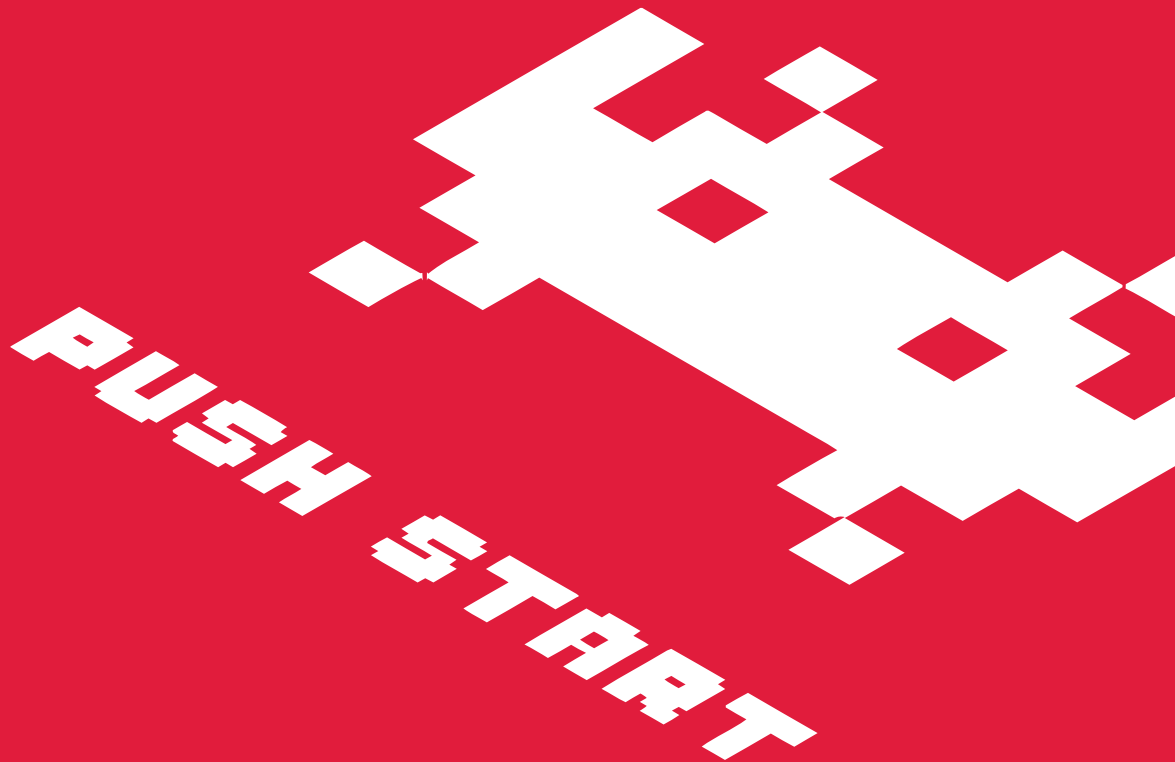


Oury Clark

A Guide to

# Video Games Tax Relief





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# Introduction to Video Games Tax Relief.

