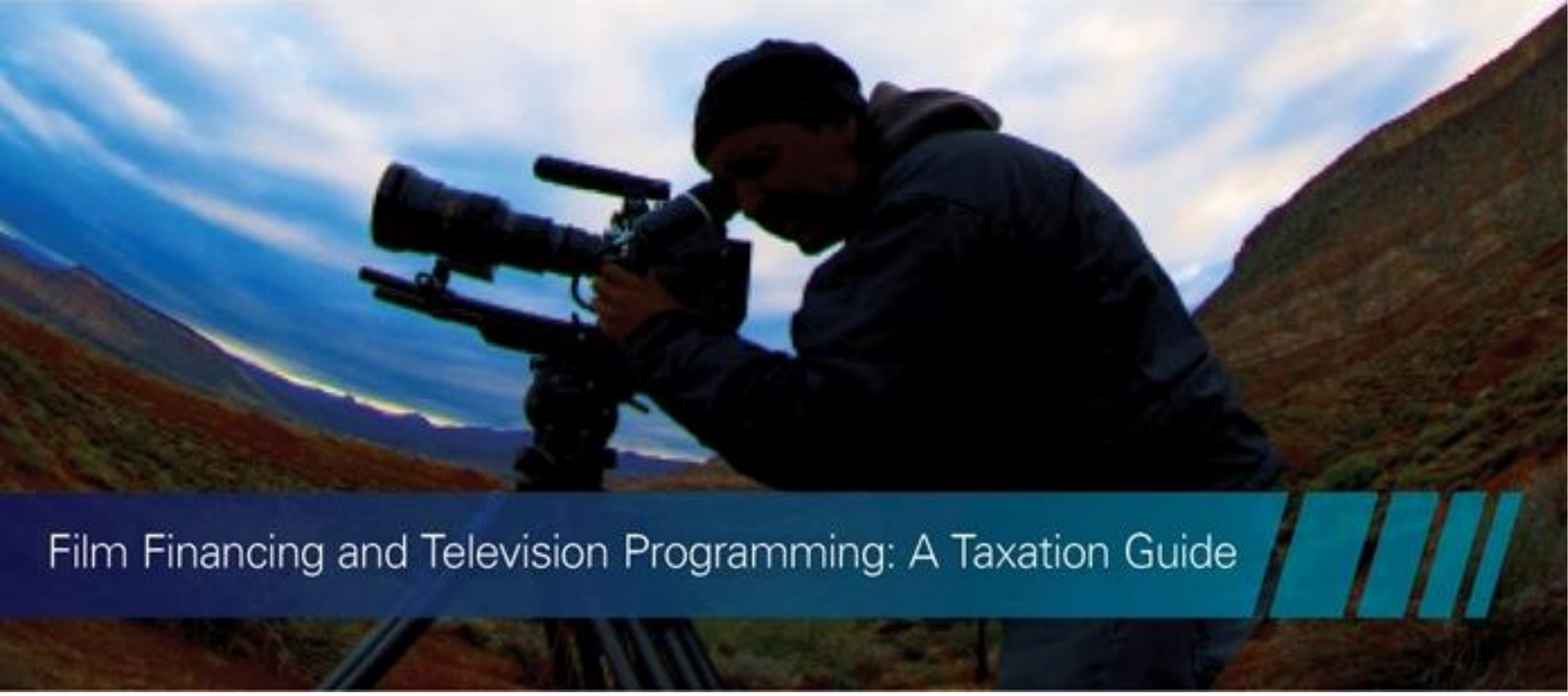

Film Financing and Television Programming: A Taxation Guide

Now in its seventh edition, KPMG LLP's ("KPMG") Film Financing and Television Programming: A Taxation Guide (the "Guide") is a fundamental resource for film and television producers, attorneys, tax executives, and finance executives involved with the commercial side of film and television production. The guide is recognized as a valued reference tool for motion picture and television industry professionals.

Doing business across borders can pose major challenges and may lead to potentially significant tax implications, and a detailed understanding of the full range of potential tax implications can be as essential as the actual financing of a project. The Guide helps producers and other industry executives assess the many issues surrounding cross-border business conditions, financing structures, and issues associated with them, including film and television development costs and rules around foreign investment. Recognizing the role that tax credits, subsidies, and other government incentives play in the financing of film and television productions, the Guide includes a robust discussion of relevant tax incentive programs in each country.

The primary focus of the Guide is on the tax and business needs of the film and television industry with information drawn from the knowledge of KPMG International's global network of member firm media and entertainment Tax professionals.

Each chapter focuses on a single country and provides a description of commonly used financing structures in film and television, as well as their potential commercial and tax implications for the parties involved. Key sections in each chapter include:

Introduction
A thumbnail description of the country's film and television industry contacts, regulatory bodies, and financing developments and trends.

Key Tax Facts
At-a-glance tables of corporate, personal, and VAT tax rates; normal non-treaty withholding tax rates; and tax year-end information for companies and individuals.

Financing Structures
Descriptions of commonly used financing structures in film and television production and distribution in the country and the potential commercial tax implications for the parties involved. The section covers rules surrounding co-productions, partnerships, equity tracking shares, sales and leaseback, subsidiaries, and other tax-efficient structures.

Tax and Financial Incentives
Details regarding the tax and financial incentives available from central and local governments as they apply to investors, producers, distributors, and actors, as well as other types of incentives offered.

Corporate Tax
Explanations of the corporate tax in the country, including definitions, rates, and how they are applied.

Personal Tax
Personal tax rules from the perspective of investors, producers, distributors, artists, and employees.

Digital Media
For the first time, we have included a discussion of digital media tax considerations recognizing its growing role in the distribution of film and television content.

KPMG and Member Firm Contacts
References to KPMG and other KPMG International member firms' contacts at the end of each chapter are provided as a resource for additional detailed information.

Please note: While every effort has been made to provide up-to-date information, tax laws around the world are constantly changing. Accordingly, the material contained in this publication should be viewed as a general guide only and should not be relied upon without consulting your KPMG or KPMG International member firm Tax advisor.

Production opportunities are not limited to the countries contained in this Guide. KPMG and the other KPMG International member firms are in the business of identifying early-stage emerging trends to assist clients in navigating new business opportunities. We encourage you to consult a KPMG or KPMG International member firm Tax professional to continue the conversation about potential approaches to critical tax and business issues facing the media and entertainment industry.

Thank you and we look forward to helping you with any questions you may have.

