to the net excess relief.
- (6) The “15 year period” means the period of 15 years which begins with the operative date.
- (7) The “operative date” means—
- (a) where the relevant expenditure is acquisition expenditure only, the date of the acquisition in question, and
 - (b) in any other case, the date upon which the film is completed.
- (8) “Deferred income agreement in respect of a film” has the same meaning as it has for the purposes of section 142A.
- (9) “Relevant film expenditure” means production or acquisition expenditure relating to the original master version of the film.

Status: This is the original version (as it was originally enacted).

142D Meaning of the “net excess relief”

- (1) For the purposes of section 142C the “net excess relief” is the amount of excess relief reduced (but not below nil) by the recovered amount (if any).
- (2) The “amount of excess relief” is the amount given by the following formula—

$$D \times \left(1 - \frac{T1}{T2} \right)$$

where—

D is—

- (a) in a case where event A has occurred, the amount of the deduction allowed, and
- (b) in a case where event B has occurred, the amount which there was an entitlement to deduct under section 42 of F(No 2)A 1992 by virtue of the claim;

T1 is the number of days in the 15 year period;

T2 is the number of days in the period which begins with the operative date and ends with the final deferral date.

- (3) The “final deferral date” means the last date of deferral in relation to the deferred income agreement mentioned in section 142C(1)(a) (see section 142B).
- (4) In a case where event A has occurred, the “recovered amount” means the total of—
- (a) the amount (if any) treated under section 142A as a receipt of the trade as a result of any application of that section in relation to the deduction as a result of P’s entry into any deferred income agreement in respect of the film concerned, and
 - (b) the total of any amounts treated under section 142C as receipts of the trade as a result of any previous application of that section in relation to the deduction as a result of P’s entry into any previous relevant agreements.
- (5) In a case where event B has occurred, the “recovered amount” means the total of—
- (a) the amount (if any) treated under section 60 of the Finance Act 2005 as a receipt of the trade as a result of any application of that section in relation to the claim as a result of P’s entry into any deferred income agreement in respect of the film concerned,
 - (b) the total of any amounts treated under section 62 of the Finance Act 2005 as receipts of the trade as a result of any application of that section in relation to the claim as a result of P’s entry into any previous relevant agreements, and
 - (c) the total of any amounts treated under section 142C as receipts of the trade as a result of any previous application of that section in relation to the claim as a result of P’s entry into any previous relevant agreements.

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- (6) “Previous relevant agreement” means a deferred income agreement in respect of the film concerned which was entered into by P—
- (a) in the case of event A, after the deduction was made and before the entry into the deferred income agreement mentioned in section 142C(1)(a), and
 - (b) in the case of event B, after the claim was made and before the entry into that deferred income agreement.

142E Sections 142A to 142D: time of entry into an agreement

- (1) For the purposes of sections 142A to 142D a person is not to be regarded as entering into an agreement on or after 2nd December 2004 where the person entered into the agreement in pursuance of an obligation of the person which immediately before that date was an unconditional obligation.
 - (2) In determining, for the purposes of subsection (1), whether an obligation in pursuance of which a person entered into an agreement was an unconditional obligation immediately before 2nd December 2004, the obligation is not to be regarded as a conditional obligation at that time by reason only that it was contingent on a condition the fulfilment of which was outside the control of the person.”
- (2) The amendment made by this section has effect for the year 2005-06 and subsequent years of assessment.