

Film Tax Relief (FTR)

What is FTR?

FTR was introduced in 2007 to encourage and support film production in the UK. It was the first of the creative industries tax reliefs. The relief was subsequently extended to other creative sectors including High-end TV, Children's TV, Animation, Video Games, Theatre, Orchestra and Museums and Galleries.

How does FTR work?

FTR works by enhancing expenditure incurred in the development process thereby creating an additional deduction. This additional deduction will either reduce profit, or, create or extend a loss. Where the additional deduction creates or extends a loss, HMRC allows this loss to be surrendered for a payable tax credit. Therefore, by claiming FTR, a company will either reduce their Corporation Tax liability or receive a payable tax credit.

A company will be eligible if -

it qualifies as the Film Production Company (FPC)

To qualify as the FPC it must:

- ✓ be incorporated in the UK or have a UK permanent establishment that falls within the charge to UK corporation tax
- ✓ be actively engaged in production, planning and decision making during the pre- production, principal photography and postproduction stages of the film
- ✓ directly negotiate contract and pay for rights, goods and services relating to the film.

A film will qualify if:

- ✓ it passes the cultural test or qualifies as an official co-production
- ✓ it is intended for theatrical release
- ✓ at least 10% of the total production costs relate to activities in the UK
- ✓ the first day of principal photography took place on or after 1 January 2007.

Passing the Cultural Test

The Cultural Test is points-based, with sections relating to content, cultural contribution, location and cast and crew. Films need to achieve at least 18 from a possible 35 points.

The sections are:

- Cultural content
- Cultural contribution
- Cultural hubs
- Cultural practitioners

For further guidance see the BFI website:

<https://www.bfi.org.uk/supporting-uk-film/british-certification-tax-relief/cultural-test-film>

To qualify as an official Co-production -

there must be a UK production company responsible for all UK elements of the production from beginning to completion.

there must be corresponding production companies in the other co-producing party countries.

there must be a co-producer in each country, and an application lodged in each country.

films, including those made under official co-production treaties must reach a minimum UK spend requirement of 10%.

The UK currently has eleven active bi lateral treaties. <http://www.bfi.org.uk/film-industry/british-certification-tax-relief/co-production>

Which expenditure qualifies for enhancement?

Expenditure qualifying for enhancement is called Core expenditure and includes expenditure incurred on:

- ✓ Pre-production
- ✓ Principal photography and
- ✓ Post- production.

Non-qualifying or non-core expenditure include costs relating to:

- x Development
- x Distribution and
- x other non-production activities.

How is FTR calculated?

A Production Company can claim an additional deduction based on its enhanceable expenditure, at the lesser of:

- 80% of total core expenditure
- the actual core expenditure incurred in the UK.

The additional deduction either reduces the profit and therefore the Corporation Tax due, or where the additional deduction creates a loss, allows that loss to be surrendered to HMRC for a tax credit paid at the rate of 25%.

How is FTR claimed?

FTR is claimed through the Company Tax system which means that claims must be made in a Company Tax Return or an amendment to a Company Tax Return.

Claims must include computations in respect of all income received, as well as core and non-core expenditure

Further guidance can be found at:

Original legislation: <http://www.legislation.gov.uk/uksi/2014/2880/introduction/made>

<http://www.legislation.gov.uk/uksi/2015/1741/contents/made>

HMRC manual: <https://www.gov.uk/guidance/corporation-tax-creative-industry-tax-reliefs#film-tax-relief-ftr>

BFI : <https://www.bfi.org.uk/supporting-uk-film/british-certification-tax-relief/cultural-test-film>

Useful contacts:

