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# **TAX GUIDE FOR THE CANARY ISLANDS AUDIOVISUAL SECTOR**

## INTRODUCTION

The Canary Islands have one of the most attractive tax regimes for film and audiovisual productions in Europe. Due to its Special Economic and Tax Regime (REF)<sup>1</sup> validated by Spanish and EU regulations, the Canary Islands offer a unique tax environment that allows audiovisual productions to enjoy a number of different tax breaks.

The aim of the REF is to favour establishment of businesses in the Canary Islands and attract audiovisual productions to the Islands. The Canary Islands accordingly offer in addition to a long list of other attractions (climate, natural conditions, diversity of landscapes, specialised infrastructure, qualified and experienced professionals, etc.) an optimal tax regime for audiovisual productions.

Exclusive tax breaks have been established for the audiovisual sector under Spain's Corporate Income Tax Law<sup>2</sup>, along with other instruments of a wider scope.

### Tax deductions for the audiovisual sector<sup>3</sup>:

1. **International productions** in the Canary Islands can apply for a deduction of 50% on the first million eligible expenditure and 45% on the rest of eligible expenses in the Canary Islands, subject to a limit of €18,000,000\*. This deduction is regulated by article 36.2 of the Spanish Corporate Income Tax Law. An application may also be made for monetisation of the non-deducted amount [TAX REBATE].
2. In the case of **Spanish productions and co-productions**, a deduction of 50% for the first €1 million invested in the production, and 45% for the rest of the production budget up to a maximum of €18,000,000\* per film. This deduction is regulated by article 36.1 of the Spanish Corporate Income Tax Law. It is offered in the form of a tax credit.
3. General instruments:
  - **Canary Islands Special Zone (ZEC):**<sup>4</sup> Advantages include a reduced corporate income tax rate of 4% with certain conditions.
  - **IGIC – Canary Islands General Indirect Tax:** Standard rate of 7%, with the possibility of 0% for certain categories of audiovisual production<sup>5</sup>.
  - **Reserve for Investments in the Canary Islands (RIC):**<sup>6</sup> this allows for **reduction** of the taxable income for the purposes of Corporate Income Tax of up to **90% of undistributed profit** in exchange for certain reinvestment commitments.
4. Other specific instruments applicable to certain fields of the audiovisual sector:
  - **Deduction for Research and Development; Deduction for Technological Innovation:** Up to **75% and 45%**, respectively, of the eligible expenditure effectively incurred in the Canary Islands.

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\*Pending publication via subsequent legislative amendments.

<sup>1</sup> Royal Decree-Law 15/2014 of 19 December amending the Canary Islands Economic and Tax Regime. Law 8/2018 of 5 November November amending Law 19/1994 of 6 July amending the Canary Islands Economic and Tax Regime.

<sup>2</sup> Law 27/2014 of 27 November on Corporate Income Tax. Law 3/2017 of 27 June on the 2017 General State Budget. 125th additional provision. Royal Decree-Law 26/2018 of 28 December approving urgent measures on artistic creation and the film industry.

<sup>3</sup> Articles 36.1 and 36.2 of Law 27/2014 of 27 November on Corporate Income Tax.

Generally speaking, the specific incentives (articles 36.1 and 36.2) are compatible with the general instruments (ZEC).

However, the ZEC and RIC are incompatible and other compatibility considerations apply to deductions.

This document should be understood as a preliminary guide providing an overview of the different tax breaks available. The Gran Canaria Film Commission, as part of its efforts to publicise information on audiovisual activities and its role as a facilitator and advisor regarding investments in this field, provides a personalised tax advice service for audiovisual projects in Gran Canaria.

## 1 50 - 45% TAX REBATE FOR INTERNATIONAL PRODUCTIONS

From 1st of January 2015, a new deduction for international productions (what it means, not qualified as Spanish films) is regulated by section 36.2 of the Corporation Tax Act. That said, international productions services could generate a maximum tax rebate of **€ 18,000,000\*** calculated as the 50% deduction on the first million eligible expenditure and 45% on the rest of eligible expenses in the Canary Islands, having to invest a **minimum of €1,000,000** in eligible costs. On the other hand, the minimum expenditure for **animation** and **postproduction service** works is **€ 200,000**.

### Who can benefit from this deduction?

Producers or companies providing production services with their tax address in the Canary Islands registered in the Institute of Cinematography and Audiovisual Arts (ICAA) and which have executed a foreign feature film or audiovisual production.

