haysmacintyre

Creative Sector Tax Reliefs: Museums and Galleries Exhibition Tax Relief

Museums and Galleries Exhibition Tax Relief (MGETR) is a relief for qualifying primary and secondary production companies that are responsible for qualifying exhibitions. It can be worth up to 40% in cash of certain types of expenditure. Not every exhibition is qualifying, but the following is a guide to help you identify whether MGETR is relevant for yours.

Who can claim?

A qualifying company needs to maintain a museum or gallery and be either:

- A charitable company; or
- A company wholly owned by a charity or local authority.

The entity must be a 'going concern' within the charge to Corporation Tax, though this should not be confused with having a Corporation Tax liability, which is not necessary. We will refer to such an entity as a 'company' but please note, this does not mean you have to be registered with Companies House. We have helped many entities with more unusual constitutions to make a MGETR claim, so please contact us if you are unsure.

Primary production company

A primary production company must:

- Make an effective creative, technical or artistic contribution.
- Be actively engaged in planning and decision-making.
- Directly negotiate, contract and pay for rights, goods and services.
- Be responsible for producing and running the exhibition at a venue.

There can only be one primary production company for an exhibition but, if the exhibition is held at two or more venues, there may also be secondary production companies.

Secondary production companies

A secondary production company must be:

- Responsible for producing and running the exhibition at a venue.
- Actively engaged in decision-making in relation to that venue.

There may be more than one secondary production company in relation to an exhibition.

There is some flexibility here, as HMRC guidance states that a production company (primary or secondary) does not need to have direct responsibility for every aspect of these activities, and third parties can undertake some of these activities as subcontractors. If multiple group companies are involved, we can help establish which one best meets the criteria to make the claim and/or how to structure the activities to make the most of the relief and minimise risks.

Qualifying exhibition

A qualifying exhibition:

- Is a curated public display of an organised collection of objects or works considered to be of interest in one (or more) of the following ways:
    - Scientifically
    - Historically
    - Artistically
    - Culturally
- Can be a single object

At least 25% of the 'core expenditure' must relate to goods or services provided from within the UK or European Economic Area (EEA). From 1 April 2024, at least 10% of the 'core expenditure' must relate to activities in the UK.

Core costs are those incurred producing the exhibition and uninstalling and closing the exhibition if it's open for one year or less, but do not generally include costs incurred whilst the exhibition is open, or any speculative expenditure. Further information on these costs can be found under 'What can you claim?'.

Who cannot claim?

Some of the more common reasons that a company may not be able to claim MGETR for a production include:

- The exhibition is organised in connection with a competition.
- The exhibition is not held in person (e.g., online exhibitions).
- The exhibition includes a live performance by any person (except where this is incidental).
- Where anything displayed is for sale or alive.

Where the live performance is only a small part of the exhibition, there may be a possibility to make a MGETR claim, excluding costs relating to the live performance, but this will depend on the relevant facts of the exhibition.

There are other more niche reasons why a production might not be eligible for a MGETR claim, but please do reach out to the team who would be happy to discuss the above with you.

What can you claim?

In order to make a claim, you must first identify all of the income and expenditure of each exhibition. The expenditure then needs to be split into core costs and non-core costs. The starting point for this is to identify which phase of the exhibition the costs are incurred in.

There are four phases of an exhibition:

Development

- This phase is the first phase before the 'green light' is given, when ideas are being developed but most of the expenditure is speculative.
- Only costs related to ideas included in the final exhibition can be claimed as core costs.
- Examples of qualifying core costs include discussions with artists (who are finally selected for the exhibition) to confirm what the exhibition should be about before the final decision is confirmed.

Production

- This is the phase after the green light has been given, but before the exhibition opens to the public.
- Most of the creative work takes place in this phase, including the design costs for the space, building the exhibitions (including exhibition specific infrastructure) and creating the works to include.
- Most costs incurred in this phase are core costs, though there are some exceptions, such as finance costs, advertising costs and entertainment costs which are normally disallowed for Corporation Tax purposes. The cost of acquiring objects is also not core.

Running

- This is the period from the date the exhibition opens to the public to the closing date. If the running phase lasts more than 12 months, then the closure costs are not deemed to be core costs (see below).
- Running costs are deemed to be non-core costs.
- Where an exhibition has a period of closure between when it first opens and when it finally closes, for example when moving between venues, or the enforced closure due to COVID, it is possible to claim some core costs on major changes to the exhibition/rebuilding the exhibition in a new venue. In particular, storage costs can be claimed for storage of object between touring venues for up to four months. Please note that other storage (including during the production phase) is deemed to be non-core.

Closing

- This is the period after the exhibition closes.
- Some closing costs are core, such as transport of the exhibition works to storage.
- Where an exhibition is open for more than 12 months, the exhibition is deemed to be permanent and therefore there is no closing phase. In such a case there would be no closure costs allowed as core.

