

## 18 Tax relief on film production

- 18.1** Tax relief for investment in films (film relief) was first introduced in Ireland in the 1980s. Up to 2015, individuals and companies could claim tax relief in relation to investment in a 'qualifying company'. Tax relief was available to individual investors on 100% of the invested amount, up to a maximum of €50,000 per annum.
- 18.2** The scheme was amended by the Finance Acts 2013 and 2014, and Film Regulations 2015, making film relief available to production companies as a credit against corporation tax.<sup>1</sup> The relief is granted at a rate of 32% claimable in respect of the lowest of
- the **eligible Irish expenditure** amount — this includes expenditure on goods, services and facilities purchased from a business, in circumstances where the business operates from a fixed place of business in the State (or, in some limited cases expenditure incurred outside the State may be eligible) and payments to eligible individuals defined as individuals employed by a qualifying company for the purposes of the production of a qualifying film, or
  - **80% of total cost of production** — defined as including all expenditure necessary to produce a film from the development phase to post production, or
  - €70 million.<sup>2</sup>

<sup>1</sup> The tax relief is provided for under section 481 of the Taxes Consolidation Act 1997 (as amended). The 2015 amendment further extended the previous deadline of the relief to 2020. This was further extended to 2024 under the Finance Act 2018. Further provisions are included in Statutory Instrument (SI) 4/2015 and SI 119/2019.

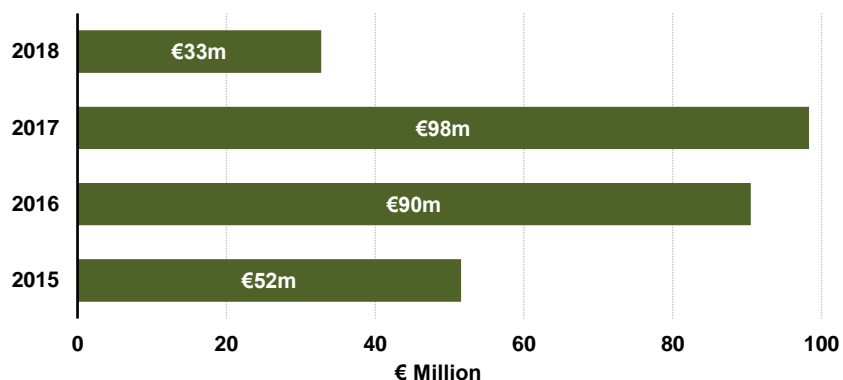
<sup>2</sup> As a consequence the maximum potential value of the tax relief is €22.4 million (i.e. 32% of €70 million) per qualifying audio-visual project before any regional uplift.

<sup>3</sup> The change was given effect in SI 358/2019. The EU Regional Aid Guidelines (RAGS) allow each member state to provide enhanced rates of State aid in the least economically developed areas of each country. All counties are designated apart from: Dublin city and county, Cork city and county (except for named islands), Kildare (except for Athy), Meath (except for Kells) and Wicklow (except for Arklow).

Where the relief due is greater than any tax due then a payment of the excess will be made by Revenue (i.e. a 'payable tax credit').

- 18.3** In July 2019, following EU Commission approval, a regional uplift of up to an additional 5% for audio-visual projects substantially produced in designated regions was introduced.<sup>3</sup> Where applicable, the regional uplift will result in relief at a rate of 37% for 2019 and 2020, 35% in 2021 and 34% in 2022.
- 18.4** Under the arrangements set out in the Film Regulations 2015, Revenue administers the film relief and the Minister for Culture, Heritage and the Gaeltacht (the Minister) has specific responsibilities in relation to the prior approval of certain aspects of individual projects, before the relief can be claimed.
- 18.5** The relief is available as a direct support to production companies on eligible expenditure arising from certain audio-visual projects that either
- act as an effective stimulus to the making of audio-visual projects in the State through the provision of quality employment, training and skills development opportunities, and/or
  - are of importance to the promotion, development and enhancement of national culture.

Therefore, under legislation, an audio-visual project may qualify for film relief solely on the basis of importance to the promotion, development and enhancement of national culture.

**Figure 18.1 Approved section 481 relief**

Source: Revenue Commissioners. Analysis by Office of the Comptroller and Auditor General.

**18.6** 337 projects were granted €273 million of film relief in the period 2015 to 2018, thereby reducing corporation tax receipts by that amount (see Figure 18.1). Approved claims over the period 2015 to 2018 averaged €810,000 per project.

**18.7** This chapter

- outlines the overall administration of the relief
- reviews the mechanisms for approval operated by the Department of Culture, Heritage and the Gaeltacht (the Department)
- examines the administration of this relief by Revenue, and
- reviews the adequacy of the business case analysis underpinning film relief.