The international production must comply with the following **requirements**:

- Feature films: **animated, live action or documentary feature films** released in cinemas.
- Other audiovisual works: productions broadcast via other media (for example: **TV movies** and **animated, live action or documentary television series**).
- The feature film or audiovisual production cannot be considered to be Spanish.
- The foreign producer must contract the production services through a Spanish/Canary Islands company (subject to Corporate Income Tax) for execution of the production services in the Canary Islands.
- The productions that qualify for this deduction must have a minimum global budget of **€2 million**.
- The eligible expenditure cannot exceed 80% of the total production cost.
- The deduction considered together with other aid and grants for the same production cannot exceed 50% of the total production cost.

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\*Pending publication via subsequent legislative amendments.

<sup>4</sup> Law 19/1994 of 6 July, amending the Canary Islands Economic and Tax Regime as amended by Law 15/2014 of 19 December.

<sup>5</sup> ORDER of 23 May 2017 on IGIC for audiovisual productions.

<sup>6</sup> Decree 88/2019 of 22 May, amending Decree 18/2009 of 10 February creating the Canary Islands Register of Audiovisual Companies and Productions and regulating the procedure to obtain the Canary Islands Audiovisual Production Certificate for feature films, short films and live action, animated or documentary audiovisual series produced in the Canary Islands.

- The eligible expenditure incurred in the Canary Islands must total at least **€1,000,000**, except for **animation and post-production which must be at least €200,000**.

## Period for application of the deduction

The amount of the tax break (50% for the first €1 million of eligible expenditure and 45% for the remainder.) is deducted from the corporate income tax payable **in the tax period in which the production services are completed**. This will be the moment when the executive production ends in Spain.

Accordingly, subsequent acts of a merely administrative nature do not form part of the eligible expenditure nor do they result in a delay in the period for application of the deduction.

In the event that the tax payable is insufficient, an application may be made to the tax authorities for **monetisation of the remaining non-deducted amount**.

**In the case of animation, the deduction may be applied by way of partial deliveries in accordance with the work certificates issued.**<sup>7</sup>

## Period for application of the deduction

As a result of the deduction, the Canary Islands producer will firstly reduce its corporate income tax charge without any limit on its application, including its reduction to zero.

After reducing the tax charge to zero, if there is no other outstanding amount the producer may apply to the tax authorities for **monetisation of the remaining non-deducted amount**, with no maximum annual limit. This application is made via the self-assessment procedure.

## Eligible expenses

For the expenses to be considered under the deduction “**the services giving rise to such expenses must be effectively provided in the Canary Islands** and deliveries of goods must be carried out within the territory of the Canary Islands, regardless of the nationality of the person supplying the goods or services.”

The basis for calculation of the deduction will include the following production costs:

**A - Expenses relating to creative staff:** exclusively applicable to the director, the scriptwriter, the director of photography, the music composer, actors and other artistes taking part in the production, the head rigger, the art director, the sound director, the costume designer and the head of prosthetics, provided they have their tax address in Spain or in a European Economic Area member state.

**These expenses are capped at €100,000 per person.**

**B - Expenses deriving from the hiring of technical and other services.\***

**C - Eligible expenditure for post-production and animation.\*\***

\* Binding Query V1746-15 issued by the Spanish Directorate General for Taxation (DGT) on 2 June 2015 establishes that the basis for calculation of the deduction includes the following **expenses deriving from hiring of technical and other services:**

- Those related to the executive producer, producer and production assistant.

