

How to fund 25% or more of your film production budget using UK and Irish tax reliefs

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Friday 15th May 2009



Agenda

1. UK film tax credits
2. Benefits for producers of Irish Section 481 tax relief
3. Combining the UK and Irish tax relief
4. Conclusion/Questions

1 UK film tax credits



1 How does it work?

- Film production companies (FPCs) can claim a refundable tax credit of up to 25% of qualifying production (core) expenditure on a limited budget film.
- Up to 80% of the core expenditure incurred by the FPC can qualify for a tax credit. This effectively limits UK tax credits to 20% of the production budget for limited budget films.
- A limited budget film is a film with total core expenditure of less than £20m.

1 How does it work?

- A FPC calculates expenditure available for relief by taking the lower of:
 - 80% of total core expenditure incurred by the FPC;
or
 - Qualifying UK expenditure

- Effectively the first 80% of a FPC's core expenditure can obtain a 25% tax credit but there is no relief thereafter.

1 Key requirements

- UK companies only not partnerships
- Applies to films which began principal photography after 1 January 2007
- Film must be intended for theatrical release
- Must be either a qualifying British film under the cultural test OR a qualifying co-production
- A certificate will be required from the UK film council agreeing that the film either passes the British cultural test or is a a qualifying co-production
- At least 25% of the FPC's core expenditure must be UK qualifying expenditure

1 Key requirements

- FPC must :
 - be responsible for pre -production, production and post-production.
 - be actively engaged in production planning and decision-making during the pre- production , principal photography and post production stages of the film; and
 - directly negotiate, contract and pay for rights, goods and services relating to the film.
- Requirements relaxed for qualifying co-productions. FPC only required to make an effective and creative contribution to the project

1 Expenditure eligible for relief

- Production or core expenditure only, not development costs
- Must be used and consumed in the UK
- The concept of used and consumed is a difficult one as it focuses on the user of any goods or services not the supplier.
- Some payments to UK individuals or suppliers might not qualify for relief, e.g. a UK actor working on an overseas production shoot.

1 Expenditure eligible for relief

- It does however work the other way and an FPC can claim relief for amounts paid to foreign nationals which are used and consumed in the UK, e.g. props sourced from overseas but used in a UK production shoot.
- Difficulties can arise in allocating directors' and producers' time and costs between different territories.

2 Benefits for producers - Irish Section 481 tax relief



2 How does it work?

- A production company in the UK is making a limited budget film.
- The budget is €10,000,000
- Pre sales of €7,500,000 already made by UK producer
- The UK company has to provide €2,500,000 from its own resources
- €7M could be incurred in Ireland
- €3M could be incurred in the UK on pre and post production
- 80% of the production work based on hours could be carried out in Ireland.
- UK producer is therefore entitled to raise €7,000,000 under section 481

2 How does it work?

- UK producer engages an Irish producer.
- The Irish producer sets up Filmco to make the film
- UK producer uses €5,000,000 from presales to pay Filmco
- Gross funding plan of the film
 - UK Producer €3,000,000
 - Section 481 funds €7,000,000
- The net funding plan is
 - Section 481 net benefit €2,000,000
 - Presales by UK Producer €7,500,000
 - UK producer investment €500,000

2 How does it work?

- The UK producer now has to find €500,000 as opposed to €2,500,000 without section 481 funding.
- The producer receives a net benefit of €2,000,000
- In other words, the UK producer can access section 481 funds of €7,000,000 if they can secure €5,000,000 to pay the Irish Filmco for making the film in addition to a further €3,000,000 to complete the budget.

3 Why would an investor invest?

Investment	50,000
Financed by	
Bank loan	33,500
Investors own funds	16,500
	<hr/>
	50,000
	<hr/>
Return on investment	35,000
Loan repayment	(35,000)
Investor return	
Own funding	(16,500)
Income tax refund	20,500
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Net gain	4,000
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2 Some technicalities

Section 481 funds equal to the **lower** of

- 80% of the total cost of production
- The eligible expenditure

The term eligible expenditure means collectively both “eligible goods, services and facilities” AND “eligible individuals”

2 Some technicalities

Eligible goods, services and facilities purchased from:

- The business operates from a fixed place of business in the State
- The activities of the business are carried on in the State
- Any goods supplied or used are supplied from normal trading stock, and any equipment or facilities used are part of the assets normally employed in the business.

