# [BE] Tax Shelter for Investments in Audiovisual Works

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Belgium has set up a tax shelter to encourage investment in Belgian audiovisual works by Belgian companies. These fiscal measures were first introduced by the program law of 2 August 2002 and amended by the program law of 22 December 2003 and the law of 17 May 2004.

When investing in a Belgian audiovisual production, a Belgian company or a foreign company to which the Belgian income tax regulation is applicable can receive a tax benefit. The investing company can deduct 150% of the investment from its taxable profits. However, the maximum tax-deductible amount must not exceed EUR 750,000 in one fiscal year; this corresponds to an investment of EUR 500,000. Furthermore, the tax-deductible amount itself must not exceed 50% of the company profits in one fiscal year.

The investing company itself cannot be a production company or a television company. Nor can the production company be a television company.

Investment according to these tax shelter rules can be done in two different ways: one can grant a loan for the production or one can invest/participate in the production (and in the benefits it would generate). The total budget raised from this tax shelter financing can consist of a maximum of 40% from loans. This means that a minimum of 60% of the budget raised from tax shelter financing needs to contributed in the form of investment/participation in the production. The production budget can only be 50% funded from tax shelter investment. The other 50% of the budget has to be raised by the production companies themselves.

In order for the tax shelter to be granted, the production company is obliged to spend 150% of the amount that was contributed by the investor as a tax shelter participation investment in Belgium in production or exploitation costs within 18 months of the signing of the financing agreement. Moreover, the general financing agreement between the parties must at least mention the following matters:

- The name and corporate object of the production company and the investor;

- The amount of investment by each party;

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- The identification of the audiovisual production;

- A budget plan with division between "normal investment" "tax shelter investment";

- The way for recuperating the amounts granted in the tax shelter;

- The guarantee that the tax shelter investor is not a production company, television company or banking company;

- The guarantee that the production company will spend 150% in Belgium of the amount granted as a tax shelter participation investment in production or exploitation costs, that the total production budget will only be funded by tax shelter financing for a maximum of 50% and that the tax shelter budget itself will only consist of a maximum of 40% from loans.

Tax shelter investments can only be done in the production of movies, feature length television fiction movies, documentaries or animated movies destined for movie theatres, and animated series or documentaries which are European works, as stipulated in Article 6 of the "Television without Frontiers" Directive.

***Artikel 194ter en 416, paragraaf 2 Wetboek Inkomstenbelastingen 1992, zoals gewijzigd***

*Articles 194ter and 416 paragraph 2 of the 1992 Income Tax Code, as amended*

***Artikel 128 en 129 van de Programmawet van 2 Augustus 2002 tot invoering van artikel 194ter en 416 paragraaf 2 in het Wetboek Inkomstenbelasting 1992, B.S. 29 Augustus 2002, err B.S. 13 November 2002***

http://www.moniteur.be/

*Articles 128 and 129 of the Act of 2 August 2002 introducing articles 194ter and 416 paragraph 2 in the 1992 Income Tax Code, Moniteur 29 August 2002, err Moniteur 13 November 2002*

***Artikel 291-293 van de Programmawet van 22 December 2002 tot wijziging van artikel 194ter en 416 paragraaf 2 van het Wetboek Inkomstenbelasting 1992 , B.S. 31 December 2003***

http://www.moniteur.be/

*Articles 291-293 of the Act of 22 December 2002 amending articles 194ter and 416 paragraph 2 of the 1992 Income Tax Code, Moniteur 31 December 2003*

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***Wet van 17 mei 2004 tot wijziging van artikel 194ter van het wetboek van de inkomstenbelastingen 1992 betreffende de tax shelter-regeling ten gunste van de audiovisuele productie, B.S. 4 juni 2004***

http://www.moniteur.be/

*Act of 17 May 2004 amending article 194ter of the 1992 Income Tax Code on the tax shelter regime for audiovisual works, Moniteur 4 June 2004*

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