CORPORATION TAX ACT 2009

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 15: Film production

Overview

Chapter 1: Introduction

Section 1180: Overview of Part

3004. This section gives an overview of the Part. It is new.

Section 1181: "Film" etc

3005. This section provides for the meaning of "film" in this Part, when a series of films is treated as a single film and when a film is completed. It is based on section 31 of FA 2006.

3006. The definitions are the same as those in paragraph 1 of Schedule 1 to the Films Act 1985 (certification of British films for purposes of film tax relief) which was substituted by paragraph 17 of Schedule 5 to FA 2006.

Section 1182: "Film production company"

3007. This section defines "film production company" for this Part. It is based on section 32 of FA 2006.

3008. There can be at most one company that fits the description of "film production company" in relation to a particular film. There may be no such company. A company might be a film production company in relation to some of the films that it is involved with but not in relation to others.

3009. If a company is the film production company in relation to a particular film its production and exploitation activities in relation to the film are, for corporation tax purposes, treated as a separate trade (see Chapter 2: taxation of activities of film production company). A film production company may, but need not, be entitled to additional reliefs in relation to the film concerned (see Chapter 3: film tax relief).

3010. *Subsection (7)* provides for a company to elect that it is not to be treated as a film production company in relation to films. Such an election is likely to be helpful to companies that are not entitled to additional reliefs in relation to films that they are involved with.

Section 1183: "Film-making activities" etc

3011. This section gives the meaning of "film-making activities" for this Part and gives the Treasury power to make regulations that alter the meaning. It is based on section 33 of FA 2006.

3012.	The activities mentioned in *subsection (1)* are not further defined. Those activities are however well understood in the film industry.

3013.	*Subsection (2)* ensures that principal photography has an appropriate meaning in cases where images for a film are generated by computer.

Section 1184: "Production expenditure", "core expenditure" and "limited-budget film"

3014.	This section defines the terms "production expenditure", "core expenditure" and "limited-budget film". It is based on section 34 of FA 2006.

3015.	Limited-budget films are eligible for more generous reliefs than other films (see sections 1200(3) and 1202(3)). To reduce the risk of exploitation by arrangements involving connected parties, *subsection (3)* substitutes, in certain cases, (greater) arms length prices in determining whether a film is a limited-budget film.

Section 1185: "UK expenditure" etc

3016.	This section gives the meaning of "UK expenditure" in this Part and gives the Treasury power to make regulations that alter the meaning. It is based on section 35 of FA 2006.

3017.	*Subsection (2)* provides that any apportionment of expenditure be made on a "just and reasonable basis". The source legislation refers to "fair and reasonable". The formulation used in this section has generally been adopted in ITTOIA and ITA. See *Change 12* in Annex 1.

Section 1186: "Qualifying co-production" and "co-producer"

3018.	This section defines "qualifying co-production" and "co-producer" for this Part. It is based on section 36 of FA 2006.

Section 1187: "Company tax return"

3019.	This section defines "company tax return". It is based on section 32(10) of FA 2006.

3020.	Whilst the definition in section 32(10) of FA 2006 is not explicitly applied to instances where the term "company tax return" appears in Schedules 4 and 5 to FA 2006, it is considered that the same meaning applies in those instances. So the definition in this section applies to the whole Part.