


Recent Tax Credit and Rebate Schemes in the United Kingdom, Germany and France

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Introduction

It has been said that the film industry was "born during flight", accounting for the vagrant nature of the business ever since. Today more than ever, producers are ready to combine different sources of public and private financing from different countries. At the same time, countries are competing to attract film productions to their respective locations. Europe has traditionally relied on state subsidies or incentive schemes for supporting film productions. With Germany and the United Kingdom having recently introduced a new funding and tax credit scheme and France having overhauled its tax credit system, the following article takes a look at these recent changes, exploring the differences and possibilities of combining the different schemes.

UK film tax relief

The Finance Act 2006 sets out new legislation replacing s.48 of the Finance (No.2) Act 1997 and s.42 of Finance (No.2) Act 1992, which spawned a flood of "sale and leaseback" transactions. The new UK film tax relief (the Relief) is a corporation tax relief and was introduced to ensure that film tax relief goes directly to film producers rather than intermediaries.

Award criteria

The Relief is available for British qualifying films, which must either pass the new cultural test (set out below) or qualify as an official co-production. The Relief provides an additional or enhanced tax deduction against income on the sale or exploitation of a film or alternatively a tax credit if the company surrenders its total losses on a qualifying film.

Requirements relating to the applicant: A film production company

Only one film production company (the production company) can apply for the new Relief per film, partnerships are excluded. To be eligible a production company must be responsible for pre-production, principal photography (i.e. shooting) and for delivering a film ready for theatrical release to the public.

A production company must also be directly involved in planning, negotiation and decision-making. It must contract and pay for underlying rights, goods and services. A company, which is only involved in arranging finance, will not be eligible for the Relief.

Unlike the new German subsidy a production company does not need to show that it has a previous track record of film-making, which will encourage new film-makers to enter the market (See "debut films" in Germany).

Co-productions

A UK production company involved in a qualifying co-production is treated more leniently when applying for the Relief. A UK production company merely has to make an effective creative, technical and artistic contribution to a film. Consequently the duties in producing a film can be shared between two or more production companies. However, it will be the production company most directly involved in producing the film, which will be able to apply for the Relief. For example, if a French co-producer has established a UK production company which is more directly involved in the activities set out above than even its UK co-producing partner it will be entitled to claim the Relief rather than the UK co-producer.

Film-related requirements

As mentioned above, the Relief is only available to films which have been certified as "British" by, previously, the Department of

Culture Media and Sport (DCMS) and now by the UK Film Council (UKFC).

Applications for a UKFC certificate

The receipt of an interim or final film certificate confirms the "Britishness" of a film. An application for an interim certificate allows a production company to apply for the Relief before the film is completed and will be valid for three years. Final certificates, however, are only granted after the film is completed. The application procedure for obtaining certification as a British film is set out in Sch.1 to the Films Act 1985 (as amended by the Films (Definition of "British Film") Order 2006) (the Films Act). The application is not simple and requires the producer to provide, confirm and declare among other things the following:

- Shooting script in English language.
- A complete synopsis or treatment of the screenplay (in English).
- Shooting schedule.
- Production budget.
- A copy of the chain of title.
- Accountants report (only required with applications for final but not interim certification).
- Satisfies the new cultural test (see below).
- Summary of the project—is it a film, documentary or animation?
- Does archive material comprise more than 10 per cent of the film?
- What's the total core expenditure, UK expenditure and non-UK Spend?

A "British Film" requirement (The new cultural test)

In relation to a live action film, the film must be culturally British; that is certified as a British film by the UKFC under the "Films Act" or under a co-production agreement. The revised cultural test came into force on January 1, 2007.

A film will pass the cultural test if it is awarded 16 points out of a possible 31 points.

The cultural test has the following four categories:

1. **Cultural content:** The film must demonstrate it has British content and tackles British subject matter and themes. A film can be awarded up to 16 points in this category, for its setting, lead characters, story, language and dialogue.
2. **Contribution to British culture:** Four points are available if the film demonstrates that it will promote, develop or enhance British culture.
3. **Cultural hubs:** A maximum of three points are available if the production company can show that UK film-making facilities were used in making the film.
4. **Cultural practitioners:** A maximum of eight points are available if UK and European Community citizens and residents are engaged on a production as for example directors, composers or scriptwriters.

