



Comparative study of tax incentive systems and the location of television and film production

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This study has been jointly produced by Hamac Conseils and Mazars for the Centre National du Cinéma et de l'Image Animée.

Hamac Conseils
53, rue du Mont Cenis
75018 Paris
Alexia de Beauvoir, Antoine Morand



Mazars SAS
61, rue Henri Regnault
92075 Paris-la-Défense Cedex
Jean-Marc Bensaid, Guillaume Kordonian, Marc Schwartz



Centre National du Cinéma et de l'Image Animée
Research & Statistics Department
12, rue de Lübeck 75784 Paris cedex 16
Tél : 01.44.34.38.26
Fax : 01.44.34.34.55
www.cnc.fr
Fanny Beuré, Benoît Danard, Caroline Jeanneau

Objectives and methodology

The Centre National du Cinéma et de l'Image Animée has carried out a comparative study of the performance of tax incentive systems within the film and television production sectors in Europe and Canada. This study analyses in detail the workings of these systems in Belgium, Canada, Luxembourg, Germany, Ireland, Hungary and the United Kingdom. These measures have been studied by comparison with the French system. The work has been carried out by two institutions. Hamac Conseils has undertaken the sections on Belgium, Luxembourg and Canada. The comparative analysis of the measures in Ireland, Britain, Germany and Hungary has been led by the Mazars office.

This study analyses with precision the range of fiscal measures, both direct and indirect, that exist in each country, which promote international joint productions and/or local film shoots or the provision of services. This study evaluates the attractiveness of these tax devices for French cinema production and makes an assessment of the effects of these measures in terms of the location of spending, industry dynamics and the impact on employment. It provides existing evidence on the economic and tax effects of these measures and highlights the changes that have taken place since these measures were implemented.

For each measure, the study presents its objectives, the terms of application, the classification of beneficiaries, the conditions regarding the geographic location of the business, the type and range of eligible expenses, the conditions concerning the location of expenses, the compatibility with other national and foreign public aid (including from France), the rate of the tax benefit (gross and net) and the existence or not of an upper limit/cap and its criteria.

This study is based on acquired information from the countries concerned. Some French professionals have been consulted and foreign organisations in the film and television sector have been contacted. This study also draws upon the information at the disposal of the CNC.

Summary

The Centre National du Cinéma et de l'Image Animée has carried out a comparative study on the operations of tax incentive systems for the film and television production in Europe (Belgium, Luxembourg, Germany, Ireland, Hungary and the United Kingdom) and Canada. This study has been jointly produced by Hamac Conseils and Mazars.

Heterogeneous tax mechanisms

This study, carried out in seven different countries, shows that tax incentive systems which aim to localise film and television production are notably heterogeneous. Even if their objectives are similar, their *modi operandi* are varied. French tax credits (for national and international film and television production) allow production companies, under certain conditions, to reduce their tax liability by 20% on certain expenses. There are certain foreign measures which allow France to attract private funds in production and others which bring a tax benefit to the production company or its sub-contractors. Thus, the Belgian system (“tax shelter”) cannot strictly be called a tax credit, but a tax incentive for private investment in film and television production. The Irish measure is based on an indirect mechanism which requires complex financial organisation and also attracts private investors. In Luxembourg, the tax credits system in force has had the effect of creating a true market in the resale of CIAVs (Certificates in audiovisual investment). The Hungarian system allows tax reduction which can be reported during fiscal year according when necessary and Canada’s system is based on a tax credit which may be subject to a reimbursement by the tax service. In the United Kingdom, there are two measures in force: a tax deduction and a system of tax credits. In brief, the German measure is not as such a tax incentive mechanism but has many similarities with a support fund. However, its intention to localise film shoots, and its eligibility to foreign producers, make it comparable, in many aspects, to the tax credits offered by other countries.

