MOORE Kingston Smith

CREATIVE SECTOR TAX RELIEFS - TELEVISION TAX RELIEFS

Television Tax Relief (TTR) may be available to companies that produce high end television programmes, animations, or children's television programmes. The relief can increase the amount of expenditure that is allowable as a deduction for tax purposes and, if the company makes a loss, allow some or all of that loss to be surrendered for a payable tax credit.

The government announced in the Spring Budget 2023 that the current TTR will be replaced with an audio-visual expenditure credit. This new scheme will operate in a similar way to the research and development expenditure credit, providing a taxable credit which is calculated with reference to qualifying expenditure. This new scheme is due to be available for accounting periods ending on or after 1 January 2024. The current TTR will remain open to new productions until 31 March 2025, with productions starting before 1 April 2025 able to continue using the current regime until 31 March 2027.

Television production companies

The general rule is that only a qualifying television production company (TPC) can claim TTR (although this is subject to rules relating to co-productions which are not covered in this flyer).

In order for a company to qualify as a TPC, it must have responsibility for the pre-production, principal photography, and post-production work associated with a television programme. There can only be one TPC in relation to a specific qualifying programme.

The TPC must have an active involvement in the decision making process during the various stages of production, and it must negotiate and pay for rights, goods and services in relation to the programme. It can engage third parties to undertake some of these activities on its behalf but it cannot entirely relinquish its involvement in any of those activities.

Qualifying television programmes

In order for a television programme to qualify for TTR it must meet the following conditions:

- It must be intended from the outset to be broadcast to the general public on the television (including through the internet).
- It must be formally certified as "British" by the Secretary of State for Digital, Culture, Media and Sport, on the advice of the British Film Institute (BFI) Certification Unit.
- Not less than 10% of the "core expenditure" on the programme must be "UK expenditure". Core expenditure is expenditure on pre-production, principal photography, and post-production. It does not include expenditure on development, distribution, or non-production activities. Core expenditure is UK expenditure if it is incurred on goods or services "used or consumed" in the UK.
- It must be a "relevant programme".

Relevant programme

A television programme is defined as any programme (with or without sounds) which is produced to be seen on television (including through the internet) and consists of any combination of moving images, still images, or legible text.

Programmes must meet conditions A and B and, if the programme is neither an animation nor a children's programme, then it must also meet conditions C and D. A children's programme is one where the primary audience will be under 15 years of age.

Condition A is met where the programme is one of the following:

- A drama (a programme consisting wholly or mainly of a depiction of events, performed by one or more persons playing a role through speech, acting, singing or dancing);
- A documentary (a non-fictional programme that attempts to document actual events in a factual or objective manner); or
- An animation (including programmes generated using hand-drawn illustrations, stop motion images, digital rendering etc.)

Condition B is met where the programme is not "excluded". A programme is excluded if it falls into any of the following categories:

- Advertising or promotional material;
- A news, current affairs or discussion programme;
- A quiz show, game show, panel show, variety show, chat show, or similar entertainment programmes;
- A programme that consists of or includes a competition or contest (with some exceptions for children's programmes);

- A broadcast of a live event or performance given otherwise than for the purpose of being filmed; or
- A programme produced for training purposes.

Condition C is met where the period of time that the programme is commissioned to fill is over 30 minutes. This is being reduced to 20 minutes from 1 January 2024.

Condition D is met where the average core expenditure per hour of slot length is at least £1m.

How is tax relief given?

An TPC's activities in respect of a qualifying television programme will be treated as a separate trade for tax purposes, meaning that the expenditure incurred on the programme or animation will be deductible from the total estimated income of the programme. A series of programmes will be treated as a single programme where it is produced and commissioned under one agreement.

TTR then provides two elements in respect of qualifying programmes:

- An additional allowable deduction in calculating trading profits; and
- A payable tax credit.

Additional tax deduction

The TPC is eligible for an additional deduction in calculating the taxable profits of the television programme trade equal to the lower of:

- 80% of the total core expenditure; and
- 100% of the core expenditure that is UK expenditure.

Where production spans a number of years, TTR operates on a cumulative basis, meaning that the level of the additional deduction is calculated by reference to the total expenditure incurred to date, less additional deductions given in earlier years.

Payable tax credit

After calculating the additional deduction, the TPC can ascertain whether a loss arises which can in turn be surrendered for a payable tax credit.

The "surrenderable loss" for any accounting period is the lesser of:

- The trading loss for the period (taking account of the additional deduction); and
- The additional deduction for that period.

The tax credit payable is 25% of the surrenderable loss.

Example

A TPC produces an animated series and income received from the commissioning broadcaster totals £3.5m. The total core expenditure incurred is £4.5m, of which £4m is UK expenditure.

Total income	£3.5m	
Total expenditure	£(4.5m)	
Pre-TRR loss		£(1m)
80% of core expenditure	£3.6m	
UK expenditure	£4m	
Additional deduction (lower of 80% of total core expenditure and UK expenditure)		£(3.6m)
Post-TRR loss		£(4.6m)

The TPC can surrender any amount up to £3.6m of

losses, being the lower of the trading loss of £4.6m and the additional deduction of £3.6m. This loss can be surrendered for a payable tax credit at a rate of 25%, thereby creating a payable credit of £900,000.

How can Moore Kingston Smith assist?

This document provides only a brief summary of the issues surrounding television tax reliefs. If you would like to discuss your particular circumstances or the relief in more detail, please do not hesitate to contact us.

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