### Administration of the relief

**18.8** The 2015 Film Regulations were in place from 2015 until March 2019.<sup>1</sup> Under those arrangements, production companies can claim

- the full relief on completion of the audio-visual project, or
- an instalment of 90% based on the production budget, with the remaining 10% paid on completion.

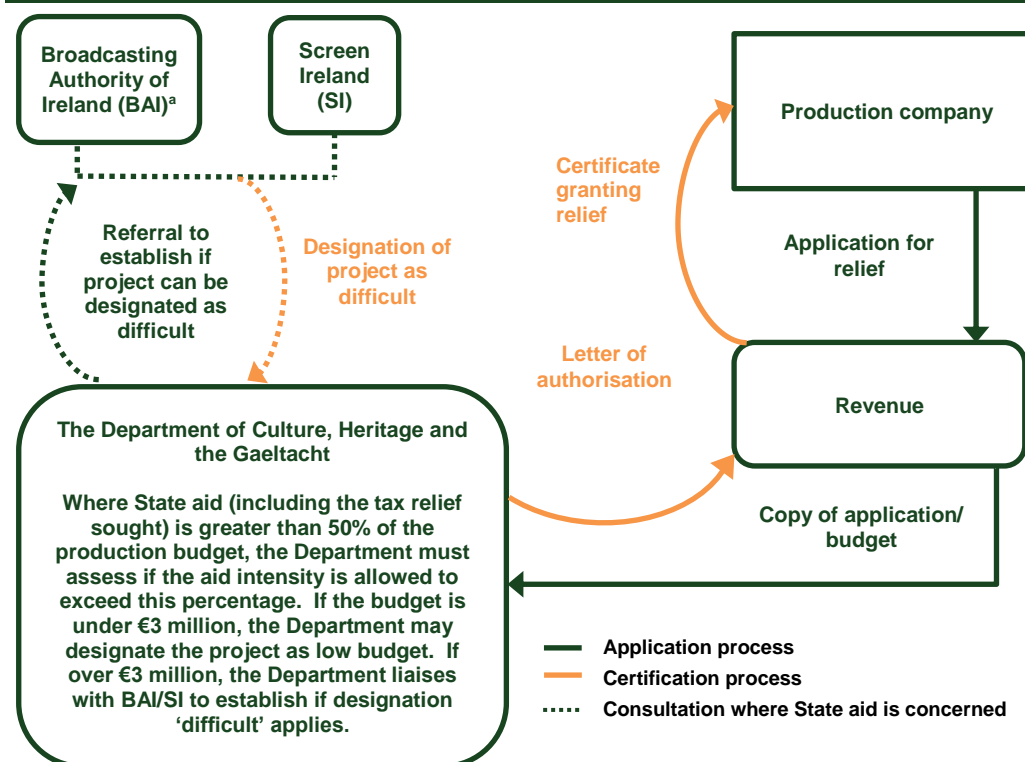
In practice, the majority of production companies claim 90% of the production budget in advance of the completion of the project.

<sup>1</sup> In March 2019, changes were made to the administration of the scheme. These changes are outlined later in this report (paragraphs 18.50 to 18.60).

**18.9** The key responsibilities are as follows (see Figure 18.2)

- **Producer** — The production company submits an application for the credit to Revenue based on the production budget and, following certification, makes a claim for payment of either 90% of the credit based on the production budget or 100% of the credit on completion based on costs incurred.
- **Revenue** — On receipt of an application, Revenue ensures that the production company complies with the legal, commercial and corporate requirements required to claim the relief. Revenue then reviews the production budget submitted and simultaneously passes the application to the Department. Once the Department approves certain aspects of the project and returns a letter of authorisation to Revenue, Revenue may issue a certificate allowing the tax relief to be claimed. The production company can then amend a previous corporation tax return and once Revenue have approved that amendment, payment is issued. Revenue also reviews a required compliance report submitted by the production company within four months of completion of the project in order to certify a balancing or full payment of the credit.
- **The Department** — The Department is responsible for ensuring that it is appropriate for Revenue to issue a certificate having regard to the categories of film eligible for certification, and the contribution the film is expected to make to culture and employment in the industry. The Department may consult with the Broadcasting Authority of Ireland and Screen Ireland in the process of making this determination.

**Figure 18.2** Section 481 application and certification process



Source: Analysis by Office of the Comptroller and Auditor General

Note: a BAI funding available under the Sound and Vision scheme (funded by the Broadcasting Fund) also includes a third designation as exempt under State aid rules accepted by the European Commission where the project counteracts the limited geographic extension of certain languages and cultures. BAI applies this to programmes in the Irish language.