The types of work and scope of eligible expenses are varied

The analysis of different foreign measures shows that the types of production affected and the nature of eligible expenses varies strongly. Hence certain measures, like those in force in Belgium, do not distinguish between television works and movies. The Hungarian measure was reviewed in 2008 to allow eligibility to a portion of expenses incurred outside the country. The Canadian measure, in its own way, has a particularity that only takes into account work force expenses (with exception of those concerning Quebecker tax credits for services).

Upper limits are often much higher than in France

The upper limits of the Belgian and Canadian measures make allowances for the costs of the film (50% of the cost in the Belgium measure, 15% and 32.5% for the Canadian federal and provincial measures respectively). These expenses can very quickly breach the 1 million euro limit set in France. In Luxembourg and Germany, the upper limits, in absolute terms, are also higher than the French cap and are set at 2.5 million euros and 4 million euros respectively. The German upper limit can even, in certain cases, reach 10 million euros. The cap in Ireland is at 80% of eligible Irish expenses, with a limit of 50 million euros. In the United Kingdom, the limit is at 80% of expenses occurred in the country, without an upper

limit in absolute terms. Finally, Hungary has not planned an upper limit for its measures, neither in absolute terms, nor as of percentage of expenditure.

French tax credits are less effective than the others

Compared to the seven measures studied, the French tax credit system is, as it stands, the least attractive in strictly financial terms. It has a rate of tax credit for eligible expenses amongst the lowest at 20%, in contrast with 29% to 39% of eligible expenses in Belgium and 25% to 65% in Canada. It is equally the most limited tax credit since it is virtually incompatible with other measures and requires that the film shooting, except for reasons justified by the script, and the post-production be carried in French territory. Nevertheless the Belgian “tax shelter”, given its very large scope for eligible expenses and the Canadian tax credits are theoretically compatible with the French measure. Furthermore, foreign systems are, broadly speaking, compatible with each other.

The French tax credit represents only around 8% (7.8% in 2010) of the cost of approved French. In Belgium, for finished projects since the policy was implemented in 2003, financing through “tax shelter” represents 18% of the budget of the feature films affected. In Canada, during the period 2009-2010, 22% of film production has been financed by federal and provincial tax credits, whilst 27% of television production has been financed by these credits. In 2010, a German measure enables 13% of the cost of participating films to be covered and in Ireland this is 12%.

A production environment that could be favourable

Factors such as geographic location, language, film shooting capacity (infrastructure, competence of the local workforce, technical providers), the cost of work and finance (interest rates) have an effect on the competitiveness of these measures. The effectiveness of each of these measures must be examined in the context of each country. The reduced cost of the Hungarian workforce, the low social costs in Luxembourg, the possibility of recreating American backdrops in Canada or the closeness to Belgium or Luxembourg are equally important factors which must be taken into account when organising a co-production.

The limits of outsourcing

There are intrinsic risks tied to the production of a co-produced work with a foreign country in terms of quality, as a result of breaking up the means of production in the case where places which are far apart. The majority of producers often recall their troubles in finding partners and service providers, which are reliable and sustainable on artistic issues as well as on technical levels. They underline the problem of inherent costs in organisation (administrative fees, operating equipment, eventual costs of subtitles and dubbing, the pay of the co-producer). Therefore it can be simpler and easier for a producer to carry out the project entirely in France which doesn't require the outsourcing of certain work for artistic reasons.

Certain French producers explain that they have repeatedly collaborated with the European countries studied (in particular Belgium, Luxembourg and Ireland) as a result of losing the benefits of the French tax credit. Essentially, the French system of production aid allows one to keep a large part of the financial support, even when the tax credit is lost by outsourcing the shooting of the film.

Furthermore the collaborations allow access to other national or regional aids in the country of production, even European financial support, such as Eurimages, and therefore they can combine these sources of finance. It can often lead a ratchet effect. When the tax credit is lost in France, producers do not hesitate any longer to outsource the least structured expenses in order to eventually benefit from greater cost savings.