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Ireland

Introduction

Ireland has produced many critically acclaimed films in recent years. Notable successes have included *My Left Foot*, *In the Name of the Father, Braveheart, Saving Private Ryan,* and *Michael Collins*. Film producers, script writers, and actors alike have enjoyed tremendous success as a result of filming on Irish shores. Furthermore the following films which were produced in Ireland have also achieved tremendous acclaim on the international stage:

- *Calvary* (2013) which starred Irish actor Brendan Gleeson, has won the Best Lead Actor (Film) award, the Best Film award and the Best Screenplay (Film) award at the 2014 Irish Film and Television Awards and has been nominated in four categories for the upcoming British Independent Film Awards, including "Best Film."
- *The Guard* (2011) also starred Brendan Gleeson, who was nominated for a Golden Globe award for "Best Performance by an Actor in a Motion Picture – Comedy or Musical."
- *The Secret of Kells* (2009) was nominated for an Oscar for "Best Animated Feature Film of the Year*"* and won an Audience Award at the 2009 Edinburgh International Film Festival.
- *Once* (2007), which starred Irish actor and singer-songwriter Glen Hansard, won an Oscar for best original song written for a motion picture. It has won a number of further awards including the Audience Award at the 2007 Sundance Film Festival for "World Cinema – Dramatic."
- *The Wind that Shakes the Barley* (2006) was the winner of the momentous *"Palme D'Or Award"* at the Cannes Film Festival. *The Wind that Shakes the Barley* starred Irish actor Cillian Murphy. Since the production of this film, Cillian Murphy has enjoyed considerable success and has gone on to star in films such as *Red Eye* and *Breakfast on Pluto.*

It is clear from the dramatic images demonstrated in films such as *Calvary* (2013), *Braveheart* (1995), and *Saving Private Ryan* (1998) that Ireland's scenic countryside, dramatic coastline and picturesque views have much to offer film producers and actors alike.

Irish-produced television drama series such as *Love/Hate*, *Raw*, *The Tudors*, *Vikings,* and *The Clinic* have also been extremely successful. Apart from the wealth of literary and creative talent, which Ireland has always had in abundance, a sizeable pool of very experienced film technicians is also available to crew any production. The Irish government is committed to the continued development of a vibrant Irish film industry and supports the industry through tax incentives for film production and through the Irish Film Board, a development agency. As a result, Ireland is a very attractive location for film investment and continues to be used by overseas producers.

The key attractions of Ireland include:

- Experienced crews and facilities

- Cooperative State agencies
- English-speaking
- Tax-efficient finance through Section 481 relief
- Tax-relief for some scriptwriters and composers
- Certain income of foreign expatriates is exempt from tax
- One of the lowest corporate tax rates in the world.

Key Tax Facts

Corporate tax rate – trading income	12.5%
Passive income	25%[1]
Capital gains	33%
Highest personal income tax rate	From 1 January 2015: 40%
Universal Social Charge	From 1 January 2015: 1.5%, 3.5%, 7%, 8%, 11%[2]
VAT Rates	0%, 9%, 13.5%, 23%[3]
Annual VAT registration thresholds: Goods	EUR75,000
Services	EUR37,500
Normal nontreaty withholding tax rates: Dividends	0%,[4] 20%
Interest	0%, 20%
Royalties	0%, 20%[5]
Tax year-end: Individuals	December 31
Corporate income tax rate	25%*

[1] Passive income would include income other than capital gains and income from the carrying on a trade or profession in Ireland, (for example: certain interest received, income from foreign possessions, rental income, etc.)

[2] From 1 January 2015, the exemption threshold is €12,012. The USC bands and rates applicable to employees will be 1.5% on all income up to €12,012, 3.5% on the next €5,563, 7% on the next €52,467, and 8% on income above €70,044. The USC rates for self-employed individuals are the same as above except that an 11% rate applies to income in excess of €100,000.

[3] The standard rate of VAT is 23%. From 1 July 2011, a reduced VAT rate of 9% applies for certain goods and services (mainly related to tourism). This second, reduced VAT rate of 9% rate previously covered the period 1 July 2011 to 31 December 2013 but has now been extended indefinitely.

[4] Dividend Withholding Tax (DWT) applies at the standard rate of tax which is currently 20%. However, there exist a number of exemptions which may reduce the DWT rate to 0%.

[5] The 20 percent rate applies to patent royalties and annual payments only. In all other cases, no withholding tax should apply.

Film Financing

Financing Structures

Various mechanisms for film financing are feasible. These would include the provision of funds by way of share capital or loan finance, or a mixture of both, to a company; the creation of joint ventures involving companies and/or individuals; and the establishment of partnerships again involving companies and/or individuals. The choice of structure in any particular situation normally depends on the particular circumstances of that case, although it is usually possible to create a structure that meets both the commercial and tax objectives of the parties.

Co-Production

Two or more parties may enter into a joint venture agreement to co-produce a film or alternatively to produce and/or finance a film whereby typically the rights to exploit the film are divided among the parties. The existence of a joint venture agreement does not necessarily mean that a partnership or profit-sharing arrangement exists. Depending on the facts and circumstances, the joint venture itself is not normally taxable. Rather, each party to the joint venture must consider its respective role in the venture to assess its particular tax position.

Non-Irish resident investors in a joint venture should not normally be taxable in Ireland unless their involvement in the joint venture is such as to represent trading in Ireland through a branch or agency or otherwise gives rise to the receipt of Irish-sourced income. Where the joint venture agreement involves a foreign investor involved in a co-production in Ireland, the foreign investor may be regarded as carrying on a trade via an Irish branch and, thus, may be liable to Irish corporation tax. However, where the foreign investor's role is merely to provide finance in return for film exploitation rights in overseas territories, the foreign investor should not be liable to Irish tax on its income.

Partnership

Two or more parties (either companies or individuals) may come together to produce and exploit a film in partnership sharing overall profits and losses in accordance with the terms of the partnership agreement. Ireland recognizes both limited partnerships (whereby some but not all of the partners enjoy limited liability with regard to partnership activities) and general partnerships (whereby all partners have unlimited liability in respect of partnership activities). Limited partnerships must be registered with the Registrar of Companies. Where a partnership is formed to produce a film in Ireland, each of the partners (including foreign resident partners) are likely to be regarded as taxable in Ireland on their share of the partnership profits. Irish-resident partners of partnerships established overseas are liable to Irish tax on their share of partnership profits subject to relief or credit for foreign income tax borne in respect of such income being available under a double tax treaty.

Equity Tracking Shares

Equity tracking shares are a possible but not a particularly common form of finance for film productions. Such shares typically provide for dividend returns dependent on the profitability of a film production company's business. These shares have the same rights as the production company's ordinary shares/common stock except that dividends are profit-linked and typically have preferential rights to assets on liquidation of the company.

If the production company is resident in Ireland, these tracking shares should be regarded as preference share capital. The dividends paid on the tracking shares should be taxable in the hands of an Irish corporate investor.

If the tracking shares are acquired by Irish resident investors, but the production company is resident elsewhere, any dividends received on the tracking shares should be treated in the same way as dividends on ordinary shares. Any tax withheld should be dealt with according to the dividend article of the appropriate double tax treaty.

Yield Adjusted Debt

Again, although not particularly popular, film production companies may sometimes issue "debt securities" to investors. The yield on these securities may be linked to revenue from specific films. The principal should be repaid on maturity and there may be a low (or even nil) rate of interest stated on the debt instrument. However, at each interest payment date, a supplemental (and perhaps increasing) interest payment may be paid where a predetermined target is reached or exceeded (such as revenues or net cash proceeds).