## Department authorisation

- 18.10** Under section 481 of the Taxes Consolidation Act 1997 (as amended), authorisation is given to Revenue by the Minister where the Minister is satisfied that
- the audio-visual project is ***within specified categories***, and
  - the audio-visual project will be of importance to the promotion, development and enhancement of the national culture including, where applicable, the Irish language (referred to in this chapter as ***the cultural test***), and/or
  - the audio-visual project will act as an effective stimulus to the making of audio-visual projects in the State through provision of quality employment, training and skills development opportunities (referred to in this chapter as ***the employment test***).

### Category of film

- 18.11** Film relief is available in relation to feature films, television dramas, animation and creative documentaries.
- 18.12** The following types of film are not eligible for certification.<sup>1</sup>
- Films made for exhibition as an advertisement or advertising programme.
  - Films comprising or substantially based on
    - public or special performance(s) staged for filming or otherwise
    - sporting event(s)
    - games or competitions
    - current affairs/talk shows
    - demonstration programmes for tasks, hobbies or projects
    - review, magazine-style or lifestyle programmes
    - unscripted or 'reality' type programmes, or
    - product produced in-house by a broadcaster or for domestic consumption in one country.

### The cultural test

- 18.13** An application by a production company for certification under the cultural test must pass a minimum of three of eight broadly defined cultural criteria as assessed by the Department. These are
- The project is an effective stimulus to film making in Ireland and is of importance to the promotion, development and enhancement of creativity and the national culture through the medium of film, including, where applicable, the dialogue/narration is wholly or partly in the Irish language or the production of a full Irish-language version of the film is included as part of the total budget for the film.
  - The screenplay (or, in the case of a documentary film, the textual basis) from which the film is derived is mainly set in Ireland or elsewhere in the EEA.<sup>2</sup>
  - At least one of the principal characters (or documentary subjects) is connected with Irish or European culture.

<sup>1</sup> These categories were extended in the 2019 Regulations and projects consisting substantially of stock footage (other than documentaries) and live programming are now excluded.

<sup>2</sup> EEA — European Economic Area, which comprises all EU member states, Iceland, Liechtenstein and Norway.

- The storyline/underlying material of the film is a part of, or derived from, Irish or European culture and/or heritage; or, in the case of an animation film, the storyline clearly connects with the sensibilities of children in Ireland or elsewhere in the EEA.
- The screenplay (or textual basis) from which the film is derived is an adaptation of an original literary work.
- The storyline or underlying material of the film concerns art and/or any artists.
- The storyline or underlying material of the film concerns historical figures or events connected with Irish or European culture.
- The storyline or underlying material of the film addresses actual, cultural, social or political issues relevant to the people of Ireland or elsewhere in the EEA; or, in the case of an animation film, addresses educational or social issues relevant to children in Ireland or elsewhere in the EEA.

**18.14** The assessment by the Department is carried out through a review of the production company's application and cover letter, which is required to identify the three (or more) cultural criteria addressed by the project. Applications are examined to ascertain how the audio visual project meets the stated criteria, which is then recorded on an assessment form and submitted for internal approval. If there is uncertainty on whether certain requirements are met, the Department may seek further clarification from the production company.

### *The employment test*

**18.15** The audio-visual project can also qualify under an employment test if the Minister is satisfied the project can act as a stimulus to the making of audio-visual projects in Ireland through the provision of quality employment, training and skills development opportunities.

### *Quality employment*

**18.16** The relevant legislation refers to 'the provision of quality employment'. However, this is not defined in the legislation and neither Revenue nor the Department could provide any existing documentation on what constitutes quality employment.

**18.17** While the provision of quality employment has not been defined, in applying for certification under section 481, production companies must provide details in relation to proposed employment including the duration of the production, details of crew and cast members, details of key personnel and their remuneration and a 'person days schedule' which sets out details of employee tenure and remuneration.

### *Training opportunities*

**18.18** A guidance note published by Revenue in January 2015 to accompany the 2015 regulations states that a minimum of two trainees must be employed for each €355,000 of corporation tax credit, up to a minimum of eight trainees per production where the relief amounts to €1.4 million or more. The Department reiterate this requirement as a condition of authorisation.

- 18.19** As part of the application process, the production company must submit details of the trainees' names, training modules, the proposed role, the number of trainee days and proposed salaries. Since November 2017, the Department request confirmation from the production company by way of a specific return, within 60 days of completion of the project that trainees were engaged and paid, as set out in the application for relief.

### *Examination results*

- 18.20** The team carrying out this examination reviewed certification applications made to the Department between 2015 and 2018 for a sample of 35 audio-visual projects. All of the applications had been made under the 2015 film regulations. The review found that
- three applications were deemed ineligible under Part 3 of Film Regulations 2015 — 'categories of films not eligible for certification'
  - the remaining 32 audio-visual projects were all approved based on passing the cultural test.