Amount

The Relief is applied to a film's UK qualifying expenditure, which is expenditure on goods and services "used or consumed" in the United Kingdom. To determine whether goods and services are used or consumed in the United Kingdom, one does not consider the nationality of the provider of those goods and services but who the recipient is. So one must ask "where does the recipient come from?"

The UK qualifying expenditure must fall between a minimum of 25 per cent and a maximum of 80 per cent of a film's core production expenditure. Core expenditure is expenditure on pre-production, principal photography and post-production, excluding financing, distribution, development and non-production costs. Therefore in order to get the full benefit of the Relief, one should develop the film abroad but shoot it almost entirely in the United Kingdom.

Enhanced deductions

Core expenditure: £20 million and below

Films, which meet the necessary criteria and have core expenditure budgets of £20 million or less can qualify for a 100 per cent enhanced tax deduction on UK qualifying expenditure (i.e. up to a maximum of 80 per cent of core expenditure) with a payable cash element of 25 per cent of UK qualifying film production expenditure.

Core expenditure: Over £20 million

For films with core expenditure of over £20 million, the Relief can be claimed on a maximum of 80 per cent of the core expenditure, but with only an enhanced deduction of 80 per cent of UK qualifying expenditure (effectively the relief is applied to 64 per cent of core expenditure) with a payable cash element of 20 per cent.

The Relief's advantage over the new German subsidy is that it is a tax credit and not a government subsidy, so there is no cap. Consequently the Relief can be claimed on films with far larger budgets than would be possible under the German system.

Losses surrendered for a tax credit

A production company can surrender its losses on a film for a tax credit up to the amount of its UK qualifying expenditure. A film with core expenditure of up to £20 million can apply for a tax credit worth 25 per cent of the loss incurred by surrendering that loss to Her Majesty's Revenue and Customs (HMRC). Films with budgets over £20 million, get a proportionally reduced 20 per cent tax credit for losses surrendered.

The production company can carry forward its losses against the film's future income. So if the film is sold or no longer generating revenue, the production company can offset the unused deduction against another film for itself or (if applicable) another production company within its group of companies.

Alternatively ordinary trading losses and enhanced deductions (aggregate losses) can be offset together against a production company's income profits in an earlier or the same accounting period. So these aggregate losses can be set against the production company's income or surrendered to the HMRC for the tax credit. Accordingly films with budgets of £20 million and under and films over £20 million can get tax credits worth 25 per cent and 20 per cent respectively of their aggregate losses.

Example

A film has a core expenditure of £20 million and 80% of that core expenditure has been used or consumed in the United Kingdom. The production company therefore may be entitled to the following deductions:

Tax Credit and other Deductions

Core Expenditure	= £20 million	
UK Expenditure	= £16 million (to be surrendered for the tax credit)	
Tax Credit	= 25% of £16 million	= £4 million
Plus		
Ordinary Deductions	= £4 million (set against the Production Company's income)	

Application and payment procedure

Application

The production company can claim the Relief for any relevant accounting period by completing and returning to HMRC a tax return (form CT600). The production company must indicate on the form whether it wishes to claim the Relief for both the ordinary deduction and enhanced deduction.

The HMRC will also need information about the film's title, the estimated or actual core expenditure and the amount on which the Relief will be claimed. An interim or final UKFC certificate should be attached to the application.

Payment of credit: The payment of the film tax credit can be withheld or reduced if the production company, having submitted its CT600 form, owes corporation tax, PAYE (income tax payments) or national insurance contributions. Where this happens, the tax credit will be used to pay any outstanding tax.

Combination with other subsidies, tax systems and sources of finance

To claim the UK relief, a production company must be directly involved in production planning, negotiation and decision-making. It must also contract and pay for underlying rights in the film, goods and services.

A co-production typically would want to maximise the chances of getting subsidies in the relevant co-producers' countries, but in order to claim the full Relief the producer needs to ensure that 80 per cent of the film's core expenditure (UK Qualifying expenditure) is spent in the United Kingdom. This inevitably will limit the subsidies and other relief that the production company can claim.

A production company can still apply for "soft money" in the form of subsidies, grants and other tax breaks. Further there will be other financing possibilities such as equity investments, deferments, discounting of pre-sales and distribution deals.

There are opportunities for financiers to forward fund by discounting the tax credit. The risk to the financier is if HMRC reduces or withholds the tax credit. However there are a number of ways to reduce this risk, one of which is the application for an Interim Certificate giving some comfort.

