ICAEW
REPRESENTATION 47/24

CONSULTATION ON ADDITIONAL TAX RELIEF FOR VISUAL EFFECTS

Issued 20 May 2024

ICAEW welcomes the opportunity to comment on the consultation on additional tax relief for visual effects published by the government in March 2024, a copy of which is available from this link.

For questions on this response please contact our Tax team at taxfac@icaew.com quoting REP 47/24.

This response of 20 May 2024 has been prepared by the ICAEW Tax Faculty. Internationally recognised as a source of expertise, the ICAEW Tax Faculty is a leading authority on taxation and is the voice of tax for ICAEW. It is responsible for making all submissions to the tax authorities on behalf of ICAEW, drawing upon the knowledge and experience of ICAEW's membership. The Tax Faculty's work is directly supported by over 130 active members, many of them well-known names in the tax world, who work across the complete spectrum of tax, both in practice and in business. ICAEW Tax Faculty's Ten Tenets for a Better Tax System, by which we benchmark the tax system and changes to it, are summarised in Appendix 1.

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OVERVIEW

1. As a professional body, we do not have experience of operating within the AV sector and consider that detailed commentary around how the proposed new rules will work in practice is best served by those studios or businesses operating within this industry. However, we have consulted members with clients in this sector and do have some high-level points to make in response to the consultation document.
2. Overall, members were pleased with the policy decisions in the consultation document and considered that they would have a positive impact in the industry albeit further guidance and clarification would be welcome, particularly around the definition of visual effects.

COMMENTS

3. Members welcomed the removal of the 80% cap for qualifying visual effects costs and suggested this could help to retain more spend in the UK. Likewise, the enhanced credit rate for these costs was welcomed.
4. Similarly, the use of the British film institute (BFI) definition of visual effects to define qualifying costs was regarded as a reasonable approach. However, members did suggest that further guidance might be appropriate to assist classification in non-generic cases. Members indicated that some costs which are viewed as visual effects by the industry might not fall squarely into the BFI definition and therefore guidance and monitoring would be important to maximise compliance.
5. Members understood the approach taken to artificial intelligence (AI) in the document in that generative AI would not be included. However, members suggested it would be good to see some commitment from the government that AI would be kept under review as technology within the industry moves on. Members assumed that AI, specifically for visual effects, would not be excluded but this would benefit from further clarification.
6. Members did consider that there would be a higher administrative burden on businesses as they would need to track audio-visual costs and visual effects costs separately. Members suspected that this might be quite involved in practice and the record-keeping could be quite onerous.
7. Furthermore, the guidance needs to be clear to iron out as many grey areas as possible. For example, members indicated that more guidance on the distinction between special effects versus visual effects would be helpful. There are also areas which may need an element of apportionment especially for overhead costs.
8. There was a concern that, for some taxpayers, the amount of the credit as compared to the level of administration and tracking required may make a claim not cost effective.
9. Some members suggested that, where a programme is largely visual effects costs (though it was acknowledged that this would be unusual), perhaps all qualifying audio-visual costs could be treated as visual effects to avoid the ongoing requirement for tracking.

APPENDIX 1

ICAEW TAX FACULTY'S TEN TENETS FOR A BETTER TAX SYSTEM

The tax system should be:

1. Statutory: tax legislation should be enacted by statute and subject to proper democratic scrutiny by Parliament.
2. Certain: in virtually all circumstances the application of the tax rules should be certain. It should not normally be necessary for anyone to resort to the courts in order to resolve how the rules operate in relation to his or her tax affairs.
3. Simple: the tax rules should aim to be simple, understandable and clear in their objectives.
4. Easy to collect and to calculate: a person's tax liability should be easy to calculate and straightforward and cheap to collect.
5. Properly targeted: when anti-avoidance legislation is passed, due regard should be had to maintaining the simplicity and certainty of the tax system by targeting it to close specific loopholes.
6. Constant: Changes to the underlying rules should be kept to a minimum. There should be a justifiable economic and/or social basis for any change to the tax rules and this justification should be made public and the underlying policy made clear.
7. Subject to proper consultation: other than in exceptional circumstances, the Government should allow adequate time for both the drafting of tax legislation and full consultation on it.
8. Regularly reviewed: the tax rules should be subject to a regular public review to determine their continuing relevance and whether their original justification has been realised. If a tax rule is no longer relevant, then it should be repealed.
9. Fair and reasonable: the revenue authorities have a duty to exercise their powers reasonably. There should be a right of appeal to an independent tribunal against all their decisions.
10. Competitive: tax rules and rates should be framed so as to encourage investment, capital and trade in and with the UK.

These are explained in more detail in our discussion document published in October 1999 as TAXGUIDE 4/99.