

Updates to Section 481 legislation in Finance Bill 2018

Finance Bill 2018



Changes to the administration of the application for a certificate

Finance Bill 2018 sets out the legislation to move the administration of the film relief credit to a self-assessment basis.

A producer company may make an application to the Department of Culture, Heritage and the Gaeltacht in respect of a film to be produced under Section 481 TCA 1997. The Minister, following an application by a producer company, may issue a **certificate** stating:

- that the film is to be treated as a qualifying film under Section 481 TCA 1997; and/or
- whether the regional film development uplift applies.



The producer company will be required to make an application for certification in advance of commencement of production.

Further details on this are to follow in the revised film regulations. These updates will take effect from an implementation date in 2019 to be confirmed by the Revenue Commissioners.

Payment of tax credit and the Revenue Commissioners role

The Revenue Commissioners will no longer be involved in the Section 481 application process, so their role in the administration of the film tax credit has significantly changed. Compliance and payment of the film tax credit will move to a self-assessment type model.

The '90% payment' option has been incorporated into taxation legislation (previously in regulations). A producer company can apply for release of payment of 90% of the film tax credit by submitting an amended corporation tax return, once it can provide to the Revenue Commissioners:

- the certificate issued by the Minister for Culture, Heritage and the Gaeltacht; and
- letters from Broadcasting Authority of Ireland (BAI)/ Screen Ireland or letters from its solicitor and accountant confirming the relevant requirements in the Film Regulations have been satisfied.

The balancing/final 10% payment (or repayment as the case may be) of the film tax credit can be claimed once a satisfactory compliance report including the final set of independently verified cost of production accounts has been submitted to the Revenue Commissioners.



Film relief
tax credit incentive extended
from 2020 to 2024.



Changes to the definitions in this section

Finance Bill 2018 has introduced a number of amendments and additions to the definitions in the legislation.

- in accordance with EU State aid guidelines there has been an amendment to the definition of a **producer company** whereby the company cannot be an 'undertaking in difficulty';
- the requirement for a producer company to trade for **21 months** prior to making an application for certification has been removed;
- the definition of **eligible expenditure** has been inserted into the legislation. It was previously only defined by reference to the Film Regulations 2015;
 - it states that eligible expenditure is the portion of the total cost of production of a qualifying film that is expended on the production of the film in the State. This has the effect of calculating the film relief claim on the lower of:
 - 80% of the total cost of production; or
 - the eligible expenditure amount.
 - where the film relief credit is calculated based on **80% of the total cost of production** the non-eligible expenditure is excluded and deducted from the total cost of production before applying the appropriate film relief credit.
- the total cost of production is defined as qualifying expenditure in accordance with the film regulations, (ie expenditure that was wholly, exclusively and necessarily incurred to produce the film.)



Up to 37% of 80%
of the total cost of production,
wholly, exclusively and necessarily
incurred to produce the film.

The regional film development uplift

Commencing **1 January 2019**, there is a **5% increase** to the value of the film relief credit for the production of a qualifying film in an assisted region. The criteria are as follows:

- the production of the film will substantially be undertaken in an assisted region (as set out in the definition of State regional aid – Department of Business, Enterprise and Innovation (DBEI));
- there is a limited availability of individuals with suitable experience or training within a 45km radius of the location; and
- the company will provide training for individuals that reside within that 45km radius.

Where the regional film development uplift applies the tax credit is as follows:



Contact

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