Specific issues

New rules or old rules

British films, which satisfy the new cultural test and commence principal photography on or after January 1, 2007, will be subject to the new rules.

Films which started and completed principal photography before January 1, 2007 and low budget films under s.48 of Finance (No.2) Act 1997 and ss.139 and 140 of The Income Tax (Trading and Other Income) Act 2005 (ITTOIA 2005) which started principal photography before April 1, 2006 but were completed on or before December 31, 2006 will be subject to the old rules.

Overlapping films

If a film is intended for theatrical (i.e. cinematic) release and certified as a British film under a co-production treaty or under the new cultural test (amended Sch.1 of the Films Act 1985) then the new rules will apply. However films which started principal photography before January 1, 2007, but were not completed by that date are covered by transitional rules (see "What's New" on www.hmrc.gov.uk).

If a film is not certified as a British film because it failed the new cultural test, then the old rules apply. A film may get enhanced relief under s.42 (see above) or ss.138 and 138A of ITTOIA 2005. Intriguingly if a film is not certified as British by the DCMS/UKFC under the new cultural test, it may be certified under the old rules.

Links

www.hmrc.gov.uk/films/index.htm

(See "What's New" on www.hmrc.gov.uk).

The new German scheme

In Germany, on a federal level, direct funding for films can be obtained from the German Film Board (*Filmförderungsanstalt—FFA*) and from the Commissioner of the Federal Government for Culture and the Media (*Beauftragter der Bundesregierung für Kultur und Medien—BKM*). Practically all German States (*Länder*) entertain additional funding programmes of different sizes. Owing to the changes in German tax law in November 2005 which effectively put an end to tax breaks for media funds for private investors, the German government announced plans to introduce a new public film funding scheme. On January 1, 2007, the guideline "Incentive for the strengthening of film production in Germany", also known as German Film Support Fund (*Deutscher Filmförderfonds—DFFF*), became effective. The funding programme is fully financed by the Federal government and administered by FFA. Over the next three years, it has an annual budget of €60 million, totalling €180 million. The fund is available for the production of feature films, documentaries and animated films with a theatrical release.

Award criteria

In order to qualify for financial support, the applicant and the film have to meet the following requirements:

Requirements relating to the applicant

The financial support is available to the "Producer" of a film, which is the person actively involved in and economically responsible for the production of the film. The Producer has to have its domicile or registered office in Germany. For producers domiciled in another EU Member State or another EEA contracting state, a business establishment within Germany is necessary. In the case of producers based outside the EU or the EEA, the film has to be produced and all grant requirements have to be met by the German subsidiary or establishment.

Furthermore, the applicant needs a previous track record of film-making. During the last five years, he has to have produced at least one feature-length film (reference film) in Germany or another EU Member State or EEA contracting state with a theatrical release of at least 30 prints for films with a budget exceeding €2 million.

Alternatively, aid can be granted to a first work of the applicant (a debut feature), in which case the (additional) grant of a subsidy by the BKM, the FFA or one of the *Länder* for the project in question will suffice as a reference.

Film-related requirements

The grant can only be awarded to feature length films with total production costs of at least €1 million (for a feature film), €200,000 (for documentary films) or €3 million (for animated films). At least one final version has to be produced in the German language. Generally, shooting or animation work may not commence until after a notification of grant has been issued. The film has to be commercially released in Germany with a minimum of 30 copies for feature films (15 copies in case of a grant not exceeding €320,000, 10 copies for a debut film and four copies for a documentary). At the

time of disbursement of the subsidy, the applicant has to present a respective binding distribution agreement with a qualifying distributor. Productions for television only do not qualify.

1.3 Minimum German Spend

A minimum of 25 per cent of the total production costs (20 per cent if the budget is more than €20 million) need to qualify as German production costs (German spend) as defined in the guideline. This requirement will not apply if the German spend amounts to at least €15 million.

In addition, the equity capital ratio provided by the applicant has to be at least 15 per cent of the total production costs. FFA may, however, provide for exceptions.

Costs that are attributable to film-related goods and services provided in Germany by companies or their employees, as well as by freelancers and self-employed persons, will qualify as "German spend". These include wages, salaries, fees and charges insofar as they are subject to unrestricted or limited tax liability in Germany, goods used in Germany and services performed by German companies.

Pre-production costs, costs for pre-existing literary rights, legal fees, insurances, costs of financing (amongst others) will not be taken into account. Actors' fees are only taken into account up to a maximum of 15 per cent of the total production costs. Notably, pre-production costs can qualify as national spend in the British and French scheme.

