

# Museum and Gallery Tax Relief

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## BACKGROUND

Museums and Galleries Exhibition Tax Relief (MGETR) is available to incorporated museums and galleries from 1 April 2017. The objective of the relief is to recognise the cultural value of museums and galleries in the UK and encourage more diverse and high quality exhibitions. The relief allows companies to claim an enhanced corporation tax deduction for qualifying expenditure or surrender losses for a tax credit repayment.

## QUALIFYING COMPANIES

The relief is available to Exhibition Production Companies (EPCs) that are within the charge to corporation tax. The company must maintain a museum or gallery and be either:

- a charitable company,
- a wholly owned subsidiary of a charity, or
- a wholly owned subsidiary of a local authority.

Whilst the majority of income in charitable companies is exempt from tax, they are still within the charge to corporation tax. Trusts and unincorporated associations do not qualify for the relief.

## EXHIBITION PRODUCTION COMPANIES (EPCS)

A company will qualify as 'primary' EPC if it:

- makes an effective creative, technical and artistic contribution to the exhibition,
- is responsible for producing, running and (where relevant) closing the exhibition,
- has an active involvement in the decision making process over the course of the exhibition, and
- directly negotiates, contracts and pays for rights, goods and services relating to the exhibition.

Where an exhibition is touring, there may be other 'secondary' EPCs that meet the conditions above and are responsible for the production of the exhibition at other venues. These companies will also qualify for relief however, there can only be one secondary EPC per venue.

## QUALIFYING EXHIBITIONS

Companies must maintain a museum or gallery, which includes libraries, archives, historic homes and outdoor exhibitions such as sculpture parks.

For the purposes of the relief, an exhibition is defined as a curated public display of an organised collection of works considered to be of scientific, historic, artistic or cultural interest. The display must be open for admission to the general public, although it is acceptable to charge an admission fee. Restricted admittance, for example private viewings, to a small number of sessions should not prejudice an exhibition from qualifying for relief.

An exhibition can be temporary or permanent and is not required to be held inside a museum or gallery provided it is produced by a qualifying company.

Finally, at least 25% of 'core expenditure' on the production of the exhibition must be spent within the European Economic Area (EEA).

## EXCLUSIONS

An exhibition will not qualify for the relief if its main purpose, or one of its main purposes is to promote goods or services or if any of the items on display are for sale. Exhibitions organised in connection with a competition are also excluded.

Exhibitions displaying live objects such as animals or plants are excluded. There is also an exclusion in relation to exhibitions where live performance is the main focus of the production.

## QUALIFYING EXPENDITURE

Qualifying 'core expenditure' must be incurred directly in relation to the production of the exhibition. The following expenditure qualifies for the enhanced relief:

- Curator fees and research costs
- Exhibition installation costs and equipment hire
- Transportation costs
- Insurance
- The cost of hiring exhibits

Where an exhibition is displayed at a venue for less than 12 months, closing and deinstallation costs will also qualify for enhanced relief.

Costs will only qualify as core expenditure if they are paid within four months of the end of the accounting period for which tax relief is being claimed.

## NON-QUALIFYING EXPENDITURE

The enhanced relief only applies to expenditure incurred in the production phase of the exhibition, rather than the running costs of the exhibition when it is open to the public. The following costs do not qualify as core expenditure:

- Speculative development costs to determine if an exhibition is feasible
- Acquisition cost of exhibits
- Cost of financing
- General museum maintenance and running costs of the exhibition
- Professional fees including legal advice and accountancy fees
- Advertising and marketing
- Further development of the exhibition during the running stage
- Expenditure on infrastructure, unless incurred solely for the exhibition

Storage costs are also excluded from the enhanced relief, unless they relate to touring exhibitions where the storage is for up to four months between displays at different venues.

Non-core expenditure does not qualify for enhanced relief but should be included in determining whether the exhibition makes a profit or loss.

## HOW IS RELIEF GIVEN?

Each exhibition is considered a separate trade for the purposes of the relief and the profit or loss on the production of an exhibition must be calculated separately in the company's corporation tax computation.

The costs of production are deductible from the total income of the production under the normal rules for calculating company profits. Income should include the sale of tickets for the exhibition, grants specific to the exhibition, royalties and income from any profit share agreements.

## ENHANCED DEDUCTION

Relief is given on qualifying expenditure as an additional corporation tax deduction equal to the lower of 80% of total core expenditure or 100% of EEA core expenditure.

This enhanced deduction can reduce tax payable (if the EPC has taxable income) or can create or increase tax losses.

## REPAYABLE TAX CREDIT

Losses from an exhibition can either be set against the taxable income of the EPC or surrendered to HMRC as a repayable tax credit. The amount of the surrenderable loss is the lower of the available loss from the exhibition and the qualifying expenditure that is eligible for the enhanced deduction.

Tax credits are given at a rate of 25% for touring exhibitions or 20% for other qualifying exhibitions.

The maximum amount of the repayable tax credit per exhibition is capped at £100,000 for a touring exhibition, or £80,000 for a non-touring exhibition.

## TOURING EXHIBITIONS

An exhibition will qualify as a touring exhibition if, as well as meeting the EPC requirements above, it meets the following criteria:

- It is held at two or more venues
- At least 25% of the objects or works displayed at the first venue must be displayed at subsequent venues
- The period between deinstallation at one venue and installation at the next must be within 6 months of each other

In addition, there must be a primary EPC for the exhibition, whose intention from the planning stage is that the exhibition will be touring.

## SUB-CONTRACTING PRODUCTION OF EXHIBITIONS

A charity or local authority may have a wholly owned trading subsidiary, which could become the EPC. The trading subsidiary must meet the EPC requirements in order to obtain relief and it is not sufficient for the parent to carry on the functions of an EPC merely to use the subsidiary to claim tax relief.

The subsidiary, however, can subcontract some activities back to the charity or local authority parent. This can help to extract maximum value from the relief and would usually involve the subsidiary subcontracting the production of the exhibition back to the parent.

A legal agreement setting out the respective responsibilities of each party should be entered into between the charity or local authority and the EPC.

## MAKING A CLAIM

A claim for MGETR must be submitted to HMRC as part of the EPC's corporation tax return. This means that some

charitable companies, which have previously not been required to file a tax return, will have to file a company tax return in order to claim the relief.

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