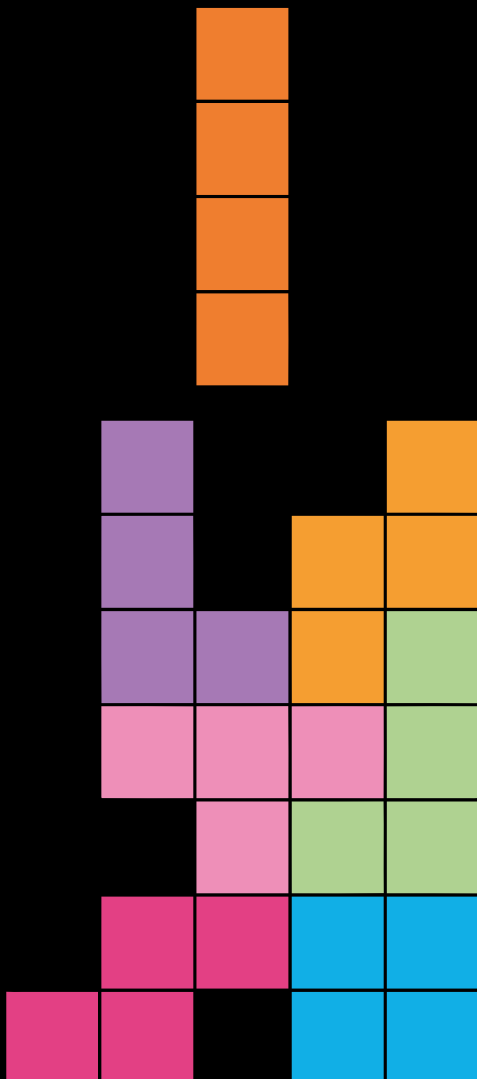
Video Games Tax Relief is part of the creative industry tax reliefs that allows a qualifying company to claim a larger deduction, or claim a payable tax credit when calculating their taxable profits. Video Game Tax Relief is effective for expenditure incurred on or after 1 April 2014.

Oury Clark has created this guide to demonstrate how businesses can benefit from this attractive tax relief. This guide only provides an overview and professional advice should be sought.

Game developer groups had been campaigning for a tax relief to be introduced as developers in many countries received tax breaks for production or other means of support to the industry. No equivalent tax breaks existed in the UK and employment and investment in the industry was declining. The Video Games Tax Relief has been introduced in order to allow UK game developers to compete internationally on a level playing field, promote investment, job creation and support the production of culturally British video games.

# What video games qualify?

The qualifying criteria for a game are wide and all video games qualify, but the legislation expressly excludes video games where they are produced for advertising, promotional purposes or gambling.



## A company will be entitled to claim Video Games Tax Relief if:



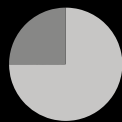
### European

The video game must be European; and




### Supply

The video game is intended for supply; and



### Expenditure

At least 25% of core expenditure is on goods or service that are provided from within the European Economic area (EEA).



**HMRC will give you  
back up to 20% of  
your development  
costs in cash!**

# What is a British Video Game?

## How to qualify

To qualify as a British video game it must be certified as British by the Secretary of State. To achieve this certification the video game must pass the Cultural Test for Video Games. This is a points based system and is administered by the British Film Institute (BFI).

The video games development company must make an application for a British Video Game certificate via the BFI. An application can be made for an interim certificate so that the company can claim the tax relief in advance of completion of the game. This allows the company to claim Video Games Tax Relief on costs incurred so far if development spans over more than one accounting period.

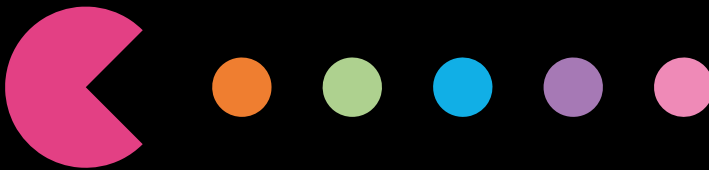
A second application is then necessary after the video game is completed, in order to be granted a final certificate so the tax relief claim can be finalised.

The cultural test is set out at the end of this guide and generally, a company only needs to achieve 16 points out of a possible 31 points. There are, however, some exceptions to this.

## Tax Relief for Trade

Video Games Tax Relief available to video games development companies conducting a video game trade.

# What is a qualifying company?



## How to qualify

Subcontracting does not prevent the company from being a video games development company for tax purposes, but the company must still retain overall responsibility for these activities and have active involvement in them.

There can only be one video games development company in relation to each video game. Subcontractors will not qualify as a video games development company as they are only responsible for delivering an element of the overall development.

It is possible that more than one company could meet the requirements for qualifying. In such circumstances, the company most directly engaged in the activities would be treated as the video games development company in respect of that game.

## Responsibilities

A video games development company must be responsible for designing, producing and testing the video game. It must be actively engaged in planning and decision-making during the design, production and testing; and directly negotiate, contract and pay for rights, goods and services relating to the video game.

