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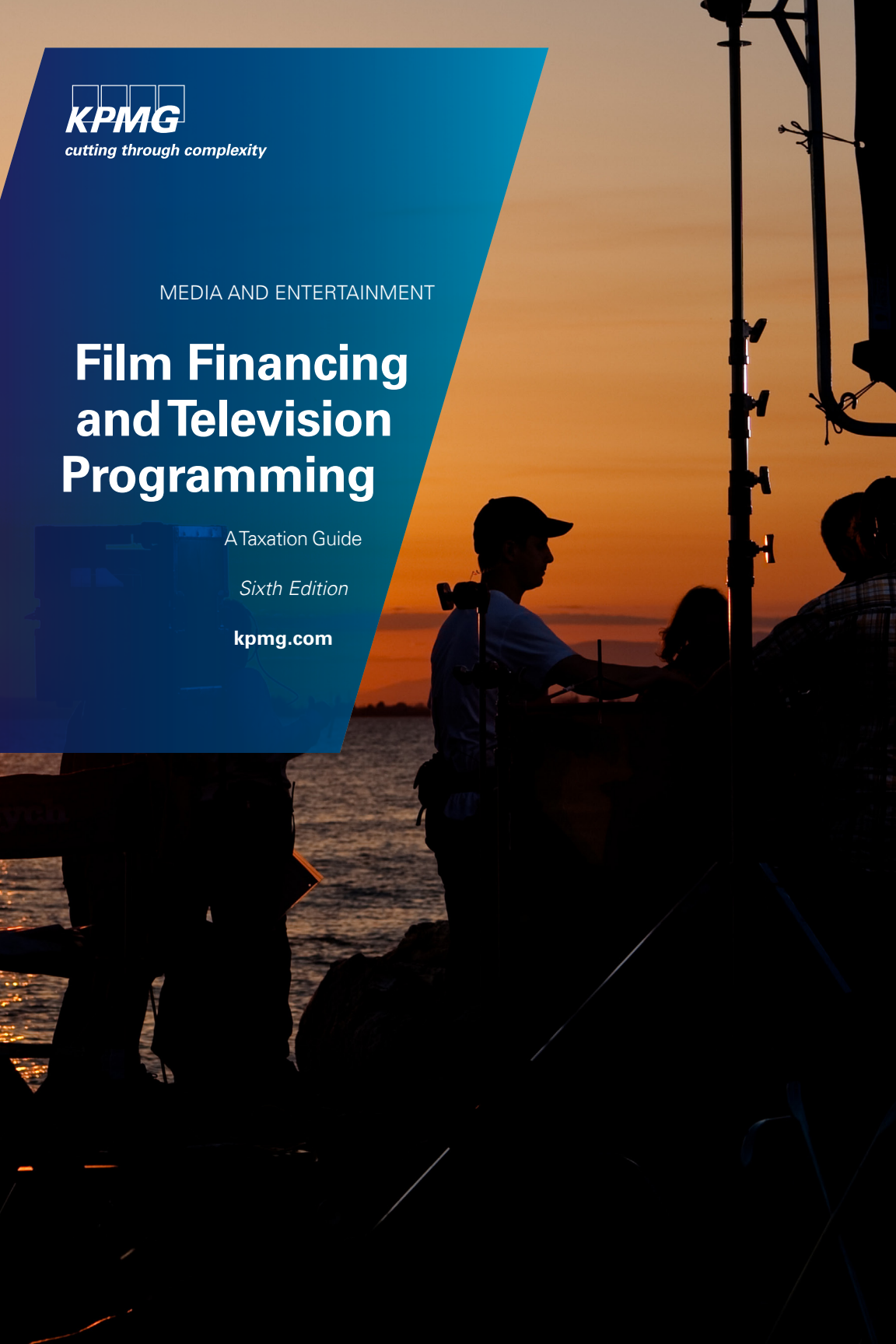
MEDIA AND ENTERTAINMENT

# Film Financing and Television Programming

A Taxation Guide

*Sixth Edition*

[kpmg.com](http://kpmg.com)



