

PRODUCER'S CUT

Tax credits available to UK film producers and their international partners have boosted box office receipts. Now it will be extended to high-end TV dramas, reports **Stewart Jell**

According to a recent report issued by the British Film Institute (BFI), annual UK cinema admissions increased by 1.4% to 171.6 million in 2011, the third highest total of the last decade. The gross value of those ticket sales was £1,040m, up 5% on 2010.

The strong performance of a number of independent British films, such as *The King's Speech* and *The Inbetweeners Movie* was a major factor behind the growth in box office revenue and, in the UK, the aggregate spend of feature films that commenced principal photography in 2011 was £1,260m.

One of the reasons for this large

investment in the UK film industry is the availability of funding from the UK's tax relief system, known as the Producer's Tax Credit (PTC). For films that qualify as a British film via the Cultural Test, a UK film production company is eligible to claim the PTC from the UK government. The PTC invariably forms part of the overall financing of the film, and how much of a film budget the government will ultimately assist in financing is dependent on the spend on qualifying costs by the production company.

Only spend on production costs that are 'used and consumed' in the UK is eligible for consideration when

calculating the amount of PTC that can be claimed. But for a film where the vast majority of the production costs are 'used and consumed' within the UK, the PTC could be as much as 18% of the overall budget.

The PTC is therefore of huge importance to the UK film industry and this has been recognised by the UK government's decision to continue the film tax relief until the end of 2015. In January this year, prime minister David Cameron stated: 'The UK film industry, the skills and crafts that support it, and our creative industries more widely, make a £4bn contribution to our economy and an incalculable

contribution to our culture.' It is reassuring for the UK industry to know that there is a firm commitment from the UK government, but also a welcome message to the rest of the world that the UK is a leading country in which to develop and produce film.

International appeal

The message has certainly been heard by a number of leading US studios. The market share of UK films produced with US studio backing in 2011 by the likes of Universal Pictures, Walt Disney and Warner Bros was 22.7%.

The message has also been embraced by seven other countries, namely Australia, Canada, France, India, Jamaica, New Zealand and South Africa, with which the UK has official co-production bi-lateral treaties. Productions that qualify under one of the treaties are eligible to apply for the benefits of the UK's tax relief system.

While the UK film industry has already had the benefit of the PTC and knows it will continue for another three years, there has been no comparable incentive for the UK television industry, which has not benefited from tax incentives since the sale and leaseback tax breaks were abolished a decade ago.

The message that this has put out to the UK, as well as the rest of

the world, is in stark comparison to that of the film industry. It has not just been a case of failing to attract television to the UK. Partly through the lack of any incentive to produce in the UK, UK television producers have, on occasions, taken the decision to produce overseas. Recent dramas telling a British story but made overseas include *Birdsong*, *Strike Back*, *The Tudors*, *Camelot*, *Parade's End* and the Julian Fellowes' drama *Titanic*.

Whereas the UK film industry has

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embraced large US studios, the UK television production community has only been able to watch as large networks, such as HBO, sought the tax incentives of Northern Ireland, which have not been available elsewhere in the UK.

Ripple effect

HBO commissioned a third series of the award-winning *Game of Thrones* and the production continues to receive funding from Northern Ireland Screen, supported by Invest NI, as well as a contribution from the European

HBO chose to film an episode of the new Game of Thrones series in Northern Ireland due to the tax incentives offered to TV productions in the country at the time

Regional Development Fund. There is the potential that the programme could run for many series and, with such a lengthy level of investment, the impact on the immediate infrastructure of the region is considerable.

US television networks actually formalised their concerns over the lack of any tax incentive by writing to the UK government stating that they are not likely to undertake UK-based television productions.

The US studios have certainly

been lobbying for incentives for UK TV productions. Glenn Whitehead, executive vice president business and legal affairs at HBO, says: 'The UK is one of the best places in the world to film and we would love to bring more productions there. We have found that the UK has highly skilled people and exactly the right infrastructure to make great television. However, without a television incentive in place, the UK is a more expensive option to shoot than other territories in the world.'

'In fact, 85% of our total production spend is currently focused on countries



The UK film industry is set to continue enjoying tax relief until at least 2015, which will be welcomed by the Bond franchise and many other production companies



George Osborne has announced the introduction of incentives for British high-end television productions, such as Downton Abbey, partly filmed here at Bampton, Oxfordshire

with tax incentives. We were pleased to base *Game of Thrones* in Northern Ireland, where grant funding was made available. Our investment, which totals tens of millions of pounds, has had a major impact on job creation and the long-term infrastructure, benefiting the economy hugely,' Whitehead says.

Eric Shain, Disney ABC Cable Networks Group vice president, production finance lobbied culture minister Ed Vaizey, saying: 'We do not currently have the UK on our upcoming production radar due to a lack of tax credits being offered to TV productions.'

High drama

One report suggests that incentives could generate an influx of £350m into the drama industry alone, while another, focusing on the animation sector, concludes that any cost to the government would be recouped within three years.

The Department for Culture, Media and Sport is understood to have urged the Treasury to introduce measures to safeguard the future for British animation and high-end drama.

It was therefore with widespread relief that those in the UK TV production industry heard chancellor George Osborne announce the introduction of incentives for the production of British high-end television productions in his Budget

speech on 21 March. The incentives will also cover video games and television animations. Consultation will take place over the summer with legislation planned to be introduced in next year's Finance Bill, as state aid approval will be required from the European Union.

Speaking after the Budget, HBO's Whitehead commented: 'Today's news on a new tax incentive has turned the UK from one of the most expensive options into a competitive and affordable location. We would, therefore, love to bring more productions to the UK.'

Although the details have not been announced, it is expected that the scheme will operate in the same way as the PTC, with dramas with a budget in excess of £1m per hour benefiting from a 25% credit.

While this proposal is aimed at the top end of television programming, it is an incentive that is desired and required. Once it has been established and its success is acknowledged and tangible, then it will hopefully allow the relief to filter down to programming with smaller budgets, thus embracing the whole television industry – as is the case in the film industry.

Stewart Jell is a principal at Shipleys LLP in London. Most of his clients are either in the entertainment and media industry or closely linked to it

*THE PRODUCER'S TAX CREDIT

Films must score 16 out of 31 points to classify as British and access UK tax relief. Points are awarded for degrees of British content:

CULTURAL CONTENT

- 4 Film setting
- 4 Lead characters
- 4 Subject matter or material
- 4 Language of original dialogue

CULTURAL CONTRIBUTION

- 4 Contribution to British culture

CULTURAL HUBS

- 2 Principal photography/visual effects/special effects/research and development/shooting/visual design/layout and storyboarding
- 1 Music recording/audio post production/picture post production/voice recording for animation

CULTURAL PRACTITIONERS

- 1 Director
- 1 Scriptwriter
- 1 Producer
- 1 Music composer
- 1 Lead actors
- 1 Majority of cast
- 1 Key staff
- 1 Majority of crew

Once classified as culturally British, the relief is calculated as 20% of qualifying expenditure used and consumed in the UK.