

5. In section 38 (films qualifying for film tax relief)—
 - (a) in paragraph (a) at the end insert “and”, and
 - (b) omit the words after “film” to the end.
6. Omit section 41 (conditions of relief: UK expenditure).
7. In section 42(2) (film tax relief: further provisions) omit the words from “Part 4” to the end.
8. Omit section 43 (films: restriction on use of losses while film in production).
9. Omit section 44(2) (films: use of losses in later periods).
10. In section 46 (films: withdrawal of existing reliefs (corporation tax))—
 - (a) in subsection (1)—
 - (i) in paragraph (a) for the words “commences principal photography on or after 1st April 2006” substitute “qualifies for film tax relief”,
 - (ii) in paragraph (b)(i) for the words “commences principal photography on or after 1st April 2006” substitute “qualifies for film tax relief”;
 - (b) in subsection (3) for paragraphs (a) and (b) substitute “to expenditure on the production or acquisition of a film”.
11. In section 47 (films: withdrawal of existing reliefs (income tax))—
 - (a) in subsection (1)—
 - (i) in paragraph (a) for the words “commences principal photography on or after 1st April 2006” substitute “qualifies for film tax relief”,
 - (ii) in paragraph (b)(i) for the words “commences principal photography on or after 1st April 2006” substitute “qualifies for film tax relief”;
 - (b) in subsection (3) for paragraphs (a) and (b) substitute “to expenditure on the production or acquisition of a film”.
12. Omit sections 48 (sound recordings: revenue nature of expenditure), 49 (sound recordings: allocation of expenditure) and 50 (sound recordings: interpretation).
13. In the substitution made by section 51(1) (supplementary provisions) for paragraph 80 (exclusion of films and sound recordings) of Schedule 29 to the Finance Act 2002 (corporation tax: gains and losses from intangible fixed assets)(a) in substituted paragraph 80A(2)—
 - (a) omit the words “Except as regards royalties,”,
 - (b) in paragraph (b) for the words “that commenced principal photography before 1st April 2006” substitute “that—
 - (i) commenced principal photography before 1st April 2006, and
 - (ii) does not qualify for film tax relief under section 38 of the Finance Act 2006.
14. In Schedule 4 (taxation of activities of film production company)—
 - (a) in paragraph 1 (films to which this Schedule applies) for the words “commences principal photography on or after 1st April 2006” substitute “commenced principal photography before 1st April 2006 but are not completed before 1st January 2007”;
 - (b) in paragraph 7(1) (calculation of profit or loss)—
 - (i) for “the first” substitute “any”,
 - (ii) for paragraph (b) substitute “as a credit, the total income from the film treated as earned to date”;
 - (c) omit paragraph 7(2) and (3).

(a) 2002 c.23.

15.—(1) Schedule 5 (film tax relief: further provisions) applies with the following adaptations and modifications.

(2) In paragraph 1(1)(b) (introduction) for the words “commences principal photography on or after 1st April 2006” substitute “commenced principal photography before 1st April 2006 but is not completed before 1st January 2007”.

(3) In paragraph 4 (amount of additional deduction)—

- (a) in sub-paragraph (1) for “the first” substitute “any”;
- (b) omit sub-paragraph (2);
- (c) in sub-paragraph (3) omit “or (2)”.

(4) In paragraph 6 (film tax credits)—

- (a) for the words in sub-paragraph (2)(b) substitute “the amount that is E for the period for the purposes of paragraph 4(1)”;
- (b) omit sub-paragraphs (3) and (4).

(5) After paragraph 13 insert—

“13A. If a certificate under Schedule 1 to the Films Act 1985 (c.21) is revoked, the film production company—

- (a) is not entitled to—
 - (i) film tax relief, or
 - (ii) relief under section 45 (transfer of terminal losses from one qualifying film to another), and
- (b) must amend accordingly its company tax return for any period for which either relief was claimed.”.