# Contents

<b>Preface</b>		<b>1</b>
<b>Chapter 01</b>	Australia	<b>3</b>
<b>Chapter 02</b>	Austria	<b>30</b>
<b>Chapter 03</b>	Belgium	<b>39</b>
<b>Chapter 04</b>	Brazil	<b>59</b>
<b>Chapter 05</b>	Canada	<b>76</b>
<b>Chapter 06</b>	China and Hong Kong SAR China (124-135) Hong Kong SAR (136-144)	<b>124</b>
<b>Chapter 07</b>	Colombia	<b>145</b>
<b>Chapter 08</b>	Czech Republic	<b>154</b>
<b>Chapter 09</b>	Fiji	<b>166</b>
<b>Chapter 10</b>	France	<b>183</b>
<b>Chapter 11</b>	Germany	<b>200</b>
<b>Chapter 12</b>	Greece	<b>219</b>
<b>Chapter 13</b>	Hungary	<b>254</b>
<b>Chapter 14</b>	Iceland	<b>268</b>
<b>Chapter 15</b>	India	<b>279</b>
<b>Chapter 16</b>	Indonesia	<b>303</b>
<b>Chapter 17</b>	Ireland	<b>309</b>
<b>Chapter 18</b>	Italy	<b>335</b>
<b>Chapter 19</b>	Japan	<b>352</b>
<b>Chapter 20</b>	Luxembourg	<b>362</b>
<b>Chapter 21</b>	Malaysia	<b>377</b>
<b>Chapter 22</b>	Mexico	<b>385</b>

<b>Chapter 23</b>   The Netherlands	<b>411</b>
<b>Chapter 24</b>   New Zealand	<b>436</b>
<b>Chapter 25</b>   Norway	<b>453</b>
<b>Chapter 26</b>   Philippines	<b>474</b>
<b>Chapter 27</b>   Poland	<b>489</b>
<b>Chapter 28</b>   Romania	<b>499</b>
<b>Chapter 29</b>   Singapore	<b>516</b>
<b>Chapter 30</b>   South Africa	<b>532</b>
<b>Chapter 31</b>   South Korea	<b>550</b>
<b>Chapter 32</b>   Sweden	<b>556</b>
<b>Chapter 33</b>   Thailand	<b>566</b>
<b>Chapter 34</b>   United Kingdom	<b>578</b>
<b>Chapter 35</b>   United States	<b>606</b>
<b>Appendix A</b> Table of Film and TV Royalty Withholding Tax Rates	<b>637</b>
<b>Appendix B</b> Table of Dividend Withholding Tax Rates	<b>645</b>
<b>Appendix C</b> Table of Interest Withholding Tax Rates	<b>659</b>

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# Preface

KPMG LLP's (KPMG) *Film Financing and Television Programming: A Taxation Guide*, now in its sixth edition, is a fundamental resource for film and television producers, attorneys, tax, and finance executives involved with the commercial side of film and television production. The guide is recognized as a valued reference tool for motion picture and television industry professionals. Its primary focus is on the tax and business needs of the film and television industry with information drawn from the knowledge of KPMG International's global network of media and entertainment Tax professionals.

KPMG published the first guide more than 15 years ago as a resource for global coverage of incentives and tax updates as they apply to the film and television industry. Subsequent editions expanded into coverage of financing techniques, credits/incentives, and a thorough appendix of withholding tax rates—a valuable reference tool for all finance and tax professionals.

Each chapter of the sixth edition focuses on a single country and provides a description of commonly used financing structures in film and television, as well as their potential commercial and tax implications for the parties involved. Additionally, the United States chapter focuses on both federal and state incentives, highlighting the states that offer the more popular and generous tax and financial incentives. Key sections in each chapter include:

## *Introduction*

A thumbnail description of the country's film and television industry contacts, regulatory bodies, and financing developments and trends.

## *Key Tax Facts*

At-a-glance tables of corporate, personal, and VAT tax rates; normal non-treaty withholding tax rates; and tax year-end information for companies and individuals.

## *Financing Structures*

Descriptions of commonly used financing structures in film and television in the country and the potential commercial tax implications for the parties involved. The section covers rules surrounding co-productions, partnerships, equity tracking shares, sales and leaseback, subsidiaries, and other tax-effective structures.

## *Tax and Financial Incentives*

Details regarding the tax and financial incentives available from central and local governments as they apply to investors, producers, distributors, and actors, as well as other types of incentives offered.

## *Corporate Tax*

Explanations of the corporate tax in the country, including definitions, rates, and how they are applied.

### *Personal Tax*

Personal tax rules from the perspective of investors, producers, distributors, artists, and employees.