For Irish tax purposes, this "debt security" should most likely be classified as debt. However, the excess supplemental interest may be regarded subject to certain exceptions, as a "distribution", i.e., a form of dividend. The conditions that determine whether or not it is treated as a dividend are highly complex and depend, inter alia, on the residence status of the recipient company and of the paying company, on the trade carried on by the paying company and the date on which the loan was issued. Due to the complexities, it is essential that advice be taken on a case-by-case basis. Interest payable to a 75% nonresident parent or group company may be treated as a distribution in certain cases.

Sale and Leaseback

There is little precedent in Ireland, and it could be difficult to structure a sale and leaseback of a master negative.

Other Financing Considerations

Tax Costs of Share or Bond Issues

Companies can be funded by way of debt and equity. Interest costs are normally fully tax deductible. However, in certain instances, interest can be regarded as a profit distribution. No capital duty applies on the issue of shares. Stamp duty arises on the transfer of shares in an Irish-incorporated company. The rate charged is 1% of the market value of shares and it is payable by the acquirer.

Exchange Controls and Regulatory Rules

There are no specific exchange controls or other regulatory rules in Ireland. There is therefore nothing to prevent a foreign investor or artist repatriating income arising in Ireland back to his own home territory.

Tax and Financial Incentives

Background

Taxation incentives for film investment has a strong heritage in Ireland and the first film tax incentives have been in operation as a far back as 1984. In 1984 the Business Expansion Scheme (BES) was introduced and it meant that Individuals could claim tax relief on investments in shares in companies of a specified trade. Film production was one of the trades specified. BES was replaced by the Employment and Investment Initiative (EII) and by the Seed Capital Scheme. Film production falls within the qualifying trades to avail of these reliefs. In 1996, Section 481 Relief for Investment in Films was introduced, and it is widely acknowledged that the increase in film production activity in Ireland in recent years was greatly encouraged by this initiative. Section 481 Relief was restructured into a producer-based tax credit in 2015.

Section 481, Taxes Consolidation Act (TCA 1997)

General Overview

Previously, Section 481, TCA 1997 provided for tax relief for investment in films for both individuals and companies where certain conditions were met. Significant changes have been made to how Section 481 film relief operates from 10 January 2015. These changes result in the previous investor-based relief model being replaced by a 32% tax credit for production companies (i.e., a producer-led tax credit model).

Film Relief (available from 10 January 2015)

Under the new producer-based credit scheme, the relief will no longer be available to individual investors but instead will be amended such that a tax credit of 32% of qualifying as detailed below will be available to the producer company (as defined in Appendix A) in question. The revised relief will operate by allowing the credit to first reduce the balance of corporation tax payable by the producer company, and any excess tax credit will then be repaid as a payable credit to the producer company.

Film corporation tax credit

The "film corporation tax credit" in relation to a "qualifying film" (as defined in Appendix A), means an amount equal to 32% of the lower of:

a) The eligible expenditure amount

b) 80% of the total cost of production of the film

c) €50,000,000.

Eligible expenditure is the amount expended on the production of a qualifying film, by the "qualifying company" on:

1. The employment of eligible individuals (i.e., individuals who exercise their employment in Ireland in the production of the qualifying film)
2. The provision of certain goods, services and facilities which are provided by a person carrying on business in Ireland and used and consumed in Ireland as part of the production of the qualifying film.

A list of ineligible expenditure is included in Part 7 of the 2015 Film Regulations.[6] The Regulations also require records to be kept of the Eligible Expenditure and for a notification to be sent to the Revenue Commissioners within seven days of eligible expenditure first being incurred.

In order for the relief to be available the eligible expenditure must not be less than €125,000. Furthermore, the total cost of the film must not be less than €250,000.

[6] 2015 Film Regulations: www.revenue.ie/en/practitioner/law/statutory/si-004-2015.pdf

Qualifying Company

A qualifying company is a company which exists solely for the purposes of the production of only one film. The producer company (i.e., the company applying for film relief) must hold all of the share capital of the qualifying company. The legislation is constructed so that the producer company claiming relief under Section 481 must incorporate a new qualifying company for each production of a film it undertakes. In order for the company incorporated by the producer company to be a qualifying company it must also be:

a) Incorporated and tax-resident in the State, or carrying on a trade in the State through a branch or agency

b) It must not contain in its name the words "Ireland," "Irish," "Eireann," "Eire," or "National."

Certification Process

In order to claim the relief, a producer company must make a successful application[7] to the Revenue Commissioners and, following that application, be issued with a film certificate. This certificate will specify the amount of tax relief available. It is required that the application for certification be made in advance of completion of the film.

The Certificate is issued by the Revenue Commissioners. However, the Minister for Arts, Heritage, and the Gaeltacht also has responsibilities in relation to the certification process. The Minister is responsible for ensuring that it is appropriate for the Revenue Commissioners to consider the issue of a Certificate for a film. Appendix B further outlines the Minister's responsibilities in this respect.

a) The categories of film eligible for certification as outlined in the 2015 Film Regulations (see Appendix A for further details)

b) The contribution a film should make to either or both the development of the film industry in the State and the promotion and expression of Irish culture.

The Minister may also grant authorisation subject to any conditions he deems appropriate. The legislation notes, in particular, conditions may be made in relation to the employment and responsibilities of the producer or producer company and the employment of personnel, including trainees, for the production of the film.

It is noted in Revenue's guidance notes that a minimum of two trainees for each €355,000 of corporation tax credit claimed, up to a maximum of eight trainees, must be employed on a qualifying project.

The Revenue Commissioners have responsibility to ensure that all other aspects of the project, including the financial aspects, have the potential to satisfy the requirements of the law. For instance, they should be satisfied that the proposed budget has not been inflated for the purposes of the application and that the corporate structure for production, financing, and distributing the film has a commercial rationale.

Furthermore, a certificate will not be issued unless the Revenue Commissioners are satisfied that the producer company, the qualifying company, any company controlled by the

[7] A full list of information to be included with the application is detailed in the 2015 Film Regulations www.revenue.ie/en/practitioner/law/statutory/si-004-2015.pdf

producer company, and each person that is the beneficial owner of more than 15% of the ordinary share capital of either company are compliant with their Irish tax obligations.

Although both the Minister and Revenue Commissioners have responsibilities in relation to the authorisation of the applications made, the procedure has been simplified so that the producer has to deal with only one body, the Revenue Commissioners.

In recognition of the complexities faced by companies undertaking film production projects, “approval in principle” can be granted in advance of a certificate being issued. This approval may be given where an application is made with appropriate supporting documentation. The supporting documentation can be provided in draft/unsigned form so long as there are no material differences made to it prior to being finalised and signed. The letter of “approval in principle” may specify conditions to be complied with and indicate the level of relief available if conditions are met and the certification process is completed. While the letter of approval does not guarantee that a certificate will be issued, it should provide the applicant with more certainty in regard to the relief available to them earlier in the production process.

Notification Process

The producer company must notify Revenue in writing of the completion of the qualifying film and provide copies of the film within four months of its completion.

It must also submit a compliance report declaring that the conditions of the relief have been adhered to, including an auditors’ report and evidence that the film has been commercially broadcast, shown in a commercial cinema, or commercially distributed.

