

Changes to legislation: There are currently no known outstanding effects for the Finance Act 2006, SCHEDULE 5. (See end of Document for details)

SCHEDULES

SCHEDULE 5

Section 42

FILM TAX RELIEF: FURTHER PROVISIONS

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Textual Amendments

F1 Sch. 5 Pt. 1 repealed (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), s. 1329(1), Sch. 1 para. 694(a), **Sch. 3 Pt. 1** (with Sch. 2 Pts. 1, 2)

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PART 2

CERTIFICATION OF BRITISH FILMS FOR PURPOSES OF FILM TAX RELIEF

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

“6 Certification of British films

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

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

- 17 For paragraph 1 of that Schedule substitute—

“Preliminary

- 1 (1) In this Schedule—

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

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

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

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

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

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

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

- 18 For paragraph 2 of that Schedule substitute—

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“Applications for certification

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

19 For paragraph 3 of that Schedule substitute—

“Certification and withdrawal of certification

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

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

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

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

Confidentiality of information

F224

Textual Amendments

F2 Sch. 5 para. 24 repealed (with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), s. 1329(1), Sch. 1 para. 694(b), Sch. 3 Pt. 1 (with Sch. 2 Pts. 1, 2)

Wrongful disclosure

F325

Textual Amendments

F3 Sch. 5 para. 25 repealed (with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), s. 1329(1), Sch. 1 para. 694(b), Sch. 3 Pt. 1 (with Sch. 2 Pts. 1, 2)

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PART 3

CONSEQUENTIAL AMENDMENTS

Interest

- 26 (1) Section 826 of ICTA (interest on tax overpaid etc) is amended as follows.
- (2) In subsection (1) (payments that carry interest) after paragraph (e) insert—
- “; or
- (f) a payment of film tax credit falls to be made to a company.”.
- (3) After subsection (3B) insert—
- “(3C) In relation to a payment of film tax credit the material date is whichever is the later of—
- (a) the filing date for the company's company tax return for the accounting period for which the tax credit is payable, and
- (b) the date on which the company tax return or amended company tax return containing the claim for payment is delivered to an officer of Revenue and Customs.
- For this purpose “the filing date”, in relation to a company tax return, has the same meaning as in Schedule 18 to the Finance Act 1998.”.
- (4) In subsection (8A) (recovery of overpaid amounts)—
- (a) in paragraph (a), for “or (e)” substitute “, (e) or (f) ”;
- (b) in paragraph (b)(ii) after “life assurance company tax credit” insert “ or film tax credit ”.
- (5) In subsection (8B) after “life assurance company tax credit” (twice) insert “ or film tax credit ”.

Claim to be made in tax return

- 27 In Schedule 18 to FA 1998 (company tax returns), in paragraph 10 (other claims etc to be included in return), after sub-paragraph (3) insert—
- “(4) A claim to which Part 9D of this Schedule applies (claims for film tax relief) can only be made by being included in a company tax return (see paragraph 83T).”.

Recovery of excessive film tax credit

- 28 In paragraph 52 of that Schedule (recovery of excessive repayments etc)—
- (a) in sub-paragraph (2) (excessive repayments etc to which paragraphs 41 to 48 apply), after paragraph (bc) insert—
- “(bd) film tax credit,”;
- (b) in sub-paragraph (5) (connection of assessment for excessive payment to an accounting period), after paragraph (ad) insert—
- “(ae) an amount of film tax credit paid to a company for an accounting period,”;

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- (c) in the closing words of that sub-paragraph, after “(ad)” insert “, (ae)”.

Claims for film tax credits

29 After Part 9C of that Schedule insert—

“PART 9D

CLAIMS FOR FILM TAX RELIEF

Introduction

83S This Part of this Schedule applies to claims for film tax relief.

Claim to be included in company tax return

- 83T (1) A claim to which this Part of this Schedule applies must be made by being included in the claimant company's tax return for the accounting period for which the claim is made.
- (2) It may be included in the return originally made or by amendment.

Content of claim

83U A claim to which this Part of this Schedule applies must specify the amount of the relief claimed, which must be an amount quantified at the time the claim is made.

Amendment or withdrawal of claim

83V A claim to which this Part of this Schedule applies may be amended or withdrawn by the claimant company only by amending its company tax return.

Time limits for claim

- 83W (1) A claim to which this part of this Schedule applies may be made, amended or withdrawn at any time up to the first anniversary of the filing date for the company tax return of the claimant company for the accounting period for which the claim is made.
- (2) The claim may be made, amended or withdrawn at a later date if an officer of Revenue and Customs allows it.

Penalty

- 83X (3) The company is liable to a penalty where it—
- (a) fraudulently or negligently makes a claim for a film tax credit that is incorrect, or
 - (b) discovers that a claim for a film tax credit made by it (neither fraudulently nor negligently) is incorrect and does not remedy the error without unreasonable delay.

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- (4) The penalty is an amount not exceeding the excess film tax credit claimed, that is, the difference between—
- (a) the amount (if any) of the film tax credit to which the company is entitled for the accounting period to which the claim relates, and
 - (b) the amount of the film tax credit claimed by the company for that period.”.

F4 ...

Textual Amendments

F4 Sch. 5 Pt. 4 repealed (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), s. 1329(1), Sch. 1 para. 694(c), **Sch. 3 Pt. 1** (with Sch. 2 Pts. 1, 2)

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