



department for  
**culture, media  
and sport**

# Creative Sectors Tax Reliefs

Cultural Test for British High-end Television: Consultation

October 2012

Our aim is to improve the quality of life for all through cultural and sporting activities, support the pursuit of excellence, and champion the tourism, creative and leisure industries.

# Contents

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Context .....	4
Section A: Cultural Content.....	5
Section B: Cultural Contribution.....	5
Section C: Cultural Hubs.....	6
Section D: Cultural Practitioners .....	6
Administration of the Cultural Test.....	7
How to respond to this consultation .....	8
Annex A: The high-end television Cultural Test.....	9

## 1. Context

In the March 2012 Budget, the Chancellor of the Exchequer announced that the Government will introduce corporation tax reliefs for the animation, high-end television and video games industries from April 2013, subject to State Aid approval from the European Commission, and following consultation on design. HM Treasury's consultation on proposals [http://www.hm-treasury.gov.uk/consult\\_creative\\_sector\\_tax\\_reliefs.htm](http://www.hm-treasury.gov.uk/consult_creative_sector_tax_reliefs.htm) setting out these tax reliefs closed on 10 September 2012.

This Department for Culture, Media and Sport (DCMS) consultation paper separately seeks views on a proposed test to identify culturally British high-end television that might be considered eligible for the new tax relief. This requirement is in line with the European Commission's rules on State Aid. The final design of the cultural test for high-end television will therefore be dependent upon input from both this consultation and the European Commission.

High-end television plays an important role in British culture. The Government's core aim in providing tax relief is to promote the sustainable production of culturally British high-end television. This aim is supported through:

- (a) Encouraging the production of high-end television that might not otherwise be made;
- (b) Promoting sustainability in British high-end television; and
- (c) Maintaining a critical mass of UK infrastructure, creative and technical expertise, to facilitate the production of culturally British high-end television.

It is expected that all high-end television applying for the new tax incentives will need to qualify as British either under this new cultural test or as British as an official Co-production. Six of the UK's current bi-lateral treaties (UK/Australia; UK/Canada; UK/France; UK/Israel; UK/New Zealand; UK/Occupied Palestinian Territories) have provisions within the agreement to jointly make TV co-productions.

DCMS has been working with stakeholders – particularly the High-end Television Tax Relief Working Group – to design the cultural test for British high-end television products. We would now welcome comments from a broad range of interested parties on the proposed test, which is set out at Annex A. **We ask for responses by 29 October 2012.**

It is not the Department's intention to dictate the content, or style, of high-end television. The aim of the cultural test is to apply objective criteria to the measurement of cultural attributes in order to better identify culturally British high-end television. The proposal is to award points for those elements that contribute to the overall cultural value of a high-end television product. Points will be awarded in following areas:

- Cultural content
- Cultural contribution

- Cultural hubs
- Cultural practitioners

When considering the possible design of the cultural test for high-end television tax relief, the test currently applying to the UK's existing – and very successful – Film Tax Relief offered a useful starting point as did the cultural dimension of tax credits in other countries. The cultural test for the UK Film Tax Relief can be found here: <http://www.bfi.org.uk/film-industry/british-film-certification-tax-relief/cultural-test>.

The following text details our thinking behind the four sections of the proposed cultural test for high-end television. It includes a series of questions to help inform the consultation. You need reply only to questions you feel able to meaningfully answer. Full explanations for your views would be appreciated wherever possible.

### Sections A: Cultural Content

This section of the cultural test will measure the British or European content of the high-end television product. It is envisaged that points will be awarded for:

- A1 - Setting the production in the UK or the European Economic Area (EEA);
- A2 - The British or EEA national or residential status of the principal characters;
- A3 - If the narrative is a British or European story or the underlying material on which it is based has been conceived by a British or European citizen or resident;
- A4 - If the dialogue is mainly in the English language (or one of the UK's six indigenous minority languages).

Q1. Should points be awarded for British and European content in all sections of Section A or should this be limited to A1, A2 and A3?

Q2. What impact on UK talent and facilities would making points available to European as well as UK content have?

### Section B: Cultural Contribution

Points will be awarded for those elements of the production which demonstrate British creativity, British heritage or cultural diversity. We would welcome your views on these categories and what the assessment criteria for these categories might look like. We anticipate that this section will mirror the version used in the cultural test for film.

We envisage that points will be awarded based on the following determinants:

## B1 – Creativity

- Subject: does the production's portrayal of British culture come as a result of a maker's creative approach? i.e. the content is not necessarily dictated by a pre-existing work but is a creative, new interpretation of British culture.
- Other factors relating to creativity which can be shown to have an impact on the final content.

## B2 – Heritage

- Subject: does the production contribute to or reflect British cultural heritage, e.g. does the production explore a historical or imagined event, whether or not set in the UK?
- Other factors relating to cultural heritage which can be shown to have an impact on the final content.

## B3 – Diversity

- Subject/Portrayal: exploring contemporary social and cultural issues of disability, ethnic diversity and social exclusion on screen; promoting and increasing visual, on-screen diversity.
- Other cultural diversity factors which can be shown to have an impact on the final content.

Q3. Is Section B of the cultural test for film an appropriate model for high-end television production?

## Section C: Cultural Hubs

This section will measure the use of the UK's high-end television making facilities. It is envisaged that points will be awarded for using UK facilities for location shooting, studio shooting, visual effects, special effects, music recording, audio post-production and picture post-production facilities. We anticipate that this section would mirror the version used in the cultural test for film.

Q4. Is Section C of the cultural test for film an appropriate model for high-end television production?