### *Appendices*

Additionally, withholding tax tables setting forth the non-treaty and treaty-based dividend, interest, and film royalty withholding tax rates for the countries surveyed are included as an appendix and can be used as a preliminary source for locating the applicable withholding rates between countries.

### *KPMG and Member Firm Contacts*

References to KPMG and KPMG International member firm contacts at the end of each chapter are provided as a resource for additional detailed information.

The sixth edition of KPMG's Film and Television Tax Guide is available in an online PDF format at [www.kpmg.com/filmtax](http://www.kpmg.com/filmtax) and on CD. The guide is searchable by country.

Please note: While every effort has been made to provide up-to-date information, tax laws around the world are constantly changing. Accordingly, the material contained in this book should be viewed as a general guide only and should not be relied upon without consulting your KPMG or KPMG International member firm Tax advisor.

Finally, we would sincerely like to thank all of the KPMG International member firm Tax professionals from around the world who contributed their time and effort in compiling the information contained in this book and assisting with its publication. Production opportunities are not limited to the 35 countries contained in this guide. KPMG and the other KPMG International member firms are in the business of identifying early-stage emerging trends to assist clients in navigating new business opportunities. We encourage you to consult a KPMG or KPMG International member firm Tax professional to continue the conversation about potential approaches to critical tax and business issues facing the media and entertainment industry.

Thank you and we look forward to helping you with any questions you may have.

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# Chapter 10

## France

### Introduction

France has always made an effort to encourage the financing of films through tax and financial incentives. This has led to the creation of the SOFICA incentives, a special legal structure established to promote activity in the film industry. Certain regulatory bodies (e.g., the “Centre National de la Cinematography” or CNC) are in charge of promoting the production of French films and allocating these incentives.

### Key Tax Facts

Highest corporate income tax rate	33.33% *
Highest personal income tax rate	41%
VAT rates	0%, 2.1%, 5.5% and 19.6%
Normal non-treaty withholding tax rates: Dividends	19, 25 or 50% %
Interest	0 to 50%
Royalties	33.33% or 50%
Tax year-end: Companies	Financial year-end
Tax year-end: Individuals	December 31

\* Plus a 3.3 percent surcharge assessed on the portion of the corporate income tax exceeding EUR 763,000.

### Film Financing

#### Financing Structures

##### *Co-production*

A French-resident investor enters into a co-production joint venture (JV) with a foreign investor to finance and produce a film. The JV is located in France, the film is produced there, but exploitation rights for all media (theatrical, television, video, etc.) are divided, with the JV members each exploiting their respective interests in the territory allocated to them under the co-production agreement.

The French investor retains exclusive media rights in the home territory; the foreign investor retains exclusive media rights in its own territory; the rights in all other territories are held by one or another of the parties or jointly. Both parties fund the production costs; the foreign investor produces the film under a production contract with the JV. Each party funds its own share of the production costs based on its anticipated proportion of the revenues to be earned by the film.

This JV would be considered a silent partnership (“société de fait” or “société en participation”), the results being taxed directly in the hands of the partners if no company subject to corporate tax is set up in France for this purpose and if the names of the partners have been disclosed to the tax authorities. The silent partnership is directly subject to corporate tax on the share of profits of the undisclosed partners.

Although this JV is located in France, the applicable tax treatment must be reviewed in the light of the position of each party.

The foreign investor would not be subject to French tax on its overseas income if exploitation can be kept separate from production.

The French investor would be taxed on the full amount of its profits arising in respect of film production and exploitation, and is subject to the application of relevant treaties.

If the foreign investor produces the film in France and has a production office in France, it would be considered to have a permanent establishment in France, and would be taxable on income arising from its French activity. However, it could rely on applicable tax treaties to obtain full or partial relief.

A cost-sharing agreement may therefore be a favorable structure, if the foreign investor exploits the film from within its own territory.

#### *Acquisition of Distribution Rights*

Distributors who do not enter into a co-production with a production company may participate in the financing of a film in an agreed proportion by advancing a certain amount of funds.

The production company must record these advances by the distributor as operating revenue when the distributor obtains the censor’s certificate.

When the advance is considered as a loan and must be reimbursed to the distributor, the transaction falls outside the scope of VAT. On the contrary, when the advance is recognized by the production company, this advance is treated as a payment for the distribution rights. Consequently, the distribution company has to pay VAT on the sums received from theatre operators. When the production company obtains the exploitation certificate, the production company pays the VAT. This VAT is assessed on the advances received from the distributor.

