

## **A SHORT GUIDE TO ITALIAN TAX CREDIT FOR SERVICE PRODUCTIONS**

### **A. ITALIAN TAX CREDIT: GENERAL OVERVIEW**

In Italy, qualifying foreign theatrical motion pictures and TV productions can obtain a tax credit equal to 40% of the eligible production costs. Such eligible production costs cannot exceed 80% of the overall production budget. Eligible production costs are the production costs (including pre and post production costs) actually incurred in Italy. The tax credit accrues during production on the basis of the costs actually incurred by an Italian production service company. Foreign producers cannot apply directly for the Italian benefit. Only Italian production service companies, that are subject to taxation in Italy and meet certain legal requirements, are entitled to apply. Foreign producers must therefore engage one or more Italian production service companies each of which shall apply for and get the tax credit. Please note that as the Italian tax credit accrues during production (while production costs are incurred), the Italian production service company can use such credit to pay all picture-related Italian tax liabilities and therefore save on production costs. Although the Italian production service company can offset the tax credit against any of its tax debts, even if unrelated to a specific production, such credit is usually entirely applied against the picture-related tax liabilities as to maximize and optimize the immediate benefit for the foreign production. Foreign producers actually benefit from the tax credit by getting, through the Italian production service company, a cost reduction of 40% of the Italian spend. The Italian tax credit is one of the few worldwide that allows for savings during production instead of a reimbursement or retroactive tax rebate on the local production spend. Unlike many other European incentives, the Italian tax credit is not tradable and not assignable. Only the Italian production service company that gets the tax credit can use it and it can be used only to pay tax liabilities of such a company.

### **B. FOREIGN THEATRICAL MOTION PICTURES**

#### **B.1. Cultural Eligibility**

To qualify for Italian tax credit, foreign theatrical motion pictures must pass the cultural eligibility test scoring at least 50 (out of 100) points across three sections (“Content”, “Creative” and “Production”). Two out of the four “Content” requirements are mandatory for the foreign theatrical motion pictures to qualify. Namely, the film must (i) be adapted from a literary work, (ii) relate to an historical, legendary, religious, social, artistic or cultural event, (iii) relate to a celebrity of artistic, historical, religious, social or cultural import and/or (iv) be set in Italy or Europe.

## **B.2. Tax Credit**

The tax credit granted to an Italian production service company is equal to 40% of all eligible production costs incurred by the Italian production service company. Such costs cannot exceed 80% of the overall production budget and may be incurred: a) for the purchase of goods and services from physical persons and from legal persons having fiscal residence in Italy; b) for the purchase of goods and services on Italian territory by companies having its registered office and fiscal residence in Italy, or that are subject to taxation in Italy; as well as, on condition of reciprocity, companies with a registered office in another nation of the European Economic Area having a daughter company, agency or branch in Italy and from there mainly conducts its business; c) for physical persons not fiscally resident in Italy in relation to the specific income generated by the above-mentioned cost. All production costs related to the picture incurred by the Italian production service company may be considered as “eligible” excluding the producer fee and certain financial costs. The tax credit accrues on a monthly basis and can be used by Italian production service company to offset any tax debt generated, including: - Italian VAT; - company’s income tax (e.g. Ires, Irap); -social security and withholding taxes for Italian cast and crew (e.g. Irpef, Inps, Enpals).

## **B.3. Procedure**

In order to get the tax credit, the Italian production service company has to submit two different applications to the Italian Ministry of Cultural (“Mic”) as follows 1. the preliminary application: to be applied not before 90 days at the commencement of all activities carried out by an Italian production service company related to the picture (“Italian Activities”); 2. the final application: to be applied within 180 days by the ending of all Italian Activities. The preliminary application includes the cultural eligibility test and the actual use of the tax credit is conditional upon the submission of such application. The final application includes a detailed report of all eligible production costs incurred by the Italian production service company which must be certified by an independent chartered accountant. Should the amount of eligible cost indicated in the final application exceed by more than by 10% the amount of eligible cost indicated in the preliminary application, the tax credit will be granted in relation to the amount of eligible cost indicated in the preliminary application, increased by no more than 10%.

## **C. FOREIGN TV PRODUCTIONS**

### **C.1. Cultural Eligibility**

To qualify for Italian tax credit, foreign TV productions must pass the cultural eligibility test scoring at least 50 (out of 100) points across three sections (“Content”, “Creative” and “Production”). Two out of the four “Content” requirements are mandatory for the foreign TV Productions to qualify. Namely, the project must (i) be adapted from a literary work, (ii) relate to

an historical, legendary, religious, social, artistic or cultural event, (iii) relate to a celebrity of artistic, historical, religious, social or cultural import and/or (iv) be set in Italy or Europe.

## **C.2. Tax Credit**

The tax credit granted to an Italian production service company is equal to 40% of all eligible production costs incurred by the Italian production service company. Such costs cannot exceed 80% of the overall production budget and may be incurred: a) for the purchase of goods and services from physical persons and from legal persons having fiscal residence in Italy; b) for the purchase of goods and services on Italian territory by companies having its registered office and fiscal residence in Italy, or that are subject to taxation in Italy; as well as, on condition of reciprocity, companies with a registered office in another nation of the European Economic Area having a daughter company, agency or branch in Italy and from there mainly conducts its business; c) for physical persons not fiscally resident in Italy in relation to the specific income generated by the above-mentioned cost. All production costs related to the picture incurred by the Italian production service company may be considered as “eligible” excluding the producer fee and certain financial costs. The tax credit accrues on a monthly basis and can be used by Italian production service company to offset any tax debt generated, including: - Italian VAT; - company’s income tax (e.g. Ires, Irap); - social security and withholding taxes for Italian cast and crew (e.g. Irpef, Inps, Enpals).

## **C.3. Procedure**

In order to get the tax credit, the Italian production service company has to submit two different applications to the Italian Ministry of Cultural (“Mic”) as follows 1. the preliminary application: to be applied not before 90 days at the commencement of all activities related to the TV production and carried out by Italian production service company (“Italian Activities”); 2. the final application: to be applied within 180 days by the ending of all Italian Activities. The preliminary application includes a provisional amount of all eligible production costs and cultural eligibility test. The final application includes a detailed report of all eligible production costs incurred by the Italian production service company which must be certified by an independent chartered accountant. Should the amount of eligible cost indicated in the final application exceed by more than by 10% the amount of eligible cost indicated in the preliminary application, the tax credit will be granted in relation to the amount of eligible cost indicated in the preliminary application, increased by no more than 10%.