### *Contribution to culture*

- 18.21** Of the 32 audio-visual projects which were certified on the basis of the project's contribution to culture
- 31 out of 32 (97%) were deemed by the Department to have met the criterion 'the project is an effective stimulus to audio-visual project making in Ireland, and is of importance to the promotion, development and enhancement of creativity and the national culture'
  - 23 out of 32 (72%) were deemed by the Department to have met the criterion that 'the storyline or underlying material of the project addresses actual, cultural, social or political issues relevant to the people of Ireland or elsewhere in the EEA'
  - 11 out of the 32 (34%) were deemed by the Department to have met the criterion that at least one of the principal characters (or documentary subjects) is connected with Irish or European culture.

### *Quality employment*

- 18.22** While the projects were certified on the basis of their contribution to culture, the Department also had regard to the project's contribution to quality employment and to training and skills opportunities. Examination of the process indicated the following.
- The Department has formal criteria to assess the training and skills development aspects of the project, whereby there is a requirement on each project to have between two and eight trainees with an assigned mentor to provide training.
  - The Department summarises the projected employment specified in the application but does not have specific criteria to assess the extent to which this represents quality employment.
  - The audit noted that while information on the number of jobs proposed is sought at the application stage, confirmation and/or verification that the employment occurred is not sought by the Department once the project is complete because there is no legislative basis to do so.

- 18.23** As part of the application form for section 481 relief, the production company must provide details of the number of proposed employees who are tax resident in Ireland, the EU or outside the EU under a number of headings: crew, main cast, support cast and extras.
- 18.24** It is unclear how a production company would be in a position to establish the tax residency of proposed employees.
- 18.25** Figure 18.3 shows the numbers of jobs proposed on a sample of 15 projects that were granted €15.6 million of section 481 relief in the period 2015 to 2018 grouped by Irish and non-Irish employment and presenting extras as a percentage of overall employment.

**Figure 18.3 Composition of proposed employment for a sample of 15 film relief projects**

Tax residence of proposed employees	Total	Of which, extras	
		number	as % of total
Tax resident in Ireland	3,274	2,121	65%
Tax resident outside Ireland	1,008	285	28%
<b>Total</b>	<b>4,282</b>	<b>2,406</b>	<b>56%</b>
Person days scheduled	71,163	4,090	
Full time equivalent <sup>a</sup>	309	18	6%

Source: Revenue Commissioners. Analysis by Office of the Comptroller and Auditor General.

Note: a Full time equivalent (FTE) calculation is based on a 230 day working year, as used by the Department of Culture, Heritage and the Gaeltacht.

- 18.26** Of the total 4,282 proposed employments, 27% were for Irish tax resident crew, main or support cast. Of the 3,274 Irish tax resident employments, 65% were for extras, compared to 28% for the non-Irish tax resident employments. As the person days schedule does not separately categorise Irish tax resident individuals, it is not possible to establish the full time equivalent Irish tax resident proposed employments.
- 18.27** The examination noted that the person days schedule outlines the proposed role and the proposed number of days each person is expected to work on a production. As a result, based on assumptions, it is possible to estimate the proposed number of whole time equivalent employees of a project. For example, in relation to the 15 sample projects examined, the total 4,282 employments represented 309 whole time equivalent employments. The Department does not report the aggregate (proposed or actual) employment on a full time equivalent basis or relate this to the overall level of relief granted.

*Training opportunities*

**18.28** Figure 18.4 summarises by year the submissions related to the 337 audio-visual projects granted relief, from 2015 to 2018, including proposals to provide 1,390 trainee positions. The average number of trainees per production proposed to be employed in the period was 4.1.

**Figure 18.4 Number of trainees proposed 2015 to 2018**

Year	Audio-visual projects granted relief	Trainees employed <sup>a</sup>	Average trainees employed
2015	73	257	3.5
2016	113	484	4.3
2017	99	450	4.5
2018	52	199	3.8
<b>Total</b>	<b>337</b>	<b>1,390</b>	<b>4.1</b>

Source: Revenue Commissioners. Analysis by Office of the Comptroller and Auditor General.

Note: a Analysis based on proposed trainee numbers on application forms submitted to Revenue and the Department.

**18.29** The examination tested 32 audio-visual projects granted approval by the Department. In 13 cases, production was still ongoing and therefore confirmation of trainees engaged on the project were not yet available. Of the remaining 19 cases,

- nine projects were approved prior to November 2017 and therefore the production companies were not required to confirm that the training proposed in the initial application form had in fact occurred
- ten production companies whose projects were approved post November 2017 had confirmed that trainee numbers and associated remuneration proposed had occurred.

