

SPAIN / CANARY ISLAND

TAX INCENTIVES

Producers with tax residence in the Canary Islands responsible for the execution of a foreign production (production service companies) will benefit from the Tax Rebate for foreign productions established in Article 36.2 of the *Ley de Impuesto de Sociedades* (Hereinafter "LIS").

This article provides that producers with tax residence in the Canary Islands responsible for the execution of a foreign production (production service companies) will benefit from a return of 50-45% of the eligible expenditure in the Canary Islands. This incentive is capped to a maximum deduction amount of 18 million Euros.

I. Formal Requisites:

The foreign productions company need to associate with a Production service company with tax address in the Canary Islands, registered in the Registry of the Canary Islands Audiovisual Companies, to benefit from the tax incentives as established in Article 36.2 of the *Ley del Impuesto Sociedades*.

Furthermore, the production needs to comply with the following formal requisites:

- That the Company is registered in the Registry of the Canary Islands Audiovisual Companies.
- That the production is registered in the ICAA for Foreign Audiovisual Production.
- That the production obtains the corresponding certificate providing the cultural fulfillment relating to the content or commitment with the Spanish or European culture, issued by the ICAA.
- That in the film's final credits appear:
 - A specific reference of having availed of the tax incentives; by collaboration, in this case, of the Government of the Canary Islands, the Regional Governments, Film Commissions or Film Offices involved directly in the making of the film or other production process carried out in the Canary Islands.
 - The location of the studio in the Canary Islands that commissioned the production services in the case of audiovisual productions of animation films.
- That the rights holders authorize the use of the title of the work and graphic and audiovisual press material that expressly includes specific locations of the filming or any other production process carried out in the Canary Islands, for the performance of activities and preparation of promotional materials in Spain and abroad for cultural or tourism purposes

II. Cultural Certificate

To comply with the first formal requisite, the Canary Islands company needs to get the Cultural Certificate. To apply for it, the Canary Islands Company needs to submit to the ICAA the following documentation:

- Explanatory memorandum indicating which project will be carried out or have been accomplished showing its adaptation and relevance with the criteria indicated in the application.
- Technical and artistic production team who will film or have shot the filming in the Canary Islands.
- Fact sheet indicating the number of days, date and location of the filming. In case of animation production or visual effects, the tentative schedule of the works and locations sites.
- Affidavit about the accuracy of the data manifested in the preceding documents.

The ICAA has a maximum period of one month to decide if the Cultural Certificate is issued or denied. If issued, it can be revoked in case the stipulations are not met.

It is needed to achieve a total amount of 15 points over 35 possible, with the following system:

		Maximum scorepoint	
		35	
I. Real image productions (minimum scorepoint required: 15)			
I. A	Cultural Content		
A.1	At least 5 scenes of the production are shot in Spain, in other countries of the Council of Europe, in a Spanish speaking country (understood as such, and hereafter, the country where Spanish or Castillian language is the official language) or in a fantasy, imaginary or undertermined location site)		6
A.2	At least a protagonist or principal actor is Spanish or from a country of the Council of Europe, from a Spanish speaking country or of an undetermined citizenship.		3
A.3	At least 2 location sites representing or recognisable as Spain serves as the setting of each scene.		4
A.4	The plot captures the artistic or cultural wealth, social reality or a relevant historic period, as well as the characters or mythical location.		4
A.5	The compelling plot or background is inspired or is an adaptation of an existing work of fiction or non-fiction (e.g. a book, comic, film, tv programme, opera, theater play, videogame).		4
A.6	The recorded original dialogue is mainly in Spanish or in any official language of Spain or of other countries in the European Economic Area.		8
A.7	A final production dubbed version will be available or translated in Spanish or in any other official language in Spain.		2
A.8	The product carried out in the country includes Spanish sign language acknowledged as such in Spain.		1
I. B	Development of the labour production:		
B.1	Percentage of the main shooting carried out in Spain, as a whole or by chapters.		8
B.1.1	At least 50 %	8	
B.1.2	At least 33 %	7	
B.1.3	At least 25 %	6	
B.1.4	At least 15% or a minimum of 2 weeks	5	
B.2	At least 50% of the Visual Effects (VFX) or Practical Special Effects (SFX) is filmed in Spain.		4
B.3	At least 50% of the music recording product or audio post production or image post production is executed in Spain.		4

B.4	At least 50% of the suppliers of technical elements (camera, lighting, sound, machinists) of the filming in Spain are Spanish.	4
I. C	Spanish citizen staff or legal resident in Spain or in other country of the European Economic Area (when such position indicated is shared with various staff, punctuation will be depending whether one of them meets the requirement).	
C.1	Male or female Director.	4
C.2	Screen writer.	2
C.3	Male or female songwriter.	2
C.4	Male or female director of photography.	2
C.5	Male or female executive producer.	1
C.6	Leading man or lady.	4
C.7	At least 50% of the rest of artistic staff.	2
C.8	Male or female Team leader (designer of main production, designer of main costume, main assembler, sound system designer, visual effects supervisor, makeup supervisor, hairdresser.	2
C.9	At least 50% of the technical and production staff in those scenes filmed in Spain.	4

III. Deductions applicable

If the production complies with the formal requisites, the production can benefit from the following deductions:

- 50% of the first million of the basic amounts for deduction.
- 45% on the excess of said amount.

These deductions will **only apply** if the costs of the production are at least 1.000.000 in the Canary Islands, and the total budget of the production must be more than 2.000.000 euros and the eligible expenditure may not exceed 80 % of the total cost of production. In any case, it is capped to a maximum deduction amount of 18.000.000 euros.

This deduction together with other aids and grants for the same production may not jointly exceed 50% cost of production

The incentives are reimbursed to the Canary Island Producer. To get the reimbursement, it must be requested by the Canary Islands company in July of the year following the end of filming, and if granted, it shall be transferred to the company.

The following costs incurred in the Canary Islands directly related to the production will be deductible:

- Expenses relatives to HOD's & Cast, provided that they have their tax residence in Spain or in a Member State of the European Economic Area and hired by the SP_SPVC, with a limit of 100,000 euros per person.
- Expenses arising from the use of technical industries and other suppliers, including:
Please find in Annexed (1)

The expenses linked to administrative tasks don't form part of the basis for deduction, such as:

- The costs of air, sea and/or road transport of filming material, props and/or machinery to be used in the filming from other countries to the Canary Islands, as these are not expenses incurred in the Canary Islands territory.
- The costs of labour and legal advice.
- Expenses incurred in relation to administrative equipment, which includes the rental of premises (administration office), personnel expenses (chief accountant, accountant, paying accountant and assistant accountant), rental of office machinery and furniture (photocopiers, printers, office furniture, etc.) and the purchase of office material, stationery and courier expenses.
- Expenses incurred in insurances.
- Financial costs.
- General administration costs.

Nor shall the expenses derive from the tax depreciation of assets directly assigned to the executive production of the series, in the proportion corresponding to their assignment to the series, form part of the basis of the deduction, insofar as they are not expenses incurred in Canary Islands territory, but rather investments made abroad which are subsequently assigned to the production of the series.

The expenses that may form part of the deduction base shall be deemed to have been incurred in the Canary Islands territory when the services giving rise to such expenses are actually rendered in the Canary Islands, or in the case of supplies of goods when they are made in that territory. This is irrespective of the nationality of the supplier providing the goods or services.

To the extent that a service is partly rendered in the Canary Islands, the basis of deduction will include that part of the service which corresponds to the service performed in the Canary Islands.