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Financial Support for
Film Production



“The film industry is an exciting one, and the new support program should attract even more filmmakers to the Czech Republic – a great place to make movies.”

Milos Fiala, ECOVIS blf s.r.o., Prague, Czech Republic

Czechs going to the movies

A program has been established to provide financial support for film production in the Czech Republic.

The Czech Republic is known as a film-friendly country. A number of large film productions have taken advantage of the Czech Republic's picturesque countryside and historical landmarks. To enhance this reputation, the Czech Film Industry Support Program is being launched for 2012. The Czech Film Industry Support Program offers a 20% rebate on any qualifying Czech expenditure and 10% on qualifying international expenditures. Costs which qualify as Czech expenditures are goods and services provided in the Czech Republic and paid to companies or individuals registered to pay income tax in the Czech Republic. Costs paid to individuals who pay withholding tax in the Czech Republic but are not registered to pay income tax may qualify as international expenditures. To qualify for the rebate, projects must pass a cultural test for European cultural and production criteria. Projects must reach a minimum expenditure of CZK 15m (approximately EUR 600,000) for cinematic fea-

ture films and TV films or CZK 3m (approximately EUR 120,000) for cinematic documentaries. Eligible expenditures may not exceed 80% of a project's total budget. Eligible costs are those connected exclusively to the project and do not include the purchase and depreciation of assets, costs associated with the development of a storyline, expenses related to intellectual property rights, financing expenses, distribution and marketing, per diem allowances for foreign crew, customs duties or VAT. The support program has CZK 100m (approximately EUR 4m) available to disburse in 2012. Grants are awarded to qualifying projects on a first-come, first-served basis. There is no cap on the amount of grant per project. Rebates are issued at the end of production upon submission of audited statements of costs incurred and paid out in the form of cash grants. Only registered Czech income tax payers with a place of business in the Czech Republic may apply for the grant in the final stage. International producers may partner with a Czech co-producer (which becomes the applicant) or establish and apply through a Czech subsidiary.

Author

Milos Fiala
milos.fiala@ecovis.com

Binding Advance Ruling in Austria

In 2011 Austria introduced a new system to obtain a binding ruling from the Austrian fiscal authorities.

Previously, rulings were granted on an informal basis; this provided protection on a "good faith" basis, but tax authorities were not obliged to issue rulings.

Now a binding ruling can be obtained for the following fields of law:

- transfer pricing
- group taxation
- reorganization

In order to receive an advance ruling, a written application is necessary. This request should contain a detailed description of the facts and planned transaction, an analysis of the legal problem and the formulation of specific legal questions. A description of the applicant's interests and the basis for the administrative costs should also be included.

The Austrian fiscal authority issues a ruling concerning the application; the authority can accept the applicant's position or issue a differing position.

The administrative decision includes consideration of

the following points:

- fiscal appreciation of the planned transaction
- taxes concerned
- included tax regulations
- time frame for the ruling

If the transaction is carried out, the advance ruling is binding for the tax authority. If the transaction differs essentially from the primary facts, the ruling is not binding.

In Austria, a fee is charged for using the advance ruling service. The amount of the fee depends on the requester's annual revenue. The minimum fee amounts to EUR 1,500 and ranges up to a maximum of EUR 20,000. If the application is refused by the fiscal authority for formal reasons or recalled by the applicant, a fee of EUR 500 is to be paid.

The advance ruling in Austria will help reduce uncertainties resulting from different interpretations of tax law. It will help investors plan and coordinate their investments in Austria with greater legal certainty. The ruling may also avoid disputes regarding tax audits.

Author

David Gloser
david.gloser@ecovis.com
ECOVIS Austria
Wirtschaftsprüfungs-
und Steuerberatungsgesell-
schaft mbH



“The new S24 system lets entrepreneurs register their companies online and get started in business much more quickly than before.”

Marcin Milczarek, ECOVIS Milczarek i Wspólnicy Kancelaria Prawna Sp.k., Warszawa, Poland

REGISTERING A COMPANY

Quicker start-ups in Poland

S24: A new Polish online system makes it possible to register a limited liability company in just 24 hours.

Author

Marcin Milczarek
marcin.milczarek@
ecovis.com



On January 1, 2012, an amendment to the Polish Code of Commercial Companies took effect, enabling setup of a limited liability company via the Internet in 24 hours. Appropriate regulations established by the Minister of Justice lay down rules and conditions for such registration, and an online application is already available on the Ministry’s website.

At present, the application is only available in Polish. However, any natural person can sign documents in the system on behalf of another person (either natural or legal); it is only necessary to indicate the basis of the entitlement (i.e. the power of attorney) and to identify the person represented (name, ID number, a number from a relevant register, etc.)

According to regulations, it is possible to grant a special power of attorney in the Internet-based

system for all actions required to register a company. However, this option has not yet been verified due to technical issues on the website.

