

Film Tax Relief



OVERVIEW

The film tax relief is available to film production companies within the charge to UK corporation tax. It offers a chance to claim enhanced tax relief, and even a payable tax credit, on qualifying film production costs. Its aim is to promote a sustainable local film production industry and maintain a critical mass of infrastructure to support that industry.

Who Qualifies for the Relief?

Film production companies that are responsible for pre-production, principal photography, post-production and delivery of a qualifying completed film. It must have an active involvement in production planning and the decision-making process during these various stages of production. It must also directly negotiate, contract and pay for rights, goods and services, in relation to the film and be within the charge to UK corporation tax.

Conditions for a Film to Qualify

- Must be a British film as certified by the Department of Culture Media and Sport ('DCMS').
- Must be intended for theatrical release at a commercial cinema.
- At least 25% of 'core expenditure' must be incurred on goods or services used or consumed in the UK.

Qualifying Expenditure

Relief can be claimed based on the company's UK 'core expenditure', which is expenditure on pre-production, principal photography and post-production.

Development expenditure, marketing costs and finance costs are excluded.

Relief Rates

- An additional deduction of 100% of 'enhanceable expenditure' is available for all films from 1 April 2015, where enhanceable expenditure is the lower of UK core expenditure or 80% of total expenditure. Previously, only 'limited budget films', ones with total core expenditure of £20 million or less, qualified for 100% enhanceable expenditure relief, with 80% for other films.
- From 1 April 2015, where the company is making losses, a cash tax credit may be payable; amounting to 25% of the qualifying expenditure, previously, 25% on the first £20million of losses surrendered, and 20% thereafter.

Co-Productions

A UK producer involved in a co-production which has been made under a bilateral co-production treaty or the European Convention on Cinematic Co-production, and which qualifies as British, may be also be eligible to claim some film tax relief.

Making a Claim

A claim will form part of a company's tax return.

Practical Issues

- **Discounting or cash flowing the tax relief**

As the tax relief cannot be claimed until the costs of production of a film have been incurred, independent producers have to rely on a third party to pre-fund the tax relief (which makes up an important part of their film budget). Lenders will discount the tax relief based on the risk of the tax relief not being received.

- **Services rendered outside the UK**

There has been criticism that the cost of the services of UK cast and crew do not count as UK spend when these services are rendered outside the UK, even though the cast and crew will be taxed on the income they receive for those services. This is incongruous with other jurisdictions and there have been calls for the UK Government to amend the legislation accordingly.

- **Transfer pricing**

The level of tax benefit assumes that the film is sold for, or generates income equal to, the production cost less the payable tax credit, and without leaving any taxable profit in the Film Production Company. It should be noted that transfer pricing rules apply and the sale of the subsidiary's production services should be made at arm's length.

How can Rawlinson & Hunter help?

With clients in the film industry we are experienced at pursuing successful claims for such relief and can advise on all aspects from structuring the group of companies to making the claim on the tax return.

If you are interested in further information in this regard, please contact the Rawlinson & Hunter partner who normally acts for you. Where you are not one of our regular clients, please contact Craig Davies or Andrew Shilling, who would be delighted to discuss this with you in more detail.

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