<sup>7</sup> See Binding Query V0065-17

- Those related to the film-making crew: director, assistant director, location scout, script supervisor, casting staff and extra or casting managers.
- Expenses of the set design crew that have not been included in the expenses of the creative staff. These expenses include the set designer, set decorators, florists, decorator's assistant, set dresser, property assistant, carpenters, etc. and the material needed to build the set (construction material, carpentry, paint, fabrics, etc.).
- Expenses of the wardrobe and make-up crews which cannot be included in the expenses of the creative staff. These include expenditure on dressmakers, hairdressers, make-up artists, etc. It also includes expenses relating to wardrobe, make-up, wigs, etc.
- Expenses of the special effects team, including the special effects technician, scale model makers, etc., as well as pyrotechnic material, smoke-producing materials, combustion accelerants, detonators, extinguishers, etc.
- Camera crew expenses (camera operators, assistants, etc.), lighting and sound.
- Expenses of the technical crew, including the crew (telecommunications technical engineer, electronic maintenance technician, image control technician) and related expenses (mobile telephones, internet, satellite lines, data lines for routers, etc.).
- Expenses relating to secondary cast which cannot be included in the creative staff, such as extras in general, special extras, stunt doubles, doubles and stand-ins.
- Expenses of additional staff: choreographers, armourers, military advisers, dialogue coaches, animal wranglers, drivers, cleaning staff, security staff, medical staff and ambulances, occupational risk supervisor on the set, labourers for unloading of trucks and movement of technical equipment or props.
- Maintenance and accommodation expenses for the crew, both during pre-production (for example, while scouting for exterior locations) or during production (while shooting).
- Maintenance and accommodation expenses for the crew working in places other than the set (such as the crew in charge of property, locations, production, drivers on the road, etc.) who cannot enjoy the catering on the set or stay at accommodation near the shooting zone.
- Travel expenses within Spain, due to the shooting taking place in different locations, including pre-production work for location scouting and/or journeys to select the cast.
- Expenses incurred for hire/purchase of furniture and machinery directly related with production such as pop-up gazebos, umbrellas, portable toilets, fences, chairs, tables, make-up mirrors, generators, cranes, etc.
- Rental of shooting premises and locations (castles, bullrings, factories, etc.), including fees and taxes paid to local councils for exterior locations. Rental of other premises directly involved in the production (premises or caravans for wardrobe or make-up, managerial meetings, security posts, storage huts etc.).
- Expenses for hire of animals, weapons and ambulances for the shoot.
- Civil liability insurance specifically covering the production.

## \*\* Eligible expenditure for Post-production and Digital Animation

The **eligible expenditure incurred in the Canary Islands** must total at least **€200,000** and may include:

- Directing, Production, Photography, Visual Effects, Pre-production, Script, Soundtrack, 2D/3D and Post-production departments.
- Hardware, software and laboratory/analysis costs.
- Insurance.
- Travelling expenses within Spain.

### **The following administrative expenses cannot be included in the basis for calculation of the deduction:**

- Expenses relating to air, sea and/or road transportation of shooting equipment, property and/or machinery to be used in the shoot from other countries into Spain, as these expenses are not incurred in Spanish territory.
- Expenses of labour and legal advisers.
- Expenses of administrative staff, including rental of premises (administrative office), staff expenses (head accountant, accountant, paymaster and assistant accountant), hiring of office machinery and furniture (photocopiers, printers, office furniture, etc.) purchase of stationery and courier expenses.
- The costs of the tax depreciation of expenses directly involved in executive production (proportionate to their allocation to the production) will not be included if they are not expenses incurred in Spanish territory but rather overseas investments which are subsequently allocated to the production.

## 2 50% - 45% TAX CREDIT FOR SPANISH PRODUCTIONS OR CO-PRODUCTIONS

Article 36.1 of the Corporate Income Tax Law regulates deductions applicable to Spanish productions or co-productions in the Canary Islands that obtain the Canary Islands Audiovisual Production Certificate<sup>8</sup>, for investments in Spanish productions of feature films and live action, animated or documentary series leading to a master copy prior to its industrial produced copy. Provided that the production is effectively carried out in the Canary Islands by local producers, the producer will be entitled to a deduction of 50% for the first €1 million invested in the production, and 45% for the rest of the amount invested, up to a limit of €18,000,000\* when the production is carried out in the Canary Islands, with the maximum deduction base therefore being €40,000,000:

- 50% for the first million euros invested
- 45% for the remaining amount

### **Deduction base and rate**

The DGT has confirmed in various queries that the deduction base must be equated with the **«production cost»**, i.e., the total amount deriving from the acquisition of goods and services necessary for production of the work which is considered for accounting purposes as production costs.

Accordingly, investments forming part of the deduction base include production costs, artists' rights, technical staff, dubbing, film processing, accommodation and maintenance expenses. It may also include expenses associated with

\*Pending publication via subsequent legislative amendments.

<sup>8</sup> Decree 88/2019 of 22 May amending Decree 18/2009 of 10 February creating the Canary Islands Register of Audiovisual Companies and Productions and regulating the procedure to obtain the Canary Islands Audiovisual Production Certificate for feature films, short films and live action, animated or documentary audiovisual series produced in the Canary Islands.

obtaining copies and advertising expenses of the producer, up to the limit for each of these categories of 40% of the total production cost.

However, it excludes any possible subsidies received to finance investments giving rise to the right to deductions, which must be duly deducted from the production base.

A series of **limits** is established:\*

- The amount of this deduction considered together with other aid and grants received by the taxpayer cannot exceed 50% of the production cost. However, that limit is increased as follows:

**60% of the production cost:**

- a) EU cross-border productions
- b) International co-productions with Latin American countries.

**75% of the production cost:**

- a) Productions by women directors.
- b) Productions with special cultural and artistic value.
- c) Documentaries.
- d) Animated works with budget < €2.5M.