Table summarising the tax incentive for cinematographic and audiovisual production (France, Germany, Hungary, Ireland, United Kingdom)

	France (Movies)	France (Television)	France (International)	Germany	Hungary	Ireland	United Kingdom
Background information	<ul style="list-style-type: none"> • Tax Credit • Movies • Since 2004 	<ul style="list-style-type: none"> • Tax Credit • Television works • Since 2005 	<ul style="list-style-type: none"> • Tax credit • Film and television • Since 2007 	<ul style="list-style-type: none"> • Support funds • Movies • Since 2007 	<ul style="list-style-type: none"> • Tax Credit • Film and television • Will be abolished from June 2011 	<ul style="list-style-type: none"> • Indirect mechanism of tax credits • Film and television • Since 1987 (modified in 2008) 	<ul style="list-style-type: none"> • Tax credit or deduction • Movies • Since 2007 (sales and leaseback previously)
Statistics	<ul style="list-style-type: none"> • 58.3 M€ in 2010 • 137 productions 	<ul style="list-style-type: none"> • 48.7 M€ in 2010 • 310 productions 	<ul style="list-style-type: none"> • 7.3 M€ in 2010 • 17 productions 	<ul style="list-style-type: none"> • 59 M€ in 2010 • 114 productions (80 were fiction) 	<ul style="list-style-type: none"> • 27.3 M€ in 2010 • N/A 	<ul style="list-style-type: none"> • 27.3 M€ in 2009 • 257 productions 	<ul style="list-style-type: none"> • More than 111 M€ in 2008/2009 • 170 films in 2008/2009
Beneficiaries	<ul style="list-style-type: none"> • Businesses subject to business tax when they are in charge of production (2 companies max for the film tax credit) • In cases of coproduction, the two producers in charge can benefit from tax credits for the expenses of both parties. • Eligible businesses are able to use the CDI for all permanent staff none directly linked to the production of the given work. 		<ul style="list-style-type: none"> • Companies which have executive production in France and which are subject to business tax 	<ul style="list-style-type: none"> • German chief producers who produce a film in less than 5 years • Executive producers under certain conditions (20% of expenses in Germany) 	<ul style="list-style-type: none"> • Corporate entities who are subject to business tax in Hungary • Paid in cash (more than 20% of expenses in Hungary) • No debt with administrative bodies 	<ul style="list-style-type: none"> • Chief and executive producers • Irish companies or international companies which have a subsidiary in Ireland • Specific businesses created for each project 	<ul style="list-style-type: none"> • Chief producers subject to tax in the United Kingdom
In practice	<ul style="list-style-type: none"> • The original version must be produced entirely or mostly in French or a regional language in France • Carried out, by and large, on French territory • Contribute to the development of French or European cinema as well its diversity. 	<p>Extra conditions for television works :</p> <ul style="list-style-type: none"> • Minimum duration of 24 minutes excluding TV dramas which must last 45 minutes • Minimum cost of production applies (excluding general fees and unforeseen costs) • For TV dramas: 5000€ / min • For children dramas and animations: 3000€ / min • For Documentaries: 2333€ / min • Amount of eligible expenses for the tax credit >= 2333€ / min (exclusively for the documentaries) 	<ul style="list-style-type: none"> • Production initiated by a foreign company • Fiction or animation (film or television) • A production that is not accepted for cinema or audiovisual financial support • Amount of eligible expenses for the tax credit must be >= 1M€ • Promotion of French culture, heritage or French countries (measured against different criteria for each genre) 	<ul style="list-style-type: none"> • Cost of feature film > 1 M€ (fiction), > 2M (animation) > 200k (documentary) • Experienced and active distributor • German version or subtitles • Cultural test 	<ul style="list-style-type: none"> • Except throwaway programmes • Soaps excluded • Cultural test 	<ul style="list-style-type: none"> • Except throwaway programmes • Excludes internal productions of TV stations • Cultural test 	<ul style="list-style-type: none"> • Cultural test or productions that are part of a British coproduction agreement • Works destined for cinemas in UK • Expenses in UK > 25% of the estimated total.