The company does not need to have direct responsibility for every aspect of all of these activities and indeed it is common industry practice for certain elements of a video game to be subcontracted to third parties.

# Core Expenditure

Video Games Tax Relief is only available on core expenditure. Activities designing the initial concept of the game are not core expenditure. Debugging a completed game or maintenance is also not core expenditure.

## Core expenditure consists of:

### Design

Design or pre-production is the stage that typically occurs once the decision to proceed with the video game has been taken, but prior to production.

### Production

Production is the stage at which the game is developed. Designs and prototypes from the pre-production stage are developed to the point at which they conceivably may be ready for release, subject to testing.

### Testing

This stage involves testing both technical elements and the entertainment value of the story, levels and gameplay. It is possible that a video game will return to the production stage in order to rectify issues.

The development process will inevitably return to the testing stage after this backward step. At the end of the testing stage, the game is considered to be ready for supply to the general public. The separation between testing and debugging is usually clearly signified by the release of the game.

Subcontracted costs that fall within the definition of core expenditure are eligible, but are subject to a cap of £1 million per game.





# The Tax Relief Benefit

**A video games development company may claim an additional deduction in its corporation tax return based on its qualifying expenditure.**

The additional deduction is calculated on the lower of:

- Core expenditure incurred in the EEA; and
- 80% of core expenditure incurred in relation to that video game.



# Examples

## 1.

A video games development company incurs core expenditure of £2 million of which all is EEA expenditure. Therefore the additional deduction is the lower of:

- Core expenditure incurred in the EEA - £2 million; and
- 80% of the core expenditure incurred by the company - £1.6 million

Therefore the additional deduction available is £1.6 million.

## 2.

A video games development company incurs core expenditure of £2 million of which 70% is EEA expenditure. Therefore the additional deduction is the lower of:

- Core expenditure incurred in the EEA - £1.4 million; and
- 80% of the core expenditure incurred by the company - £1.6 million

Therefore the additional deduction available is £1.4 million.

# Payable Tax Credits

A video games development company may claim a payable tax credit in an accounting period where it has a surrenderable loss at the rate of 25%. The company's surrenderable loss is the lower of:

- The company's available loss for the period in the separate video game trade; and
- The enhanceable expenditure.

# Example

## The surrenderable loss is the lower of:

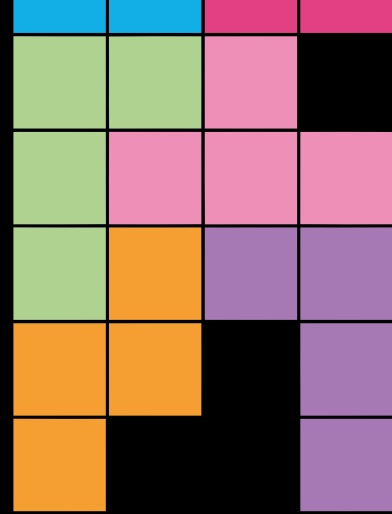
- The available loss of £3.1million; and
- The available qualifying expenditure of £1.6 million.

In this example the video games development company can surrender part of their loss to a maximum of £1.6 million. The amount of the payment is the payable credit multiplied by the amount of loss surrendered. The payable credit rate is 25%. The video games development company would receive a payment of £400,000. The remaining £1.5 million of unrelieved losses would be carried forward to future accounting periods.

Rules around losses are complex and careful consideration must be given as to the use of any losses arising. Where a video games development company has a trading loss before the video game is completed, this loss can only be carried forward to be relieved against profits of the same trade.

FACTS & FIGURES...		
Most:		
Likes	xP	Quests Done
1ST	INCOME	500,000
2ND	EXPENDITURE	(2,000,000)
3RD	TRADING LOSS	(1,500,000)
4TH	ADDITIONAL DEDUCTION LOWER OF:	
5TH	EEA CORE EXPENDITURE OF £2 MILLION	2,000,000
6TH	80% X CORE EXPENDITURE OF £2 MILLION	1,600,000
7TH	THEREFORE ADDITIONAL DEDUCTION	(1,600,000)
8TH	TOTAL LOSS	(3,100,000)

# FAQ



## How is a claim made?

Claims are made by completing the appropriate sections in the video games development company's corporation tax return. Information about the enhanced expenditure and supplementary information should be submitted along with the computations and company's financial statements. A copy of the interim or final certificate issued by the BFI must also accompany the tax return.