Some costs are never core costs by their nature, even if they are incurred in a core phase. For example, advertising/marketing and legal costs.

Apportioning costs between phases

Sometimes there are costs that are incurred in both the production and the running phases. Such costs can be apportioned between the two phases in a fair and reasonable manner. We have a range of experience in this area and have helped our clients identify further core costs, whilst reducing the risk associated with HMRC enquiry from such calculations.

Apportioning overheads

Another area where we can help is by identifying a way to apportion administrative costs, such as rent, business rates, IT costs and staff costs. We have a wealth of experience in creating a robust methodology for these calculations, as well as reviewing and updating calculations for clients who already have an apportionment method in place. Our assistance will help ensure the calculations are relevant, appropriate for the company, reflect the latest legislation and can withstand an HMRC enquiry.

The additional deduction

Once the income and core/non-core expenditure has been identified, the MGETR calculation provides an additional deduction (based on the core costs) to reduce the 'profits' or to increase the loss. This calculation will either reduce the amount of Corporation Tax the company pays to HMRC (if it normally pays tax) or will contribute towards repayable tax credits (cash).

The additional deduction will be the lower of:

- 80% of total core expenditure, or
- The amount of core expenditure on goods or services that are provided from the UK (changed from activities in the UK or EEA from 1 April 2024).

If the exhibition calculation results in a loss, some or all of this loss can be surrendered for a repayable tax credit. This can be the case even if the company is a charity that does not normally pay Corporation Tax.

MGETR credit rates

The current rate for surrendering losses is 45%, but losses can be surrendered at a higher rate of 50% where the exhibition is touring, subject to certain conditions being met. Since the additional deduction is 80% of the core expenditure, this means that the tax credit available can be up to:

- 36% of the core costs, for non-touring productions; or
- 40% of core costs for the touring productions.

However, the above current rates are temporarily uplifted, with slightly reduced rates of 40% for non-touring, and 45% for touring productions being introduced for expenditure incurred from 1 April 2025. As above, this gives rise to a credit of up to:

- 32% of core expenditure for non-touring productions; or
- 36% of core expenditure for touring productions.

Example
During 2023, a production company, ColourSplashes Ltd, created a new touring exhibition. The exhibition raised grant income of £100,000 and total expenditure of £275,000, of which £200,000 relates to UK core expenditure. Additionally, ColourSplashes Ltd created a new non-touring exhibition with grant income of £60,000 and expenditure of £55,000, of which £50,000 related to UK core costs.

	Touring exhibition (£)		**Non-touring exhibition (£)**	
Total income		100,000		60,000
Total expenditure		(275,000)		(55,000)
Pre-MGETR profits/losses		(175,000)		5,000
Core expenditure (all UK)	(200,000)		(50,000)	
Additional deduction (80% x core)		(160,000)		(40,000)
Post-MGETR losses		(335,000)		(35,000)
Losses surrendered for tax credits	160,000		35,000	
Total tax credit (50%/45%)		**80,000**		**15,750**

Touring exhibition

ColourSplashes Ltd can surrender the full £160,000 additional deduction in relation to the touring exhibition, for a tax credit. This is because the exhibition was already loss making before the additional deduction was included. Therefore, the related tax credit is £160,000 x 50% = £80,000, which is 40% of the initial £200,000 core costs.

Non-touring exhibition

ColourSplashes Ltd can surrender £35,000 of the additional deduction in relation to the non-touring exhibition as it has been capped by the actual tax losses available. Therefore, its tax credit is £15,750. This equates to 31.5% of the initial £50,000 core expenditure, less than the 36% shown in the table due to the £5,000 initial profit.

However, please note that it has also reduced the taxable profits from the non-touring trade of £5,000 that initially arose in this trade, so there could also be a further tax saving of up to 25% x £5,000 = £1,250 (depending on ColourSplashes Ltd's other taxable activities). This could therefore bring the total tax saving up to £17,000 in this case.

How to make a claim

Our Not for Profit tax team are experienced at assisting companies with submitting MGETR claims via the submission of the company's tax return, alongside a full written report and the new additional information form (AIF) which must accompany all claims submitted to HMRC after 1 April 2024.

Our approach to MGETR claims is thorough. We aim to maximise claims within the legislative framework, use our experience to benchmark against others and have an excellent track record with HMRC.

If you think that your exhibition could qualify for MGETR, or you would like more information about tax reliefs within the creative sector, please get in touch with your usual haysmacintyre contact, or Alice Palmer, Not for Profit Senior Tax Manager.

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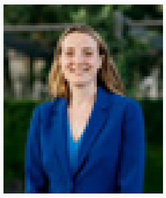

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