

19 December 2016

Changes to the Hungarian film legislation

As we have already written in our previous [newsletter](#), on 15 November 2016 the proposal for the modification of the Motion Picture Act was submitted to the Hungarian Parliament. On 6 December 2016, the Hungarian Parliament passed the bill that introduces changes to the Hungarian film legislation. One of the most important changes is that the Hungarian National Film Fund's collection account can receive supports in the 4th quarter of 2016 without limitation, i.e. the amount of supports received until 31 December 2016 can exceed the HUF 14 billion threshold.

A further change regarding the collection account is that its available budget will be regulated by a government decree from 2017. According to the government decree published on 16 December 2016, the available budget for 2017 will be HUF 33 billion (approx. USD 111.3 million) instead of the originally proposed HUF 25 billion. As a result, the recently experienced shortcomings in the tax rebate financing will most likely disappear.

The rules of eligible foreign cast and crew costs will also change, the 50% limitation has been enacted with a grandfathering regime not to have an effect on shows registered in 2016.



Budget of the collection account in 2016 and in 2017

The collection account of the Hungarian National Film Fund – opened for the purpose of collecting funds offered by companies according to the corporate income tax law and channeling these funds to film productions – has contributed to the financing of the Hungarian film industry with steadily rising support budget in recent years. Although the budget of the collection account has been raised every year, the collected amounts still have not met the financing needs of the dynamically growing film industry. By abolishing the threshold of the collection account for the 4th quarter of 2016, the amendment allows a higher support budget for 2016 – even exceeding the proportional part of the originally planned HUF 14 billion. **As a consequence, the collection account can receive supports without limitation until 31 December 2016.** It is expected that the recently experienced shortcomings in the tax rebate financing will most likely cease. The amendment came into effect on 16 December 2016.

From 2017, the annual budget of the collection account will be defined by a government decree instead of the Motion Picture Act. This will ensure a more simple procedure if changes are required regarding the support amounts to meet the actual demands of film productions. (Still, it is necessary to dedicate a certain budget figure in order to maintain the possibility of the automatic quarterly top-up of the Hungarian Tax Authority in case there is a shortage in the quarterly received support amount). **According to the government decree published on 16 December 2016, the available budget for 2017 will be HUF 33 billion (approx. USD 111.3 million).** In other words, it is even higher than the originally planned HUF 25 billion. Consequently, from 2017 it can be reasonably expected that the available amount on the collection account will not dry out even for a temporary period and the Film Fund will be able to fulfill the tax rebate claims without disruptions.

Extension of the simplified taxation regime

According the amendments of the *Hungarian Personal Income Tax Act*, as of 1 January 2017, foreign crew members will also be entitled to elect a simplified way of taxation for their Hungarian-sourced remuneration, provided that they obtain a certificate issued by the National Film Office proving that their work is related to a registered Hungarian film production. Based on the current rules, only foreign actors have been entitled to elect taxation by the simplified regime.

In order to control the personal scope of the new regulation, the Motion Picture Act has introduced a new registration system for the film production companies from 16 December 2016. In the future, a list of foreign cast and crew members (i.e. not only crew members) will be part of the tax rebate application file. For the request of the film producer, the Film Office will issue a certificate on the data reported. (If the reported data change, it will be possible to report the change by the date of initiating the Film Office's cost control procedure at the latest.)

For foreign crew members currently having difficulty with justifying their foreign social security status, taxation according to the simplified rules means secure and easy fulfillment of Hungarian tax obligations.

The extension of the simplified tax regime to crew members may lead to an increase in the amount of the eligible Hungarian spend.

Limitation on cost of foreign actors and crew members

The bill adopted includes some restrictions in this regard. Namely, only 50% of the remuneration of foreign actors and crew members' participating in films produced in Hungary will be regarded as eligible spend for Hungarian tax rebate purposes. According to the current regulations, the total amount of the remuneration taxable in Hungary is regarded as eligible direct Hungarian film production cost, and therefore, forms basis of the 25% film support.

The reason for the change is that the tax burden of foreign cast and crew members filming in Hungary is approx. 15% of their Hungarian income, but this rate is significantly lower than the 25% rate of the Hungarian tax rebate (or the effective rate of 31.25% for international productions). Since the remuneration of foreign actors and crew members is typically not recycled to the Hungarian economy's bloodstream, it was not justifiable that the rate of the tax rebate is significantly higher than the level of the personal income tax.

As a transitional rule, the new provision will enter into force on 15 January 2017 and is to be applied for film productions submitting their applications to the Film Office for the determination of the eligibility for the tax rebate after 31 December 2016. However, the new rules will apply for remunerations paid after 31 December 2017, irrespective of the date of the submission of such application.

Film industry training contribution

To support vocational training in the motion picture industry, obligatory motion picture industry training contribution was introduced in 2016. The contribution is payable by film productions receiving indirect film support. The rate of the contribution is currently 0.5% of the audited Hungarian production costs indicated in the resolution of the Film Office, or in the tax certificate, and the contribution is capped at HUF 15 million (approx. USD 50,000) per film production. The amount of the contribution is regarded as direct film production cost.

The experiences to date, however, show that it would be more reasonable to levy the contribution at the beginning of the tax rebate process, in the Film Office's resolution on the eligibility of the film production for the tax rebate. This practice would enable film productions to account for the contribution paid as a direct film production cost in their cost control report filed to the Film Office. As a result, the contribution will be levied as a one-off payment instead of the current proportional payment, and the basis of the contribution will be the total budgeted direct production costs filed to the Film Office as part of the application for the eligibility for the tax rebate. The amount of the contribution will not be modified even if the final audited costs would differ from the budgeted costs. It should be noted that the 0.5% contribution in the future will be calculated on the basis of the direct film production costs instead of the audited Hungarian production costs. The new rules will apply to film registration applications submitted to the Film Office after the entering into force of the amendments, i.e. 16 December 2016.

Location permits

From 1 October 2016, in order to make the issuing of location permits more straightforward, the National Film Fund became the general coordinator of these permitting procedures. As a result, film productions should no longer deal with local authorities, but shall file applications for the right to use public place to the Hungarian National Film Fund. The request has to be filed 5, or in some cases 15 working days prior to starting the shooting. Should the Film Fund approve the claim, it concludes a contract with the film production. The fees payable for the use of public places would remain the same, but the categorization of public places will change (the annex of the Motion Picture Act includes the relevant rules). Fees payable for the use of public places regarded as world heritage, or as touristically important areas will be higher than fees for the use of other areas.



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