Claiming the Relief

The issue of a certificate by Revenue entitles a producer company to claim a credit against its corporation tax liability in the qualifying period.

The qualifying period referred to is the accounting period in respect of which the corporation tax filing deadline immediately precedes the date of application for a film certificate by a producer company. Irish corporation tax returns are generally due to be filed no later than the 23rd day of the ninth month following the accounting period end. For example, if an application for a film certificate is made on 30 June 2017 by a producer company that has a 31 December year end, the return filing date that precedes this application date is 23 September 2016, and this relates to the accounting period ending on 31 December 2015. Thus, the tax credit would be available for the period ending on 31 December 2015 in this example.

The claim can be made for a 100% of the credit due following completion of the film and submission of the compliance report. Payments of the credit available will be made within 30 days of the compliance report being submitted (subject to all relevant conditions of the relief having been met).

Alternatively, the company can claim the relief in installments. By doing so, 90% of the relief can be claimed in advance of the completion of the film. This credit will be paid no earlier than seven days following issuance of the certificate. The remaining 10% will paid within 30 days of the submission of the compliance report upon completion of the film. In order to obtain the 90% advance instalment, some documentation must be provided to the tax authorities, as outlined in Appendix C.

Where the relief available per the certificate is in excess of the company's tax liability net of tax paid in respect of that liability, a cash refund will be available of this excess, known as the "specified amount."

EU State Aid

The film corporation tax credit is considered to be "State Aid" under EU guidelines. Under EU rules, the accumulation of State Aid cannot exceed 50% of the production budget of a film. Any direct aid from an EU state or input from a State-funded agency, such as the Irish Film Board, is also considered to be State Aid. This limit may not apply to films classified as difficult (a high-quality film facing limited prospects of commercial finance and/or achieving wide commercial distribution) or low budget (budget less than €3m).

Other Financial Incentives

The Irish Film Board

The Irish Film Board, under the Department of Arts, Heritage, and the Gaeltacht, was set up to aid the development of the Irish film industry. The primary function of the Irish Film Board is to provide development and production finance for Irish film projects. Development loans are provided in order to provide resources to allow a project to be brought from the drawing board to the stage of being properly researched and developed. Production loans are available to assist with the actual cost of producing the finished film or documentary.

The Board's total Capital grant aid allocation for 2014 amounts to approximately €13,277,000. A portion of this funding will be deployed for support training and a variety of other ancillary film industry activities, and the balance will be used to enable the development, production, and distribution of new Irish work for the screen.

As mentioned above, the Irish Film Board provides two forms of financial assistance to independent Irish filmmakers:

- Production Loans
- Development Loans

1. Production Loans[8]

a) For projects with budgets of more than €100,000 and not more than €1,500,000, the Irish Film Board can provide up to 65% of the budget, with a maximum of €650,000.

b) For projects with budgets of more than €1,500,000 and not more than €4,000,000, the Irish Film Board can provide up to €750,000, or 40% of the budget, whichever is greater.

c) For projects with budgets of more than €4,000,000 and not more than €10,000,000, the Irish Film Board can provide up to €900,000.

d) For projects with budgets of more than €10,000,000, the Irish Film Board can provide up to €1,000,000.

[8] http://www.irishfilmboard.ie/funding_programmes/Fiction_Irish_Production/50

e) European Commission regulations still allow the Irish Film Board to provide 100% production funding to film projects capable of being realized and delivered for a total production cost of not more than €100,000.

f) It is a condition of Irish Film Board Funding, that the production budget must contain adequate line items for the making of marketing materials unless the budget is less than €100,000.

2. Development Loans[9]

a) Development Loans up to €100,000, for any one project are available.

b) It is important to note that development funding of above €50,000 to any one project must be matched by funding from other sources. It is also important to note that Irish Film Board development loans must be included as a production budget line item and repayment made in full by first day of principal photography.

International Co-Production

The Irish Government has entered into official co-production arrangements with Australia, New Zealand, and Canada.[10] In order to qualify as an official co-production under these arrangements, there must be a co-producer in each country. The official co-production arrangements provide that where a film or television programme is approved as an official co-production, then it will be regarded as a national production of each co-producer country, and will therefore be eligible to apply for funding programmes which are available in these co-production countries.

Eurimages

Ireland has been a member of Eurimages, a European Support Fund for film co-production since 1992. The fund supports production of feature films, documentaries, and animated films for cinematographic exhibition. Eurimages funding is available for co-productions where there are at least two co-producers from the Fund's member states. As of 20 January 2014, there were 36 member states of Eurimages.[11] Irish films that have been in receipt of Eurimages funding are *The Lobster* (2013), *The Invisible Boy* (2013), *Kongens Nei* (2013), *A Thousand Times Goodnight* (2012), *Moscow Never Sleeps* (2012) , *Le Temps de l'Aventure* (2012), *Menu Degustacio* (2012), and *Nico A Family Affair* (2011).[12]

Corporate Taxation

General

Ireland's current rate of corporation tax for trading income is 12.5%. This rate is EU approved. Income from nontrading activities (i.e., passive income is subject to a corporate tax rate of 25%). In general, capital gains are chargeable to tax at 33%.

Given Ireland's extensive network of double tax treaties, locating in Ireland may be of interest to distributors and others active in the funding of film production. The current 12.5% tax rate should be available to both Irish resident and nonresident companies where the company or a branch of foreign company is viewed as trading in Ireland.

[9] http://www.irishfilmboard.ie/files/Development%20Funding%20Guidelines.pdf

[10] http://www.irishfilmboard.ie/financing_your_film/International_CoProduction/10

[11] http://www.aic.sk/aic/en/eurimages/

[12] http://www.irishfilmboard.ie/financing_your_film/Eurimages/20

Recognition of Income

Irish-resident companies, (i.e., companies that are managed and controlled in Ireland and some Irish-incorporated[13] companies) are liable to Irish corporation tax on their worldwide income. The computation of profits for tax purposes in Ireland entails recognizing income in accordance with standard accounting practice, unless specific legislative or precedent requirements dictate otherwise. Non-Irish-resident companies are liable to Irish corporation tax only on profits arising through a branch or agency in Ireland.

Film Production Companies

The basis of computing film production profits normally depends upon whether the film is being produced for intended sale by the production company or whether the production company intends to retain rights in the film to exploit on an ongoing basis.

In the former case, the cost of producing the film should normally be allowed as a deduction from sale proceeds in accordance with the matching principle (i.e., expenses are matched with revenue). Any profit arising is recognised on a similar basis.

Where a film is to be retained by the production company to exploit on a long-term basis, the cost of producing the master negative is considered to be expenditure incurred on the provision of "plant" in respect of which tax depreciation allowances are available. In such cases, receipts from exploiting the film are taxed on an accruals basis and tax depreciation allowances equal to 12.5% of the cost of producing the master negative are allowed on a straight-line basis over the eight years of the film's life.

A film production company is subject to normal tax practice and principles. As such, noncapital expenses should be allowed as a deduction to the company where they are wholly and exclusively laid out or expended for the purposes of the company's trade. Certain expenses are specifically not allowable such as business entertainment.

