Briefing Notes

Mercer & Hole

VIDEO GAMES RELIEF

Video Games Tax Relief ("VGTR") is a tax relief available for companies developing video games.

The relief provides an enhanced tax deduction on expenditure and, potentially, a repayable tax credit. The relief applies to British video games that are intended for supply to the general public and where at least 25% of the core expenditure is incurred on goods or services provided from within the European Economic Area.

What is a video game?

A video game is an electronic game that is played through a video device. The video device and equipment required to play the game are separate from the game itself, even if the two are sold as a single product. The video game is the software and other electronically stored content and information, rather than the hardware on which it is played.

The electronic game includes all the electronic content that is required to play that game, including audio content. It also includes any elements that are not interactive, such as filmed or animated sequences for narrative purposes, or options required to adapt the game to suit the desires of the player.

A game must have sufficient capability for a player directly to control actions and events in some way.

Which companies qualify?

A company is a qualifying video games development company (VGDC) if it produces the video game. For the purpose of the relief each video game is treated as a separate trade.

The company must:

- Be responsible for designing, producing and testing the video game;
- Be actively engaged in planning and decision-making during the design, production and testing of the video game; and
- Directly negotiate, contract and pay for rights, goods and services relating to the video game.

Activities may be subcontracted to third parties, although there is a limit to the qualifying payments which can be made.

Only one company can be a VGDC with respect to any one game.

Although the definition of a VGDC excludes those making video games in partnership, a company is not automatically prevented from being a VGDC because it is a member of a partnership. It is only prevented from being a VGDC with respect to the video game that it is making in partnership.

Core expenditure

Qualifying expenditure must be "core expenditure" in relation to the video game, this includes expenditure incurred on designing, producing and testing the video game.

Income

In calculating a profit or loss from video games development, income includes:

- Receipts from the sale of the video game, or rights in it;
- Royalties or other payments for the rights to use the video game or aspects of it (for example, characters or music);
- Payments for rights to produce games or other merchandise;
- Receipts by way of a profit share agreement; and
- Income from video games held as capital assets (the income will be treated as revenue in nature).

Calculation of Relief

A claim is made under corporation tax self-assessment. A VGDC can claim VGTR on its enhanceable expenditure which is the lower of:

- 80% of total core expenditure; and
- The actual EEA core expenditure incurred.

The amount of VGTCs repayable in respect of the surrenderable loss for any accounting period is 25% of the lower of:

- The amount the company’s available loss for the accounting period; and • the enhanceable expenditure for that period.

Example	£
Income in year	-
Qualifying Development costs (all in EEA)	(100,000)
Other costs	(50,000)
Loss	(150,000)
Enhancement on costs (80% uplift)	(80,000)
Revised tax loss	(230,000)
Amount available for tax credit surrender lower of:	
Total enhanced expenditure (80% uplift)	180,000
Total tax loss	230,000
Loss in year	(230,000)
Surrendered for tax credit	180,000
Loss carried forward	(50,000)
Tax credit receivable (25%)	45,000