

A recent reform that makes foreign investment in film productions in Spain even more attractive

We analyze the recent tax reform introduced by Royal Decree 34/2020.

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The health crisis caused by the COVID-19 has completely changed the world economic scenario. The measures of physical distancing and limitations to mobility are having an enormous impact on productive activity, with a very significant reduction in the income received by companies. One of the most affected sectors has been the audiovisual sector. All the cultural and performing spaces were absolutely paralyzed for a while and the filming has stopped for some months.

However, producers who are in charge of executing a foreign productions registered in the Film and Audiovisual Arts Institute (ICAA) can benefit from very profitable tax credits in the corporate income tax or request the refund.

In this context, the Government has recently published a Royal Decree 34/2020 which introduces some changes and amends the modifications already entered by the Royal Decree 17/2020 of 5 May. Thus making the tax treatment of foreign investments in Spanish audiovisual productions more beneficial. All these measures would apply for investments made in tax periods starting on or after January 1st, 2020.

As stated in [previous Newsalerts](#), this first Royal Decree 17/2020 introduced some novelties, such as:

- Tax credits for investments in foreign films were increased to 30% on the first million and 25% on the excess (previously 20% applicable to the whole credit base).
- The maximum amount of the tax rebate is raised to €10 millions (previously €3 millions).
- The limit of the tax credit base was maintained at 50%.
- Although the tax rebate is applied provided that the expenditure is at least € 1 million, as a novelty, for pre-production and post-production expenditure on animation and visual effects made in Spain, the minimum expenditure was reduced to 200,000 euros.

Communication of the European Commission about the minimis aid (European Union Regulation 1407/2013 of 18 December 2013) and determines that the production phase in **animation productions** is also eligible for the application of the tax rebate (and not only pre-production and post-production).



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In conclusion, taking into account both regulations, from January 1st, 2020, foreign productions entitle a tax credit of 30% (54% in the Canary Islands) on the first €1 million of the tax credit base and a 25% (45% in the Canary Islands) tax credit for any excess over €1 million.

The tax credit will apply provided that the expenditure incurred on Spanish territory is at least €1 million. However, for animated productions works carry out in the Spanish territory (not only pre- and post-production), such expenditure shall be at least € 200,000.

This tax credit may not exceed €10 million (€18 million in the Canary Islands¹). In general terms, the amount of this tax credit, together with the other aid received, may not exceed 50% of the production costs.

Eligible expenses would include expenses of creative staff, provided that they have tax residence in Spain or in a

member state of the European Economic Area, with a limit of 100,000 euros per person and expenditure arising from the use of technical industries and other suppliers.

In the event that the expenditure incurred in Spain is less than 1 million euros, but the producer is responsible for the execution of audiovisual effects services, foreign productions would entitle a 30% tax credit (54% in the Canary Islands). As commented, this tax rebate is now limited to the EU Regulation about the minimis aids, in order to avoid that it is considered as an State aid due to it would be applicable to an specific part of the value chain.

Anyway, the EU general limits would also apply for all the aforementioned cases. Therefore, the tax credit may not exceed 80% of the total cost of production and the minimum cost of production must be €2 million.

¹. Pending legislative amendment.