Film Distribution Companies

Once such companies are regarded as carrying on a trade of film distribution in Ireland, the profit accruing to their trade should be chargeable to Irish corporate tax at the 12.5% rate. If an Irish-resident distribution company acquires rights in a film from an unconnected production company, it is important that the purchase consideration be structured so as to be treated as a revenue expense, in order for it to be tax deductible. Distribution companies which outlay capital sums to purchase the master negative of the film will normally be entitled to tax depreciation allowances equal to 12.5% of the purchase price per annum.

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[13] Up to 31 December 2014 the presumption of residence by virtue of incorporation in Ireland will not apply where the company or a related company carries on a trade in the State and either the company is ultimately controlled by persons resident in a EU Member State or Treaty country; or the company or a related company is a quoted company on a recognized Stock Exchange; or the company is not regarded as resident in the State under the provisions of a double tax treaty between Ireland and another country.

Any companies incorporated in Ireland after 1 January 2015 will automatically be considered Irish tax resident except where the company is a resident of another jurisdiction under a tax treaty.

Foreign Tax Relief

Film Production Companies

In countries with which Ireland has a double tax treaty, taxation relief is allowed by way of a credit for both foreign corporation tax and withholding taxes incurred by way of deduction or otherwise. In addition to this relief, Ireland also has unilateral tax credit relief to prevent double taxation of dividends received by Irish parent companies from foreign-related companies with which Ireland does not have a double taxation agreement.

In certain circumstances, an Irish-resident company may elect for any dividends received from non-Irish-resident subsidiaries to be taxable at 12.5%, rather than the standard rate of 25% for passive income, provided certain conditions are met. The conditions are as follows:

- The dividend must be paid out of the trading profits of the subsidiary.
- Throughout the period out of the profits of which the dividend is paid:
  - The company paying the dividend must be resident in an EU country, a country with which Ireland has a tax treaty (DTA), or a country that has ratified the Convention on Mutual Administrative Assistance in Tax Matters
  - The principal class of the shares of the company paying the dividend (or its 75% parent) must have been substantially and regularly traded on a recognised stock exchange in Ireland, the EU, a DTA country, or a country that has ratified the Convention on Mutual Administrative Assistance in Tax Matters.

Unilateral credit relief and pooling relief is also available for foreign branch profits.

If an Irish-resident film production company receives income from nonresident payers and suffers overseas withholding tax, it can normally rely on Ireland's range of double tax treaties to obtain relief for the tax suffered. The production company normally applies to the overseas territory's tax authorities for permission to receive such income gross, by reference to the "business profits" article of the relevant treaty. If no treaty exists between Ireland and the payers' territory of residence, the tax suffered generally should be allowed to be deducted as an expense in computing the profits of the production company's trade.

A production company should take care to minimize foreign taxes suffered. To the extent that foreign taxes exceed 12.5%, they may constitute a real cost to the company. However, "dividend pooling" provisions help reduce the impact of this real cost where the foreign tax is suffered on dividend income. This provision provides that the aggregate amount of corporation tax payable by a company for an accounting period in respect of relevant dividends received by the company from foreign companies shall be reduced by the unrelieved foreign tax of that accounting period. Any surplus of unrelieved foreign tax is to be offset separately against dividends received that are taxable at 25% and those taxable at 12.5%.

Film Distribution Companies

The same rules in relation to relief for foreign taxes apply to film distribution companies as apply to film production companies.

Research and Development Tax Credit

The introduction of the Research and Development (R&D) Tax Credit has meant that there is now a further advantage and incentive for companies engaged in such qualifying activities to locate in Ireland. Film producer companies advancing research and development in new or existing areas of technology may find themselves in a position to qualify for this credit. In order to obtain the credit, the company must fulfil a number of tax, technical, and scientific criteria as set down under sections 766, 766A, and 766B TCA 1997. In summary, in order to qualify for the relief, R&D activities must seek to be carried out within a revenue-approved field of science or technology, must achieve scientific or technological advancement, involve the resolution of scientific or technological uncertainty and must be carried out in a systematic, investigative, or experimental manner, with detailed documentation being maintained throughout.

Qualifying R&D activities can fall into any one of three categories: basic research, applied research, or experimental development. Currently, a tax credit of 25% is available in respect of the incremental expenditure on qualifying capital and revenue expenditure incurred on qualifying R&D expenditure occurring in the European Economic Area.[14]

The tax credit must be claimed within 12 months after the end of the accounting period in which the R&D expenditure, giving rise to the R&D tax credit, is incurred, (i.e., a claim for the year ended 31 December 2014 must be submitted by 31 December 2015).

- The R&D tax credit can be used, on making a claim, to offset firstly against the company's corporation tax liability for the current accounting period and then against the prior period's corporation tax liability. Any excess unutilized tax credit can then be carried forward indefinitely for offset in subsequent periods.
- Alternatively, the taxpayer may obtain a repayment of the excess R&D tax credit (after the current and prior-year offset) in three installments over a three-year period. The repayments may be claimed on the following basis:
  - Repayment of 33% of such remaining excess may be claimed following the relevant CT filing date for the period in which the R&D expenditure was incurred.
  - Any remaining tax credit excess must be carried forward and used to offset against the CT liability in the subsequent period.
  - If any excess remains, repayment of 50% of any such further remaining excess may be claimed following the relevant CT filing date in the period subsequent to that in which the expenditure was incurred.
  - Any further remaining unutilized credit can be used to offset against the CT liability in the second subsequent period.
  - Any balance of the R&D tax credit unutilized at that stage may be repaid in full, following the relevant CT filing date in the second subsequent period to that in which the expenditure was incurred.

[14] The EEA includes all EU member states plus a number of EFTA Member states. EFTA states include Iceland, Norway, Switzerland, and Liechtenstein.

However, the maximum amount of cash refundable to a company is subject to certain conditions, limited to the greater of:

- The company's cumulative current- and prior-year payroll liabilities, (being the income tax, employer PRSI (pay-related social insurance), levies, and the universal social charge payable); and
- The aggregate amount of corporation tax paid by the company for the 10 years prior to the accounting period preceding the period in which the qualifying R&D expenditure was incurred.

Furthermore, expenditure which has already been met with grant assistance cannot qualify for the R&D Tax Credit.

Cumulatively, the credit of 25% together with the deduction for qualifying Research and Development expenditure in the calculation of trading profits (12.5%) can result in an effective tax relief of up to 37.5% for companies engaged in qualifying R&D activities.

Personal Tax Section

General

An individual's Irish income tax liability will generally be determined by reference to whether or not the individual is regarded as resident in Ireland and domiciled in Ireland for Irish tax purposes.

An individual will be regarded as Irish resident in any tax year ended December 31:

- If he or she spends 183 days or more in Ireland during that year
- If he or she spends 280 days or more in Ireland over a two-year period (and at least 30 days in Ireland in the year in question)

An individual is considered to have spent a "day" in Ireland if present in Ireland at any point on that day.

The term "domicile" broadly refers to the place that the individual regards as his or her permanent home.

