

## VIDEO GAMES TAX RELIEF



The Video Games Tax Relief (VGTR) scheme is an incentive designed to promote British culture to the world. As such there are generous tax breaks available to companies designing, creating and performing works that satisfy this objective.

Similar benefits include Film Tax Relief, Animation Tax Relief, High-end Television Tax Relief, Children's Television Tax Relief, Theatre Tax Relief, Orchestra Tax Relief and Museum and Galleries Exhibition Tax Relief.

To qualify for VGTR, a company has to develop a game that is certified as British by the British Film Institute, is intended for supply, and has incurred at least 25% of its total expenditure in the European Economic Area (EEA).

### Tax Implications

#### Corporation Tax

- The scheme works by giving additional corporation tax relief.
- The current rate of extra relief on qualifying expenditure is 80% of the amount of core expenditure incurred in the EEA. Core expenditure covers design, production and testing of video games, with expenditure on staff and external subcontractors constituting the vast majority of most claims.
- If a company spends say £100,000 on qualifying R&D, an additional deduction of £80,000 is given against taxable profits. This means that a claim that identifies £100,000 benefits a company by reducing its tax bill by £15,200 (at a corporation tax rate of 19%).

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- When a company is in a loss making position, the VGTR tax credit, allows a company to surrender some or all of the loss to HMRC, in return for a 25% payable cash credit. In the above scenario the company would surrender up to £80,000 of losses in return for a £20,000 payable cash credit (i.e. 25%).

## Practical Steps

- Apply to the British Film Institute (BFI) to certify the game as British. If the certification is being applied for during the game's construction then an interim certificate needs to be applied for in the first instance.
- Identify and maximise the qualifying core expenditure.
- Prepare the necessary paperwork in an HM Revenue & Customs (HMRC) friendly format.
- Submit and liaise with the relevant VGTR unit at HMRC to secure acceptance of the claim.

Despite the generosity of this scheme, certain elements of making a claim can become very complicated. We have several years of experience in assisting clients with this underclaimed relief, including jointly claiming R&D relief to maximise the incentives valuable to UK video game developers.

## FAQS

### **Can individuals claim VGTR as well as companies?**

VGTR is only available to entities subject to corporation tax.

### **Who is eligible to claim VGTR?**

Only one company can claim VGTR per game. This is usually deemed to be the company that is the most directly engaged.

### **Does the game have to be designed for a games console or PC?**

For VGTR purposes a video game is defined as an electronic game that is played through a video device. This definition extends to the use of mobile phones, tablets and other handheld portable machines.

### **Are there any types of games which are not eligible for relief?**

The main types of games that will not qualify for relief are those purely or mainly developed for advertising and/or marketing purposes and those that have been developed for the purpose of gambling.

### **What happens if the game is abandoned or not eventually released?**

The legislation states that the game has to be developed with the intention of being supplied to the general public on completion from the outset if it is to qualify for VGTR. If this intention changes for some reason the game can still qualify for relief as long as the intention was still genuine at the stage of the game commencing production.

## **How do I go about certifying a game as British?**

A game can be certified as British by making an application through the British Film Institute (BFI) which is certified by the Secretary of State for the Department of Culture, Media & Sport (DCMS). If the certification is being applied for during the game's construction then an interim certificate needs to be applied for in the first instance. The intention of the application is to demonstrate to the DCMS that the film satisfies a number of tests which enhance and promote British culture within the four broad sections of cultural content, cultural contribution, cultural hubs and cultural practitioners. The game will be scored on these areas with 16 points out of 31 required to pass the test.

As well as being certified as British the application also needs to allude to the fact that core expenditure on the game in the EEA is likely to exceed 25% of total expenditure, and that the game is intended to be supplied to the general public.

If the above criteria are satisfied then an Interim Certificate will be granted.

## **At what stage am I able to make a claim for VGTR?**

No claim for VGTR can be made until an interim certificate has been issued; once this has been issued a claim can be made at the design stage (i.e. when core expenditure starts being incurred), provided this is within the time limits allowed for making a claim (one year from the filing date of the relevant accounting period).

## **Once I have an interim certificate certifying the game as British can I claim VGTR indefinitely?**

VGTR can be claimed from the start to the end of a game's development period. This usually ends once the game is released to the general public. The three main stages of a video game's core development are design, production and testing prior to release. Post release maintenance and bug fixing are not qualifying activities for VGTR purposes.

As well as this the VGDC has to apply for a final certificate within six months of the game being released to avoid HMRC voiding the relief claimed on the game.

## **What is the deadline for making a claim?**

As with most corporation tax reliefs, the deadline for claiming VGTR is the one year anniversary of the filing date for the company. In layman's terms this is generally two years from the year end date of the period in question. Given that most accounting periods are 12 months long this means that expenditure incurred up to three years previously should be considered when looking to make a claim.

## **What is EEA core expenditure?**

There are two elements to this definition – the EEA (European Economic Area) broadly covers the European Union, Iceland, Liechtenstein, Norway and (of course) the United Kingdom. Any expenditure originating in any of these countries/unions satisfies the EEA part of the definition.

The core part of the expenditure defines expenditure for which VGTR is available as an additional enhancement. This generally relates to staff salaries spent on specific activities (design, production and testing) but also subcontracted staff (up to £1m per game), celebrity and image rights and a fair apportionment of the majority of overheads allocated by the company to the game. Of this element at least 25% must be incurred in the EEA for the game to be eligible for VGTR.

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## **Can VGTR be claimed in conjunction with R&D tax relief?**

Both VGTR and R&D tax relief are recognised state aids, so only one of these can be claimed per game. It is possible for VGTR to be claimed on certain games and R&D tax relief to be claimed on other games or projects. However, there should be no overlap of claims on any expenditure or games/projects.

## **Does VGTR take precedence over R&D if both apply?**

If a company is entitled to claim RDEC then this must take precedence for a game or project irrespective of whether or not VGTR would apply. Where a company has a choice between VGTR and R&D tax relief under the SME scheme, a choice can be made here, but this must be continually applied for the life/duration of the game/project.

## **Do I need to separate out all of my games as individual trades for corporation tax purposes?**

Any game where VGTR is being claimed will need to be split out as a separate trade; however all other games can continue to be recognised as general trade. This can complicate the tax computation and return substantially - but don't worry – we are here to help!

## **Find out more**

For further information on these reliefs and qualifying criteria, please contact a member of our dedicated tax team, call us on **01753 888211** or email **[info@nhllp.com](mailto:info@nhllp.com)**.