

Italian Tax Credit for Foreign Films

Italian Tax Credit for Film Production

Legal overview

**Year
2007**

- Fiscal incentives for the Film Industry were introduced at the end of **2007**, in the **Financial Law for 2008 (no. 244/2007)**, namely in Article 1, Paragraphs 325-343

**Year
2009**

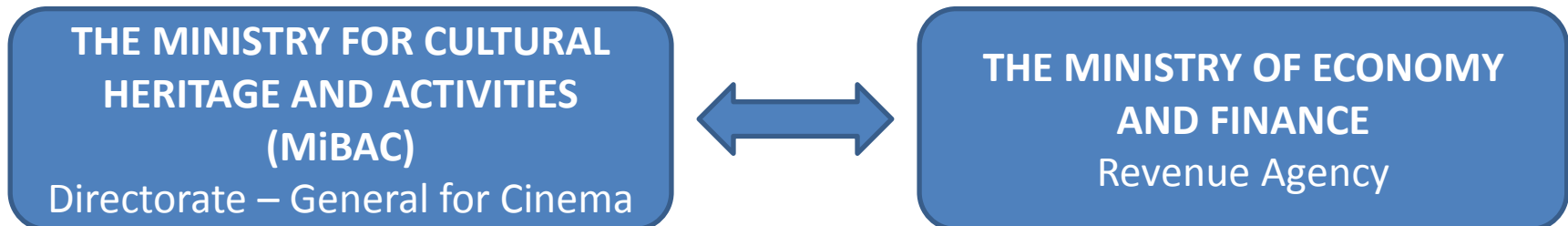
- In *December 18th 2008* the European Union authorized the measure for Film Production Companies that became operational through the enactment of the Ministerial Decree of May 7th 2009, implementing provisions regulating tax credits for Film Production Companies

Italian Tax Credit for Foreign Films Regulation

Tax credit for executive producers of foreign films is regulated by:

- Art. 1, Paragraph 335, Law. 244/2007
- Decree* May 7th 2009 “Film producer’s tax credit Decree” **Art. 4 – Executive film production companies and technical industries eligible for tax credit; Art. 5 – Procedures for granting tax credits to Executive film production companies and technical industries**

the regulation establishes a **specific administrative frameworks** aimed at the implementation of tax credit Decrees, basing on a cooperation between



*see «Italian tax credit for foreign films» in the «Normativa» section of Directorate General for Cinema website

<http://www.cinema.beniculturali.it/direzionegenerale/61/normativa-statale/>

Italian Tax Credit for Foreign Films

Definitions

Foreign film



Film which has **not** received a positive Italian nationality assessment

Beneficiary



Executive Production Companies and Technical Industries taxable in Italy, registered in the Film Industry lists established and kept by the Directorate-General for Cinema, on commission by foreign production companies

Foreign film production company



Company which does not have a registered office, fiscal domicile or permanent establishment in Italy.

Ministero per i Beni e le Attività Culturali
Direzione Generale per il Cinema

Italian Tax Credit for Foreign Films

Cultural Eligibility test

Applying works have to pass an eligibility test aimed at guaranteeing their Italian or European cultural identity (Table C, Decree 7 May 2009). Minimum total score: 50/100.

Block A: content

- script adapted from literary work **10 pts**
- Script concerning historical, legendary, religious, social, artistic or cultural event **10 pts**
- Script concerning a celebrity of historical, legendary, religious, social, artistic or cultural importance **10 pts**
- Italian or European main characters of the script or of the screenplay **10(4,6) pts**
- Script set in Italy or Europe or outdoor scenes shot in Italy with the aim to valorize artistic, archeological and architectural assets (minimum threshold 15% of the scenes) **15(6) pts**
- Original dialogue recorded, post-sync or subtitled in Italian or Italian dialect (minimum threshold 50% of the scenes) **5 pts**