Shootings on location which cannot take place in Germany or only at an unreasonable cost will nevertheless qualify as German Spend if the costs incurred would otherwise satisfy the German Spend criteria and if the costs do not exceed a limit of 30 per cent for the entire shooting. This requirement is therefore applied less strictly than in the United Kingdom.

Test of cultural characteristics (Cultural Test)

In accordance with European law, the film has to pass a "Cultural Test". A feature film will pass the test if it is awarded 48 out of a possible 93 points.

Cultural content and creative talents (A-Block): A maximum of 63 points will be awarded for cultural content (such as story, main character and setting) and the origin of the creative talents (such as actors, director and scriptwriter).

Production (B-Block): A maximum of 30 points are awarded for production related characteristics, such as location or studio shooting, digital and special effects and sound editing.

For all three types of productions, the main focus is put on cultural content and creative talents. Moreover, a film has to satisfy at least four criteria in the category "cultural content". The test slightly differs for documentaries and animated films.

Amount

The subsidy paid in the form of a non-repayable and non-recoupable grant, amounts to 20 per cent of the "German spend". The maximum total amount is €4 million. In exceptional cases, up to €10 million can be awarded, if the German production costs amount to at least 35 per cent of the total production costs or if the film is awarded at least two-thirds of the total possible points in

the "Cultural Test". Only recently did the German Film Fund grant the sum of €9 million for a German-UK large scale co-production.

As in the United Kingdom (and due to European law), the basis for calculating the grant is limited to a maximum of 80 per cent of the total production costs.

By way of example, if the total production costs amount to €10 million and the qualifying German Spend amounts to €5 million, the applicant will receive a grant in the amount of €1 million (20 per cent of the German Spend). If the German Spend amounts to €9 million, the applicant will only receive a total of €1.6 million due to the 80 per cent cap (rather than €1.8 million). Therefore, the maximum amount can be obtained if the German Spend is limited to 80 per cent of the total production costs. Thus there is an incentive to spend 20 per cent of the total productions costs outside Germany, which may qualify for other funding schemes.

Total production costs	German spend	20% German Spend	Grant
€10 million	€5 million	€1 million	€1 million
€10 million	€9 million	€1.8 million	€1.6 million

Co-productions

In the case of a co-production, the applying co-producer has to qualify as co-responsible producer and be actively involved in the production. Of several qualifying co-producers, only one co-producer can apply for the grant.

As regards an international co-production, the equity contribution of the applicant has to be at least 20 per cent of the total production costs. If the total production costs exceed €25 million, a financial contribution of at least €5 million is sufficient. If a co-producer from a country which is not an EEA contracting state is involved in the production, the applicant needs to have produced the reference film either alone or as a co-producer with majority participation. FFA may grant exemptions to this requirement if expertise is beyond question. International co-productions involving German producers will, however, not receive a grant if the German contribution is solely financial.

Application and payment procedures

The written application has to be addressed to FFA in Berlin. At the time of the application, the applicant needs to prove that 75 per cent of the total production costs are financed. The application should include a letter of intent issued by the film distributor stating, among other things, the required minimum number of copies and the total sum of the financing contribution. One hundred per cent financing needs to be satisfactorily shown within three months of receipt of the notification of the grant. Applications will be processed on a "first come-first served"

basis. Once the subsidy is granted, shooting has to start within four months of the notification.

Disbursement of the grant to the applicant will take place after the completion of the film. Upon request, the grant may be disbursed in instalments.

The grant can be assigned for the purpose of interim financing to banks or other financial institutions only.

Combination with other subsidies, tax systems and sources of finance

There is generally no limit to combine the German Film Fund with other schemes or tax breaks. Under European Law, the total amount of state subsidies may not exceed 50 per cent of the total production costs. Exceptions apply for "difficult" and low budget films.

Unlike in the United Kingdom, the money available for projects is capped, which may be an issue for productions with a higher budget, other than DFFF the French tax credit scheme is also available for TV productions. As shown, certain costs, such as preproduction costs, do not qualify as German Spend. These few examples show that it is advisable to carefully analyse the possibility of combining the German Film Fund with other funding schemes.

Outlook

By May 2007, approximately €17.4 million had already been granted for 24 national and international productions. If the fund proves successful there is a strong possibility that it will be extended beyond 2009. While the new scheme has generally been welcomed, there remains a need to offer attractive possibilities for private investors willing to invest into film financing.

