HM Revenue & Customs

Modernising film tax relief

Who is likely to be affected?

Companies within the charge to corporation tax that are directly involved in the production of films.

General description of the measure

The measure will apply at a rate of 25 per cent for the first £20 million of qualifying core expenditure, and 20 per cent to amounts thereafter, for all eligible film productions. The distinction between limited budget films and other films, for the purposes of calculating the amount of tax credit on the surrenderable loss, has been removed.

The minimum UK spending requirement will also change from 25 per cent to 10 per cent.

Policy objective

The measure is part of a package to encourage the production of culturally British films in the UK, by introducing changes to modernise the existing film tax relief (FTR). The changes remove the 'cliff edge' between the two rates for FTR and lower the UK spending requirement. Changes will also be introduced to modernise the cultural test.

Background to the measure

This measure was announced at Autumn Statement 2013.

Detailed proposal

Operative date

Subject to State aid approval by the European Commission the changes will have effect on or after 1 April 2014.

Current law

The FTR has two tax credit rates set out at section 1202 Corporation Tax Act 2009 (CTA); 25 per cent for 'limited budget films' and 20 per cent for others. Limited budget films are those with qualifying core expenditure of £20 million or less.

Section 1198(1) CTA sets out that one of the qualifications for FTR is that at least 25 per cent of the qualifying core expenditure must be UK expenditure. UK qualifying production expenditure is defined as expenditure incurred on film activities (pre-production, principal photography and post production) which take place within the UK, irrespective of the nationality of the persons carrying out the activity.

Proposed revisions

Subject to State aid approval, section 1202 CTA will be amended so that FTR will be available for surrenderable losses at a rate of 25 per cent up to the first £20 million of each production's qualifying core expenditure (to a maximum of 80 per cent of the qualifying production core expenditure) and 20 per cent thereafter (to a maximum of 80 per cent of the qualifying production core expenditure), for all productions.

Section 1198(1) will be amended so that the minimum UK spending requirement reduces from 25 per cent to 10 per cent.

Summary of impacts

Exchequer impact (£m)	2013-14	2014-15	2015-16	2016-17	2017-18	2018-19
	-	-10	-20	-	-	-
	These figures are set out in Table 2.1 of the Autumn Statement and have been certified by the Office for Budget Responsibility. More details can be found in the policy costings document published alongside the Autumn Statement.					
Economic impact	This measure is expected to have a positive impact on the film industry, but is not expected to have significant wider macroeconomic impacts.					
Impact on individuals and households	The relief would be available to companies producing films and so is unlikely to impact on individuals and households.					
Equalities impacts	The Government has carefully considered whether this measure impacts on people with protected characteristics and has not identified any equalities impacts.					
Impact on business including civil society organisations	This measure is expected to have a negligible impact on businesses. FTR allows qualifying companies to claim a payable tax credit and support the production of culturally British films. There are around 150-200 films a year benefiting from the film tax relief. The measure is expected to have no impact on civil society organisations.					
Operational impact (£m) (HMRC or other)	The additional costs/savings for HM Revenue & Customs and other government departments (Department for Culture, Media & Sport) in implementing this change are anticipated to be negligible.					
Other impacts	<u>Small and micro business assessment:</u> this measure is not expected to have a significant impact on small firms. <u>Competition assessment:</u> introducing changes to this sector specific tax relief is likely to benefit films at the threshold of the £20 million rate and some larger film productions. The overall effect on competition is not expected to be significant, given the overall size of the UK film industry. There should not be any significant impact on competition with other business sectors. Other impacts have been considered and none have been identified.					

Monitoring and evaluation

The measure will be monitored and assessed alongside other measures in the Government's package of corporate tax reforms.

Further advice

If you have any questions about this change, please contact Kerry Pope on 03000 585740 (email:kerry.pope@hmrc.gsi.gov.uk) or contact Des Ryan on 03000 585895 (email: des.ryan@hmrc.gsi.gov.uk).

1 Film tax relief

(1) Chapter 3 of Part 15 of CTA 2009 (film tax relief) is amended as follows.