### *Partnership*

Financial investors from several territories and the film producers become partners in a partnership located in France. They each contribute funds to the partnership.

The partnership would be treated as a taxable entity in France and would produce the film in France. The partnership may be either a general partnership (“société en nom collectif”), where the partners are jointly and severally liable for debts, or a limited partnership (“société en commandite”), where only the general partners have unlimited liability. In this latter case, the actual production could be undertaken by the general partners as agents of the partnership.

The partnership may then mainly receive royalties under distribution agreements, from both treaty and non-treaty countries.

The film would be distributed by independent distributors in consideration for a fee.

If a general partnership is set up, each of the partners would be taxable in France on its share of the results, and according to the system applicable to the specific partner (i.e., personal or corporate income tax), unless the partnership has elected to be subject to corporate tax.

If a limited partnership is set up, different treatment would apply to the general partners and to the limited partners.

The portion of results attributable to the limited partners would be subject to corporate income tax (paid by the partnership). Any further distribution of dividends in the hands of the limited partners is subject, for the resident partners, to income tax or corporate income tax under specific conditions. The non-resident partners are subject to a withholding tax at the domestic rate of 25 percent, reduced in general to 5, 10 or 15 percent by applicable treaties or cancelled by the EU Parent/Subsidiary Directive, whenever applicable.

The portion of the results attributable to the general partners would be directly taxable in their hands, according to either personal income tax or corporate income tax regulations.

If a partner is resident in France and receives dividends from a foreign partnership located in a treaty country, the withholding tax levied abroad may, in principle, be credited against the tax due in France.

### *Equity Tracking Shares*

These shares provide for dividend payments based on the profitability of a film production company's business. Investors acquire such shares in the production company. These shares have the same rights as the production company's ordinary shares/common stock, except that dividends are profit-linked and their holders have a preferential right to assets upon liquidation of the company. The production company is resident in France.

These shares which are not common in France would, in all likelihood, be considered preferred shares. The dividends paid on such shares would be treated as ordinary dividends.

It should be noted that it is not possible to provide for fixed interest or yield payable in the absence of profits.

### *Yield Adjusted Debt*

A film production company may issue "debt securities" to investors. Their yield may be linked to revenue from specific films. The principal would be repaid upon maturity and there may be a low (or even zero) rate of interest stated on the debt instrument. However, at each interest payment date, a supplemental (and perhaps increasing) interest payment would be paid should a predetermined target be reached or exceeded (such as revenues or net cash proceeds).

These "debt securities" would in all likelihood be treated as debt.

However, the supplemental interest paid might (although this is rather unlikely) eventually be regarded as a distribution of dividends given the fact that it depends on the results of the company.

The interest may not be deductible for the company in this case, and is subject to corporate or individual income tax for the investor.

This interest may be subject to withholding tax if reclassified as a dividend under the dividend article of the applicable double tax treaty.

## **Tax and Financial Incentives**

### *Investors*

If an individual or company subscribes for or acquires shares in another company, the related cost is, in principle, not deductible from the taxable income for the computation of the tax due by the individual or the company. There are several limited exceptions to this principle.

When an individual or company provides a loan to another person, the interest payable is deductible when calculating the taxable income of that company or individual if the loan has been contracted for business purposes. The deduction is made on an accruals basis. If the loan becomes a bad debt, it may be deducted from the profits of entrepreneurs (companies or individuals) by way of a provision, provided that the risk of loss is clearly determined.

Certain limits exist on the deductibility of interest paid on loans granted by shareholders or related parties.

Specific incentives are available for investments in films:

- Individuals who are residents in France may deduct from their taxable income 40 percent (48 percent in certain cases) of the contributions in cash to the capital of a company whose exclusive activity is film financing (SOFICA), which are approved by the Department of Arts, up to a limit of 25 percent of their income and with a limit of EUR 18,000. The tax relief is repayable to the tax authorities if the individuals sell their shares in the SOFICA within five years following the acquisition
- The same regulation applies to companies that are subject to corporate income tax and invest in the shares of a SOFICA, except that the incentive takes the form of an exceptional deductible amortization of 50 percent

### *Producers*

The French Government provides grants and other financial incentives to encourage the production of films in France.

