

February 2014

### **Tax reliefs for the creative sector**

The 2013 Budget introduced reliefs, subsequently included in the Finance Act 2013, for companies engaged in the creative sector.

The reliefs are for companies engaged in high-end TV programme production, animation production and video games development. The government wants to replicate the success of the film tax relief. There is also a recognition that other countries are offering similar targeted reliefs.

The animation, high-end TV programmes and video games have been certified as a British cultural product to satisfy EU State Aid requirements and thus the three activities qualify for the relief.

State Aid approval has now been received for all three with that for video games taking until March 2014 to be approved.

### **Overview of the reliefs**

The creative sector reliefs enable qualifying companies to obtain enhanced deductions in computing their taxable profits. Where the additional deduction results in a loss, companies can surrender that loss for a repayable tax credit.

Only companies liable to UK corporation tax are eligible for relief. Companies can choose to opt out of these rules.

The enhanced deduction is limited to the lower of the qualifying expenditure that is UK core expenditure and 80% of total core expenditure incurred on or after 1 April 2013.

In a similar way to the R&D rules, if the business is loss-making, any resultant loss may be surrendered for a payable tax credit of 25%. The amount of the loss that can be surrendered is restricted to a cap of the lower of UK core expenditure and 80% of total core expenditure.

It will not be possible to claim creative sector relief where the company is entitled to an R&D expenditure credit in respect of the expenditure or has obtained an enhanced deduction under the R&D relief scheme.

**Conditions for the reliefs***TV and animation*

The relief is available to television production companies. The relief applies to drama, documentary and animation programmes. Drama includes comedy, but excludes programmes such as advertisements, live performances, quiz shows, news broadcasts or current affairs and training programmes.

For TV programmes which are not animation, the programme must have a slot length of more than 30 minutes, and average qualifying production costs per hour of slot length of at least £1m. A drama or documentary which includes animation is treated as animation if the core expenditure on completed animation is at least 51% of total core expenditure.

For the programme to be classified as qualifying for these purposes:

- it must be intended for broadcast to the general public;
- it must meet the cultural test by being certified as a British programme (see below); and
- at least 25% of the total production costs incurred by the company on the relevant programme must be UK expenditure.

High-end TV, animation and video games tax reliefs are subject to cultural tests similar to those for the UK film tax incentives. The cultural tests 'pass mark' is 16 points from a possible total of 31. Points are awarded in the following four areas: cultural content, cultural contribution, use of UK cultural hubs and use of UK/EEA cultural practitioners.

Tax relief is only available for core expenditure. This is a narrower definition than production expenditure.

Production expenditure means all expenditure on television production activities in connection with the programme, including the development, pre-production, principal photography and post production of the programme. If images are generated by computer, references to principal photography mean the generation of those images.

Core expenditure means the pre-production, principal photography and post production costs of the programme. UK core expenditure refers to goods or services that are used or consumed in the UK.

The relief is available for core expenditure incurred on or after 1 April 2013.

## Video games

This relief can be claimed by any video games development company. However, the video game must meet the following conditions:

- it must be intended for supply to the general public;
- it must meet the cultural test by being certified as a British video game; and
- at least 25% of the core expenditure incurred by the company must be UK expenditure.

Core expenditure here means expenditure on designing, producing and testing. It does not, however, include expenditure on the initial design or expenditure on debugging a completed video game or carrying out maintenance in connection with the game.

## Conclusion

The reliefs are a welcome boost to the creative sector. It is to be hoped that the Government will watch this sector for any developments where further relief may be appropriate. The development of mobile phone apps is an activity which might benefit from some further relief.

If you have any questions in connection with this briefing please contact Simon Littlejohns, Tax Partner, on 0121 633 2007 or your usual contact at Friend Partnership Limited.

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