**18.30** In the ten cases where confirmation of trainee numbers and remuneration was received, the examination noted that in all cases

- the actual number of trainees agreed to what was proposed at the application stage, and
- the related remuneration exceeded what was proposed at the application stage.

However, no supporting evidence is required or was requested for these confirmations by the Department.



## Administration of relief by Revenue

**18.31** For the period under review, 2015 to 2018, Revenue was responsible for approving the value of the relief. Where the claim was made in instalments, this was based on budgeted expenditure at the time of the first claim and the balance based on compliance reports submitted on completion of the project. Where a single claim for payment was made at completion stage it was based on actual expenditure.

### *Pre-production checks*

**18.32** The financial aspects of the project regarding legal, commercial and corporate arrangements are reviewed by Revenue prior to certification. The following rules relate to the trading status of firms.

- A production company must have traded for at least twelve months and filed a corporation tax return in Ireland within nine months following the most recent trading year end before it can access the tax credit.
- The production company must hold all the shares in a special-purpose 'qualifying company' that exists solely for the purpose of the production of only one qualifying audio-visual project.
- The qualifying company must be incorporated and resident in the State or must be carrying on a trade in the State through a branch/agency.
- It is the responsibility of the qualifying company to ensure all amounts recorded as qualifying expenditure are correctly stated.

**18.33** As part of this examination, fifteen Revenue files relating to audio-visual projects granted relief from 2015 to 2018 were examined. The examination found that in all cases

- the production company held 100% of the shares in the relevant qualifying company
- the trading status and tax return filing status of all the related parties was on file and confirmed by Revenue.

**18.34** The production company includes a projected budget for the audio-visual project with the application form. Revenue reviews items within the projected project budget, based on industry cost norms and averages. For example, when reviewing fees paid to directors, writers, producers and executive producers, collective fees above 20% of the overall budget are considered excessive.

**18.35** Following assessment of the budget, the file is sent for approval within Revenue to

- a Higher Executive Officer if the credit payable is up to €500,000
- an Assistant Principal if the credit payable is over €500,000 and less than €5,000,000 or
- a Principal Officer if the credit payable is €5,000,000 or over.

**18.36** In the case of the fifteen Revenue files relating to audio-visual projects reviewed for this examination, Revenue granted €15.6 million of film relief. The eligible budgeted expenditure was adjusted marginally (reduced by €1,500) in only one case. Revenue has stated however, that there is protracted correspondence pre-certification regarding budgeted expenditure, which results in revised budgets being submitted. In all cases, the relief granted was authorised by an appropriate officer within Revenue.

### ***Post production checks***

**18.37** Within four months of completion of the audio-visual project, the qualifying company must provide Revenue with a compliance report which is a declaration that the film was produced in accordance with the 2015 film regulations and conditions of the certification issued by Revenue. Schedule 5 of the regulations requires a number of documents to accompany the compliance report including a copy of the film in DVD format and a report from the production company's auditors including, *inter alia*

- details of the amount expended directly in the State on the employment of eligible individuals
- confirmation that available funding from all sources did not exceed the amount necessary to fund the total cost of production of the film, and
- confirmation that eligible expenditure equalled or exceeded the amounts specified in the certificate issued under section 481.

Revenue's review of the compliance report and auditor's report may involve a request for additional back up for line items from production companies such as a producer fee calculation, legal fees breakdown, studio overheads and marketing expenses.

**18.38** Based on Revenue's review of the compliance report, and if all the conditions have been successfully met by the production company, the final payment is released.

**18.39** Revenue also checks the credits listed at the end of the audio-visual project to ensure they include the statement

*Produced with the support of incentives for the Irish  
film industry provided by the Government of Ireland*

and, if applicable,

*Filmed on location in Ireland.*

These credits must be located in a prominent position in the closing credits immediately after the cast and crew credits.

**18.40** Of the 15 audio-visual projects reviewed for this examination, 12 of the projects had been completed.

- In all 12 completed projects, Revenue records indicate that the audio-visual project had been reviewed for evidence of the required on-screen credits.
- In nine projects, Revenue's review of the compliance reports and approvals to pay were on file. These reviews resulted in a reduction of €24,896, or 0.35%, in film relief credit. This was recovered by reducing the final instalment of the relief.
  - In eight cases, the production companies had not paid any tax in the prior period but, as film relief is a payable credit, payments of just under €7 million were issued by Revenue for the full amount of the relief.
  - In the remaining case, the production company claimed film relief of €77,933 and had paid just under €1,500 in corporation tax in the prior period.
- In the other three completed cases, there were compliance reports on file but Revenue had not completed a review of expenditure at the time of this examination and the final payment had not been released.

