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Theatre Tax Relief

Theatre Tax Relief (TTR) was introduced in Finance Act 2014 to provide a tax break for production companies engaged in qualifying theatre productions. The relief is designed to recognise the unique cultural value that theatre brings to the UK and encourage greater and more diverse productions.

TTR provides companies with either a reduction in their corporation tax liability or a repayable credit.

To be a **qualifying production**, the theatre production must meet three conditions:

- The production must be a live dramatical production (play, opera, musical or ballet);
- The production company must intend to run the live performances either for paying members of the public or for educational purposes;
- At least 25% of the core expenditure on the production must be spent in the European Economic Area (EEA).

Productions which include a competition, sexual nature or use wild animals are not regarded as theatrical for TTR purposes.

Who can make a claim?

Any company (charitable or not) that meets the definition of a production company can claim TTR. A production company is a company that produces, runs and closes the production, is engaged in decision-making and makes creative, technical and artistic contribution to the production. The production company can either be a commercial or charitable company. Although the majority of income in charitable companies is exempt from tax they are still with the charge to corporation tax so can take advantage of TTR.

Co-productions

Only one company in a co-production can meet the definition of a production company and therefore claim the TTR. The parties will need to decide which entity meets the conditions; only costs incurred by the ‘production company’ can be included in the claim.

What costs can be included in the claim?

A theatre production has four phases:

- Development: the time before a production is given the go-ahead or green light;
- Production: the rehearsals;
- Running: the live performances;
- Closing: taking down the set and shutting down the performance.

Costs in the production and closing phases of the production will qualify for an enhanced deduction. For example, the actors’ and directors’ time in rehearsals, costumes, set, and travel and subsistence during rehearsals.

Some costs in the development phase may be reclassified as production costs once the production has been given the go-ahead.

The legislation specifically excludes costs for marketing, financing, storage and legal.

In calculating the TTR, each production must be treated as a separate trade. The first stage of the calculation is to work out the profit or loss on the production.

Income

For the purposes of calculating the profit or loss on the separate trade, income should include:

- Box office income;
- Grants specific to the production;
- Payments for rights to produce merchandise; and
- Royalties or other payments for the rights to use the production.

Amount of relief

The additional relief available is the lower of 80% of the qualifying core expenditure and the expenditure which is incurred within the EEA. The amount that can then be surrendered to HMRC as a repayable credit is then the lower of 80% of the qualifying core expenditure and the adjusted loss. The rates of repayment are:

- 25% for touring productions; and
- 20% for all other qualifying production.

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Example one: loss making production

A charitable company puts on a (non-touring) production of Cinderella. Expected income from the production is £100,000 (made up of box office sales of £90,000, a grant of £4,000 and related merchandise income of £6,000).

The cost of the theatre production is £125,000 (of which £80,000 is core expenditure i.e. only qualifying costs during the producing and closing phase).

Stage one: calculate profit or loss of the separate trade

Income (proportion of estimated total income earned at the end of the period)	£100,000
Less: costs of theatre production to date	(£125,000)
	(£25,000)

Stage two: calculate enhancement

Enhancement is the lower of:

Qualifying expenditure which is EEA	£80,000	
80% of total qualifying expenditure to date (80% x £80,000)	£64,000	(£64,000)
		(£89,000)

Stage three: calculate repayable credit

Surrender the lower of:

Enhanced loss	(£89,000)	
Enhanced expenditure	(£64,000)	
Repayable tax credit	(£64,000) x 20%	**(£12,800)**

Repayment from HMRC should be £12,800 for this production.

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Example two: profitable production

If all the information in example one remains the same, except the income is £170,000, the calculation would be as follows:

Stage one: calculate profit or loss of the separate trade

Income (proportion of estimated total income earned at the end of the period)	£170,000
Less: costs of theatre production to date	(£125,000)
	£45,000

Stage two: calculate enhancement

Enhancement is the lower of:

Qualifying expenditure which is EEA	£80,000	
80% of total qualifying expenditure to date (80% x £80,000)	£64,000	(£64,000)
		(£19,000)

Stage three: calculate repayable credit

Surrender the lower of:

Enhanced loss	(£19,000)	
Enhanced expenditure	(£64,000)	
Repayable tax credit	(£19,000) x 20%	**(£3,800)**

Repayment from HMRC should be £3,800 for this production.

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How do you make a claim?

The TTR claim must be submitted to HMRC as part of the company tax return. This may involve charitable companies which have not previously had to file at tax return completing a company tax return with charitable pages.

Further information on HMRCs guidance can be found at:
https://www.gov.uk/hmrc-internal-manuals/theatre-tax-relief

Contact details

If you would like to discuss Theatre Tax Relief in more detail please contact Kirsty Murray or Catriona MacLeod.

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