The “Soutien automatique à la production des oeuvres cinématographiques de long métrage” is an automatic support for the production of entertainment films running more than one hour. The producer must obtain prior approval from the general director of the CNC (“Centre National de la Cinématographie”). Several conditions must be met in order to benefit from this incentive, including the following:

- The film must be directed by enterprises whose presidents, general directors, and managers are French or EU nationals. Foreigners may also benefit from this incentive if they work in France for more than five years
- The authors, actors, and crews must also be resident in an EU Member State
- The films must be made in France (including overseas territories)
- The approval can be given to films realized under an international co-production, but only under conditions fixed by international agreements

This automatic support must be used either for the repayment of debts or for investment in a new production.

The amount of the support is based on the yield from the exploitation of the film.

The Government has also set up some selective incentives. The main one is an advance on receipts (“avance sur recettes”). Such advance may be given before or after realization, under different conditions:

- Advance on receipts before realization:

Such an advance corresponds to an interest-free loan reimbursable by the film’s receipts. The application form may be filed by the author of the script or by the director if they are French nationals or French residents. It can also be filed by the producers if the film is French, or if it is realized through an international co-production. The decision to grant this advance is taken by the Minister of Culture based upon an opinion given by a consultative commission composed of professionals. If the decision is favorable, the candidate benefits from a commitment available for 24 months. The advance must be used during this period. The payment of the advance is subject to an investment proposal. The producer will have to repay this advance in installments. After this repayment the producer will have to pay 15 percent of net receipts for two years.

- Advance on receipts after realization:

Only the producer can file an application for this incentive. The conditions are the same as for an advance before realization. An agreement must be signed between the CNC and the producer to begin the payment of the advance. The repayment of the advance is made according to a repayment schedule.

Production entities subject to corporate tax which produce approved long running films in the French territory with the support of French or European technicians may, upon agreement of the CNC, benefit from a tax credit equal to 20 percent of the technical expenses incurred for the production. The expenses taken into account cannot exceed 80 percent of the production budget (or of the French portion of the budget for international co-productions). The tax credit is limited to EUR 1 million. The tax credit is creditable against the corporate tax due for the year where the expenses are incurred, any excess being refundable to the company.

Another credit is available, upon agreement of the CNC, to audiovisual companies subject to corporate tax which locate mainly on the French territory the production of documentaries, fictions, or animation films

realized with French or EU authors, artists and crew. It is equal to 20 percent of the expenses incurred, limited to EUR 1,200 per minute shot and delivered and can be set off against the corporate tax (any excess being refundable).

There are also incentives to encourage the production of short films. These include:

- Financial contributions approved by the Minister of Culture and granted by the CNC
- A subsidy that may be given for short films that obtain an award or recommendation or a prize for quality

Generally, all such grants are repayable. It should be noted especially that even if a producer has benefited from an advance on receipts before the realization of a film, the commission can give another opinion after the realization of the film. If this opinion is negative, the Minister of Culture may ask for immediate repayment of the advance.

#### *Distributors*

There are some incentives available for distributors acquiring film rights. These are available under the following conditions:

- The distributing enterprises assume effective liability for the distribution operations
- The amount allowed must be invested within four years of the first day of the year following the one in which the amount was calculated
- The distributors must guarantee that they will incur a minimum level of expenses on behalf of the producer

If the distributor has not respected these conditions, he or she must repay to the financial support fund the amount already invested.

#### *Actors and Artists*

There are no specific incentives available for actors or artists except that they are allowed to deduct from their taxable income all of their actual professional expenses.

#### *Other*

Other subsidies exist to assist the modernization of movie theatres and the development of technical activities, and to promote the export of French films.

## Other Financing Considerations

### *Tax Costs of Share or Bond Issues*

Most contributions to share capital are subject to a fixed tax of EUR 375 or 500.

A transfer of stock of an SA is subject to a 3 percent tax, limited to EUR 5,000 per transaction (transfer of stock of a listed SA is not subject to this tax, except if the transfer is evidenced by a written deed). A transfer of shares of a SARL or of an SNC is, in most cases, subject to this same 3 percent tax, not limited. A transfer of shares in a non listed real estate company (whatever its legal form) is subject to a 5 percent tax, not limited.

Mergers and spin-offs are subject to a fixed tax EUR 375 or 500 if made between companies subject to corporate tax. For other companies, the tax will depend on the nature of the reorganization and on the assets contributed.