Block B: creative talents

- Presence of a filmmaker citizen of the EES (producer, director, scriptwriter, composer) **8 pts**
- Presence of a creative talent citizen of the EES (interior designer, art director, chief make-up artist, costume designer, p.d., line producer, editor, set designer) **8 pts**
- Presence of at least one lead actor citizen of EES **2 pts**
- Presence of at least two supporting actors citizen of EES **2 pts**

Block C: production

- Scenes shot in a studio in Italy **8(4) pts**
- Digital effects in Italy **2 pts**
- Special effects in Italy **2 pts**
- Music recording in Italy **2 pts**
- Sound editing and mixing in Italy **2 pts**
- Labor work in Italy **2 pts**
- Final editing in Italy **2 pts**

In Block A 2 out of 4 of the underlined items are compulsory. For Cultural Eligibility Test tender for documentaries or animated films see Table C attached to Decree May 7^o 2009 in the «Normativa» section of Directorate General for Cinema website under the title of «Italian tax credit for foreign films» <http://www.cinema.beniculturali.it/direzionegenerale/61/normativa-statale/>

Italian Tax Credit for Foreign Films

Eligible costs

Eligible costs:
any production
expenses incurred and
paid by the executive
producer provided
that:

Financial, insurance and warranty
expenses are taken into account up
to a maximum of **7,5%** of the
production cost

Overhead expenses are taken into
account up to a maximum of **7,5%** of
the production cost

Producer fee not included

Italian Tax Credit for Foreign Films

Tax credit percentage

TERRITORIALISATION REQUIREMENTS

production expenses on
Italian territory, not
exceeding the 60% of the
global budget

Any expenses incurred in another
EU member State are to be treated
as expenses incurred in Italy up to
a maximum of 30% of the overall
film production budget

25%

Of the eligible executive
production expenditures
per each work

CAP

Up to a maximum amount
of € 5 M per each film

€ 20 M correspond to the
maximum eligible
expenditure in Italy

Italian Tax Credit for Foreign Films

Expenses on Italian or European territory: two cases

Film 1 Total Budget: € 10M



Not eligible costs

Spent in Italy by the Italian executive producer

Film 2 Total Budget: € 10M



Not eligible costs

Spent in Italy by the Italian executive producer

Spent in a European Member State by the Italian executive producer

Italian Tax Credit for Foreign Films

State aid limits

50%

- Tax credit benefits, together with any other public support must not exceed the total of 50% of the cost of production of the cinematographic work

80%

- This limit is extended to 80% in the case of difficult films and films with modest financial resources

Difficult film:

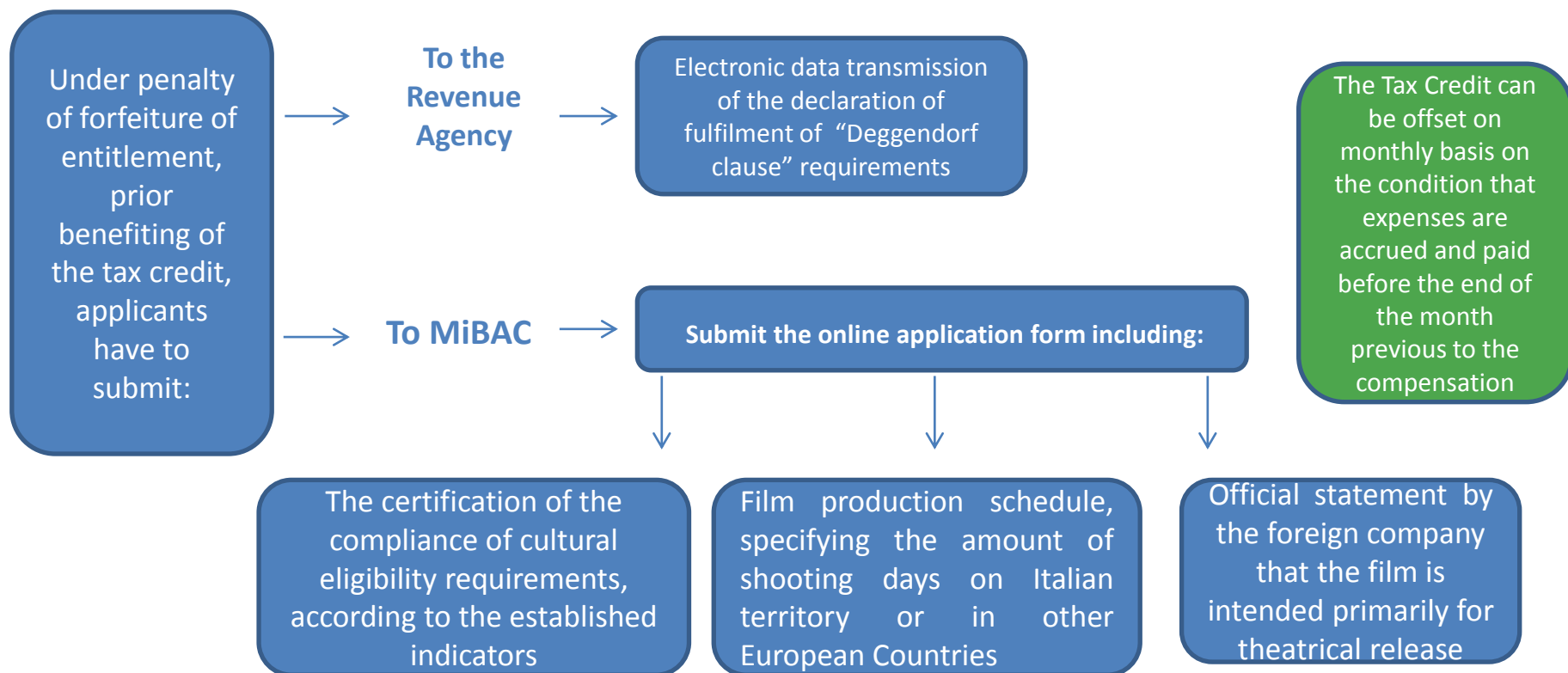
first and second cinematographic works, documentaries, short films, works produced by film schools recognized by the Italian government, including any works of cultural interest that do not fall within the previous categories, which exceed the score of 70 points in the eligibility test related to full-length films

Film with modest financial resources:

A film whose overall production cost does not exceed € 1,5 M

Italian Tax Credit for Foreign Films

Administrative procedure : Preliminary Request



Within **the end of the month following the date of reception** of the applications, MiBAC notifies with a registered letter with advise of delivery the provisional negative assessment concerning cultural eligibility. The applicants can further apply only once, referring to the same film work; in lack of any communication, the notification of a positive assessment will be expressed by the so-called "tacit consent", the positive silence rule.

Italian Tax Credit for Foreign Films Administrative procedure: Final Request

To avoid any revocation of the financial benefits acquired, applicants have to **submit** to MiBAC the prescribed forms, also signed by the Foreign Production Company lawyer, **within 30 days since the end of the executive production activities**.

In the application the following must be specified:

- Overall film production costs, with a certification of actual expenses accrued, enacted by the president of the board of auditors, an auditor or a practitioner included in a Professional Register Association, or by the officer in charge of the Tax Assistance Center;
- The entire amount of the production costs on Italian territory, as well as other expenses in other UE Country;
- The entire amount of the shooting days and the number of shooting days on Italian territory;
- The amount of the tax credit to be granted to the Executive Production Company and to technical industries, specifying the amount of tax credit already used, as well as the month in which entitlement to tax credit first arose.

Tax credit benefits are **assigned** after an evaluation by MiBAC concerning the fulfillment of the subjective, objective and formal requirements **within 60 days from the date of reception** of the application.

Italian Tax Credit for Foreign Films Obligations

Production Companies, Executive Production Companies and Technical Industries have to provide insurance coverage in case of:

- Damages to the film stock (negative film)
- Stock film manufacturing defect and mechanical malfunctioning (faulty stock)
- Problems caused by interruptions to the process (cast insurance)
- Problems caused by technical malfunctioning (extra expense)
- Cast and crew injuries (crew & actors guild)
- General and employers liability

Italian Tax Credit for Foreign Films

Foreign production companies useful steps

Pick up an Italian executive production company registered in the Official Film Industry List and able to offset tax debts. Negotiate the production service contract considering tax credit percentage in the rebate agreement.