(6) In the substitutions made by Part 2 (certification of British films for the purposes of film tax relief) for provisions of the Films Act 1985(a)—

- (a) in the substitution made by paragraph 18 for paragraph 2 of that Schedule omit substituted sub-paragraphs (2), (3), and (4);
- (b) in the substitution made by paragraph 19 for paragraph 3 of that Schedule—
 - (i) omit the words “interim or final” in substituted sub-paragraph (1), and
 - (ii) omit substituted sub-paragraph (3);
- (c) for paragraph 20 substitute—

“(1) Paragraph 4 of that Schedule (British films for purposes of the Schedule) is amended as follows.

(2) For sub-paragraphs (1) to (4) substitute—

“(1) Subject to paragraph 5, a film is a British film for the purposes of this Schedule if all the requirements specified in sub-paragraphs (2) to (4) are satisfied with respect to it.

(2) The first requirement is that throughout the period during which the film is being made the maker of the film is—

- (a) a person ordinarily resident in a member State; or
- (b) a company which is registered in a member State and in the case of which the central management and control of business is exercised in a member State.

(3) The second requirement is that at least 70 per cent of the total expenditure incurred in the production of the film was incurred on film production activity carried out in the United Kingdom.

(a) 1985 c. 21.

(4) The third requirement is that not less than the requisite amount of labour costs (as determined under paragraph 7) represents payments paid or payable in respect of the labour or services of—

- (a) Commonwealth citizens,
- (b) citizens of a member State, or
- (c) persons ordinarily resident in a Commonwealth country or a member State.

(4A) For the purpose of calculating the total expenditure incurred in the production of a film pursuant to sub-paragraph (3), the following shall be disregarded—

- (a) any amount deducted under paragraph 7(2)(a) or, as the case may be, paragraph 7(2)(b) in calculating the amount which is the lesser amount for the purposes of paragraph 7(1);
- (b) any expenditure incurred on the acquisition or licensing of copyright, trademarks or rights of a similar nature, other than copyright in works created for the purpose of their use in the film;
- (c) any expenditure, including the payment of interest, incurred for the purposes of raising or servicing finance for making the film; and
- (d) any business overheads attributable to the film.

(4B) A state shall be treated for the purposes of this paragraph as if it were a member State if—

- (a) it is party to an agreement under Article 310 of the Treaty establishing the European Community; and
- (b) the agreement requires a maker of a film who is ordinarily resident or registered in that state to be treated for the purposes of this Schedule in the same way as a maker of a film who is ordinarily resident or registered in a member State.”

(3) Omit paragraph (6).”.

(7) Omit paragraph 21.

(8) Omit paragraph 23(b).

(9) Omit Part 4.

Returns, amendments and assessments

16.—(1) Where the provisions of Chapter 3 of the Finance Act 2006, and of the enactments amended by that Chapter, apply in accordance with these Regulations, returns must be made or amended, and assessments may be made, in relation to past accounting periods or tax years (whether before or after the commencement of that Chapter) accordingly.

(2) Any return, amendment or assessment necessary to give effect to paragraph (1) may be made notwithstanding any limitation on the time within which a return, amendment or assessment may normally be made.

Date

Two of the Lords Commissioners of Her Majesty’s Treasury

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision for the application of the provisions of Chapter 3 of the Finance Act 2006 (c.) (films and sound recordings), and of the enactments amended by that Chapter, in relation to films that commenced principal photography before 1st April 2006 but are not completed before 1st January 2007.

Regulation 1 provides for citation, commencement and effect. Authority for the retrospective effect of these Regulations given by section 52(3)(a) of the Finance Act 2006.

Regulation 2 provides for the interpretation of a number of terms used in the Regulations.

Regulation 3 provides for the application of the provisions of Chapter 3 of the Finance Act 2006, and of the enactments amended by that Chapter, with the adaptations and modifications made by these Regulations.

Regulations 4 to 15 set out the adaptations and modifications.

Regulation 16 provides for the making or amending of returns, and the making of assessments, in relation to past accounting periods or tax years consequent on the application of provisions by these Regulations.

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.