## Section D: Cultural Practitioners

This section will measure the use of personnel with creative input into the high-end television product. Points will be awarded for the use of UK or EEA nationals or residents in key high-end television making roles as identified in Annex A. We would welcome your views on these categories, but specifically on how principal actors/personnel can be easily identified, and on how best to take into account where they may change as a series is produced from pilot to final episode.

Q5. Would points for a majority of British/European cast and crew facilitate this, and how would this be monitored and assessed, particularly where unknown elements exist at the beginning of an application?

Q6. Unlike with film production, a television series may not go into production with a fixed direction for the storyline. How could this be taken into account when assessing the cultural test? We would welcome your views on whether there are other elements of high-end television production that should have a significant impact on this test.

Q7. In relation to assessing the cultural test application at pilot episode stage, what consideration should be given to circumstances where points awarded at pilot episode stage are no longer met once a series is commissioned?

Q8. Are there other elements of high-end television production that make the current cultural test for film incompatible? If so, how might the cultural test for film be further adapted to take these into account?

## Administration of the Cultural Test

It is our intention to introduce a cultural test for high-end television that is as close as possible in design to that already in use for film. The cultural test is expected to have an overall pass mark of 16 points out of a possible 31. It is our intention that there will be flexible paths to achieving this pass mark. We would welcome your views on this.

Clearly the system we put in place for dealing with applications to the high-end TV cultural test will need to meet a number of minimum standards – for example in terms of viability, ensuring commercial confidentiality for applicants and avoiding conflicts of interest. At present the BFI is responsible for administering cultural test applications for the film tax relief and our initial view is that the most straightforward option would be to ask them to extend their remit to cover administration of the high-end TV cultural test. However, we are aware that stakeholders may have other suggestions and additionally may feel that particular aspects of the administration should be tailored to suit high-end TV production companies.

When the high-end television cultural test is introduced, DCMS will also issue detailed guidance on how the cultural test will be applied. We would welcome your views on what this guidance ought to cover for the high-end television cultural test.

Q 9. Are the proposed point allocations appropriate?

Q 10. What are your views on the assessment process for high-end television cultural test applications?

## **How to respond to this consultation**

The deadline for consultation responses is 29 October 2012. Comments should be sent to:

Creative sectors high-end television cultural test consultation  
DCMS  
2-4 Cockspur Street  
London SW1Y 5DH

Email: [high-entv.culturaltest@culture.gsi.gov.uk](mailto:high-entv.culturaltest@culture.gsi.gov.uk)

Please note all information in responses, including personal information, may be subject to publication or disclosure under the Freedom of Information Act 2000. If a correspondent requests confidentiality, this cannot be guaranteed and will only be possible if considered appropriate under the legislation.

If you have any questions or complaints about the process of consultation on this paper, please contact us on the above email address.

## ANNEX A: High-end television Cultural Test

A high-end television production qualifies if it scores 16 points or more out of 31.

The Secretary of State will not have any discretion to waive or relax the test in a particular case.

### Section A: Cultural Content

		Notes	Points
A1	<p><b>A1 production set in the UK or the EEA</b></p> <ul style="list-style-type: none"> <li>• 4 points will be awarded if at least 75% of the production is set in the United Kingdom or the EEA.</li> <li>• 3 points will be awarded if at least 66% of the production is set in the United Kingdom or the EEA.</li> <li>• 2 points will be awarded if at least 50% of the production is set in the United Kingdom or the EEA.</li> <li>• 1 point will be awarded if at least 25% of the production is set in the United Kingdom or the EEA.</li> </ul>		Up to 4
A2	<p><b>A2 Lead characters British or EEA Citizens or residents</b></p> <p>Up to four points to be awarded depending on the number of lead characters that are British or EEA characters as follows:</p> <ul style="list-style-type: none"> <li>• 1 point if one of the three lead characters qualifies</li> <li>• 2 points if one of the two lead characters qualifies; and</li> <li>• 4 points if two or more of the three lead characters qualifies or if there are only one or two characters and all qualify.</li> </ul>		Up to 4
A3	Based on British or European subject matter or underlying material		4
A4	Original dialogue recorded mainly in English language (including official Regional or minority languages of the UK)		4

<b>Total</b>			<b>16</b>
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**Section B: Cultural Contribution**

		Notes	Points
B	Represents British creativity, British heritage or cultural diversity		Up to 4
<b>Total</b>			<b>4</b>

**Section C: Cultural Hubs**

		Notes: Must be in the UK	Points
C1	Principal Photography/Visual Effects/Special Effects Points	At least 50%	2
C2	Music Recording or Audio Post Production – or Picture Post Production	At least 50%	1
<b>Total</b>			<b>3</b>

**Section D: Cultural Practitioners**

		Notes: Must be British or EEA nationals/residents	Points
D1	Director	At least 50% if more than one per series	1
D2	Scriptwriter	At least 50% if more than one per series	1
D3	Producer	At least 50% if more than one per series	1
D4	Composer	At least	1

		50% if more than one per series	
D5	Lead actors		1
D6	Majority of cast		1
D7	Key Staff (lead cinematographer, lead production designer, lead costume designer, lead editor, lead sound designer, lead visual effects supervisor, lead hair and makeup supervisor)		1
D8	Majority of crew		1
<b>Total</b>			<b>8</b>

<b>Total</b>	
<b>Section A – Cultural content</b>	16
<b>Section B – Cultural contribution</b>	4
<b>Section C – Cultural hubs</b>	3
<b>Section D – Cultural practitioners</b>	8
<b>Total points for Sections A, B, C and D</b>	<b>31</b>
<b>Pass mark 16 points – may pass in section A alone</b>	



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