Nonresident Artists

Non-Irish-resident individuals are only liable to Irish income tax on their Irish source income. It should be noted that foreign employment income attributable to duties performed in Ireland is Irish source income. However, relief may be available to such individuals under the terms of one of Ireland's range of double tax treaties.

From 10 January 2015 onwards, payments made to non-Irish-resident artistes (or representatives of that artiste) from outside the EU/EEA who have been engaged by a qualifying company to appear in a film or television production are subject to withholding tax at the standard rate of tax, (i.e., 20%). While there is no legislative definition of an "artiste," Irish Revenue have issued guidance that the definition does not extend to support staff such as directors, producers, cameramen, etc., and as such, it will only include actors appearing in qualifying films or productions.[15]

[15] http://www.revenue.ie/en/tax/fwt/index.html

Resident Artists

Irish-resident and domiciled artists and writers are liable to Irish income tax on their worldwide income. However, certain artists and writers may qualify for the artists' exemption referred to below.

Persons who are resident in Ireland but not domiciled in Ireland are only liable to Irish tax on their Irish income sources and on other foreign income to the extent that it is remitted to Ireland. Consequently, Ireland can be an attractive location for artists or entertainers who take up residence in Ireland and who can avoid remitting non-Irish income sources to Ireland. It should be noted that foreign employment income attributable to duties performed in Ireland is Irish source income.

Irish-resident individuals, whether or not they are domiciled in Ireland, can generally avail of Ireland's broad range of double tax treaties.

Artist's Exemption

From 1 January 2015, Irish-resident individuals who are not resident elsewhere should be able to avail of an exemption from Irish income tax on the first €50,000 of profits per annum in respect of the profits from the publication, production, or sale of an original and creative work (or works) falling under one of five categories, namely:

- A book or other writing
- A play
- A musical composition
- A painting or other like picture
- A sculpture

The exemption may therefore be claimed by a writer, a dramatist or playwright, or a musical composer who produces an original or creative work. To avail of the exemption it is also necessary that the work is judged to have cultural or artistic merit. The exemption extends only to the profits from the writing, composition, or execution of the work. Consequently, if, for example, an individual derives profits both from the composition of music and also from performing it, he or she will be exempt from tax on that portion of the profits derived from the composition of the music up to €50,000 but will be taxable in the normal way on profits in excess of €50,000 and any other earnings derived as a performer.

From 1 January 2015, artists that are resident or ordinarily resident in another EU Member State or an EEA State will also be eligible to the relief where they have income within the Irish tax net. The determination of whether a work or works of art by a writer, playwright, composer, etc., are original and creative works, and whether they are generally recognized as having cultural or artistic merit is assessed by reference to Guidelines drawn up by the Minister for Arts, Heritage, and the Gaeltacht.

The relief may be restricted where the individual's taxable income before the relief is applied, exceeds €125,000 in the tax year. In such cases, the relief that may be claimed in the year will be restricted to the greater of €80,000 and 20% of the adjusted income, (i.e., the income before the relief). Where the relief is restricted in a given tax year, it can be carried forward and offset against taxable income in future periods.

Employees
The correct tax treatment of persons employed in Irish film production depends on whether the nature of their contract with the production company is regarded as a "contract for services" or a "contract of service." In the latter case, the person should be regarded as an employee and the production company should be obliged to operate Irish payroll taxes on all payments made to him or her. In such circumstances, if the individual is a resident of a country with which Ireland has a double tax treaty, credit should normally be available for any Irish tax suffered against the individual's tax liability in his country of residence.

Irish production companies are also obliged to deduct the universal social charge on all salaries and wages paid to employees, if their gross income exceeds the threshold of €12,013 per annum (€231 per week). The universal social charge (USC) is deducted from gross salary and wage payments (including notional pay). The rates applicable are outlined above. In addition, production companies have an obligation to pay employer social security contributions for its employees at the rate of 10.75% on annual salary and wages. Lower rates of social security contributions are payable in relation to lower-paid workers.

Where individuals are employed under contracts for services, the production company is not obliged to operate payroll taxes or deduct social security contributions from payments to the individual.

The distinction between "contracts for services" and "contracts of service" is not clear-cut and is dependent, among other things, on the Irish Revenue's interpretation of certain case precedents. Specific advice should be sought in particular instances.

Loan Out Companies
Where services are provided to Irish production companies by non-Irish "loan out" companies and employees of the loan out company are exercising employment duties in Ireland, there is an Irish withholding tax and social security obligation for the employer. If the foreign employer fails to operate the Irish PAYE system correctly, the Irish authorities may seek the relevant amounts from the Irish host company.

Indirect Taxation

Value Added Tax (VAT)

General
Irish VAT is chargeable on the supply of goods or services for consideration in the course or furtherance of business under the harmonized system of VAT found in the European Union. As noted above, where an accountable person's turnover exceeds or is likely to exceed the current thresholds[16] with regard to the supply of goods (€75,000) and services (€37,500), an obligation to register for Irish VAT and to charge Irish VAT at the applicable rate arises. Where the relevant thresholds have not been breached, an accountable person has the option to elect to register for Irish VAT.

[16] With effect from 1 May 2008

In general, once registered for VAT in Ireland, Irish VAT incurred on costs directly relating to a person's VATable activities is recoverable subject to certain statutory restrictions on "nondeductible" items such as food and drink, accommodation (except accommodation in relation to qualifying conferences), entertainment, the purchase/hire of motor vehicles (except a partial VAT deduction on certain low-emission vehicles), petrol, and other goods and services not purchased for business purposes.

Supply of a Completed Film

In Ireland, the supply of commissioned cinematographic and video film which records particular persons, objects or events supplied under an agreement to photograph those persons, objects, or events, is treated as a supply of goods liable to Irish VAT at the reduced rate of 13.5%. Other supplies of films or videos (e.g., films on DVD, minidisk, or any other digitized media) are liable to Irish VAT at the standard rate (currently 23%).

In general, a VAT point is triggered at the time of the supply of the goods or on completion of the service or if an invoice is required to be issued, the date of the invoice or the latest date by which the invoice should be raised. Valid VAT invoices should be raised no later than the 15th day of the month following the month in which the supply takes place. Please note, if payment is received in advance of delivery of a completed film, VAT becomes due at the time of the prepayment.

Generally Irish VAT returns are submitted on a bimonthly basis, with a VAT return due for submission to Revenue by the 19th day of the month following the end of the bimonthly VAT period (e.g., the January/February VAT return would be due for submission by the 19th of March). Please note that to encourage the filing of VAT returns online via the Irish Revenue's Web site (www.ROS.ie), the filing date has been extended to the 23rd of the month where VAT returns are filed online and any associated VAT payment is made by this date. All VAT on sales (i.e., Output VAT) and VAT incurred on purchases (i.e., Input VAT) arising and incurred within the relevant bimonthly VAT period should be recorded in the respective VAT return.

