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A comparison of film tax relief schemes

A report commissioned by the UK Film Council has stated that the UK film industry contributes over £4.5 billion a year to UK GDP¹. The report states that a UK Film Tax Credit is 'vital to sustaining the competitiveness of the core UK film industry', and estimated that without it the film industry would be around 75% smaller. This briefing paper describes the nature of UK Film Tax Credit, and presents some comparisons with arrangements in other jurisdictions.

1 UK Film Tax Credit

In the UK, government fiscal support for the film industry underwent an important change with the introduction of the Finance Act 2006, which allows for a Film Tax Credit (FTC)². Under the provisions of the act, FTC is available for British films costing £20m or less at 20%. For films which cost more than £20m, the level of eligible tax relief rises to 25%³.

¹ Oxford Economics. 2010. *Economic Contribution of the UK Film Industry*: <http://nia1.me/nu>

² Magor, M & Schlesinger, P. 2009. "For this relief much thanks". *Taxation, film policy and the UK government*. *Screen*. 50:3.

³ HM Revenue and Customs. 'Film Tax Relief': <http://www.hmrc.gov.uk/films>

However, for films to qualify for a tax credit (or tax relief) they must conform to certain measures, including:

- be made by a UK film production company;
- be intended for theatrical release;
- pass a cultural test for 'British qualities', as set out in the *Films Act 1985*;
- be administered by the UK Film Council or be made under one of the UK's film co-production treaties.

The test of 'British qualities' ranges across four categories: cultural content (setting, characters); cultural contribution (heritage, diversity); cultural hubs (photography, post-production); and cultural practitioners (director, actors). A 'cultural test' is applied with scores attributed in each of these categories – for a film to qualify, it must score at least 50% overall⁴. The cultural test is administered by the UK Film Council. Films must also have at least 25% of their budget incurred on UK expenditure. John Woodward, CEO of the UK Film Council, stated at a House of Lords inquiry into the UK screen industry in 2010 that,

...Britain at 20 [per cent] is at the low end, but we have always maintained the argument that in the UK, the tax credit is there as a cushion and an incentive, but in the end, this is not a Third World economy, we are not going to compete as an industry internationally on price alone...⁵

The same House of Lords inquiry in its concluding report stated that⁶:

Most Western governments provide financial assistance to their film industries...One of the concerns voiced by the film industry is that film production support has become increasingly competitive between Western countries and, in the United States, between individual states, in an effort to attract foreign production. From a British perspective, there is a risk of British support becoming uncompetitive but also of accelerating competition.

The Committee also recommended raising the degree of support for small budget films through tax credits:

Given the problems faced by independent film makers in raising finance for their projects, particularly in the current recession, we recommend that the Government should consider raising the net rate of film tax relief for productions under £5m to 30 per cent.

⁴ Department for Culture, Media and Sport. 2005. *Cultural Test for British Films: Final framework*.

⁵ John Woodward, UK Film Council, cited in: House of Lords Select Committee on Communications. 2010. *The British Film and Television Industries: Decline or Opportunity?* p27.

⁶ House of Lords Select Committee on Communications. 2010. *The British Film and Television Industries: Decline or Opportunity? Chapter2: <http://nia1.me/nt>*

However, no recommendation was made by the Communications Committee to extend the Film Tax Credit to the production of television programmes.

2 Film tax relief in Ireland

The tax incentives provided by Ireland for film production are covered by Section 481 of the Taxes Consolidation Act 1997. This allows for 28% tax relief on the production costs of feature films, creative documentaries, television drama and animation, including on the cost of EU cast and crew working in Ireland, and goods and services purchased in Ireland. This is provided on the condition that there is an Irish co-producer who will provide the full range of production services, including locations scouting, scheduling, budgeting, casting, crewing and takes full responsibility for all production services carried out in the State throughout the life-span of the production⁷.

3 Film production in Northern Ireland

Films produced in Northern Ireland are covered by the same tax relief arrangements as for the rest of the UK.

Through the European Convention on Cinematographic Co-production, films which are funded by Northern Ireland Screen, and that carry out either principle photography or post-production in both Northern Ireland and the Republic of Ireland, can qualify for both Ireland's Section 481 tax relief for film and the UK's Film Tax Credit scheme (as long as they spend no more than 80% of their budget in one territory and no less than 25% of their budget in the UK and no less than 20% in the Republic of Ireland)⁸. However, producers can only receive the maximum benefit of one of the tax schemes.

During an oral briefing to the Culture, Arts and Leisure Committee on 13 October 2011, Northern Ireland Screen suggested that an extension of the UK Film Tax Credit to television productions would be advantageous⁹. The Chief Executive, Richard Williams, stated that:

*If we had that we could run riot in the international market place – I have no doubt about that. I have every confidence that our growth would be exponential.*¹⁰

⁷ Irish Film Board. 'Section 481: A rough guide to the Irish tax incentive'.