## Corporate Taxation

### Recognition of Income

#### *Film Production Company – Production Fee Income*

#### **French-resident Company**

If a company is set up in France to produce a film without acquiring any rights in that film, i.e., a “camera-for-hire” company, the tax authorities may query the level of production fees attributed to it, if they consider that it is not sufficient (below an arm’s-length rate).

The level of attributed income may equal the percentage of investment or should cover the costs and permit the camera-for-hire company to earn a reasonable profit.

In theory, it may be possible to negotiate in advance an acceptable production fee income with the tax authorities, but this is not a common practice at all.

#### **Non-French-resident Company**

A production office administering location shooting in France would be regarded as a permanent establishment taxable in France if it was permanent and actually participated in the production and shooting of films in France, subject to the exemptions provided by an applicable double tax treaty (for example, an installation and project set up for less than a prescribed time period).

In this situation, the French tax authorities would seek to tax an amount of profits comparable to those which would have been earned by a resident company carrying on the same business.

It is unlikely that a production office could be regarded as causing a foreign company to be resident in France for tax purposes, since the office is not the site of central management and control of the company.

The regime could be the same for a company undertaking location shooting in France without being a French resident and without having a production office in France.

The term “permanent establishment” has been interpreted by the French Tax Supreme Court (the Court). The Court has indicated that a permanent establishment exists if the following conditions are found:

- A license for a business installation
- An installation established in a definite place for a certain period of time
- An installation used for business activities

The existence of a permanent installation (e.g., an office, etc.) in France or of a dependent agent having the power to conclude contracts on behalf of his or her principal, or the performance of a complete cycle of activity in France, are also regarded as permanent establishments under French domestic law, in the absence of a treaty.

Of course, the existence of a permanent establishment will also depend on the specific definition given by the relevant article in the applicable double tax treaty.

#### *Film Production Company – Sale of Distribution Rights*

If a French-resident production company sells the distribution rights in a film or television program to a distribution company or partnership based in a treaty country, the payments received would be regarded as royalties taxable in France, with relief given in general for any withholding tax which may be levied abroad.

The distribution rights acquired by a French-resident company have to be depreciated over a defined period (see below for the depreciation rules) and the receipts would be regarded as trading receipts.

The transfer of intangible assets offshore is not governed by any special tax rules (except transfer pricing rules). The selling price and any payments should represent arm's-length prices.

### *Film/Television Program Distribution Company*

Payments by a distribution company to a production company for distribution rights would be treated as royalties paid for the purchase of an asset.

For tax purposes, depending on the rights granted to the purchaser, the cost would have to be capitalized and depreciated or be treated as a normal expense.

The income arising from exploiting distribution rights would be recognized as ordinary trading income.

The rules above would be applicable even if:

- The production company is resident in a non-treaty country
- The distribution company exploits the rights in other countries
- The distribution company sublicenses the acquired rights locally and abroad

The income earned from the exploitation of distribution rights over a period which covers more than one financial year would be recognized during the years to which the income relates, irrespective of the date of receipt.

In principle, the tax treatment would be similar to the accounting treatment. It is normally not possible to argue for a tax treatment which would be more beneficial than the accounting treatment.

### *Transfer of Film Rights Between Related Parties*

If a worldwide group of companies grants a sublicense for exploitation of film rights in France to a resident group company, the French tax authorities may query the level of profit arising locally and examine the level of the royalties paid abroad.

The acceptable level of attributed income would depend on the level of the investment of the French company. There are no specific regulations applicable in this respect.

If the income is remitted by the resident company to a low-tax country by virtue of a sub-licensing distribution agreement, the tax authorities would very likely examine the level of such attributed income in order to prevent tax avoidance. The French company would, based upon Article 238.A of the French Tax Code, have to demonstrate that the payment is arm's-length and paid in consideration of a real service. In addition, in the absence of a treaty, a 33.33 percent (50 percent if payment is made to a so-called-non cooperative State) withholding tax would be levied.

### *The Television Broadcaster*

The television broadcaster, the cable chain provider and the satellite chain operator are like the cinema exhibitor, the last link in the production chain. They provide an essential resource in the financing process, whether they are providing funding for films or programming.

The income of the French public broadcaster comes from a statutory license fee payable by each French home owning a TV. In addition, a substantial amount of its income comes from advertising, sales of programs overseas, participation in co-productions and advances to producers to help financing and programming in return for first transmission rights, and a share of any subsequent profits.