Links

- FFA—Filmförderungsanstalt <http://www.ffa.de>
- Commissioner for Media and Culture <http://www.kulturstaatsminister.de>

French film tax relief

Since 2004 cinema production companies can obtain a tax credit for certain production expenses specified by law (the *Crédit d'Impôt*). Tax credits available under the General Tax Code apply solely to production companies subject to company tax and for films produced in France. Thus the new relief complements the longer existing SOFICA schemes under which companies and private investors can obtain tax deductions by investing in film financial companies (*Société pour le Financement du Cinéma et de l'Audiovisuel* - "SOFICA")

In order to bring film tax credits in line with European Law, Decree no.2006-317 of March 20, 2006 introduces the following changes:

- The selection of the eligible films is strengthened (1. Award criteria).
- The tax credits calculations have been modified: the base has been capped and extended to artistic expenses; the tax credits amount has been capped (2. Amounts).

- The methods of provisional approvals delivery are now administered by General Director of the National Film Centre (4. Payment and application procedure).

The new system concerns the expenses incurred for the production of film and audiovisual works for which a claim for provisional approval has been made from January 1, 2006. The changes that the new system introduces are aimed at adapting its implementation conditions to European regulations and at strengthening the cultural aspect. That is the reason why the eligible expenses have been extended to artistic expenses and why a selection of the projects by an expert comity has been installed.

Award criteria

Eligible companies:

Film production companies qualify if they hold a licence issued by the National Film Centre—The code for the film industry (art.14) stipulates that any company belonging to any branch of the film industry can only engage in its activity after obtaining an operating licence issued by the CNC. The companies subject to this licence are producers of feature films and short films, technical industries, film distributors, importers/exporters of films, film agents, cinema owners—and meet the following criteria:

- They must be subject to company tax under art.206-1 of the General Code.
- They must act as delegated production companies.
- They must comply with industrial legislation: in particular, delegated production companies using the employment contracts discussed in art.L.122-1-1, s.3 of the Labour Code in order to fill jobs not directly related to the production of a specific film, do not qualify for tax credits. Delegated production companies must not, therefore, use fixed-term contracts to fill permanent positions.
- They must hire technical operators of French or European nationality.
- Shooting and post-production must take place in France.

Delegated production companies are defined—under art.6 of Decree no.99-130 of February 24, 1999 on Financial Support for the Film Industry—as companies, which either alone or as part of a co production, take the initiative and accept the financial, technical and creative responsibility of producing a film and bring it to a successful conclusion.

Eligible works:

The new system strengthens the cultural aspect of fiscal support by introducing cultural criteria to be met by the film. It replaces the former scale based on technical points by cultural requirements. Under Decree no.2006-325 of March 20, 2006 and 200 F of the General Tax Code and the approval of films or audiovisual works eligible for Tax Credits for expenses incurred in the production of films or audiovisual works, films and audiovisual works (including TV productions) in the fiction, documentary and animation genres qualify if they meet the following criteria:

- They must be made entirely or mainly in the French language or a regional language in use in France.

• They must be accepted for the financial support scheme for the production of films or audiovisual works. Two phases take place during the production of a film eligible for financial support, these are the issuing of investment approval, which can be mandatory or optional depending on the nature of the funding requested, and production approval, which is mandatory for all films and takes place after the film has been produced. The "Approval Commission" brings together those qualified from a financial, technical and artistic perspective and is informed of all investment approval requests. All production approval requests submitted to the CNC are also referred to the Commission. Investment and production approvals are issued by the CNC Director General.

- They must be made mainly in France.
- They must contribute to the development and diversity of the French and European Film and Audiovisual Industry.

The following works do not qualify for film tax credits:

- films or audiovisual works that are pornographic or incite violence;
- films or audiovisual works that may be used for advertising purposes;
- news programmes, current affairs debate, sports programmes, variety shows and game shows; and
- any audiovisual materials or programmes containing only residual elements of original creative endeavour.

Under Decree no.2006-317 of March 20, 2006 and 220 F of the General Tax Code relating to tax credits for expenses incurred in the production of films and audiovisual works and amending Appendix III to that Code, audiovisual works may be approved if they meet specific criteria relating to the production process, their duration and production costs, depending on the genre:

- fictional audiovisual works must be at least 45 minutes long with a production cost of at least €5000 per minute produced (€3000 per minute produced in the case of works with a young target audience);
- audiovisual documentaries must be at least 24 minutes long with a production cost of at least €2333 per minute produced; and
- animated audiovisual works must be at least 24 minutes long with a production cost of at least €3000 per minute produced.

