

Media & Entertainment - France

Film and music production: funding through tax credits

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Film and audiovisual Music

The Finance Act 2013 and the 2012 supplementary budget have introduced improved tax credit rules in the film and audiovisual sector. The tax credit for music production has also been modified and extended.

Film and audiovisual

Film and audiovisual production companies, which are subject to corporation tax, can benefit from a tax credit in respect of works (documentaries, fiction and animation) that are produced principally in France and in French (or in a regional language spoken in France).

The tax credit is equal to 20% of eligible costs, including:

- author and performer remuneration;
- technician and worker salaries;
- expenditure on technical equipment;
- hire of film sets; and
- editing.

A two-step ruling by the French national film authority, the National Centre of Film and Moving Images, is required.

Documentaries were previously eligible to benefit from the audiovisual tax credit only when the amount of qualifying expenditure was greater than €2,333 per minute of output produced. The audiovisual tax credit ceiling was set at €1,150 per minute produced for documentaries and fiction, and €1,200 per minute for animated works. For films, the tax credit was capped at €1 million per work.

The improved tax credit rules extend the basis of eligible expenditure to the following expenses:

- remuneration of extras;
- costs of transport, catering and accommodation incurred by the production in France, with a ceiling set by decree; and
- for audiovisual documentaries, acquisition expenses of rights to exploit archival images for a minimum of four years entered into with a legal person established in France to which the production company is unrelated.

For audiovisual documentaries, the amount of required eligible expenditure per minute produced has been reduced from €2,333 to €2,000.

For films, the maximum tax credit has been increased from €1 million to €4 million per work.

In terms of audiovisual works, the tax credit ceiling has been increased to €1,250 per minute produced for fiction, and €1,300 per minute for animation (it remains steady at €1,150 for documentaries).

For audiovisual works of fiction within an international co-production, the maximum tax credit is €5,000 if:

- at least 30% of the cost of co-production originates from foreign funding; and
- the production cost of the work exceeds €35,000 per minute.

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This also applies if the work is produced in a foreign language, provided that a French version is also created.

These changes will enter into force at a date to be fixed by decree, but no later than January 1 2014. In principle, it will – subject to confirmation – apply for works shot in 2013.

Foreign films

The existing regime, which was due to expire on December 31 2012, has been extended to December 31 2016.

Executive production companies, which are subject to corporation tax and which operate in France making cinematic or audiovisual works of fiction or animation produced by foreign companies, can benefit from a tax credit.

The tax credit works out at 20% of eligible expenditure relating to operations or services performed in France. To qualify for the tax credit, the amount of eligible expenditure must be at least €1 million. This regime is subject to a two-step ruling by the National Centre of Film and Moving Images.

Eligible expenses are generally those covered by the film tax credit, with the addition of the remuneration of extras, transportation and catering costs related to the production of the work in France (now also included in the film tax credit, as discussed above).

The tax credit was previously capped at €4 million per work; this has been increased to €10 million and accommodation expenses will now be eligible, up to a limit to be fixed by decree.

These arrangements will enter into force on a date to be fixed by decree, but no later than January 1 2014.

Music

Music production companies may, with the minister of culture's approval, receive a tax credit equal to 20% of the eligible expenses that they incur if they:

- were established more than three years ago;
- are subject to corporation tax;
- operate in France, an EU member state, Norway, Iceland or Liechtenstein; and
- record albums featuring new talent (on CD or DVD).

To be eligible, a production company must not be owned by a television or radio broadcaster. Albums featuring new talent should, in principle, be half in French (or in a regional language spoken in France). Expenditure includes the cost of producing the recordings and of development. For the 'major' labels (companies that do not meet the European definition of 'small and medium-sized enterprises'),⁽¹⁾ the tax credit is based on an increase in expenditure (the eligible expenditure must be associated with productions involving new artists), which exceeds the average number of albums produced in the previous two years, less a 70% discount.

The existing regime has been extended for a period of three years up to December 31 2015. The credit rate has been increased from 20% to 30% for businesses qualifying as small and medium-sized enterprises under EU law.

Previously, the credit limit could be extended from €700,000 to €1.1 million if the number of productions featuring new artists had increased by at least 25% compared to the previous year. Both caps have now been replaced by a single ceiling of €800,000.

The date of entry into force of the changes to the rate and the tax credit ceiling will be fixed by decree, subject to the European Commission approving the state aid implications of the reform, but are expected by no later than January 1 2014.

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Endnotes

(1) Companies are considered small and medium-sized enterprises if they have fewer than 250 employees and an annual turnover of less than €50 million, or if their annual balance sheet total does not exceed €43 million. For a group of companies, these thresholds should be assessed on a consolidated basis.

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