- 18.41** Revenue commenced monitoring ineligible expenditure claimed for, but not paid, in January 2018. By the end of May 2019, 75 compliance reports had been reviewed with combined eligible expenditure (gross) totalling €218 million, of which €2 million was deemed ineligible. This reduced the related film relief by €0.6 million.
- 18.42** Revenue can recover the tax credit from the production company or from the qualifying company if there is evidence of a failure to satisfy conditions in the original certificate and where this failure reduces the overall relief granted to less than what was paid at the 90% stage. Revenue confirmed that, to date, there has been no instance of a recoupment.
- 18.43** During the period 2015 to 2018, 337 projects were granted €273 million in film relief. At end May 2019, €230 million had been paid with the remainder outstanding; €14 million relates to projects where a compliance report has been returned but Revenue has as yet to complete a review of that expenditure. For the remaining €29 million, the audio-visual project has not yet been completed and therefore, no compliance report has been submitted.
- 18.44** Due to the change in scheme rules on 27 March 2019, the final payments totalling €29 million due to these audio-visual projects will be paid under the new self-assessment system. These final payments are the balancing payments of the relief and will not therefore be subject to the same rigours as the initial payment. However, Revenue will determine based on risk ratings, the extent of checks to be undertaken.

### State aid compliance

- 18.45** Section 481 film relief is regarded as State aid under European Commission rules.<sup>1</sup> Grants paid to a qualifying company by Screen Ireland or the Broadcasting Authority of Ireland are also counted as State aid and, combined with the section 481 credit, must be limited to 50% of the production budget, except in the case of difficult or low budget projects.<sup>2</sup>
- 18.46** In practice, the Department has responsibility for designation of a project as either low budget or difficult, in order to exempt the project from State aid rules. If the aid is greater than 50% of the production budget of the film, the Department moves to apply the 'difficult or low budget' test. It does this in consultation with Screen Ireland or the Broadcasting Authority of Ireland, depending on which agency is supplying most of the State aid funding.
- Following a review of empirical evidence of indigenous productions since 2002, in 2007 the Department defined a **low-budget film** as a film with a budget of €3 million or less.
  - A **difficult film** is defined as a film of high quality that faces severely limited prospects of attracting commercial finance for its production and/or of achieving wide commercial distribution. In determining whether a film can be characterised as difficult, Screen Ireland and Broadcasting Authority of Ireland use a document developed by the Department in 2007 setting out the characteristics of such films.
- 18.47** From 2015 to 2018, the section 481 relief granted to 116 projects was in excess of 50% of the respective budgets, and 16 projects were in receipt of State aid in excess of 90%.

<sup>1</sup> State aid is a term that refers to any form of public assistance, using taxpayer-funded resources, with the potential to distort competition and affect trade between member states of the EU.

<sup>2</sup> Official Journal of the European Union *Communication from the Commission on State aid for films and other audio-visual works* (2013/C 332/01).

**18.48** The examination tested the sample of 32 audio-visual projects selected for audit for designation under State aid rules. Seven of the 32 projects had received in excess of 50% State funding.

- In one case, the audio-visual project met the low budget criterion of under €3 million.
- In the other six cases, designation was on file certifying the project as difficult from either Screen Ireland or the Broadcasting Authority of Ireland.

**18.49** Under new arrangements introduced in March 2019, where a production company wishes to apply for a derogation from the State aid funding limit for a difficult project, the applicant must submit supporting documentation to this effect directly to Screen Ireland or to the Broadcasting Authority of Ireland.

### **New arrangements**

**18.50** The 2019 film regulations (SI 119/2019) came into operation on 27 March 2019 and introduced a number of changes to the administration of the scheme for film relief. The key changes relate to the assessment of claims for relief and additional information to be provided (at application stage) in relation to proposed training.

### ***Change to self-assessment***

**18.51** Up to 27 March 2019, claims submitted by production companies were reviewed and approved by Revenue. There were no penalties for the submission of an incorrect return — Revenue simply adjusted the value of the claim for any amounts deemed ineligible.

**18.52** Revenue noted film relief was one of the last reliefs that was not self-assessed. It also noted that the compliance element of the relief, as it was previously administered, was resource intensive and that the move to self-assessment provides for the application of penalties and interest where production companies are found to have claimed for ineligible expenses.

**18.53** Accordingly, from March 2019, a new self-assessment process was put in place. A production company that wishes to make a claim for corporation tax credit pursuant to section 481 of the Taxes Consolidation Act 1997 (as amended) must first apply for a certificate directly from the Department.

**18.54** Where the Minister issues a certificate in relation to a qualifying audio-visual project, and all the other provisions of section 481 have been complied with, a production company may make a claim to Revenue for corporation tax credit following self-assessment rules.