Where an Irish-established company delivers a completed film to a company established in another EU Member State (the recipient), Irish VAT should be chargeable at the zero-rate provided the recipient's foreign VAT number is stated on the Irish company's invoice, the film is physically dispatched to the other EU Member State within three months of the supply and evidence of the dispatch is retained by the Irish company. In this particular case, the recipient is deemed to be making an intracommunity acquisition of goods and is required to account for local VAT at the rate applicable to the goods in their own Member State. The Irish supplier of the film would be entitled to full input VAT recovery of any VAT incurred in relation to the supply of the film (subject to certain restrictions in relation to "nondeductible" items noted above).

Where completed films are supplied and dispatched from Ireland to EU VAT-registered persons in another EU Member State, the supplier is required to prepare quarterly VIES returns. With effect from 1 January 2012, where the value of supplies of goods by an Irish-established company to EU VAT-registered persons exceeds €50,000 in any of the previous four calendar quarters, the VIES return must be filed on a monthly basis. These returns are statistical in nature, with the aim of identifying and preventing fraudulent supplies arising within the EU. The Irish-established company will have to record the value of the zero-rated supplies of goods made per quarter to each of its VAT-registered customers located within the EU.

In addition, where the value of goods supplied to other EU countries exceeds €635,000 annually, the Irish-established company will also be required to prepare a monthly dispatch INTRASTAT return. If an Irish-established company acquires goods into Ireland from the EU, the value of which exceeds €191,000 annually, an obligation to file a monthly arrivals INTRASTAT return would arise. Details of supplies of goods dispatched from Ireland to VAT-registered customers located within the EU and the acquisition of goods into Ireland from the EU should also be recorded on the face of the bimonthly VAT return in Box E1 and E2 respectively. Similarly, details of supplies of services supplied from Ireland to VAT-registered customers in other EU Member States and the acquisition of services into Ireland from the EU should be recorded on the face of the bimonthly VAT return in Box ES1 and ES2 respectively.

Where an Irish-established company delivers a completed film to a customer located outside of the European Union, the zero-rate of Irish VAT should also apply. Again, the supplier of the film would be able to recover VAT incurred in making the film (subject to certain restrictions on "nondeductible" items noted above).There are no special reporting requirements other than the requirement to complete and retain a customs export declaration on a Single Administrative Document.

Invoicing

There are certain requirements for an invoice to be a valid VAT invoice, and these are set out in Appendix D.

Pre-Sale of Distribution Rights

VAT is charged at the rate of 23% on a pre-sale of distribution rights to a person established in Ireland. A pre-sale of distribution rights to a business established in another EU Member State, or to any purchaser outside of the EU, is not within the scope of Irish VAT. However, the business customer, on receipt of the distribution rights, would be required to self-account for any local foreign VAT arising in their member state. VAT incurred by the supplier on expenses incurred in relation to making the film and selling the rights is fully recoverable (subject to certain restrictions on "nondeductible" items noted above).

Royalties

Where an Irish-established company pays a royalty to another Irish-established company, VAT arises at the standard rate (23%).

Where a business established in Ireland receives a royalty from a company established outside of Ireland, VAT at the rate of 23% must be accounted for by the Irish company on the "reverse charge basis." Where the Irish company is engaged in fully VATable activities, it should be entitled to recover in full the VAT which it must account for under the reverse charge basis.

Where an Irish-established company provides a royalty to a business established in another EU Member State, or to any person outside the EU, no Irish VAT is chargeable. However, an EU business recipient of the royalty service may be obliged to self-account for VAT in its own Member State under the reverse charge basis. Where an Irish-established company provides a royalty service to a nonbusiness person located within the EU, Irish VAT at the standard rate (currently 23%) is chargeable by the supplier.

Since 1 January 2010, where an Irish VAT-registered company supplies services to VAT-registered customers in other EU Member States on which the customer must self-account for VAT, the Irish company must provide details of these supplies in a VIES return on a quarterly or monthly basis.

Peripheral Goods and Merchandising
The sale of peripheral goods connected to the distribution of a film (such as books, magazines, published music, and clothing) will be chargeable to VAT at the rate applicable to the goods in question. For example, printed books and booklets are liable to VAT at 0%; sheet music, magazines, and periodicals are liable to VAT at 9% (with effect from 1 July 2011, but subject to annual review); while audio cassettes are liable to VAT at 23%. The sale of any merchandising connected with the distribution of the film such as the sale of clothes, toys, etc., is generally liable to VAT at 23%, with certain exceptions such as children's clothing and footwear, which are generally liable to VAT a 0%.

Promotional Goods or Services
Gifts of taxable goods (i.e., promotional goods) made in the course or furtherance of business will give rise to an Irish VAT liability (at the rate of Irish tax attaching to the goods in question) unless their cost to the donor (excluding VAT) is €20 or less. A VAT-registered person is generally entitled to an input VAT deduction in his/her VAT return for VAT charged to him/her in respect of the acquisition of goods to be given away as gifts, subject to the usual conditions.

Catering Services to Film Crew and Artists
In general, the supply of catering services is chargeable to VAT at 9% (with effect from 1 July 2011) irrespective of whether or not the meals are paid for by the crew and/or artists. Where catering is provided free of charge by the film company, in the course of operating a staff canteen, VAT at 9% rate would generally be payable by the film company on the total cost of operating the canteen where the total annual cost of providing the catering service exceeds €37,500. However, it should be noted that certain food and drink items supplied either as part of a catering service or in isolation can be liable to a different VAT rate and this should be carefully considered.

Import of Goods
Goods imported into Ireland from outside the European Union will be subject to VAT at the point of importation (at the rate of VAT applicable to the domestic supply of goods in question). In addition, depending on the nature of the goods, customs and/or excise duty may also be payable on importation. The Irish company can generally recover the import VAT through its periodic VAT return although any customs/excise duty paid is not recoverable.

Customs Duties
In general, a film company established outside the European Union would be entitled to import, on a temporary basis without payment of customs duty or VAT, professional equipment for use in the making of a film. The equipment is normally imported under cover of an ATA Carnet.

Appendix A – Definitions applicable from 10 January 2015

Producer Company

Under the new scheme, a "producer company" refers to a company which:

- Is resident in the State, or is resident in an EEA State other than the State and carries on business in the State through a branch or agency;
- Is engaged in producing films on a commercial basis for exhibition to the public in cinemas or by way of TV broadcasting. Private films or films made for some incidental purpose other than the profitable exploitation of the film are also excluded;
- Is not a company, or a company connected to a company:
  a) That is a broadcaster, or
  b) A company whose business consists wholly or mainly of transmitting films on the internet, or
  c) A company connected to another company where the aggregate of the activities carried on by the company and every company to which it is connected consists wholly or mainly of transmitting films on the internet;
- Holds all of the shares in the qualifying company;
- Enters into a contract with a qualifying company in relation to the production of the qualifying film;
- Provides an amount not less than the specified amount to the qualifying company[17] and unless an amount not less than the eligible expenditure amount is expended by the qualifying company wholly and exclusively on the production of the qualifying film as specified in a condition in the film certificate;
- Carries on a trade of producing films and this trade has commenced not later than the date the qualifying period commenced. As noted above, the qualifying period refers to the accounting period in respect of which the corporation tax filing deadline immediately precedes the date of application for a film certificate by a producer company;
- Has delivered to the Collector General on or before the relevant return deadline, a return, in respect of the accounting period immediately preceding the date the application was made.