Supervise the administrative procedure:

Countersign the preliminary application submitted by the executive producer to MiBAC and ascertain the achievement of a positive assessment



Follow the executive production monthly offsetting of tax debts such as local VAT, corporate income tax, regional income tax, social contribution, etc.

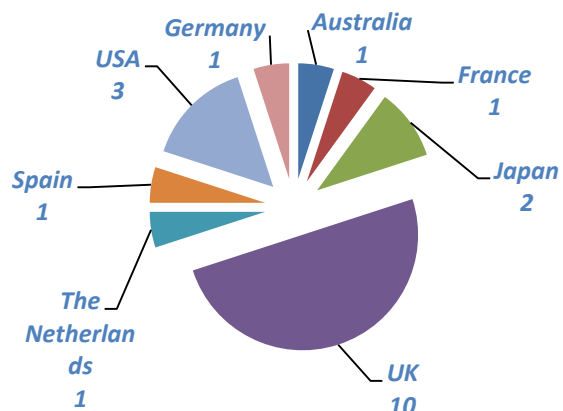


Countersign the final application submitted by the executive producer to MiBAC and ascertain the achievement of the final authorization

Italian Tax Credit for Foreign Films

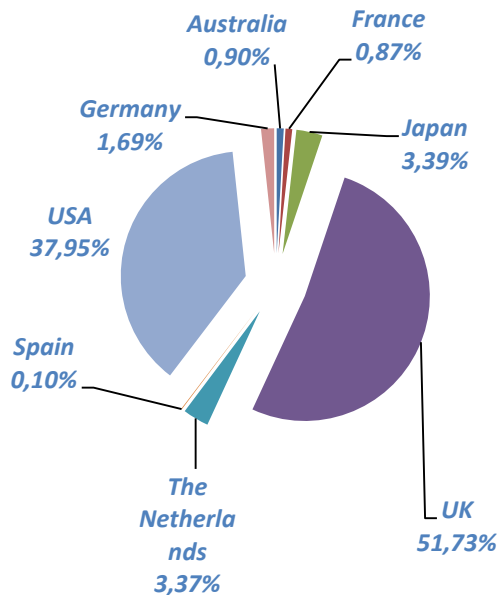
Data: Foreign Films on which a tax credit request has been submitted up to april 2012

Nationality share by number of films



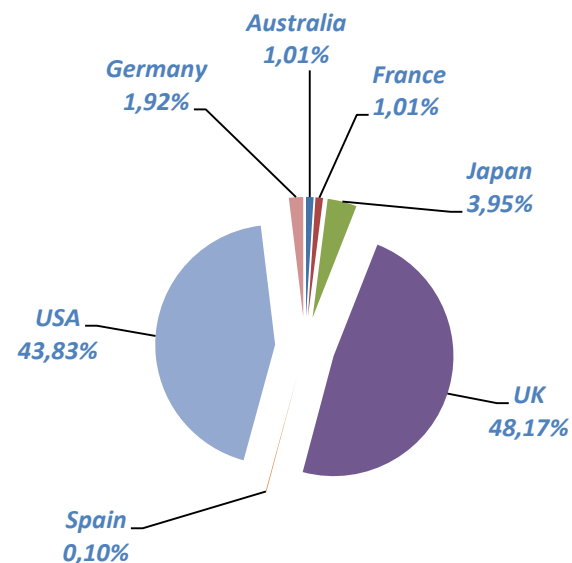
20 foreign movies

Nationality share by amount of the investment on which tax credit request has been submitted



€ 67,5 M invested

Nationality share by assigned credit



€ 14,5 M assigned

**Directorate-General for Cinema
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Service II – Production, Distribution, Exhibition and
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