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(Bristol South - Lab)

**Amendment 27**

Clause 39, page 31, line 28 [Vol 1], leave out subsection (3) and insert

‘(3) Whether this condition is met is determined for each accounting period of the film production company during which film-making activities are carried on in relation to the film, in accordance with the following rules.

(4) If at the end of an accounting period the film is intended for theatrical release, the condition is treated as having been met throughout that period (subject to subsection (5)(b)).

(5) If at the end of an accounting period the film is not intended for theatrical release, the condition

(a) is treated as having been not met throughout that period, and

(b) cannot be met in any subsequent accounting period.

This does not affect any entitlement of the company to relief in an earlier accounting period for which the condition was met.’

**SUMMARY**

1. This amendment provides that where a film ceases to be intended for theatrical release, no further film tax relief is available for it under Schedule 5. Relief already given is not, however, recovered.

**DETAILS**

2. The new film tax relief for British films is only available for films that are intended to be shown in the cinema (‘theatrical release’). This continues the rule in the existing films reliefs.

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3. Under that rule, the intention is judged on completion of the film, when relief is claimed. The new film tax relief is, however, claimable as the film is being made, so a view needs to be taken at an early stage of whether or not the film is intended for the cinema.
4. As originally drafted, once this had been decided, the intention would have been locked in for good, until the film was completed. Film tax relief would therefore have been available until completion, even where it became clear fairly early on that the film was not to be shown in cinemas.
5. The amendment provides that if a film has been intended for theatrical release and the intention changes, then it no longer qualifies for film tax relief.
6. In such a case, any relief given earlier – including any tax credit claimed, any losses that have accumulated and any terminal losses from another film that have been transferred – is not, however, withdrawn.

### **BACKGROUND NOTE**

7. The current tax treatment of films is provided by sections 40A to 43 Finance (No.2) Act 1992, section 48 Finance (No.2) Act 1997 and sections 130 to 144 of the Income Tax (Trading and Other Income) Act 2005 (ITTOIA 2005). These provisions treat expenditure on the production or acquisition of the master version of a film as revenue in nature, even where it would otherwise be on capital account, and provide that it may be matched against income from the film or, for British films, written off over three years (or in the case of low budget British films, written off immediately).
8. At Budget 2005, the Chancellor announced the Government's intention to replace the current film tax reliefs, with effect from 2006 with a new regime aimed directly at film production companies. Formal consultation with the film industry followed and the outcome was announced at the Pre-Budget Report on 5 December 2005.

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9. Chapter 3 of part 3 the Finance (No. 2) Bill provides legislation to deliver the new relief. It
  - updates the tax treatment of films;
  - sets out the new film tax relief; and
  - legislates an existing Extra Statutory Concession applying to sound recordings.
10. Clause 38 of the Bill sets out the conditions that a film must satisfy for relief to be due – it must be intended for theatrical release, it must be a British film, and at least 25 per cent. of the production company’s expenditure must be incurred in the United Kingdom.
11. Clause 39 sets out exactly what is meant by “intended for theatrical release”.