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Theatrical Productions Relief

Introduction

There are a number of tax reliefs available to companies involved in the creative sector. This Briefing Note looks at the relief available for theatrical productions - a separate Briefing Note details the reliefs available for companies involved with high end television productions, animation, children's television, video games, films and orchestras.

Overview

The relief gives a theatrical production company an additional tax deduction for certain qualifying expenses. There is also a payable theatre tax credit when a production company surrenders certain trading losses.

Theatrical production

A theatrical production is a dramatic production or ballet.

A dramatic production is a production of a play, opera, musical or other dramatic piece when the performers give their performances in front of an audience and the presentation of a live performance is the main purpose of the company's activities. There are various exclusions (productions involving advertising, competitions, wild animals, etc.) which do not meet the above criteria.

There can only be one production company in relation to a theatrical production. The company must be responsible for producing, running and closing the production and be actively involved in the decision making during those phases.

Tax reliefs

A qualifying company is entitled to make an additional deduction, which is essentially 100% of the qualifying expenditure. It may also claim a payable theatre tax credit where there is a surrenderable loss for the period. The additional deduction is likely to be restricted to 80% of the qualifying expenditure because of certain conditions within the legislation - see below.

Qualifying expenditure is core expenditure that is taken in to account in calculating the profits of the trade.

There are complicated calculations which need to be carried out to derive the additional deduction. The calculations are cumulative for successive periods of account.

In addition, there are a series of complex calculations to quantify how much of the company's income needs to be brought in to account and taxed.

The additional deduction 'E' in a company's first period of account is the lesser of:

- Qualifying expenditure which is EEA expenditure; or
- 80% of the total qualifying expenditure incurred to date.

As the calculations are cumulative in subsequent periods the above calculations are repeated but from E is deducted 'P' with P being the total of the deductions taken in all previous periods.

A consideration of the other detailed calculations is beyond the scope of this Briefing Note.

Core expenditure means expenditure on activities involved in producing and closing the production. This does not include expenditure on any matters not directly involved in producing the production, so this will exclude financing, marketing, legal services or storage and it does not include expenditure on the ordinary running of the production.

Companies qualifying for relief

A company will qualify for relief if it meets the commercial purpose and EEA expenditure conditions.

The commercial purpose is that at the beginning of a production the company must intend that all live performances will be to paying members of the public. Educational performances also meet this condition, with certain restrictions where the individuals responsible for the persons benefitting from the production are connected with the production company.

The EEA condition is that 25% of the core expenditure on goods and services that are provided from within the European Economic Area.

Payable credit

The payable credit is based on a percentage of the surrenderable loss. The percentage is 20% for non-touring productions and 25% for touring productions.

The surrenderable loss in an accounting period is the lesser of the available loss for the separate theatrical trade for the period and the available qualifying expenditure for the period.

The available qualifying expenditure is E as above.

A simple worked example for the first period of account for a production company with profits of £100 and £200 of qualifying expenditure.

Profit before theatrical uplift	100
Additional deduction (80%) E	(160)
Loss after uplift	£(40)

The surrenderable loss is thus £40 and a payable credit of £8 or £10 would be payable depending on the type of production.

If the production was loss making and the result before the uplift was a loss of £100, the losses after the uplift would be £260 and £160 would be the surrenderable loss as E is lower than the total loss.

Claims

The company can make claims for the additional deduction and the repayable tax credit as part of its corporate tax return.

Anti-avoidance

The relief is denied if there are any 'tax avoidance arrangements' in place relating to the production. Any arrangements entered into where the main object, or one of the main objects, is to enable a company to obtain a tax advantage would be caught by these provisions.

Conclusion

The theatrical reliefs are a great boost for the theatrical sector.

However, there are some tricky issues to address when carrying out the calculations.

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