2 Some technicalities

- “Eligible individual” means an individual who is a citizen of Ireland or of another Member State of the European Communities, or an individual domiciled, resident or ordinarily resident in the State or in another Member State of the European Communities.
- Where the qualifying company employs an eligible individual and pays that individual directly, in respect of work carried on in the State, on the production of the qualifying film, such a payment will qualify as eligible expenditure.

2 Some technicalities

- Where the qualifying company makes a direct payment to a self employed individual, who comes within the residency or citizenship requirements outlined above and that individual provides only labour, such expenditure will also be eligible expenditure, in relation to activities performed in the State.
- Where, however, a person provides goods, services or facilities, the person must operate from a fixed place of business, in the state.

2 Improved net benefit

- Net benefit was typically 22%
- Now net benefit around 28%
- Major increase in activity predicted for 2009

3 Combining the UK and Irish tax reliefs



3 Explaining the concept

- Concept is to set-up a UK company to produce a film which qualifies either as a British film or qualifying co-production.
- It is anticipated that some of the work will be performed either in Ireland or by Irish persons and that these costs will qualify for s481 relief
- UK company incurs most if not all of the production expenditure depending on whether it is a British film (can incur 100%) or a qualifying co-production (capped at 80%).

3 Explaining the concept

- UK company outsources any Irish work to an Irish company to obtain the benefit of the s481 relief by a discount of say 28% on the amount that is paid for their services.
- UK company can claim a full 25% tax credit on all UK production costs (used and consumed in the UK) without restriction if UK qualifying costs < 80% of total production expenditure incurred by the UK company (post s481 relief).
- In this way, UK company obtains the benefit of both UK and Irish tax reliefs and these help to fund the production budget

3 Illustration



UK / IRISH PRODUCERS



UK SPV
Incurs all production costs but outsources a % to Ireland

* Typically owned by an unrelated party



IRISH SPC
Incurs Irish production costs

* Typically owned by an Irish Producer



IRISH INVESTORS



1. Funds film production activities
2. Inject s481 funds (gross)
3. Pays Irish SPC for production & effectively gets s481 benefit
4. Receive back funds from defeasance account (net)
5. Irish tax relief
6. Claim UK tax credit

3 Worked example (i)

- UK producer wants to shoot a film in the UK with some post-production work undertaken in Ireland
- Most of the production staff are UK individuals, but an Irish writer is used.
- Film qualifies as a culturally British film
- Film also qualifies for Irish s481 relief
- Film intended for theatrical release

3 Worked example (ii)

- Film production budget of £8m (before s481 relief), split as follows:
 - Directors/producers £2m
 - Irish writer £0.5m
 - Other UK production costs £3m
 - Post-production work £2.5m (£2m Ireland, rest UK)
- It is considered that 25% of the directors'/producers' time is used and consumed in Ireland
- It is considered that all of the Irish writer's costs are used and consumed in the UK.

3 Worked example (iii)

- UK producer engages a UK SPV to produce the film.
- UK producer sources an Irish producer which sets up an Irish SPC.
- UK SPV enters into a production agreement with Irish SPC to carry out the Irish work on the series.

3 Worked example (iv)

- UK SPV incurs the total production costs of £8m.
- Irish SPC incurs the following costs and charges a fee (less s481 relief) to the UK SPV for doing so:
 - Irish writer £0.5m
 - Directors/producers £0.5m (25% of time used and consumed in Ireland)
 - Post-production work £2m (Irish work only)
 - Total £3m (before discount for s481 relief)

3 Worked example (v)

- Irish section 481 relief
 - Relief obtained as detailed above
 - Relief of approximately £0.8m, so UK SPV only pays Irish SPC £2.2m for services rather than £3m

3 Worked example (vi)

- UK tax credit

Directors/producers	£1.5m
Irish writer	£0.5m
UK production costs	£3m
Post-production costs	£0.5m (UK)
Total	£5.5m
Core	£7.2m (after s481 relief of £0.8m)

Therefore UK expenditure 76% of total core (<80%)
so no restriction

Tax credit (25%)	£1.4m
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3 Worked example (vii)

- Total tax relief
 - Irish s481 relief £0.8m
 - UK tax credit £1.4m
 - Total £2.2m

- Tax relief in Ireland and UK has funded 27.5% of the film budget

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€745 million

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countries through 13,000
professionals

Joint ventures in further
12 countries

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listed companies in Europe

-  Integrated countries
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Conclusions & Questions