	France (Movies)	France (Television)	France (International)	Germany	Hungary	Ireland	United Kingdom
Eligible expenses	<ul style="list-style-type: none"> • Pay and social charges (authors, lead roles with upper limits, technicians) • Postproduction, film, laboratories • Expenses directly related to filming (use of studios for shooting, set design, special effects, costumes, hair and make-up, required technical materials for filming) 		<ul style="list-style-type: none"> • Salaries, pay and social charges relating to the authors, French and European artists, interpreters and European/French staff. • Use of technical industries, transport and restaurants. 	<ul style="list-style-type: none"> • Expenses in Germany • See eligibility criteria on page 85-86 	<ul style="list-style-type: none"> • Expenses in Hungary • 25% of foreign expenses by a Hungarian producer • See eligibility criteria on page 87 	<ul style="list-style-type: none"> • Expenses in Ireland, • Including trips from/to Ireland 	<ul style="list-style-type: none"> • Expenses incurred in UK by the British producer and foreign co-producers. • Foreign expenses up to a "reasonable limit" (See eligibility criteria p. 105)
Tax benefits	<ul style="list-style-type: none"> • 16% (20% x 80% of the total cost of production or eligible expenses if less) 			<ul style="list-style-type: none"> • 20 % (theoretically in-between 16% and 20%) 	<ul style="list-style-type: none"> • 20% 	<ul style="list-style-type: none"> • Between 24% and 28% 	<ul style="list-style-type: none"> • Tax credit: 16% (20% x 80%) if budget is > £20 M, 20% if the budget is < £20 M • Tax reduction (see p. 106)
Upper Limit	<ul style="list-style-type: none"> • 1 M€ • Public aid (tax credits + other subsidies) =< 50% of the total production cost 	<ul style="list-style-type: none"> • Maximum tax credit for TV dramas and documentaries is 1150€/min • Maximum tax credit per animated production is 1200€/min 	<ul style="list-style-type: none"> • 4 M€ 	<ul style="list-style-type: none"> • 4 M€ (10 M€ under certain conditions) • 80% of expenses in Germany 		<ul style="list-style-type: none"> • 80% of expenses in Ireland Limited to 50 M€ 	<ul style="list-style-type: none"> • 80% of expenses incurred in UK
Payment	<ul style="list-style-type: none"> • The tax credit is calculated with the business tax and any excess is returned to the business • Possibility to discount debt with financial agencies. 			<ul style="list-style-type: none"> • On completion of the firm, possible exemptions (33% of the film shoot, 33% of the organisation, 33% of accounting) 	<ul style="list-style-type: none"> • On completion and after payment of all bills • Possibility to carry forward the tax credit 3 years. 	<ul style="list-style-type: none"> • After the first day of filming for the producer 	<ul style="list-style-type: none"> • Payment schedule request by the producer when each account is completed (after filming)
Other compatible benefits	<ul style="list-style-type: none"> • Public grants (invested by the chief producer, new technology assistance, aid agreed with local bodies etc.) are deducted from the range of expenses. • Deductible subsidies = subsidies received x (amount of eligible of expenses/total cost of production) 		<ul style="list-style-type: none"> • None 	<ul style="list-style-type: none"> • Franco-German treaty • Local aid from Medienboard • Eurimages 	<ul style="list-style-type: none"> • National support from MMK • Eurimages (infrastructure tax credit) 	<ul style="list-style-type: none"> • Irish Film board • Eurimages 	<ul style="list-style-type: none"> • Lottery support fund • Eurimages
Advantages / Disadvantages for French Producers				<ul style="list-style-type: none"> • Conditions of access which exclude first producer films 	<ul style="list-style-type: none"> • Eligibility of expenses incurred in the calculation of tax benefit 	<ul style="list-style-type: none"> • Tax benefit available from the first day of filming • Complex system of relief and intermediation 	<ul style="list-style-type: none"> • Recognised industry and personnel • Two mechanisms to choose from