As a result of the above requirements, the legislation in its current form does not allow a start-up producer company to claim the relief.

[17] The specified amount arises where the Revenue Commissioners have specified a film corporation tax credit in a film certificate, and the amount of the credit exceeds the corporation tax of the qualifying period, as reduced by the corporation tax paid by the company before the deduction of the film corporation tax credit. This excess shall be paid to the producer company by the Revenue Commissioners.

Furthermore, the legislation excludes companies in the following circumstances:

- A company will not be considered to be a producer company to the extent that the company ceases to carry on the trade (being the production of films for public exhibition on a commercial basis with a view to realising profit) within 12 months after the date the compliance report is provided to the Revenue Commissioners.
- A company will not be considered a producer company if it disposes of its shares in the qualifying company before a time which is 12 months after the date the compliance report is provided to the Revenue Commissioners.
- In order to qualify for relief under S.481 TCA 1997, the producer company must not enter into financial arrangements in respect of the qualifying film with persons resident outside of the EU or in a non-DTA country.

A Qualifying Film

A qualifying film means a film in respect of which the Revenue Commissioners have issued a certificate which has not been revoked. The film must be one that is produced on a commercial basis with a view to the realisation of profit and is produced wholly or principally for exhibition to the public in cinemas or by means of television broadcasting (does not include online streaming), but does not include a film made for exhibition as an advertising programme or as a commercial. The film must be one which is included within the categories of films eligible for certification by the Revenue Commissioners which are outlined below (see Schedule 2 of 2015 Regulations for further detail).

(i) Feature films

(ii) Television dramas

(iii) Animations (whether computer-generated or otherwise, but excluding computer games).

(iv) Certain "creative" documentaries, where specific conditions are met.

The following types of film will not be eligible for certification, and include:

- Films comprising or substantially based on:
  - Public/special performance(s) staged for filming or otherwise;
  - Sporting event(s);
  - Games/competitions;
  - Current affairs/talk shows;
  - Demonstration programmes for tasks, hobbies, or projects;
  - Review/magazine-style/lifestyle programmes;
  - Unscripted or "reality"–type programmes;
  - Products produced in-house by a broadcaster or for domestic consumption in one country.

Appendix B – Specific Requirements of the Minister for Arts, Heritage, and the Gaeltacht

As noted above, Revenue may not issue a certificate of a film unless they have received authorisation from the Minister.

Under the Film Regulations 2015, the Minister cannot grant authorisation to a film unless:

- The film is a qualifying film as outlined in Appendix A
- The film will either –
  - Act as an effective stimulus to film making in the State through, among other things, the provision of quality employment and training opportunities, or
  - Be of importance to the promotion, development, and enhancement of the national culture including the Irish language, where applicable, or
  - Will satisfy both of the above.

The Minister, in considering whether to give authorization, will:

- Examine the professional capability of the producers of the film and any creative collaborators;
- Examine the anticipated net contribution that the s. 481 Scheme and other State Aid Schemes will make to the projects; and
- As noted above, the Minister must consider the opportunities provided by the project for quality employment and training. A minimum of two trainees for each €355,000 of corporation tax credit claimed, up to a maximum of eight trainees, must be employed on the project.

The decision on whether to authorise a film project will require a film to meet three of the following criteria, and the producer should indicate their compliance with these criteria in the covering letter accompanying their application.

- The project is an effective stimulus to film making in Ireland and is of importance to the promotion, development, and enhancement of creativity and the national culture.
- The screenplay (or, in the case of a documentary film, the textual basis) from which the film is derived is mainly set in Ireland or elsewhere in the EEA.
- At least one of the principal characters (or documentary subjects) is connected with Irish or European culture.
- The storyline or underlying material of the film is a part of, or derived from, Irish or European culture and/or heritage; or, in the case of an animation film, the storyline clearly connects with the sensibilities of children in Ireland or elsewhere in the EEA.
- The screenplay (or textual basis) from which the film is derived is an adaptation of an original literary work.
- The storyline or underlying material of the film concerns art and/or an artist/artists.
- The storyline or underlying material of the film concerns historical figures or events.

- The storyline or underlying material of the film addresses actual, cultural, social, or political issues relevant to the people of Ireland or elsewhere in the EEA; or, in the case of an animation film, addresses educational or social issues relevant to children in Ireland or elsewhere in the EEA.

Appendix C

Payment of the credit in instalments

The credit may be paid to the producer company in two installments as follows:

(1) The first installment being 90% of the total credit due, and

(2) The second installment being the balance of the credit due, to be paid to the producer company within 30 days after the date on which a compliance report has been provided to Revenue.

In order to claim the first installment of 90% the producer company must submit evidence that:

a) The financing agreements have been executed

- The conditions of those agreements for funding to commence have been satisfied; and
- An amount no less than 68% of the approved eligible expenditure amount has been lodged to the qualifying company's bank account on terms whereby such amount is to be expended by the qualifying company on the production of the film;
- This condition can be satisfied by the production of letters from independent solicitors and accountants that are members of a professional accountancy body to the effect that the requirements have been met.

b) The Irish Film Board has completed its due diligence and agreed to release its production funding to the producer company (if applicable);

c) The Broadcasting Authority of Ireland has completed its due diligence and agreed to release its funding to the producer company (if applicable);

or

d) The producer company has provided a guarantee, surety bond, or similar instrument confirming their liability to repay the first installment in the event of a failure by the producer company to comply with the relevant provisions of Section 481 of the Act.

Appendix D

Requirements of a valid VAT invoice

(i) The date of issue of the invoice

(ii) A sequential number, based on one or more series, which uniquely identifies the invoice

(iii) The full name, address, and registration number of the person who supplied the goods or services to which the invoices relates

(iv) The full name and address of the person to whom the goods or services have been supplied

(v) In the case of a supply of goods or services to a person who is liable to pay the tax on such supply, the registration number of that person and an indication that a reverse charge applies

(vi) In the case of a supply of goods to a person registered for VAT in another Member State, the person's VAT registration number in that Member State and an indication that the invoice relates to an intracommunity supply of goods

(vii) The quantity and nature of the goods supplied or the extent and nature of the services rendered

(viii) The date on which the goods or services were supplied, or, in the case where advance payments on account are received, the date on which the payment on account was made, insofar as that date can be determined and differs from the date of issue of the invoice

(ix) In respect of the goods or services supplied:

(a) The unit price exclusive of tax,

(b) Any discounts or price reductions not included in the unit price, and

(c) The consideration exclusive of tax.

(x) In respect of goods or services supplied, other than reverse charge supplies:

(a) The consideration exclusive of tax per rate of tax,

(b) The rate of tax chargeable,

(xi) The tax payable in respect of the supply except where the Margin Scheme, Auctioneers Scheme, or the Scheme for Means of Transport applies

(xii) In the case where a tax representative is liable to pay the VAT in another Member State, the full name and address and the VAT identification number of that representative

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