## Can a company claim for an abandoned project?

Video Games Tax Relief can be claimed for abortive expenditure incurred before the video game is abandoned. As with a completed video game, entitlement still depends on whether the video game meets the qualifying conditions. The video games development company may present an interim certificate for the final period (as it will not be able to procure a final certificate) and the video game must still satisfy the 25% minimum EEA core expenditure with respect to the actual, rather than planned, level of expenditure.

## Is there a time limit for claims?

Claims for video games tax relief should be made within 12 months of the end of the accounting period by filing the corporation tax return. Late claims can be made up to the first anniversary of the filing date of the corporation tax return.

## What is the effective rate of tax relief?

A video games development company can attract an enhanced 80% deduction, assuming a corporation tax rate of 20% this allows additional tax relief of 16%. For loss making companies claiming a payable credit the benefit would be as much as 20% of qualifying expenditure.

## Can I combine video games tax relief and research and development?

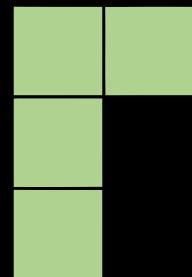
A company can apply for both Video Games Tax Relief and R&D relief. You may only make a claim for a particular cost against one of the schemes, not both. Where a company undertakes both R&D and video games development, activities must be reviewed and costs associated with these activities identified. Enhanced relief for these should then be claimed under the appropriate scheme.

## Does the game have to be available on a specific platform?

No, the video game can be developed for any of the following platforms; video consoles, PCs, smartphones, tablets, and other mobile devices.

## Is there a limit on expenditure?

There is no limit on qualifying expenditure but subcontractor costs are capped at £1 million per game.



## **Is there a minimum spend to be eligible for Video Games Tax Relief?**

The relief is available to companies of all sizes and there is no minimum expenditure. 25% of expenditure, however, must be EEA expenditure.

## **How long does a claim take to process?**

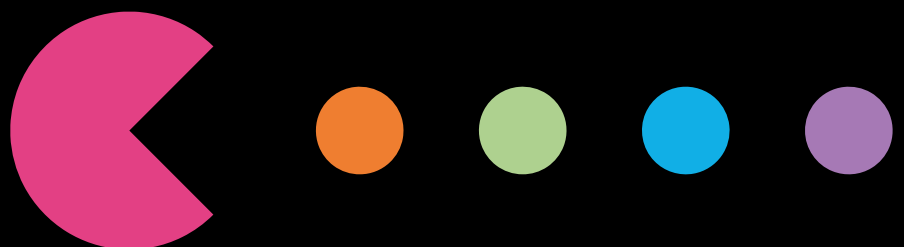
The BFI aim to respond to applications for certificates within 28 days. HMRC aim to make payment for claims or request further information within 28 days.

## **My game is not based in Britain, can I still qualify?**

The cultural test expands Britain to the EEA and also fictional settings that are not country-specific so this would not preclude the game from qualifying as British. The “British” test is very wide and so many games will achieve enough points to be considered culturally British.

## **Does the game have to be finished before making a claim?**

No, the BFI will issue interim certificates so interim claims can be made.



# Cultural Test

The below is a summary of the points system.  
More information on the cultural test can be found [here](#)

## A1.

**Up to 4 points depending on the location of the video game**

If at least 75% of the video game is set in the UK or another EEA state.

If at least 66% of the video game is set in the UK or another EEA state or the location cannot be determined.

If at least 50% of the video game is set in the UK or another EEA state or the location cannot be determined.

If at least 25% of the video game is set in the UK or another EEA state or the location cannot be determine.

## A3.

**4 points if the video game is based on**

British or EEA subject matter

## A2.

**Up to 4 points depending on the nationality of the lead characters**

If two or more of the three lead characters depicted are from the UK, another EEA state, or their nationality/species cannot be determined.