HMRC's Creative Industries Unit: creative.industries@hmrc.gsi.gov.uk

The BFI Certification Unit: certifications@bfi.org.uk

Creative Tax Reliefs: info@creativetaxreliefs.com

A simple example to demonstrate the benefit of claiming FTR

| | Without FTR | With FTR |
|--|----------------|----------------|
| Total Income from the film | £125,000 | £125,000 |
| Total Expenditure incurred on the film | £110,000 | £110,000 |
| Profit / (Loss) | <u>£15,000</u> | <u>£15,000</u> |
| Profits assessable for Corporation Tax | £15,000 | |
| Corporation Tax due (@19%) | <u>£2,850</u> | |
| Additional Deduction (estimated) | | £60,000 |
| Deemed Loss for tax credit purposes | | <u>£45,000</u> |
| Surrendered for payable tax credit | | £45,000 |
| Tax credit @ 25% | | <u>£11,250</u> |

In this example, the company has turned a profit of £15,000 to a 'loss' of £45,000 by claiming FTR. The 'loss' is surrendered to HMRC for a payable tax credit of £11,250.

The author

Creative Tax Reliefs Limited was started by Graham Suggett, former Lead Tax Specialist with HMRC'S Creative Industries Unit and a specialist in Film Tax Relief. Since the company started in April 2017, it has claimed over £3 million in tax credits for film, video game, animation, theatre, and orchestra companies.

If you would like specialist support with the process of claiming Film Tax Relief, have questions regarding the legislation or perhaps have encountered issues with your current claim then please do get in touch.

Graham can be contacted via the following:

Email: graham.suggett@creativetaxreliefs.com
Telephone: 01204-528575 / 07900 028528
Company website: www.creativetaxreliefs.com

Testimonials

"I am so pleased and relieved that Graham got in touch with me about Theatre Tax Relief. So far, Graham has claimed nearly £100,000 in tax credit for us. This is not only an enormous benefit and can be ploughed back into the work that we do but it would have been extremely short-sighted of us not to be claiming the money that is due to us. Graham has made the whole process so simple and easy. I cannot recommend him highly enough". **Sarah Gobran, Co-Founder & Producer of The Guildford Shakespeare Company**

"NCO engaged Graham at the start of 2019 and has developed a wholly positive and ongoing relationship ever since. Not only has Graham increased our understanding of OTR and how it applies to NCO, he has taken all the stress and strain away from the process. His previous experience as a tax specialist at HMRC has proved invaluable as has his ability to explain the complexities to us in a way we can understand! I cannot recommend Graham more highly". **Sophie Lewis, Managing Director of the National Children's Orchestras of Great Britain**

"Our accountant struggled with VGTR so we engaged Graham and his company. Graham prepared all the necessary computations and submitted the claim on our behalf. This was paid by HMRC without question and in an amount in excess of what we had previously expected. We are delighted and cannot recommend Graham or his company highly enough". **Ashley Stancill, Director at HyperSloth Games**

"It was a pleasure working with Graham on our claim for Film Tax Credit for 'Stuffed'. For independent creators working in Film and TV, the Tax Credit is a vital part of making your film a reality. Graham is an assured and calm voice in the often-intimidating world of tax. I'd highly recommend Graham to my colleagues working in Film and TV". **Carys Lewis, writer and director of the 2019 BAFTA Cymru Nominee short film Stuffed**

"I found Graham and Creative Tax Reliefs through a Google search as we had a client that was eligible for Theatre Tax Relief (TTR). I and a colleague had read through HMRC'S guidance a number of times and felt confident that we understood how it worked, however, we had no experience in claiming TTR. It seemed a no-brainer to work with Graham because Graham, as a former Creative Tax Reliefs specialist with HMRC, knew how to prepare and present claims to HMRC, would be certain of the calculations, knew where the boundaries were and would achieve maximum benefit for the client. We prepared the accounts and submitted the CT600 as per usual with input from Graham whilst he liaised directly with HMRC'S Creative Industries Unit in respect of the client'S TTR claim. The client received their tax credit without issue and in an amount greater than expected. Our client was delighted as were we and we look forward to working with Graham going forward". **Ian Bragger, Partner at Harris & Co**

This factsheet is provided for information only and no liability is accepted for errors of fact or opinion contained within it.
© Creative Tax Reliefs Limited October 2019.