

MALTA FILM PRODUCTIONS

Financial and Tax Considerations

AUDIOVISUAL PRODUCTIONS

In the last decade, the Malta Film Industry has experienced rapid growth that can mainly be attributed to the increasing number of film companies that have earmarked the island as a physical, financial, and fiscally advantageous hub for their activities. Evidently, Malta has taken its growing film industry in its stride.

1. AUDIOVISUAL PRODUCTIONS

1.1. CASH REBATES

The Maltese Government has recently upgraded the cash rebates for filmmakers, benefitting all members of the film industry. In order to benefit from cash rebates, productions must satisfy a cultural test. Fulfilling these cultural tests will grant filmmakers a rebate of up to 25% of eligible expenditure including an additional 2% upon featuring Malta's cultural heritage.

The rebate is granted upon completion of filming, receipt of audit report and final review by the Commissioner. Furthermore, the cash rebate is granted to the qualifying production within five months of receipt of expenditure in Malta and all companies producing or partly producing feature films, television productions, mini-series, animations or documentaries in Malta are eligible for this incentive, providing they are at least partly produced in Malta.

Eligible expenditure, amounting to a maximum of 80% of the production budget, that qualifies for a cash rebate must be incurred in Malta by the qualifying company on EU services directly related to the audiovisual production. Such expenditure includes local labour costs, diving services, location fees, daily subsistence allowances paid to foreign crew working in Malta, transport, rental of equipment or props, leasing of stages, hotel accommodation or real estate letting, communication costs, air travel, shipping expenses, catering expenses and other professional services. The Malta Film Commission may, at its discretion, approve additional expenses as eligible expenditure.

1.2. INVESTMENT AID TAX CREDITS

Qualifying companies are eligible to benefit from investment aid, in the form of tax credits and in respect to an initial investment project in relation to qualifying expenditure.

Investment aid is calculated either in reference to tangible and intangible investment costs resulting from the initial investment project or to the value of wage costs for jobs directly created by the initial investment project.

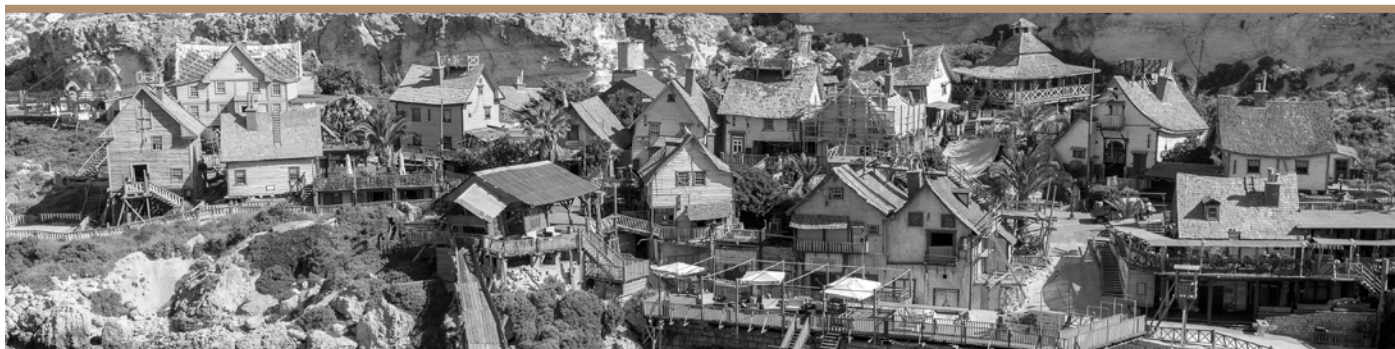
In the case of the latter, tax credits are computed as a percentage of the value of wages for 24 months, covering new jobs created as a result of an investment project, whilst in case of the former, the incentive relates to assets used exclusively in Malta which remain in the company for at least five years. This is reduced to three years in the case of Small and Medium Enterprises. The percentage capping of the tax credit depends on the size of the qualifying company.

1.3 AUDIOVISUAL INFRASTRUCTURE TAX CREDITS

Qualifying companies that contribute towards the development and improvement of Malta's audiovisual infrastructure are eligible for an audiovisual infrastructure tax credit.

Companies whose business consists of activities that form part of the film servicing industry are eligible for this tax credit if established or have a place of business in Malta.

Companies or individuals investing in audiovisual infrastructure in Malta can qualify for tax credits of up to 50% of their investment on the islands, whilst producers filming on location in Malta can obtain a cash grant of up to 27% of their eligible expenditure in the country.





CO-PRODUCTION INCENTIVES

Apart from enjoying a bilateral co-production treaty with Canada, Malta is a signatory to the European Convention on Cinematographic Co-production. By virtue of the Convention, Maltese production companies may qualify for co-production status thus becoming eligible for the benefits granted to national films in all the 35 states party to the Convention.

