

**EXPLANATORY MEMORANDUM TO  
THE CORPORATION TAX (SURRENDER OF TERMINAL LOSSES ON FILMS AND  
CLAIMS FOR RELIEF) REGULATIONS 2007**

**2007 No. 678**

1. This explanatory memorandum has been prepared by HM Revenue and Customs and is laid before the House of Commons by Command of Her Majesty.

This memorandum contains information for the Select Committee on Statutory Instruments

2. **Description**

The regulations make provision corresponding, for the purposes of terminal loss relief in respect of films to which section 45 of the Finance Act 2006 applies, to that contained in Part 8 of Schedule 18 to the Finance Act 1998

3. **Matters of special interest to the Select Committee on Statutory Instruments.**

None

4. **Legislative Background**

4.1 Finance Act 2006 introduced new rules in sections 31-53 and Schedule 4 and 5 setting out a comprehensive regime for the taxation of film production companies in respect of their film production. These provisions include a new, enhanced relief for the production of "British films" (defined in Schedule 1 Films Act 1985), replacing the previous reliefs for film production and acquisition (sections 40A-43 Finance (No 2) Act 1992) and withdraw (but do not replace) the parallel rules covering film production and acquisition by individuals.

4.2 Film tax relief is a State aid, and was notified to the European Commission as such. The Commission gave its approval to the relief on 23 November, but required changes to Schedule 1 of the Films Act (which sets out the conditions for a film being certified as British). The new relief could not therefore be implemented until these changes had been made by SI 2006 No. 3430.

4.3 The new rules therefore came into effect on 1 January 2007 for films starting principal photography on or after that date (SI 2006 No 3399 named 1 January 2007 as the appointed day for the purpose of s53(1) FA2006, commencing the new rules, and SI 2006 No 3265 amended various dates in FA2006 so that the new rules applied to films commencing principal photography on or after 1 January 2007 rather than 1 April 2006).

## **5. Territorial Extent and Application**

This instrument applies to all of the United Kingdom

## **6. European Convention on Human Rights**

As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

## **7. Policy background**

7.1 The UK has for some years had a system of special tax reliefs to encourage the production of British films. The Government had however become concerned by 2005 that the existing reliefs were not delivering support to the industry in an efficient and effective manner.

7.2 The Government therefore consulted with industry in Summer 2005 on a new system of incentives and announced at PBR 2005 that new rules would be introduced from 1 April 2006, subject to State aid approval.

7.3 The new rules were included in the 2006 Finance Bill and are in sections 31 – 53 and Schedule 4 and 5 of FA 2006.

## **8. Impact**

A regulatory impact analysis has been prepared in relation to the provisions of the Finance Act 2006 dealing with the taxation of film production and is available on HM Treasury's website at [http://www.hm-treasury.gov.uk/media/1E6/1B/bud06\\_rias\\_896.pdf](http://www.hm-treasury.gov.uk/media/1E6/1B/bud06_rias_896.pdf).

## **9. Contact**

David Harris at HM Revenue and Customs Tel: 020 7147 2562 or e-mail: [david.harris@hmrc.gsi.gov.uk](mailto:david.harris@hmrc.gsi.gov.uk) can answer any queries regarding the instrument.