Analysis

Film tax reliefs: HMRC roll out the red carpet

Speed read

A series of new (and some improved) film tax reliefs are being introduced in 2025 by HMRC in an effort to attract more movie-makers to the UK. From one extreme, an enhanced relief stands to benefit those making 'culturally British' films or TV programmes with significant visual effects costs, and on the other end of the spectrum, a new relief should make 'low budget' independent film productions more tax efficient.

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The UK government has been trying to make the UK an attractive location for film producers for some time now, and this coming year is no exception. The focus this time is on the extremes: from high-end visual effects blockbusters to low budget indie films. So, whichever your preference, grab the popcorn, turn off your mobile phones, and get set to enjoy more of the magic of homegrown cinema – coming soon to a town near you!

We set out below those key tax reliefs, and other UK tax consequences that film makers should consider.

Film tax relief

What is the benefit?

Through CTA 2009 Part 15 Chapter 3, Film Tax Relief (FTR) is an existing tax relief that reduces corporation tax on a film production company's profits by an amount equal to:

- the UK 'core costs' (meaning pre-production, principal photography, and post-production costs); or
- if lower, 80% of the total 'core costs'.

Qualifying film production companies can claim the above deduction to reduce profits (subject to corporation tax at 25%) or to increase a loss. If the company makes a loss, 25% of the loss can be surrendered for a payable tax credit.

'Core costs' do not include expenditure incurred on development, distribution, promotion, publicity, or insurance. Each qualifying film is deemed a separate trade for the company.

Who qualifies?

To qualify for FTR, the following key conditions must be satisfied:

- the film must be certified as 'British' by the British Film Institute (BFI);
- the film must be intended for theatrical release;
- principal photography must start by 31 March 2025;
- at least 10% of the core costs must be used or consumed in the UK; and
- companies must: be within the UK corporation tax net (whether by virtue of UK tax residence or a UK permanent establishment); be responsible for pre-production, principal photography, post-production, and delivery of the completed film; be actively engaged in planning and decision-making, and directly negotiate, contract, and pay for rights, goods, and services.

A film qualifies as British for FTR if it satisfies the cultural test in the Films Act 1985 Sch 1 (as amended). Essentially, it must score at least 18 out of 35 points, with points awarded for:

- UK or EEA films sets, characters, subject matter, languages, and personnel involved in the making of the film;
- promoting British creativity, British heritage, and diversity; and
- certain amounts of the principal photography, visual effects and special effects being carried out in the UK.

For co-productions made between two or more countries, there are similar requirements. In all cases, the film must be formally certified as 'British' by the BFI for FTR to apply.

Recent films that have been certified as British include *No Time to Die*, *House of Gucci*, *The Matrix Revolutions*, *Fast and Furious 9*, *Last Night in Soho* and *Belfast*.

What is changing?

FTR will close from 1 April 2027.

Generally, the FTR has boosted UK film production. There are around 200 to 300 films a year benefiting from FTR. In 2019, the BFI reported that FTR injected around £13.5bn into the economy, and in an HMRC survey in 2022, claimants indicated that 28% of productions may not have been made without FTR. However, in the Autumn Budget 2023, the then government announced that audio-visual creative and film reliefs will be modernised and simplified, and so closure of the FTR is part of this process to make way for the reformed reliefs below.

Audio-Visual Expenditure Credit (AVEC)

What is the benefit?

Under FA 2024 Sch 2 (inserting Part 14A of CTA 2009), production companies can claim AVEC to receive a credit for the lower of the UK 'core costs', and 80% of its total 'core costs'. The credit available is equal to:

- 39% for children's TV programmes, animated films, and animated TV programmes; and
- 34% for other films and TV programmes.

The relief is also referred to as the 'Film and High-End TV Credit'.

The AVEC operates in a similar way to the R&D Expenditure Credit (RDEC). The AVEC can be used to discharge corporation tax payable by the company. Any amount thereafter is subject to a notional 25% corporation tax charge, and can then either be carried forward to offset future corporation tax liabilities, surrendered to group companies, or paid out to the company by HMRC.

For example, suppose NGN Ltd makes a British non-animated film, Nedpool 3. NGN spends £1m on visual effects costs in the UK and £3m in total production costs (including £1.5 million in visual effects costs in the US) worldwide. Nedpool 3 is a success and NGN makes taxable profit of £1m and is subject to the main rate of corporation tax at 25%.

NGN can claim AVEC at £255,000 (34% x £1m x 75%). NGN's corporation tax bill would have been £250,000 but NGN offsets this in full with the AVEC. As NGN has no group companies and does not intend to make any further movies, it claims from HMRC the unused net AVEC of £5,000 in cash.

Who qualifies?

The AVEC conditions are very similar to those of FTR, albeit including TV programmes also. In that respect, TV programmes must be drama, comedy, documentary, animation, or a children's programme. Dramas, comedies, and documentaries must have core costs of at least £1m per hour of slot length, and such slot length must be more than 20 minutes per episode.