Table summarising the tax incentive for cinematographic and audiovisual production (Belgium, Canada, Luxembourg)

	Belgium (French speaking)	Canada				Luxembourg
		Federal		Québec		
		Production	Services	Production	Services	
Background information	<ul style="list-style-type: none"> • Tax incentive for private investment ("tax shelter") • Film and television • Since 2004 • Selectivity based on a principle of return on investment 	<ul style="list-style-type: none"> • Tax credit • Film and television • Since 1995 (reformed in 2003) 	<ul style="list-style-type: none"> • Tax credit • Film and television • Since 1997 (reformed in 2003) 	<ul style="list-style-type: none"> • Tax credit • Film and television • Reformed in 2008 	<ul style="list-style-type: none"> • Tax credit • Film and television • Reformed in 2010 	<ul style="list-style-type: none"> • Tax credit, under the form of assignable certificates by a Luxembourgish producer, at a Luxembourgish designated beneficiary business before receiving a definitive grant • Film and television • Since 1989 (reformed in 2007 and extended until 2015) • Selective since the annual budget is fixed (around 15 M€ per annum)
Beneficiaries	<ul style="list-style-type: none"> • Production companies based in Belgium and taxable in Belgium (including subsidiaries of foreign businesses) • TV producers and subsidiaries of TV producers exempt 	<ul style="list-style-type: none"> • Production companies, controlled by Canadian citizens or permanent residents and which are taxable and established in Canada. 	<ul style="list-style-type: none"> • Productions companies or production executives, Canadian or foreign and established in Canada 	<ul style="list-style-type: none"> • Production countries, owned by Quebecker residents, who are taxable and established in Quebec. • TV production / broadcasting companies and subsidiaries are excluded • 75% of expenses are covered by the Quebecker production company. The company must be deemed as a Quebecker resident or as an established business in Quebec 	<ul style="list-style-type: none"> • Production or executive production companies which are taxed and established in Quebec. • Television broadcasters / producers are exempt 	<ul style="list-style-type: none"> • Production companies based and taxed in Luxembourg and agreed by FONSPA
In practice	<ul style="list-style-type: none"> • Full length (fiction, animation, documentaries) > 52 min, audiovisual series (fiction, animation), audiovisual documentaries, short films. • Productions which benefit from the Franco-Belgian coproduction agreement (16/05/2004) 	<ul style="list-style-type: none"> • Audiovisual and cinema works • Canadian distributor or broadcaster needs to confirm that the work will be shown in Canada by a Canadian entity (except video) in 2 years following completion • Works benefiting from the Franco- Canadian co-production agreement (30/05/1983) 	<ul style="list-style-type: none"> • <i>Audiovisual productions, solely cinema productions and series > 1 million CAN\$ or 100k CAN\$ per episode < 30 minutes or >200 KCAN\$ per episode > 30 minutes</i> 	<ul style="list-style-type: none"> • Audiovisual and cinema productions (including reviews and variety shows, subject to certain conditions) • Involving a Canadian broadcaster or distributor to distribute the work in Quebec • In the case of a non-French original production, a version must be dubbed in French. • Productions benefiting from the co-production agreement between Canada and France (30/05/1983) 	<ul style="list-style-type: none"> • Audiovisual works or solely cinema productions or series > 1 million CAN\$ or 100k per episode < 30 minutes or >200k per episode > 30 minutes 	<ul style="list-style-type: none"> • Audiovisual productions or cinema productions (features length fiction films, documentaries or animation) • A minimum of 50 points on the CIAV scale (210 points in total) for fiction , a minimum of 10 points for the technical team and 2 head operators for all works. • In the case of a co-production, 50% of agreed finance from the foreign producer. • Productions eligible to benefit from the agreement between France and Luxembourg (18/05/2001)