**80% of the production cost:**

- a) Productions by new directors with production budget < €1.5M.
- b) Productions filmed in any co-official language other than Spanish.
- c) Productions directed exclusively by persons with degree of disability = or > 33%.

**85% of the production cost: Short films.**

\* The limits have been increased by up to 85% depending on the type of production under Royal Decree 17/2020 of 5 May

## What kind of productions qualify?

The audiovisual work must be classified as a **feature film** or a live action, animated or documentary **audiovisual series** and meet the following requirements: **Spanish nationality** and **culture** certificates issued by the Institute of Cinematography and Audiovisual Arts (ICAA) and the **Canary Islands Audiovisual Production Certificate** issued by the Government of the Canary Islands.

## Requirements to obtain the Canary Islands Audiovisual Production Certificate<sup>9</sup>

In order to be eligible for the Canary Islands Audiovisual Production Certificate<sup>10</sup>, the production must be carried out by Canary Islands audiovisual entities or entities acting in co-production with at least one Canary Islands audiovisual company registered in the **Canary Islands Register of Audiovisual Companies**, and comply with the following requirements:

<sup>9</sup> Requirements to obtain the New Canary Islands Audiovisual Production Certificate, according to the New Decree 88/2019 of 22 May amending Decree 18/2009 of 10 February creating the Canary Islands Register of Audiovisual Companies and Productions and regulating the procedure to obtain the Canary Islands Audiovisual Production Certificate for feature films, short films and live action, animated or documentary audiovisual series produced in the Canary Islands.

<sup>10</sup> This certificate should not be confused with the Canary Islands Audiovisual Production Certificate necessary to apply the Reserve for Investments in the Canary Islands (RIC)s, but not for the deductions contemplated in article 36.1 of Law 27/2014 of 27 November on Corporate Income Tax.

- Audiovisual production carried out as a co-production will be considered to be a **Canary Islands production** if the **contribution by the Canary Islands producer exceeds 20% of the cost**.
- In the case of **financial co-production**, the contribution by the **Canary Islands co-producer** must be **no less than 10% and no more than 25%** of the **production cost**.
- It will be necessary to **hire local staff** with **residence or tax residence in the Canary Islands**, as follows depending on the production type:

**1. For feature films and live action series:**

- **One person** considered to be **creative staff**<sup>11</sup>: The authors (the director, scriptwriter, director of photography, music composer) actors and other artistes and creative staff of a technical nature (the head rigger, the art director, the sound director, the costume designer and the head of prosthetics).
- **Nine technical staff members** belonging to a minimum of five different crews in the following departments: production, locations, direction, camera, lighting and grips, sound, art, wardrobe, make-up and wigs, special effects, post-production and effects, action specialists..

**2. For documentaries:**

At least two people (director, script writer, composer of the original music, director of photography or executive producer) must have their tax residence in the Canary Islands.

**3. For animation:**

As a minimum the head of the team in the Canary Islands or otherwise the animation lead, the senior animator or the voice artist for the main character or supporting role.

- The **minimum shooting time** in interiors or exteriors in the Canary Islands will be as follows:

**1. For live-action feature films:**

- 11 days when the budget is less than €2 million.
- 14 days when the budget is between €2 million and €4 million.
- 16 days when the budget is between €4 million and €8 million.
- 18 days when the budget is more than €8 million.

*\* Exception: Only 9 days shooting provided that a minimum of 15% of the post-production process is carried out in the Canary Islands.*

**2. For live-action series:**

- **20% of the shooting time** for a **season** must be carried out in the Canary Islands.

*\* Exception: Only 15% of the shooting time for a season, provided that a minimum of 15% of the post-production budget is certified in the Canary Islands.*

**3. Documentaries:**

- No minimum time.

**4. For animated productions:**

- 15% when the budget is more than €5 million.
- 20% when the budget is less than €5 million.
- For the calculation of production times in the Canary Islands, the **rendering** work cannot exceed **20%** of the total production time.

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<sup>11</sup> Definition of creative staff according to article 4(j) of Law 55/2007 of 28 December on Cinema.

## APPLICATION OF THE TAX INCENTIVE – Economic Interest Groups (EIG)

If the producer is an EIG, the tax credit generated by the investment in the production may be transferred to the members according to the percentage of paid-up capital in accordance with the special tax regime for EIGs.

This special tax regime allows the members to post deductions, bonuses, tax liabilities and credits, financial expenses and withholdings generated by the EIG directly in the assessment of their Corporate Income Tax.