Amount

The tax credit for each financial year amounts to 20 per cent of total eligible production expenses incurred as part for operations carried out in France. The tax credit is applied to the company tax payable by the delegated production company for the financial year in which it incurred the eligible expenses. It is applied on the date company tax is paid.

The value of the tax credit is subject to a dual limit:

- First, the base figure for eligible expenses is limited to 80 per cent of the work's total production budget. It means that

delegated production companies are free to incur expenses abroad up to 20 per cent.

- Secondly, the credit for a single work cannot exceed:
 - €1 million in the case of films
 - €1,150 per minute produced and delivered in the case of fictional and documentary audiovisual works
 - €1,200 per minute produced and delivered in the case of animated audiovisual works

Moreover, the amount for eligible expenses has been capped according to the public support's part obtained for the film production: tax credits should not put up the total amount of public aids by more than 50 per cent of the production budget's amount. The rate is 60 per cent for difficult (the first or second director's film) and low-budget (lower than or equal to €1 million productions).

Initially limited to technical expenses, the base figure for eligible expenses has been extended to artistic expenses. From now on, the base makes no difference between the different items of the production budget in accordance with the requirements of the European Commission. Consequently the base includes the following expenses:

- Payment of the authors (as defined in art.L113-7 of Intellectual Property Code, such as the author of the script, and of the adaptation, the composer of music composed for the work and the authors of the original work if their contribution is used).
- Payment of the actors—leading and supporting roles—together with the respective social security contributions: payments to actors are capped at the minimum payment under collective agreements of Film and Audiovisual Production.
- Payment of the staff of the film making and production.
- Expenses related to technical industries for film or audiovisual creation.

Example

A delegated production company produces a fictional film work for which it obtains provisional approval from the National Film Centre on January 5, 2006.

The work is finished on March 10, 2007.

Final approval is issued by the National Film Centre on May 3, 2007.

Moreover, it obtains other grants for this very work (€14 million given in 2006 and €14 million given in 2007 as financial support).

Final production cost of this work amount to €56 million (€30 million + €25 million + €1 million as non-eligible expenses).

Co-productions

In the case of delegated co-productions, the two delegated production companies can benefit from tax credits in proportion to the amount of the expenses that each of them supports. Two different claims must be made. In the case of international co-productions, the base figure for eligible expenses is limited to 80 per cent of the part supported by the French co-producer.

Application and payment procedure

The procedure is divided into two stages: provisional approval by General Director of the National Film Centre, followed by final approval.

The production company can claim the Film Tax Credit in a letter to the General Director of the National Film Centre before the beginning of the shoot. In the letter, the production company must indicate the work's title, the name(s) of the author(s) and director, together with the forward-looking start of the shoot. The production company must attach an initial file containing the author(s)'s and director's contracts, and as far as possible, a preliminary estimate along with a projected financing plan.

The eligible expenses are the ones which are incurred from the day the National Film Centre has received the claim for tax credit. It means that tax credits can be applied as early as possible in the film production process, being aware that the shooting can last a very long time.

Consequently, from that moment, the tax credit can be applied against the company's corporate income tax and the company can ask immediately for a refund of the difference if the tax credit is greater than the tax due for the year in question. The tax credit part will have to be returned, if provisional approval has not been issued within six months following the receipt of the claim. From now on, the National Film Centre should issue provisional approval within a maximum of six months.

Provisional approval is issued after selection of the works by an expert council. This council has been created specially to assess the criteria based on cultural content, in particular regarding the development and diversity of French and European film and audiovisual industry.

Final approval must be claimed and obtained within a maximum of eight months from the issuing of the distribution number and once the film is finished. Final approval is issued after the issuing of the production agreement by the General Director of the National Film Centre.

The tax credit is bankable.

Fictional film work	Eligible expenses	Rate	Tax credit's calculations	Cumulative amount of tax credit	Tax credit after €1,000,000 limit	Financial support	Combination of aids
2006	€30 million	20%	€600,000	€600,000	€600,000	€14,000,000	€14,600,000
2007	€25 million	20%	€500,000	€1,100,000	€400,000	€14,000,000	€29,000,000

Combination with other subsidies, tax systems and sources of finance

As mentioned above, the amount for eligible expenses has been capped according to the maximum ceiling of the total amount of the public aids to production authorised by the European Commission. Tax credit is, therefore, considered as public aid and should not result in increasing the total amount of public aids by more than 50 per cent (or 60 per cent for difficult productions) of the production budget's amount.