	Belgium (French speaking)	Canada				Luxembourg
		Federal		Québec		
		Production	Services	Production	Services	
Eligible expenses	<ul style="list-style-type: none"> Expenses incurred by a corporate body or person, which are either subject to business tax, to non-residence tax, or to personal income tax in Belgium (interest on the loan, fees and intermediary commission are covered) Calculated from the moment the investment contract is signed Eligible expenses must represent at least 150% of the amount invested in "equity". 	<ul style="list-style-type: none"> Workforce payments paid to Canadian residents exclusively (and includes the part corresponding to the workforce for outsourced services) which is deducted from any non-reimbursable aid (or aid which is reimbursable and depends on a future event) given to the Canadian company (including provincial tax credits) Limited to 60% of the total cost of the work, net of all forms of aid given to the Canadian company 	<ul style="list-style-type: none"> Workforce expenses of Canadian residents exclusively (and includes the part corresponding to the workforce for outsourced services) All assistance given to the Canadian company (including provincial tax credits) are deducted from base of eligible expenses. 	<ul style="list-style-type: none"> Workforce expenses paid to Quebecer residents exclusively (including the part corresponding to the workforce in the case of benefits paid to companies established in Quebec) Upper limit of 50% of the total cost of the work, net of certain assistance (see page 58) 	<ul style="list-style-type: none"> Workforce expenses for services provided in Quebec (including the part corresponding to the workforce in case of benefits) + cost of corporate services (logistics) acquired or rented in Quebec in conjunction with a Quebecer resident / company All aid given is deducted from the base of eligible expenses 	<ul style="list-style-type: none"> Total cost of the project (including foreign expenses) as set out in the production approval
Tax benefits	<ul style="list-style-type: none"> 29% to 39% of Belgian eligible expenses (one time deduction from the range of expenses) 	<ul style="list-style-type: none"> 25% of eligible expenses 	<ul style="list-style-type: none"> 16% of eligible expenses 	<ul style="list-style-type: none"> 35% to 65% of eligible expenses depending on the type of work 	<ul style="list-style-type: none"> 25% to 45% of eligible expenses depending on the type of production 	<ul style="list-style-type: none"> 15% to 29% of the total cost of production depending on the number of points on the CIAV scale and the resale cost of the certificate (between 1 and 5 points)
Upper Limit	<ul style="list-style-type: none"> 50% of the total provisional budget finance 	<ul style="list-style-type: none"> 15% of the total cost of production, net of other forms of aid given to the Canadian company 		<ul style="list-style-type: none"> 32.5% of the total cost of production net of certain aid (see page 59) 		<ul style="list-style-type: none"> 2.5 M€ per project In practice, Luxembourgish expenses must be higher than the total CIAV amount
Payment	<ul style="list-style-type: none"> In 18 months from signing the Investment agreement 	<ul style="list-style-type: none"> During the course of the fiscal year, following the request for final approval of the production which can be up to two years after the production 		<ul style="list-style-type: none"> During the course of the fiscal year following the request for final approval of the production, which can be up to two years after the production 		<ul style="list-style-type: none"> At the latest, by the end of the fiscal year for the CIAV relief which takes place in the 2 months from the delivery of the approval document
Other compatible benefits	<ul style="list-style-type: none"> CCA from the French Community in Belgium Wallimage / Bruxellimage Eurimages 	<ul style="list-style-type: none"> Mini treaty Franco-Canadian (feature length film and animation, audiovisual production for animations) Téléfilm Canada (Canadian full length film fund, Canadian Media fund) National office for film in Canada Sodec (Quebec) 				<ul style="list-style-type: none"> FONSPA Eurimages