**18.55** Under the new regulations, the production company is still required to prepare a compliance report but it is no longer required to be submitted to either Revenue or the Department, nor is an auditor's report required to accompany this compliance report. It remains within the remit of Revenue under section 481 to request the compliance report from the production company.

- 18.56** Revenue has not, as yet, published guidelines on the operation of the credit under the new self-assessment rules. Revenue have stated however, that the draft guidelines have been the subject of considerable consultation with the sector and publication is planned before the end of September 2019. The operation of the self-assessment system commenced in 2019 and therefore it is not possible to conclude on the impact this change will have on the relief. However, Revenue have stated that planning for compliance testing following the move to self-assessment is underway.

### **Assessment of employment and training opportunities**

- 18.57** A cost-benefit analysis<sup>1</sup> completed in October 2018 noted the absence of robust data in relation to overall employment and training opportunities as a significant impediment to assessing the economic benefits of film relief and recommended that more detailed data would be required in order to facilitate a high quality assessment of this scheme. This includes

- full time employee equivalents for both employee and trainee numbers in particular, on a per-production basis
- details of employment activities of trainees (e.g. hours worked, nature of employment).

- 18.58** Under the arrangements in place up to 2019, applications for film relief had to include details of proposed training modules. Under the new arrangements, applications for relief must now provide a skills development plan and, where eligible expenditure is greater than €2 million, plans must be agreed with Screen Skills Ireland.<sup>2</sup> The Department expects that this will assist in the tailoring of skills development to the requirements of the industry and noted its intention to roll out further changes in this regard over the coming years.

- 18.59** Production companies must submit a post-project skills development report to the Department in relation to each project.

- 18.60** Under the new arrangements, the requirement to submit information about proposed project employment on a person-day schedule continues. As under the 2015 regulations, there is no requirement for production companies to confirm after the project is completed that proposed employments occurred.

### **Business case for film relief**

- 18.61** In December 2012, the Department of Finance completed an economic impact assessment of film relief.<sup>3</sup> The review examined the impact of the relief in terms of the volume and value of productions supported, the number of jobs associated with the relief and the cost to the Exchequer.

- 18.62** An estimate of full time equivalent (FTE) employees was made based on the Department's analysis of a sample of Revenue files on audio-visual productions and compared with estimates produced by Indecon Economic Consultants on behalf of IBEC for consistency.<sup>4</sup> The estimate was used to inform the economic impact assessment.

- 18.63** The review analysed data for 2011 and estimated the employment created was 1,606 FTE jobs. It noted that the scheme as it was then operated resulted in a net economic cost of €34.7 million for that year.<sup>5</sup>

1 Cost benefit analysis undertaken as part of Budget 2019 — *Report on Tax Expenditures Incorporating outcomes of certain Tax Expenditure and Tax Related Reviews completed since October 2017.*

2 Screen Skills Ireland is a division of Screen Ireland that provides continuing training and career development opportunities for professionals working in the screen sectors.

3 *Economic Impact Assessment of section 481 Film Relief December 2012* — Department of Finance.

4 *Indecon Review of section 481 Film Relief* on behalf of IBEC's Audiovisual Federation.

5 This was derived taking account of the costs of the relief (tax foregone and the cost of public funds) of €70.2 million with the benefits (economic impact of direct and indirect wages) of €35.5 million.

- 18.64** In line with international practice and in light of the analysis presented, the review recommended that Ireland move towards a producer-led tax credit model. The review did not include a detailed cost-benefit analysis of the proposed alternative but noted that the cost to the Exchequer would have been some €14.5 million lower in 2011 had the producer-led tax credit model been in place.
- 18.65** In 2016, consultants were commissioned by a number of departments including the Department of Culture, Heritage and the Gaeltacht to measure the current economic value of the Irish audio-visual industry and to propose policy changes to support its future growth.<sup>1</sup> The report — completed by the end of 2017 — found that in 2016, every euro of section 481 outlay returned €1.02 in tax revenue and had a benefit to cost ratio of 2.8:1 for the Irish economy. The study noted the data was restricted to 2016 and, because there are significant year-to-year fluctuations, the results might not be indicative of the overall levels of industry revenue or employment in subsequent years.
- 18.66** A further cost-benefit analysis completed by the Department of Finance in 2018 used the same parameters/assumptions as those used in the 2012 analysis.<sup>2</sup> This was the first review of the scheme since its transition from an investor based relief to a corporation tax credit system in 2015. The review calculated the net economic cost of the scheme for 2016 at €72.4 million, based on costs of €118.3 million and benefits of €45.9 million.
- 18.67** The 2012 and 2018 analyses highlight that data constraints and the unquantifiable nature of the cultural return to society make it difficult to capture the entirety of the social or economic benefits associated with film relief. In particular, the review did not attempt to quantify (or value) the cultural impact of the scheme. Finally, the 2018 review recommended several grounds upon which more detailed data collection could be implemented in order to facilitate a high-quality assessment of this scheme during the planned future five-year review in 2020. It noted the requirement for enhanced data in relation to the types of production, employee and trainee numbers and employment activities of trainees (e.g. hours worked and nature of employment).