Furthermore, non-repayable public subsidies, which are directly allocated to eligible expenses for tax credits, are deducted from the base figure. For example:

- financial support invested by the delegated production company

- grant for new technologies
- non repayable aids granted by local authorities

Links

Decree no.2006-325 of March 20, 2006: <http://www.legifrance.gouv.fr/texteconsolide/PCHW8.htm>

Decree no.2006-317 of March 20, 2006:

<http://www.legifrance.gouv.fr/WAspad/Visu?cid=757345&indice=1&table=JORF&ligneDeb=1>

CNC (National Film Centre)

<http://www.cnc.fr/Site/Template/A2.aspx?SELECTID=2008&id=45&t=2>

	UK	Germany	France
Name of Scheme	UK Tax Relief	Incentive to Strengthen the Film Industry in Germany ("Deutscher Filmförderfonds")	Tax Credit ("Credit d'impôt")
Type of System	corporate tax relief in the form of an enhanced tax deduction or tax credit.	non-repayable and non-recoupable grant	corporate tax relief in the form of a tax credit
What it supports	—pre-production —principal photography —post production	—production —post production	—production —post production
Who can apply	—film production companies —within the UK corporation tax net —that are responsible for pre-production, principal photography and postproduction (mere financial contributions are not sufficient)	—film producer —based in Germany (domicile, main office or subsidiary) —that produced at least one feature-length reference film during the last five years (exceptions for debut features that receive additional public subsidies) —and that are responsible for producing the film (mere financial contributions are not sufficient)	—film production companies —that pay corporate income tax —are accredited by the CNC —act as delegated production companies —and comply with industrial legislation and hiring technical operators of French or European nationality for operations carried out in France.
Eligible works	—certified as "British" by the UK Film Council by passing either the cultural test or qualifying as an official co-production —intended for theatrical release	—feature-length feature films, documentaries and animated films —passing the "Cultural Test" —intended for theatrical release (minimum number of copies) —minimum total production costs: €1 million (feature films), €200,000 (documentaries), €3 million (animated films) —at least one final version in German language (subtitles suffice)	—made entirely or mainly in the French language or a regional language in use in France —accepted for the financial support scheme —made mainly in France —contribute to the development and diversity of the French and European Film and Audiovisual Industry

	UK	Germany	France
Minimum national spend	25% of total core expenditure	<ul style="list-style-type: none"> —25% of total costs —20% if the budget exceeds €20 million —0% if German spend amounts to at least €15 million 	no minimum spend (but film has to be mainly made in France)
Amount	for films with core expenditure up to £20 million, the maximum tax credit is £4 million. Over £20 million there is no limit	<ul style="list-style-type: none"> —20% of the German production costs —maximum: €4 million (in exceptional cases up to €10 million) —basis for calculating the grant is limited to a maximum of 80% of total production costs 	<ul style="list-style-type: none"> —20% of production expenses in France —maximum: €1 million for a feature film, €1150/minute for fictional and documentary audiovisual works; €1200/minute for animated audiovisual works —calculating basis limited to a maximum of 80% of total production costs
Co-Production	<ul style="list-style-type: none"> —co-productions according to bilateral co-production treaties or The European Convention on co-production count as "British films" —only one co-producer (the one that is most involved in producing) can apply 	<ul style="list-style-type: none"> —available for national and international co-productions —only one co-producer can apply —applying co-producer has to qualify as co-responsible producer and be actively involved in the production (mere financial contribution not sufficient) —in the case of international co-productions the applicant has to contribute at least 20% of the total production costs (if the costs exceed €25 million: at least €5 million) 	all co-producers can benefit from tax credits in proportion to their contributions
Combination with other subsidies and tax systems	<ul style="list-style-type: none"> —generally possible, but not easy due to different territorial requirements (e.g. minimum national spend) in most subsidy systems —since the qualifying expenditure is capped at 80% of the total production costs, there is an incentive to spend 20% in other countries —due to European law restrictions total funding from public sources must not exceed 50% of production costs (exceptions for "difficult" and low budget films) 		