OR

If there are only one or two characters depicted and all are from the UK, another EEA state, or their nationality/species cannot be determined.

If one of the two lead characters depicted is from the UK, another EEA state, or their nationality/species cannot be determined.



## A4.

Up to 4 points if the proportion of the original dialogue or voice-over recorded in English or a recognized regional or minority language

- At least 75%
- At least 66%
- At least 50%
- At least 25%

## B1.

Up to 4 points if the video game makes a contribution to the promotion, development and enhancement of British culture

## C1.

If at least 50% of the work on any one of the following activities is carried out in the UK:

- Conceptual development
- Storyboarding
- Programming
- Design

## C2.

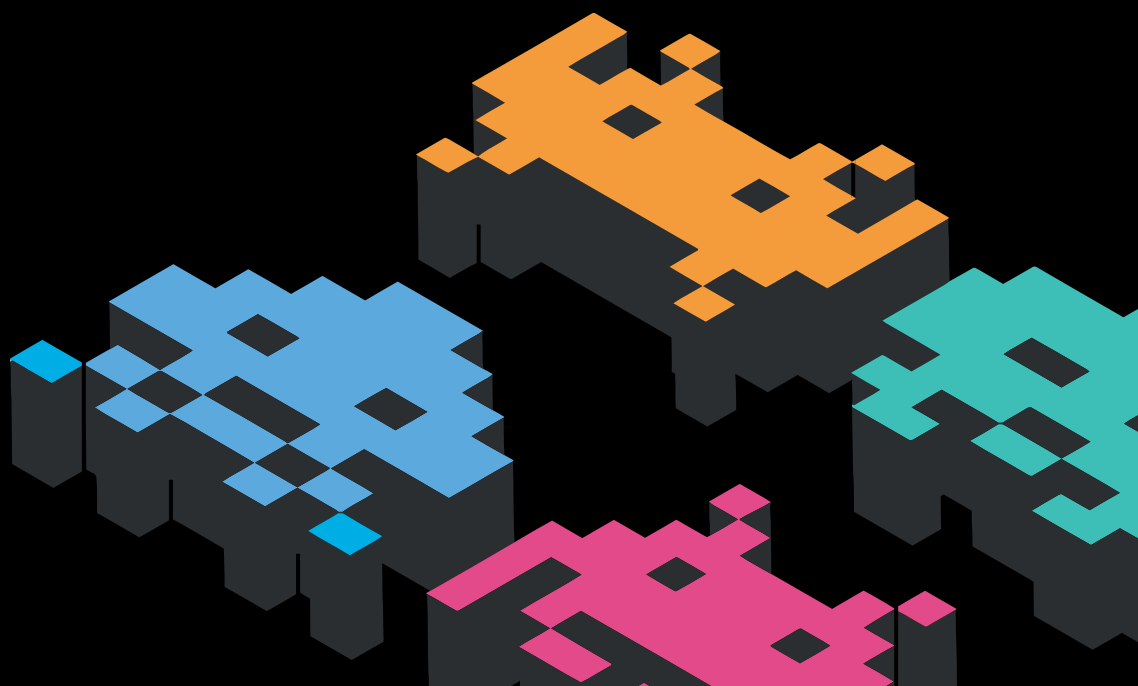
If at least 50% of the work on any one of the following activities is carried out in the UK:

- Music recording
- Voice recording
- Audio production

## D1.

Up to 8 points if the person involved in the below is ordinarily resident in the UK or any other EEA state

- Project leader
- Scriptwriter
- Composer
- Artist
- Programmer
- Designer
- Key staff
- Majority of development team



# About us

**We are Chartered Accountants, Lawyers, Solicitors, Consultants, Recruitment and Financial Advisors based in London and Slough offering a breadth of services to both large and small companies**

Oury Clark has dedicated considerable time and resources since 1935 to build a unique package that pushes the boundaries of professional practice and makes it easier and more cost effective for international businesses setting up operations in the UK.

Oury Clark offers a depth and breadth of services mixed with a commercial understanding rarely found amongst UK professionals.



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