

Finance Bill 2024 – Creative reliefs (Lecture B1433 – 13.16 minutes)

Film tax relief (clauses 14 and 15)

The tax reliefs available for creative industries are being overhauled. Currently separate reliefs are available for film, television and video games. These will be merged to give two a new audio-visual expenditure credit (AVEC) and video game expenditure credit (VGEC). These will have a similar structure to RDEC in terms of the way relief is given. We are currently in an overlap period where previous reliefs remain in place but the new credits are also available.

For AVEC, the taxable credit is calculated at a basic rate of 34% or extended to 39% for qualifying animated films and qualifying TV programmes. The top rate of 39% will also be extended to visual effects costs in films and high-end TV programmes.

In addition, the 80% cap on qualifying expenditure will be removed for visual effect costs.

Both of these areas are not included in the legislation but will take effect from 1 April 2025. A consultation has been published to establish the types of visual effect costs that are included.

However, in addition to these changes, the Finance Bill contains provision for a new credit for 'low-budget' UK films.

Such films will have to be certified as such by the Secretary of State. An appeal can be made to the High Court if the applicant disagrees with a decision made in relation to low-budget certification. A film cannot hold both a low-budget certificate and any other film or television certificate at the same time, other than as part of a transition to the new regime.

A film will be a low budget film if its specified expenditure (incurred or anticipated to be incurred) does not exceed a threshold which is to be set in regulations. However, the maximum expenditure on which credit will be due is £15m. The legislation does envisage that a film with budget in excess of this would qualify for credit but it would be capped at £15m. When applying the cap, UK expenditure is included before non-UK expenditure so that the maximum credit can be claimed.

Any film also has to meet the condition that it is a British film, as is the case for all films which are claiming tax credits.

A low-budget certificate can be surrendered by the production company. This certificate would then cease to have effect for all accounting periods. If the film is re-certified under a different certificate, then a claim for credit at the lower normal rate would potentially apply.

There must also be a creative connection with the UK and this condition is met if the director or scriptwriter or any other person working on the film in a specified role is a British citizen or ordinary resident in the UK. Alternatively, the film can be a qualifying co-production.

Regulations may be put in place to change the budget condition, modify the creative connection test where there is more than one director etc and determine the evidence that needs to be provided for certification.

The relevant percentage for the tax credit is set at 53%.

The higher rate of credit is only available where principal photography starts on or after 1 April 2024. The claim will not be able to be made until 1 April 2025 and can only relate to expenditure incurred on or after 1 April 2024.

The date on which applications for low budget status will be accepted will be set by regulation (called the appointed day). If a low budget certificate is applied for within six months of this date, it can be treated as having effect at the end of the first accounting period ended on or after 1 April 2024 regardless of when it is issued.

Where a film holds another film or television certificate granted prior to the appointed day, then it is possible to apply for a low budget certificate as long as this is done within six months. The original certificate will then cease to have effect for future periods.

Theatre tax credit (Clause 16)

Theatrical production tax reliefs give an additional deduction equal to 100% of qualifying core expenditure and a repayable tax credit equal to a set percentage of the surrendered loss. Qualifying core expenditure is a maximum of 80% of total core expenditure and at least 10% of core expenditure must be on goods or services in the UK (with effect from 1 April 2024 and replacing a rule which determined that European expenditure must be a minimum of 25% of core expenditure).

In order to qualify the company must intend that all, or a high proportion of, the live performances that it proposes to run will be for paying members of the general public or provided for educational purposes. The production must be a dramatic production (being a play, opera, music, other dramatic piece) or a ballet. It cannot include anything which is a competition or contest, where wild animals are used, any production of a sexual nature, where the purpose is to produce a recording or where the main purpose is to advertise or promote goods or services. Core expenditure means expenditure on producing the production (including closing it) but excludes indirect expenditure and ordinary running costs.

Legislation is amended to permanently set the rate of repayable tax credit to 45% for touring theatrical productions and 40% for non-touring theatrical productions. The higher rates were introduced as part of the Covid response and were due to reduce to a lower rate in April 2025 (35% and 30% respectively) before returning to their pre-Covid levels in April 2026 (25% and 20% respectively). New rates will apply for accounting periods which begin on or after 1 April 2025. Any production unable to claim at the temporary uplifted rates will be able to claim after that date at the new permanent rates.

Orchestra tax credit (Clause 17)

Orchestra tax relief gives an additional deduction of 100% of qualifying core expenditure and a repayable tax credit equal to a set percentage of the surrendered loss. Qualifying core expenditure is a maximum of 80% of total core expenditure and at least 10% of core expenditure must be on goods or services in the UK (with effect from 1 April 2024 and replacing a rule which determined that European expenditure must be a minimum of 25% of core expenditure).

The relief is available where there is a concert or series of concerts. To be a qualifying concert, the number of instrumentalists must be at least 12 and either none or the minority of the instruments can be electronically or directly amplified. The use of microphones to pick up sound is not generally prohibited.

Legislation is amended to permanently set the rate of credit to 45% for orchestra tax relief. The higher rates were introduced as part of the Covid response and were due to reduce to a lower rate in April 2025 (35%) before returning to their pre-Covid levels in April 2026 (25%). New rates will apply for accounting periods which begin on or after 1 April 2025. Any production unable to claim at the temporary uplifted rates will be able to claim after that date at the new permanent rates.

Museums + galleries exhibition tax credit (Clause 18)

Museums and gallery exhibition relief gives an additional deduction of 100% of qualifying core expenditure and a repayable tax credit equal to a set percentage of the surrendered loss. Qualifying core expenditure is a maximum of 80% of total core expenditure and at least 10% of core expenditure must be on goods or services in the UK (with effect from 1 April 2024 and replacing a rule which determined that European expenditure must be a minimum of 25% of core expenditure).

An exhibition means a curated public display of an organised collection of objects or works considered to be of scientific, historic, artistic or cultural interest. It excludes anything organised in connection with a competition, where the main purpose is to advertise or promote any goods or services, where it includes any live performance, where items are for sale, or where anything displayed is live. A touring exhibition is one that is to be held at two or more venues where at least 25% of works displayed at the first venue will be displayed at every subsequent venue. The period between exhibitions at different venues cannot be more than 6 months.

Legislation is amended to permanently set the rate of credit to 45% for touring exhibitions and 40% for non-touring exhibitions. The higher rates were introduced as part of the Covid response and were due to reduce to a lower rate in April 2025 (35% and 30% respectively) before returning to their pre-Covid levels in April 2026 (25% and 20% respectively). New rates will apply for accounting periods which begin on or after 1 April 2025. Any exhibition unable to claim at the temporary uplifted rates will be able to claim after that date at the new permanent rates.

The sunset clause which would have seen this relief disappear for expenditure incurred from 1 April 2026 is also repealed so that the relief becomes permanent.