The principal source of income of the private sector broadcasters in France is fees paid by the customer and advertising income.

The cable chain operator and certain private chains derive their income from a mixture of subscriptions and advertising.

### *Amortization of Expenditure*

#### *Production Expenditure*

When a production company owns the rights in a film, the expenditure can be amortized as follows (subject to changes deriving from the introduction in France of the IFRS principles):

- At the end of each financial year, the amortization of expenditure is based on the income generated by the film

In principle, the depreciation coefficient is based upon the period having elapsed since the first day of the month following the last day of shooting and determined according to the following rates:

<b>Period</b>	<b>Monthly rate</b>
First month	30%
Second month	25%
Third month	20%
Fourth month	15%
Next two months	2%
Last six months	1%

- If at the end of any year the total amount of depreciation connected with the income of the film is lower than a theoretical amount (cost of the film

multiplied by the above depreciation coefficient), the depreciation can be completed up to this last amount by deducting it from the net available income of the other films produced by the company

#### *Television Broadcasters, etc.: film and program acquisition expenditures*

There are no specific tax rules for television broadcasters acquiring film rights. The depreciation of the acquisition cost of the rights is not specifically covered by the French General Tax Code but is recognized by a decision of the French Highest Tax Court.

It could be possible to depreciate the rights either over the period for which the rights have been granted or based on the number of showings.

#### *Other Expenditures*

Either a film distribution company or a “camera-for-hire” company can deduct or amortize the sums paid for acquiring the rights of the film and its overhead. There is no specific expenditure. The rules for deduction or depreciation are the usual rules applicable to other companies. Certain expenditures are immediately deductible (salaries, rent, advertising). Other expenditures are not immediately deductible and must be depreciated (building, fixed assets).

#### *Losses*

In principle, when a company has no income from a specific film in a given year, its expenditure may be offset against any other income received by the company from other films in that year.

In practice, many companies produce no more than one film during a certain period of time and it could be difficult to apply the above principle.

#### *Foreign Tax Relief*

A resident film producer, who receives income from non-resident companies, may claim relief by way of a tax credit for the withholding taxes levied abroad if a tax treaty exists between France and the other country.

## **Indirect Taxation**

### *Value Added Tax*

#### *General*

Under the EU harmonized VAT system, France charges VAT on the sale and supply of goods and services.

The tax paid on expenses may be offset against the tax on sales, except for certain items on which the tax is not recoverable and must be expensed (e.g., on cars).

In addition, the French system denies a credit for tax suffered at an earlier stage when the goods or services are not used for the purpose of the company and its business activities.

#### *Supply of a Completed Film*

When a resident company delivers a completed film to another resident company, this supply of rights is generally charged at the rate of 5.5 percent.

If the second company is resident in an European Union (EU) country, the supply of rights would be VAT exempt in France. To receive this treatment, the buyer would have to give its VAT identification number to the French supplier.

If the second company is resident outside the EU, the supply of rights is VAT free.

In both cases, there would be no specific reporting rules but the amount of the sales would have to be reported on the VAT return as an exempt supply.

When a company delivers a film, it would, in principle, account for VAT at the date of the payment since the delivery of a film is regarded as a supply of a service (although the company may also elect to account for VAT at the date the invoice is issued).

#### *Royalties*

When a resident company pays a royalty to another resident company, the rate of VAT is 5.5 percent.

VAT is payable on a royalty paid to a non-resident company (EU or not). The rate of the VAT is five point five percent. The French resident company would have to account for the VAT due thereon and to recover it in the same month using the "reverse charge" procedure.

#### *Peripheral Goods and Merchandising*

As a general rule, the rate of VAT depends on the nature of the goods involved, whether or not they are connected with the distribution of the film.

For instance, books, magazines, and music publishing are subject to a 5.5 percent rate, but CDs, DVDs, toys, or clothes are subject to the normal 19.6 percent rate.

### *Promotional Goods or Services*

Unless otherwise provided, the tax rate applicable to the provision of promotional goods and services would be 19.6 percent. The free provision of promotional goods and services would not be subject to VAT. On the other hand, and unless specific conditions apply, the VAT borne on such goods and services is not recoverable.