⁸ Compendium: Cultural policies and trends in Europe: United Kingdom – 5.1.5: Tax Laws: <http://www.culturalpolicies.net/web/unitedkingdom.php?aid=515> Accessed 12.1.12.

⁹ NI Screen. 13.10.11. Oral briefing to the Committee for Culture, Arts and Leisure.

¹⁰ Chief Executive of Northern Ireland Screen. Oral briefing to the Culture, Arts and Leisure Committee. 13.10.11.

4 Comparisons

A number of countries offer a degree of tax relief for film companies in an attempt to attract inward investment. The following table summarises a number of examples of such tax relief schemes.

United Kingdom	20% tax credit on local expenses if expenditure is below £20m, and 25% if above this level. Applies only to film.
Ireland	Allows for 28% tax relief on the production costs of feature films, creative documentaries, television drama and animation, provided on the condition that there is an Irish co-producer who will provide the full range of production services. There is a ceiling of €50m on qualifying expenditure per project.
France	Refundable tax credit of 20% on local expenses for film production.
Croatia	In the process of introducing a tax rebate for film and television productions; projects are likely to receive a 20% tax credit on 'qualifying expenditure'. Various categories of screen production will qualify, including film, television drama, documentaries and animation.
Hungary	A 20% tax break is available on film making expenses.
Italy	Tax credits of up to €5m are available for producers and distributors. The law also provides for the sheltering of profits. The limits for these shelters are at a maximum of €15m for 2010. The support is available for works of Italian nationality (involving minimum content shot or expenses incurred in Italy), those originally expressed in the Italian language, or those of cultural interest.
Isle of Man	The Isle of Man Media Development Fund provides equity investment to film and television productions, including 'gap financing' and tax credits. No upper or lower limits on investment, with projects considered on a case-by-case basis. Some conditions need to be fulfilled, including the stipulation that projects should be filmed wholly or in part on the Isle of Man (with at least 50% of all principal photography taking place on the island).
USA	On a federal level, 'Section 181' provides for the deduction of 100% of taxes on film production costs up to US\$15m (currently valid until the end of 2011). Various state tax incentives also exist; eg California offers a tax credit of up to 25%, and Georgia up to 30%.
New Zealand	Cash grant of 40% of local expenses for film production.
Australia	Cash refund of 15% on money spent on film production within the country.
Canada	Refundable tax credit of 16% on local labour expenses for film production. Various local tax incentives; for example, Toronto offers an 18% tax incentive.
Mexico	Refund of 7.5% of billed expenses in local products and domestic labour. Refund of 15% of value added tax (VAT).
Trinidad & Tobago	Tax relief for film production has recently increased from 30% to 35%.
Puerto Rico	Transferable tax credit of 40% of local expenses.

Table 1: Summary of tax incentives for the film industry in various countries¹¹

Some European states – for example, Latvia, Lithuania and Spain – do not provide film tax incentives, but support the screen industry in different ways, including direct state

¹¹ Information taken from various sources, including: Compendium: Cultural policies and trends in Europe: www.culturalpolicies.net; Piva, JMM, Padilla Pérez, R, Schatan Pérez, C & Montoya, VV. 2011. 'The Mexican film industry and its participation in the global value chain', *Estudios y Perspectivas* 122: p31; Hrvatski audiovizuani centar. 2012. 'Filming in Croatia FAQ': <http://nia1.me/nm> Accessed 10.1.12; Irish Film Board. 'Section 481: A rough guide to the Irish tax incentive', *A Rough Guide to Filming in Ireland*; Italian Film Commission. 'The Italian Tax Credit': http://www.filmingitaly.com/tax_00.aspx; Isle of Man Film. 'Media Development Funding': <http://www.gov.im/ded/iomfilm/mediadevfund.xml>; News CARICOM Network. 30.9.11. Trinidad: TT offers 35% tax-rebate for film-makers: <http://nia1.me/np>. (Unless otherwise stated, all Internet sources were accessed on 10.1.12.)

funding for production. For European Union member states, any tax relief or other funding schemes which may be defined as 'state aid' must conform to EU competition law. A communication setting out how the funding which member states provide for the audiovisual industry may be made compatible with EU competition law was set out in 2001, and has since been revised¹².

¹² European Commission. 'Audiovisual and media policies': http://ec.europa.eu/avpolicy/reg/cinema/index_en.htm Accessed 11.1.12; also European Commission. 'Competition': <http://nia1.me/nr> Accessed 11.1.12.