

# Audio-Visual Expenditure Credits

The government announced in the Spring Budget 2023 that the creative industry tax relief regimes then applying to films, high-end TV programmes, children's TV programmes, and animations, would all be replaced with a single Audio-Visual Expenditure Credit (AVEC). This flyer intends to give a brief introduction to the operation of the AVEC.

The AVEC operates in a similar way to the research and development expenditure credit (RDEC), providing a taxable expenditure credit calculated as 34% or 39% of qualifying expenditure depending on the type of production.

Whilst the old tax relief regimes will remain open until 31 March 2027, the AVEC is now available for qualifying expenditure incurred on or after 1 January 2024. It will become the only regime open to new productions from 1 April 2025.

Broadly, the AVEC is available to eligible production companies that incur qualifying expenditure on qualifying films or qualifying TV programmes.

## Production companies

A production company (PC) is a company responsible for the pre-production, principal photography, post-production and delivery of a film or TV programme. To be eligible under the regime, the PC must have an active involvement in the planning and decision making during the various stages listed above, and it must negotiate, contract and pay for rights, goods and services in relation to the film or programme.

There can, importantly, only be one PC in relation to a particular film or programme unless the production is a "qualifying co-production"; a company will be an eligible PC in connection with a qualifying co-production where the company

is a co-producer and it makes an effective creative, technical, and artistic contribution to the film or TV programme. A qualifying co-production must be certified as such under an international agreement.

## Qualifying films and programmes

In order for a production company to qualify for the AVEC, it must incur expenditure on either a "qualifying film" or a "qualifying TV programme".

### Qualifying film

A film is, for the purposes of the legislation, defined as "any record, however made, of a sequence of visual images that is capable of being used as a means of showing that sequence as a moving picture."

In order for a film to be a "qualifying film", the following conditions must all be met:

- It must be intended for theatrical release through exhibition to the paying public at a commercial cinema, and it must be intended that a "significant" proportion of the earnings from the film should be obtained from cinema exhibition. HMRC accepts that 5% should be taken as significant for these purposes.
- It must be certified as "British" following an application for certification to the British Film Institute (BFI).
- It must meet the UK expenditure requirement (see below).

### Qualifying TV programme

A television programme is any programme produced for the television or internet and consisting of moving or still images or text (or a combination of the two), whether that programme is with or without sound.

In order for a TV programme to be a "qualifying TV programme", the following conditions must all be met:

- It must meet the definition of a drama, documentary, animation, or children's programme.

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- It must not be an “excluded programme”, which include advertisements and other promotional programmes, current affairs or discussion programmes, quiz shows, panel shows, variety shows, game shows, chat shows, competitions or contests, live event broadcasts, or programmes produced for training purposes (with some exceptions for children’s programmes).
- It must be intended to be broadcast to the general public.
- If the programme is not an animation or children’s programme, each episode must be over 20 minutes in length and the average core expenditure per hour of programme time must be at least £1 million.
- It must be certified as “British” following an application for certification to the British Film Institute (BFI).
- It must meet the UK expenditure requirement (see below).

### The UK expenditure requirement

The UK expenditure requirement is met where at least 10% of the “core expenditure” on the film or programme is “UK expenditure”. Core expenditure is expenditure on the pre-production, principal photography, and post-production of a film or programme. Core expenditure is UK expenditure if it is incurred on goods or services “used or consumed” in the UK.

### How does the expenditure credit work?

As a pre-requisite to claiming the AVEC, an election must be made for the qualifying production to be treated as a separate trade for tax purposes.

When an election is made, the separate trade is treated as commencing at the same time as the pre-production stage or when income is first received if earlier. Specific rules then govern the debits and credits that are to be brought into account in determining trading profits, and the use of losses. Other than the calculation of the AVEC – which is brought in as a credit in determining trading profits – these detailed rules are outside the scope of this flyer.

### Calculation of AVEC

In the legislation there is a five-step process that should be followed to calculate the amount of the AVEC available to the company.

In outline, these steps require a calculation of the lower of 80% of “relevant global expenditure” (being total “core expenditure” less excluded costs such as those relating to development, distribution, and non-production activities) and the amount of this “relevant global expenditure” that is “UK expenditure”. The result of this calculation is “qualifying expenditure”. This calculation must be performed each year on a cumulative basis, with the amount of qualifying expenditure taken into account in a particular year being the amount which has not previously given rise to an expenditure credit.

The resulting amount of “qualifying expenditure” for a particular year is then multiplied by the “relevant percentage” to give rise to the expenditure credit for that year.

The relevant percentages are as follows:

- 34% for qualifying films and qualifying programmes (excluding those that qualify for the higher percentage as below).
- 39% for qualifying animated films, animated TV programmes, or children’s TV programmes.

At the Spring Budget 2024, the following additional provisions were announced:

- Additional support is to be given to UK Independent Films, being those with a budget or total core expenditure of up to £15m, which meet a proposed new BFI accreditation. For expenditure on such films, the relevant percentage will be increased to 53%. This is due to apply to productions beginning on or after 1 April 2024.
- Qualifying expenditure incurred on visual effects will give rise to a credit at 39%, with no 80% cap on the amount of expenditure that can qualify. This is due to apply to expenditure incurred on or after 1 April 2025.

### Operation of AVEC

Once the amount of the AVEC has been calculated, it is treated as a taxable receipt in calculating the profits of the separate production trade.

There is then a six-stage process for redeeming the AVEC, which can broadly be summarised as follows:

- The amount of the AVEC can be used to discharge any corporation tax liabilities of the company for the accounting period.

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- Any amount of the AVEC remaining after the above step is reduced by a notional tax charge at 25%. The amount of this notional tax charge can be either surrendered to a group company, or carried forward, for use against corporation tax liabilities only.
- The reduced amount of the AVEC remaining after the above step can be used to discharge certain other tax liabilities of the company or its group, or even paid out to the company by HMRC.

### Administration

AVEC claims must be included on the company's tax return for the accounting period to which the claim relates. In order for claims made from 1 April 2024 to be valid, an additional information form will need to have been submitted to HMRC through the Government Gateway before the corporation tax return has been submitted.

Various information will need to be provided to HMRC as part of the claim process, including:

- the production name and the start date of pre-production;
- detailed breakdowns of the expenditure incurred;
- various details in respect of any connected party transactions; and
- a copy of the British Film Institute certificate.

### How can Moore Kingston Smith assist you?

This document provides only a brief summary of the rules relating to the Audio-Visual Expenditure Credit. If you would like to discuss your particular circumstances or the legislation in more detail, please do not hesitate to contact us.

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