CREATIVE SECTOR TAX RELIEFS THEATRE TAX RELIEF

A theatrical production company may be eligible for theatre tax relief (TTR) in respect of expenditure incurred on qualifying theatrical productions. This 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.

Theatrical production companies

A theatrical production company (TPC) is a company that is responsible for producing, running and closing a theatrical production.

It must be actively involved in the decision-making process relating to the production. It must make an effective creative, technical and artistic contribution to the production, and it must directly negotiate, contract and pay for rights, goods and services in relation to it. The TPC can engage third parties to undertake some activities on its behalf but it cannot entirely relinquish its involvement in any of these activities. There can only be one TPC in relation to any production.

Qualifying theatrical production

For the purposes of TTR, a qualifying theatrical production will be one of the following:

- A dramatic production, being a production of a live play, opera, musical or other dramatic piece in relation to which the actors, singers, dancers or other performers give their performances wholly or mainly by the playing of a role. The performances must be intended to be live and given to an audience of at least five individuals.
- A ballet (whether or not it meets the conditions to be a dramatic production). Contemporary ballet would normally qualify where classical ballet techniques are incorporated.

Dramatic productions or ballets are specifically excluded from the definition of a qualifying theatrical production if they

- Are produced for training purposes;
- Are intended to advertise or promote goods or services;
- Consist of or include a competition or contest;
- Have a main purpose of producing a recording or broadcast;
- Are of a sexual nature; or
- Involve wild animals.

At the beginning of the production, the intention must be that all, or a high proportion, of the live performances will be to paying members of the general public or for educational purposes. In order to be regarded as performed before a paying public, it must be separately ticketed, and the intention must be that a significant proportion of earnings should come from those ticket sales. The inclusion of incidental items, such as programmes or food, within the ticket price does not prevent the production from qualifying, as long as it is possible to apportion the price between the performance and incidental items.

Not less than 25% of the “core expenditure” on the theatrical production must be “European expenditure”. Core expenditure is expenditure incurred by the TPC on producing and closing a production, and on exceptional running costs (e.g. costs relating to a substantial recasting or redesign of the set). Core expenditure does not include costs relating to developing or exploiting the production, or ordinary running activities. Core expenditure is European expenditure if it is incurred on good or services that are provided from within the UK or EEA.

It is anticipated that the requirement relating to European expenditure will be revised so that 10% of core expenditure must be UK expenditure (i.e. expenditure incurred on goods or services that are used or consumed in the UK) for new productions starting on or after from 1 April 2024.

How is tax relief given?

The basic position is that each theatrical production is treated as a separate trade for tax purposes, with tax reliefs being given in the context of the taxable profits and losses of that trade.

TTR comprises two elements:

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

CREATIVE SECTOR TAX RELIEFS - THEATRE TAX RELIEF

Additional tax deduction

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

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

Payable tax credit

Where, after taking into account the additional deduction, a tax loss is incurred in relation to a theatrical production, some or all of that loss (the "surrenderable loss") may be surrendered to HMRC for a payable tax credit

The "surrenderable loss" is the lower of:

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

The rate of the payable tax credit will depend on whether the theatrical production is a "touring" or "non-touring" production. A production will broadly be touring if the intention, at the beginning of the production phase, is to present live performances in at least six locations or, alternatively, in at least two locations with a total of more than 14 performances.

The rates of payable tax credit are currently 50% for touring and 45% for non-touring productions. It is expected that the rates will reduce to 35% (touring) and 30% (non-touring) from 1 April 2025 with a subsequent reduction to 25% (touring) and 20% (non-touring) from 1 April 2026.

Where an accounting period straddles the date of a rate change, profits of the two notional periods are apportioned on a just and reasonable basis.

Example

A TPC makes a touring theatrical production with total core expenditure of £5 million, which includes core European expenditure of £3 million. The production earns £6m for the TPC in revenue.

Total income	£6m	
Total expenditure	£(5m)	
Pre-TRR profit		£1m
European expenditure	£3m	
80% of core expenditure	£4m	
Additional deduction (lower of the European core expenditure and 80% of total core expenditure)		£(3m)
Post-TRR loss		£(2m)

This TPC may surrender up to £2 million of losses, being the lower of the trading loss of £2 million and the additional deduction of £3 million. This loss may be surrendered at the current touring rate of 50%, thereby creating a payable credit of £1 million.

How can Moore Kingston Smith assist me?

This document provides only a brief summary of the issues surrounding Theatre Tax Relief. We would be pleased to discuss your particular circumstances and provide advice in relation to your eligibility for the relief.

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