

Tax incentives for cultural promotion in the Basque region



November 2022

Let's talk

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Bizkaia approves new tax incentives for cinema, with tax credits amounting up to 70%

The Regional Government of **Bizkaia** has approved last Wednesday, 23rd November, the new Bizkaia Regulation that includes a **more competitive tax treatment for audio-visual productions**, including foreign productions and new digital formats, and also creates new tax credits for **live performing arts and music shows**.

This Bizkaia Regulation **will come into force on 1st January 2023** and intensifies the regulations established for tax credits regarding audio-visual productions. Indeed, a tax credit of up to 70% of the expenses incurred is established, which can also be applied in relation to foreign productions and new digital formats. In addition, a new tax credit is also included, amounting **up to 40% in relation to the production of live performing arts and musical shows**. On the other hand, the new regulations promote **alternative financing of cultural productions by enabling the transfers of tax credits between the producer and the taxpayers who contribute to their financing**, following the model of the mechanism of article 64 bis from CIT Regulations for R&D&I projects.

These new tax incentives are regulated in two new articles that are incorporated

into Bizkaia CIT Regulation: article 66 quarter and article 66 quinquies.

The incentives are established in the first of said articles, establishing only two types:

- An incentive regarding investment and expenses on audio-visual productions, and
- another incentive regarding live performing arts and music shows.

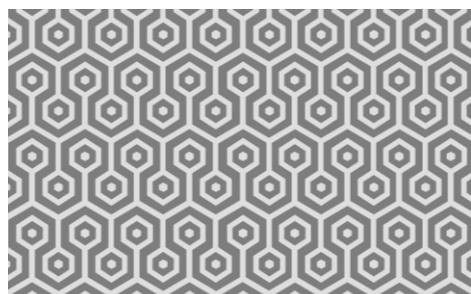
Investment and expenses on audio-visual productions

The tax regulations regarding this incentive is where the main differences arise in comparison to incentives established in other tax jurisdictions, as the tax credit regulations in Bizkaia **do not distinguish between Spanish and foreign productions**; on the contrary, the same incentive is foreseen for all types of productions.

Therefore, the Bizkaia CIT Regulations now defines the object of the tax credit in a broader way, including "investments and expenses in the production of feature films and short films and other audio-visual productions, as well as fiction, animation or documentary audio-visual series that allow the creation of a physical support prior to their serialized industrial production".



These are the only tax incentives in Spain that have been granted authorization by the European Commission”.



Summary

Film incentives in Bizkaia have the highest intensity of all the tax jurisdictions in Spain, reaching up to 70%.

The tax credit percentages for the production of audio-visual works are between 35% and 60% (70% in the case of works in Basque), and it is not necessary to have expenses or investments in Bizkaia in order to be able to apply the 35% tax credit.

Private investors will be able to participate in the financing of audio-visual works, in exchange for tax credits and with a 20% return, by means of a simple instrument similar to the one already existing in R&D&I tax credits.

Another new aspect of the tax credit in relation to the production of audio-visual works is the one regarding the determination of the **basis for the calculation of the tax credit**. Indeed, although the tax basis will continue to be based on the cost of production and two other types of expenses, such as expenses for obtaining copies and advertising and promotion expenses payable by the promoter, the latter two expenses are not limited to 40% (this was the case until now in Bizkaia and is also the case in other tax jurisdictions); on the contrary, these expenses will be fully taken into account.

The tax credit percentages established for the production of audio-visual works are as follow:

- Tax credit of **60%** if the expenses incurred in Bizkaia exceed 50%.
- Tax credit of **50%** if the expenses incurred in Bizkaia represent between 35% and 50%.
- Tax credit of **40%** if the expenses incurred in Bizkaia represent between 20% and 35%.
- Tax credit of **35%** in all other cases.
- In any of the above cases, **the tax credit is increased by 10% if the films are shot in Basque language**.

Therefore, it is important to note that, unlike in other tax jurisdictions, **Bizkaia's tax credit does not establish a territoriality requirement**, being possible to apply a tax credit up to 35% even if no expenses are incurred in Bizkaia.

In conclusion, the fact of performing investments and expenses in Bizkaia is only used to determine the intensity of the tax credit, but it is not a requirement that prevents the taxpayer from being able to generate said tax credits at a lower percentage.

Live performing arts and musical shows

In relation to the tax credit regarding live performing arts and musical shows, which is also new in Bizkaia, it is established that the expenses incurred in the production and exhibition of these type of performances will entitle the taxpayer to **a tax credit in the liquid tax quota of 30%, or 40% when the performance is in Basque**. In this case, the tax credit generated in each fiscal year may not exceed the amount of €1,000,000 per taxpayer.

Participation in financing

The second article mentioned above that has been incorporated into the text of the Bizkaia CIT Regulation is article 66 quinquies, which regulates the participation in the financing of audio-visual works and live performing arts and musical shows.

By means of this article, the mechanism that already existed in the Bizkaia CIT Regulation **to encourage the financing of new projects through the transfer of tax credits generated by investments in R&D&I is extended to the field of cinema**.

The aim of this measure is to improve the participation of private investors in the production of audio-visual works and live performing arts and musical shows, through the signing of a financing contract between the producer and the financier. This way, these investors do not have to turn to the complexity of the EIG (Economic Interest Grouping) structures used until now, although the latter instrument is not excluded as a financing mechanism.

In these cases, **the return for the private investor (taxpayer who contributes to the financing) is limited to 20%** and is structured through the transfer to the funder of the tax credits generated by the producer of the audio-visual work or live performance.