What is changing?

From 1 April 2025, CTA 2009 s 1179CA will be amended in respect of visual effects (VFX) costs, such that:

- VFX costs will attract the tax credit rate of 39% compared to other core film and TV production expenditure; and
- the 80% cap on total qualifying expenditure will not apply to UK VFX.

The Conservative government had expected to publish a draft definition of 'visual effects' in Summer 2024 with the BFI definition as its starting point. In light of the government changes, the definition is yet to be published.

The AVEC reform will significantly benefit films with UK visual effects. For example, in the NGN Ltd example above, if NGN instead moved all VFX costs to the UK, NGN could claim AVEC at £731,250 (39% x £2.5m x 75%) and after offsetting corporation tax would receive £481,250 in cash from HMRC.

> These tax reliefs are a significant planning opportunity for filmmakers

Independent Film Tax Credit (IFTC)

What is the benefit?

As introduced by F(No. 2)A 2024 s 14, the IFTC is an enhanced version of AVEC, whereby qualifying companies receive a pre-tax credit of 53% of their qualifying expenditure, as opposed to 34% or 39% under AVEC.

A qualifying company can claim the IFTC on the lower of the UK 'core costs', and 80% of its total 'core costs'. As with AVEC, the IFTC is subject to corporation tax, and must be set against any other tax liabilities of the company before it can be paid to the company as cash.

The relief is also referred to as the 'Low-Budget UK Film Credit'. In the *Economic review of independent films report 2022*, the BFI stated that independent film activity was on a downward trend. It is hoped that the new measures will improve matters.

Who qualifies?

The conditions for IFTC are largely the same as AVEC (albeit excluding TV programmes), and must meet additional criteria as follows:

- principal photography must have started on or after 1 April 2024, and only expenditure incurred on or after 1 April 2024 can be claimed;
- the director or scriptwriter, or any other person working on the film in a specified role, must be a British citizen or ordinarily resident in the UK; and
- the films must have production budgets (excluding marketing and distribution) of no more than £15m.

Therefore, qualifying UK indie film makers can receive a pre-tax IFTC credit of up to £6.36m, i.e. 53% of £12m (being 80% of £15m).

A company must choose between the IFTC and AVEC: they cannot claim both. Claims can be submitted to HMRC from 1 April 2025 onwards.

Film studios business rates relief

Having received persuasive representations from companies like Pinewood, Warner Bros. and Sky Studios, the government announced in March 2024 that eligible film studios in England will receive a 40% reduction on gross business rates bills until 2034, with the relief being implemented as soon as possible.

Other tax considerations for film makers

Will Labour honour the tax reliefs?

Many of the above reliefs were announced under the previous Conservative government in the March Budget, and have not been directly addressed by the new Labour government since their election in June. However, in a cross-party debate hosted on 20 June 2024, the then Shadow Minister for Creative Industries and Digital, Sir Chris Bryant, said: 'Of course we're going to keep the tax reliefs.' Bryant has since been appointed as Minister for (the renamed) Creative Industries, Arts, and Tourism, so it is hoped that this intention remains. That being said, Prime Minister Keir Starmer recently warned: 'There's a Budget coming in October, and it's going to be painful.'

Other corporate UK tax considerations

If overseas film companies are used to apply for the credit and produce the relevant films, directors and key persons will need to ensure that their actions on UK soil are managed properly so as not to inadvertently create a UK corporate tax liability on unrelated non-UK profits. Good governance and protocols will be vital. Such film companies may also need to consider whether to:

- register for VAT, and possibly recover input tax costs;
- operate PAYE for employees working in the UK for the company (whether UK or not) – and consider their immigration and visa statuses, if relevant; and
- manage the IP generated in the UK and/or for the company in a tax efficient manner from an asset protection and royalties standpoint.

Given the ability to share the relief among group companies, it may be advisable for the companies to establish a group structure with certain companies responsible for certain aspects of the film-making business.

Personal UK tax considerations for key persons

Anyone spending time in the UK whilst working on a film or TV production (whether they qualify for the above reliefs or not) should consider the following:

- their tax residence (and to a lesser degree, their domicile) status, as it is possible to become UK tax resident whilst working in the UK (even if temporarily), depending on the number of days spent in the UK, their ties to the UK and what they do whilst in the UK. With proper planning, this should be manageable, but left unmanaged may expose them to adverse UK income tax (levied at up to 45%) and CGT (levied at up to 28%) on worldwide profits; and
- their liability to UK employment taxes, including NICs.

Planning

These tax reliefs are a significant planning opportunity for filmmakers, but production must be planned in such as a way so as to fit the necessary criteria, especially where they can utilise the additional reliefs for UK films, indie films and visual effects.

Other UK tax consequences of moving governance and/or workers to the UK for production should also be considered in advance to ensure any available tax efficiencies are achieved. ■