As to the articles of association introduced in the regulation, some provisions are obligatory (such as establishing a company for an unspecified period of time), while for other provisions the user can choose from among several possibilities – for example, redemption of shares, the company’s consent to sell or pledge shares, voting rights of a pledgee or usufructuary, paying an advance on a dividend, establishing a supervisory board (when its establishment is not obligatory), shareholders’ consent concerning disposal of rights or contracting an obligation exceeding twice the amount of the share capital. After the first authorized person has signed the form,

modifications of the content of the company’s articles of association are impossible. It should be emphasized that amendments to the articles of association are only possible by way of standard procedures; in particular, such amendments must be drawn up in the form of a notarial deed.

All data normally required in paper form when registering a company in a traditional way (such as the address, the relevant court, scopes of activity) as well as attachments (i.e. list of shareholders, statements of the members of the Management Board on cash contribution in full) must also be entered in the system.

Creating an account requires providing personal data as well as choosing a login and a password. For authentication when establishing a company, an electronic signature consisting of a login and a password or a safe electronic signature verified with a valid qualified certificate are equally acceptable. Starting on June 1, 2012, it will also be possible via certified profile in the e-PUAP system (electronic platform of public administration services). If the form is to be signed by several persons, they should all be listed when drawing up the form. The form is considered signed once all authorized users have signed it. All signatures must be made during the same session in the system, so all users must be present at one and the same computer to sign the form. When signing the



The introduction of Chartered & Certified Financial Planners goes some way to giving our industry the professional recognition enjoyed by lawyers and accountants.

application on behalf of another person, the basis for such entitlement must be presented, as mentioned above. It is always required to create an account in the system to be able to sign any documents and enter other data. One of the persons who signed the form should submit the application to the court. This is only possible after the court fee has

been paid via the eCard system. Once payment is made, the form is automatically transferred to the court, where the registration finally takes place. Nevertheless, certain documents are to be submitted to the court in paper form within seven days of the registration date. This includes a specimen signature of each member of the Management Board (con-

firmed by a notary) and statements of the members of the Management Board on cash contribution in full if not attached to the application when registering the company. Modifications are being made to the system, so some technical details might still change. Within first months of operating the system several problems were reported.

TIP

You can find out more about registering a company under: www.ecovis.com/start-poland

FINANCING A STARTUP

Seed capital and investor relief

Various forms of relief are available to help potential investors.

The Government informs us that the recovery will be driven by the private sector and that it will be Britain's entrepreneurs and their small and medium-sized enterprises, SMEs, that will lead the way. So with this in mind, where do we find the tax incentives to invest in this sector or – as entrepreneurs – how do we access the capital required?

In the past funding for startups came from savings, friends and family or, quite simply, by just doing it. Much has been written by Richard Branson and others about taking a risk when young and with nothing to lose, but many of us who are a little older find it harder to take the plunge. Having said that, and much like in past recessions, an increasing number of people are deciding to start their own businesses.

From experience and recent Internet searches it appears that there is little in the way of ad-

vertised seed capital providers in the UK and that the established business angel networks appear to be interested only in businesses which already have "traction". Is this an untapped market, I ask myself, or is it simply too risky a prospect to contemplate? So assuming I might have some seed capital to invest, how do I access any available tax reliefs, and what can I do – if anything – to reduce my risk? There are three readily available reliefs available to a seed capital investor:

1. Entrepreneur's Relief; future capital gains up to £10m taxed at 10%.
2. Enterprise Investment Scheme Relief, EIS. Income tax relief at 30% based on initial investment, ability to hold over capital gains, saving up to 28%, and future capital gains taxed at 0%.
3. Interest Relief on loans taken out to acquire shares in a close company or for mak-

ing loans to a close company (unfortunately if you get EIS relief then you get no interest relief); up to 50% tax relief on qualifying interest payments made in a tax year.

So taking Entrepreneurs Relief to start with you will need at least 5% of a qualifying company's share capital and be an officer or employee of that company. Having achieved qualifying status, what could you look forward to? Making a fortune, suffering capital gains taxed at 10%, losing all your money and realizing a capital loss, being diluted below 5% in subsequent fund raising rounds and losing the relief, being removed as a director and losing your relief! The list goes on. To be a qualifying company in broad terms it needs to be a trading company or the holding company of a trading group.

EIS moves one step forward, as on making a qualifying investment a

Author

Peter Owen
peter.owen@ecovis.com



“Anyone willing to take the risk of investing in a new business can get help in the form of various kinds of relief.”

Peter Owen, ECOVIS Wingrave Yeats, London, United Kingdom



claim for a repayment of income tax can be made amounting to 30% of the amount invested and capital gains can be deferred on making the investment, saving a further 28% potentially. In addition, provided shares are held for at least three years and the company remains a qualifying company, future capital gains will be tax free although it should be noted that any deferred gains will now crystallize. The flip side to all this is that should the company cease to be a qualifying company or the shares are sold within the three-year time limit, then all the reliefs are clawed back. This is generally outside the EIS investor's control and can give rise to some unexpected cash flow problems.