A co-production fund has also been established as an incentive to enhance collaboration between Malta and foreign companies to jointly produce audiovisual productions primarily intended for cinema release or broadcast and suitable for international distribution. The fund aims to boost the Maltese film industry, as qualifying projects must be predominantly filmed in Malta, incorporating Maltese talent.

Furthermore, supporting co-productions benefits Malta culturally and economically whilst strengthening existing partnerships between Maltese and international producers; allowing the Malta film industry to acquire and develop skills from international partners. Additionally, co-productions are treated as national productions in each respective partner country.

The Malta Co-Production Fund allows a maximum of €1 million per annum to be used as a financial contribution, awarded upon determining the limits of the available budgetary resources and the cost and nature of each proposal.

THE MALTA FILM FUND

The Malta Film Fund is allocated annually to the development and production of short Maltese features and documentaries. Individuals holding an EU passport or independent EU audiovisual production companies may be eligible for grants by the Malta Film Fund.

Qualifying projects receive funding after ranking by merit following an evaluation procedure.

VALUE ADDED TAX

Malta applies VAT legislation that is harmonised throughout the EU, at a standard rate of 18%. A reduced rate of 7% applies for hotel accommodation and a 0% rate is applicable to the supply of food and medicine.

VAT on expenses incurred in the production is fully refundable within five months from the last day allowed for the furnishing of the VAT return or from the day on which the said return is made. Furthermore, foreign film production companies filming in Malta may also claim VAT incurred on property rental or hotel accommodation; on fuel used for vehicles, (whether commercial or otherwise); on the cost of taxis and car hire; and on the cost of any materials used for the purpose of the film production, if incurred directly in connection with the production of a foreign film, TV series, commercial or documentary and which would not be otherwise recoverable.

TAX TREATMENT OF ROYALTIES

Artists and film production companies are using Malta to protect their images, identities or original creations. Such intellectual property (IP) may be either registered in their own name or through a legal entity, such as a company or trust.

Depending on whether the IP is owned personally or through a company, Malta provides for several tax incentives for income derived from the licensing of IP rights (royalties) in or through Malta.

Malta has introduced a tax exemption on royalties and similar income derived from copyrighted intellectual property. Furthermore, Malta has introduced incentives on income derived from other forms of intellectual property such as trademarks and trade names. In this case, royalty income derived by or that accrues to an individual or company not resident in Malta is not subject to Maltese tax in the hands of the individuals. This applies insofar as the beneficiary does not engage in any trade or business through a permanent establishment (PE) in Malta or when the royalties are effectively connected to such permanent establishment.

Where a Malta company receives royalties, a 35% tax is levied on the income in the hands of the company. In the case where the royalties are deemed of a passive nature, upon dividend distribution from a Maltese company, shareholders are entitled to claim a tax refund equivalent to 5/7ths of the Malta tax paid by the company. In cases where income is not deemed to constitute passive royalties, shareholders in receipt of dividends distributed from the company may be entitled to claim a refund of 6/7ths of the Malta tax paid on such royalties by the company.

MAIN AREAS OF SERVICE



RESIDENCY AND CITIZENSHIP

- Citizenship by Investment
- Residency by Investment



FINANCIAL SERVICES & FINTECH

- Electronic Money & Payment Institutions
- Funds
- Securitisation
- Crypto Funds
- Crypto Exchanges
- ICOS



CORPORATE & COMMERCIAL

- Mergers & Acquisitions
- Company Formation
- Due Diligence
- Liquidation
- Corporate Relocation
- Reorganisations



PROPERTY

- Property Advisory Services
- Legal Due Diligence
- Conveyancing
- Property Search



CAPITAL MARKETS

- Main Listings
- Alternative Listings
- Prospects



FAMILIES AND WEALTH

- Trusts & Foundations
- Estate Planning
- Succession
- Family Office Setup
- Family Business Governance



TAX

- Pre-Immigration tax
- Personal Tax Planning
- International Tax Planning
- Business Tax Planning



TECHNOLOGY

- eGaming Licences
- Digital Games
- Intellectual Property
- Telecoms



MARITIME & AVIATION

- Yacht & Ship Registration
- Aircraft Registration
- Tax Management



Dr Jean-Philippe Chetcuti
Dip. Tax, Dip.ITM, B.A., LL.M. (Warwick),
LL.D., TEP
**Global Managing Partner
& Founder**
jpc@ccmalta.com



Dr Maria Chetcuti Cauchi
B.A., LL.M.(Warwick), LL.D., TEP
**Co-founder and Senior
Partner, Global Property
Investment**
mcc@ccmalta.com



Dr Priscilla Mifsud Parker
B.A., M.A.(Fin.Serv.), LL.D., TEP
**Senior Partner,
Tax & Corporate**
pmp@ccmalta.com