## 3 OTHER GENERAL INSTRUMENTS

The Canary Islands also offer other tax breaks relating to the ordinary activities of companies, regardless of their sector of activity. These instruments may also be applied to companies in the audiovisual industry and unless otherwise indicated are compatible with the specific and general mechanisms described above.

## CANARY ISLANDS SPECIAL ZONE – ZEC<sup>12</sup>

The Canary Islands has a reduced tax regime known as the Canary Islands Special Zone (ZEC). This is a tax aid scheme authorised by the European Commission in 2000 to promote economic and social development in the Islands.

The main advantage is the possibility of paying corporate income tax at a **single reduced rate of 4%** instead of the general 25% rate applied in the rest of Spain. Other tax breaks and exemptions include the Canary Islands General Indirect Tax (zero rate IGIC for transactions between ZEC companies), the Tax on Property Conveyances and Documentation of Legal Acts (ITP and AJD) and repatriation of dividends for non-resident companies (no tax on dividends repatriated to a non-European parent company).

This reduced rate is compatible with the 40% deduction applied to expenditure for foreign productions. The **requirements** for eligibility under the ZEC in Gran Canaria are as follows:

- It must be a new company.
- Investment of a minimum of **€100,000 in tangible/intangible fixed assets** within a period of two years from the registration of the ZEC company (**flexible** amount according to sales volume).
- Creation of at least **five jobs** in the first six months of activity, maintaining this annual average during the entire term of the ZEC company.
- At least one of the **directors must be a resident of the Canary Islands**.
- The **activities** to be carried out must be **duly authorised**. Activities in the audiovisual sector are authorised in the following manner:

### 1. Production:

- Film, video, radio and television productions.

### 2. Production, filming assistance and post-production services:

- Casting, locations and dubbing.
- Editing and reproduction of media and recordings.
- Reproduction and duplication of films, composition and photo-engraving.
- Agency services to obtain contracts.

<sup>12</sup> Law 19/1994 of 6 July amending the Canary Islands Economic and Tax Regime as amended by Law 15/2014 of 9 December.

**3. Photography and advertising:**

- Photography and film processing activities.
- Management of catalogues, publications and promotional material.
- Creation and execution of advertising campaigns.

**4. Audiovisual distribution:**

- For more information visit [www.canariaszec.com](http://www.canariaszec.com)

**Zero rate Canary Islands General Indirect Tax (IGIC)<sup>13</sup>:**

Zero rate IGIC is applied to deliveries and imports of goods and provision of services for the execution of feature films or live action, animated or documentary audiovisual series with certain conditions. Application of the zero rate requires prior approval from the Canary Islands Tax Department.

**Reserve for Investments in the Canary Islands s (RIC)<sup>14</sup>:**

This tax incentive allows a reduction in the taxable income under Corporate Income Tax of up to 90% of undistributed profit. Producers can attract RIC from other companies to invest in their productions provided that they obtain the Canary Islands Audiovisual Production Certificate\* granted by the Government of the Canary Islands. The RIC may be applied for feature films, short films and live action, animated and documentary audiovisual series, provided that they have been produced in the Canary Islands.

**4 OTHER SPECIFIC INSTRUMENTS APPLICABLE TO CERTAIN FIELDS OF THE AUDIOVISUAL SECTOR****Deduction for Research and Development(R+D), Deduction for Technological Innovation (IT)<sup>15</sup>: up to 75%**

As in the case of the rest of Spain, but with a much higher percentage, a deduction exists for activities classified as Research and Development directly executed in the Canary Islands: 45% deduction of eligible expenditure compared to 25% in peninsular Spain and the Balearic Islands (up to 75.6% in the initial years of execution of the R+D project). The deduction for Technological Innovation in the Canary Islands is 45% (12% on the Peninsula and Balearic Islands). In the event that there is no other outstanding amount, an application may be made to the tax authorities for monetisation of the remaining non-deducted amount.

A reasoned report must be issued pre-assessing the R+D or IT component of the project to formalise the process. This deduction may be applied to R+D or IT developments, typically in the field of digital animation, post-production and video games.

<sup>13</sup> ORDER of 23 May 2017 on IGIC for audiovisual productions.

<sup>14</sup> Decree 88/2019 of 22 May amending Decree 18/2009 of 10 February.

<sup>15</sup> Deductions under article 35 of Law 27/2014 of 27 November on Corporate Income Tax and the 13th additional provision of Law 19/1994 of 6 July amending the Canary Islands Economic and Tax Regime as amended by Royal Decree-Law 15/2014 of 19 December.

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Any specific audiovisual production project should be analysed individually to ensure due compliance with any of the requirements established in the legislation.