(2) In section 1198 (UK expenditure), in subsection (1), for "25%" substitute "10%".

(3) In section 1202 (surrendering of loss and amount of film tax credit), for subsections (2) and (3) substitute—

"(2) If the company surrenders the whole or part of that loss, the amount of the film tax credit to which it is entitled for the accounting period is the sum of—

(a) 25% of so much of the loss surrendered as does not exceed the unused 25% band, and

(b) 20% of the remainder of that loss (if any).

(3) "The unused 25% band" means £20 million reduced (but not below zero) by the total amount previously surrendered under subsection (1) (if any)."

(4) The amendments made by this section have effect in relation to films the principal photography of which is not completed before such day as the Treasury may specify by order for the purposes of this section.

(5) The specified day may be before the day on which the order is made, but may not be before 1 April 2014.

(6) The Treasury may by order amend sections 1198(1) and 1202(2) and (3) of CTA 2009 (as amended and inserted by this section) in connection with an application for State aid approval.

(7) In this section "State aid approval" means approval that the provision made by this section, to the extent that it constitutes the granting of aid to which any of the provisions of Article 107 or 108 of the Treaty on the Functioning of the European Union applies, is, or would be, compatible with the internal market, within the meaning of Article 107 of that Treaty.

(8) An order under subsection (6) may—

(a) make incidental, supplemental, consequential, transitional or saving provision;

(b) contain provision having effect in relation to films mentioned in subsection (4).

EXPLANATORY NOTE

FILM TAX RELIEF

SUMMARY

1. Clause X introduces changes to the film tax relief. There will be two bands of surrenderable loss, each attracting a different rate of payable tax credit (instead of the rate being determined by whether a film is a limited budget film). The minimum UK spending requirement is also to be changed.

DETAILS OF THE CLAUSE

2. Chapter 3 of Part 15 of Corporation Tax Act 2009 ('CTA') is to be amended as follows, in relation to films whose principal photography is uncompleted before the commencement date of the clause (see subsections (1) and (6)).

3. Subsection (2) provides that UK expenditure requirement at section 1198(1) CTA (minimum UK core expenditure) is reduced from 25 per cent to 10 per cent. UK qualifying production expenditure is that expenditure incurred on filming activities (pre-production, principle photography and post production) which take place within the UK.

4. Section 1202 is amended so that relief on the surrenderable loss is available for at a rate of 25 per cent up to the first £20 million of each production's UK core production expenditure (to a maximum of 80 per cent of the UK core production expenditure) and 20 per cent thereafter (to a maximum of 80 per cent of the UK core production expenditure), for all productions. Previously the rate of 25 per cent only applied to limited budget films i.e. those with qualifying core expenditure up to £20 million.

5. Subsections (6) to (8) also make provision for the amendments to be commenced by Treasury Order. Since commencement is subject to State aid approval from the European Commission, provision is also made for the amended sections to be further amended by secondary legislation in connection with the terms of approval.

BACKGROUND NOTE

6. As announced in Budget 2013 and following consultation over the summer, legislation will be introduced to amend the film tax relief in Finance Bill 2014.

7. Subject to State aid approval, from 1 April 2014 film tax relief will be available for surrenderable losses at a rate of 25 per cent up to the first £20 million of each production's UK core production expenditure (to a maximum of 80 per cent of UK core production expenditure) and 20 per cent thereafter (to a maximum of 80 per cent of the UK core

production expenditure), for all productions. Previously the rate of 25 per cent only applied to limited budget films i.e. those with UK core production expenditure up to £20 million.

8. The minimum UK spending requirement will also change from 25 per cent to 10 per cent. The new rules will not apply to films that complete principal photography before a date to be specified by Treasury Order. A response to the consultation was published on 10 December 2013.

9. If you have any questions about this change, or comments on the legislation, please contact Kerry Pope on 03000 585740 (email: kerry.pope@hmrc.gsi.gov.uk) or Des Ryan on 03000 585895 (email: des.ryan@hmrc.gsi.gov.uk).