From next April the restrictive limits on the number of employees a qualifying company can have and the amount of money that can be raised are set to increase, subject to clearance from the EU. Currently the limits are 50 employees and £2m raised in any 12 month period, which will increase to 250 and £10m respectively. Finally if Entrepreneur's Relief or EIS Relief is not

available, then tax relief is available for interest on loans taken out to invest in a close company. This relief may not be as advantageous as EIS, but for a 50% tax payer it is better than nothing.

Fundamental to all three methods of obtaining relief is getting good advice and understanding how the tax rules work. This is important both when you make the investment and over the life of the investment. Accessing the potential tax reliefs is generally good news for investors, but having them withdrawn and the resultant changes to your budgeted cash flows can be devastating.

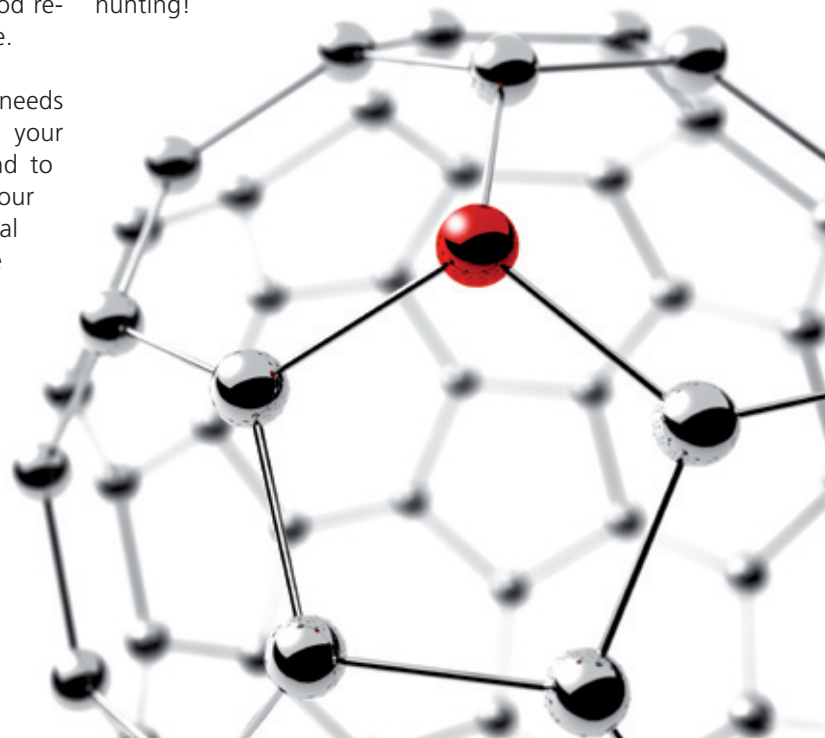
It is a common truth that if an investment is only going to be worthwhile because of the tax reliefs then you need to question very carefully whether it is a good investment at all.

For the lucky few making such an investment, it will be a stress-free route to making a good return at a super low tax rate.

However, everyone else needs to think about protecting your interests from day one and to take good advice from your accountant, tax and legal advisor. The best advice here is to make sure there is a comprehensive shareholders' agreement, that the company's articles include suitable share transfer and share issue clauses and that Key-Man/shareholder protection/critical illness insurance is taken out to ensure some return of

capital should the key or one of the key founders of the business die or become ill or otherwise become debilitated and unable to run the business. Lastly there is no substitute for good due diligence. Your best chance of being successful will be investing in business sectors you understand, people you trust and whom you believe to have the right skills to succeed as well as good luck and an improving economy.

To conclude, as a friend or family member who is going to invest, whatever the facts are do not miss out on the reliefs that are available but be prepared to wave goodbye to your cash. If you treat your investment as a lottery you won't be disappointed. If you are investing as a business angel then be prepared to take specialist advice, undertake due diligence and only invest what you can afford to lose. The relevant tax reliefs reflect the inherent risk, so buyers beware. Happy hunting!



ABOUT ECOVIS

Ecovis is a leading global consulting firm with its origins in Continental Europe. It has over 3,800 staff operating in over 40 countries. Its consulting focus and core competencies lie in the areas of tax consultation, auditing, legal advice and accounting and management consulting services. The particular strength of Ecovis is the combination of personal advice at a local level with the general expertise of an international and interdisciplinary network of professionals. Every Ecovis office can rely on qualified specialists in its back offices as well as on the specific industrial or national know-how of all the Ecovis experts worldwide. This diversified expertise provides clients with effective support, especially in the fields of international transactions and investments - from preparation in the client's native country to support in the target country. In its consulting work Ecovis concentrates mainly on mid-sized firms. Both nationally and internationally, its one-stop-shop concept ensures all-round support in legal, fiscal, managerial and administrative issues.

The name Ecovis, a combination of the terms economy and vision, expresses both its international character and its focus on the future and growth.

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