### *Film Crews and Artists*

The supply of catering on location, paid by the crew and actors, is taxable at 19.6 percent if there is a supply of services in addition to the supply of goods.

### *Imports of Goods*

If a resident company imports goods from a foreign country, VAT, and eventually Customs duty, would be due.

### *Customs Duties*

No tax or Customs duty would be due on goods temporarily imported into France and re-exported without alteration (under the processing-relief or duty-suspension regime).

Otherwise, France levies Customs duties on the imported goods based upon the EU unified tariff.

## **Personal Taxation**

The French definition of an “artist” (which is not given by the General Tax Code, but by administrative instructions or by precedents) includes actors, entertainers, sportsmen, and pop stars.

### *Non-Resident Artists (self-employed)*

#### *Income Tax Implications*

A non-resident artist is subject to tax on his or her French-source income only. The income tax is initially collected by way of a withholding tax levied at the rate of 15 percent.

Even if withholding tax is deducted at source, levied by the employer or by the artist himself, the artist is obliged to file a return showing his or her French income. The tax is then computed according to the normal progressive scale and the withholding tax deducted from the tax due.

It is not possible to negotiate a different rate of withholding with the tax authorities. Any expense incurred can only be utilized as a deduction when calculating taxable income for income purposes.

Payments made to other parties (personal-service companies) are also subject to French tax (under Article 155.A of the French Tax Code) if one of the following conditions is met:

- The party is controlled by the artist
- The party's main activity is to receive payments on behalf of the artist, or
- The party is established in a tax-haven country

#### *VAT Implications*

Self-employed artists are obliged to register for indirect tax purposes if the services they render are liable to French VAT. In practice, this does not occur very often.

#### *Resident Artists*

An individual, i.e., an artist, is regarded as a resident in France and therefore liable to French income tax on his or her worldwide income if he or she meets one of the following conditions:

- He or she maintains his or her household in France
- He or she has his or her usual residence in France and is physically present for 183 days in a calendar year
- He or she carries on the major part of his or her professional activities in France
- The center of his or her economic interest is in France

These rules are subject to the provisions of the relevant tax treaties concluded by France.

#### *Income Tax Implications*

The tax is assessed at progressive rates between 0 percent (net taxable income of not more than EUR5,963 after all deductions) and 41 percent (net income of more than EUR70,830) for a single person. The progressive scale of tax is revalued normally each year. Certain capital gains on shares and bonds are taxable at a reduced rate of +/- 25 percent. The tax year corresponds to the calendar year.

Taxable income includes all the various categories of income received by the taxpayer, (i.e., salary after a flat 10 limited deduction capped at EUR 14,157, industrial or commercial profits, non-commercial income, agricultural

income, real estate income, interest, dividends, and capital gains). Losses or deductions may, in certain cases, be deducted directly from the total income of the taxpayer. The global income (including earnings made by family members) is divided into a number of parts or “shares” (a single person: one share, a married couple: two shares, one dependent child: one-half share, each child after the third: one share) and the progressive scale is applied separately to the individual amounts of these share units. The final tax liability equals the total of the tax liabilities applicable to each share. The result, therefore, is to limit significantly the effect of the progressive rate of tax (even if the tax reduction resulting from the shares for children is substantially limited).

#### *VAT Implications*

Self-employed artists are obliged to register for indirect tax purposes if the services they render are liable to French VAT.

#### *Employees*

##### *Income Tax Implications*

Employees are liable to personal income tax in respect of payments of salaries or wages (non-cash benefits are considered to be salary).

Resident companies are not obliged to make regular and periodic payments to the tax authorities in respect of salaries and wages paid to the resident employees (i.e., there is no automatic withholding system for French resident employees). On the other hand, employers paying salaries to non-resident employees have, in general, to levy and to pay to the tax authorities, on a monthly basis, a withholding tax at the rate of 0, 15, or 25 percent depending on the level of the salaries.

##### *Social Security Implications*

Employees are liable for personal Social Security contributions in respect of payments of salaries or wages (including non-cash benefits). The overall rate is around 22 percent of the gross salary. The contributions are directly withheld by the employer and paid by him or her to the local Social Security bodies.

Employers are also liable to pay their own contributions assessed on the gross salary paid, at a rate ranging between 35 and 45 percent, depending on the level of the salary.

The same income tax and Social Security rules apply to a non-resident company as soon as it hires employees in France, regardless of the structure used.

## KPMG Contact

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