## Conclusions and recommendations

- 18.68** The scheme for film relief was amended in 2015 making the relief directly available to production companies. In the period 2015 to 2018, 337 projects were granted relief totalling €273 million, reducing corporation tax receipts by an equivalent amount.
- 18.69** In circumstances where the relief claimed is higher than corporation tax previously paid, the excess is paid to the production company by Revenue. For a sample of projects reviewed €7.1 million was paid to production companies for nine audio-visual projects. Just under €1,500 of this amount was tax refunded from a prior period. The balance was paid to the production companies by Revenue as this relief is a payable tax credit.
- 18.70** Economic assessment of the relief conducted in 2012 and 2018 noted that the scheme resulted in a net welfare loss to society. However, the 2012 and 2018 assessments noted that they did not capture the cultural impact of the scheme. In addition, the 2018 assessment noted the requirement for better information, in particular in relation to employment and trainees, to enable a high quality assessment of the relief.
- 18.71** Each application for film relief specifies the total number of personnel the project is proposing to employ and using this data, the Department can calculate expected employment on a FTE basis. It does not seek confirmation that proposed employment occurred.

<sup>1</sup> *Economic Analysis of the Audiovisual Sector in the Republic of Ireland — A Report from Olsberg SPI with Nordicity.*

<sup>2</sup> *Report on tax expenditures - incorporating outcomes of certain tax expenditure and tax related reviews completed since October 2017, Department of Finance, 2018.* The report noted that this exercise was restricted to a cost-benefit analysis with a full review of the scheme to be conducted in 2020.

**Recommendation 18.1**

In order to facilitate effective assessment of the scheme for film relief, the Department should ensure that adequate arrangements are in place to collect relevant data in relation to employment arising on foot of the granting of film relief.

**Accounting officer's response**

Agreed.

Based on the requirement emerging from the 2018 assessment, the Department plans to further enhance the arrangements around training and skills development. This will include an increase in the proportion of projects which must formally engage with Screen Skills Ireland in the preparation of their skills development plan and developing a database of skills development provided. In addition, it is planned that the training requirement for receipt of section 481 be tailored to facilitate a pro-active approach to skills development. Skill-sets for which demand is high or increasing would be identified and production companies guided to developing those particular skills to fulfil their training requirements.

In addition, the Department is examining ways of improving data collection particularly data on direct employment in the industry.

- 18.72** The Minister for Culture, Heritage and the Gaeltacht has responsibility for the certification of projects as qualifying for film relief. Projects are assessed on the basis of
- their contribution to the promotion, development and enhancement of the national culture including, where applicable, the Irish language and
  - to the provision of quality employment, training and skills development opportunities.

- 18.73** The Department has selected eight criteria to assess a project's contribution to the promotion, development and enhancement of national culture. While seven of the eight criteria are amenable to quantification and/or testing, one criterion

*The project is an effective stimulus to film making in Ireland  
and of importance to the promotion, development and  
enhancement of creativity and national culture*

is very broadly stated. Almost all of the projects reviewed as part of this examination were deemed to have passed the cultural test on this criterion.

**Recommendation 18.2**

The Department should develop guidance in relation to how proposed section 481 projects should be assessed under this criterion. The basis upon which each criterion is assessed as having been fulfilled should be clearly recorded by the Department in its assessment documents.

**Accounting officer's response**

Agreed.

However, it should be noted that a project cannot be approved by passing this criterion alone. In order to pass the culture test, the European Commission has agreed that a project must meet at least three of eight culture test criteria. These eight criteria are agreed with the European Commission. If a project meets the criterion stated in Recommendation 2, it cannot pass the culture test unless it meets at least two more of the eight criteria. However, the Department will examine the scope for expanding and explaining this particular criterion further.

**18.74** Projects can also qualify for film relief on the basis of the provision of quality employment, training and skills development opportunities. Minimum requirements in relation to training opportunities have been specified and in applying for relief, production companies must specify proposed employment numbers. However, the Department has not developed criteria to assess these proposals. For example, there is no definition of what constitutes 'quality employment' and no target or minimum (quality) employment level required per €1 million relief granted.

**Recommendation 18.3**

For the purposes of the quality employment test, the Department should establish criteria to assess the employment aspects of proposals for film relief.

**Accounting officer's response**

Agreed.

The Department will consider the development of criteria to assess the employment aspects of proposals for film relief.