

The new “Cash Rebate Greece” scheme for the production of audiovisual works in Greece

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The “Cash Rebate” state aid scheme of 40% of the eligible costs of the production of audiovisual works in Greece was initially established by the law 4487/2017 and it was amended various times through the years (indicatively with the law 4704/2020 and the law 4761/2020)[1]. The purpose of the scheme (along with other incentives and mainly the 30% tax relief incentive[2]) was to encourage the production of audiovisual works in Greece.

The cash rebate scheme was a very ambitious initiative that brought remarkable results. According to the National Center of Audiovisual Media and Communications (“E.K.O.M.E.”) -which is the competent authority about the cash rebate scheme until the coming into effect of the new legal framework: *“From April 2018 to December 2023, 393 applications have been submitted to the Greek cash rebate program (223 domestic and 170 international/cross-border productions) and the total invested capital amounts to €795 million. So far 188 projects have already received a total of €105 million through the cash rebate program”*[3].

Recently, a new legal framework regarding cash rebate has been adopted, abolishing the previous laws. The law 5105/2024 (Government Gazette A’/61/29.04.2024) has been issued, redesigning the whole scheme.

The purpose of the new law according to art. 1 par. 2 is: *“...to strengthen and modernize the support framework for audiovisual projects in Greece, in order on one hand to make it more friendly and accessible to investors and to correct interpretive difficulties that have arisen due to the change in the regime's financial sources and the different rules applicable to them and on the other hand to attract quality domestic and significant foreign investments”*.

The new scheme has more strict preconditions for the eligibility of a project (e.g. increased minimum local costs per audiovisual work) and provides several restrictions, taking into account that the financial resources are not unlimited, such as for example the introduction of a maximum amount to be paid per audiovisual work and the limitation of the applicability only in two seasons (the latter applies obviously only for series). Furthermore, the new law provides a more detailed, distinctive framework for audiovisual works in the sector of animation and videogames.

The cash rebate scheme has been officially renamed as **“Cash Rebate Greece”** or **“CRGR”** and the following constitute a brief outline of the new legal framework governing it:

1. “Cash Rebate Greece” in general

The philosophy of the existing cash rebate scheme remains the same under the new legal framework. Cash Rebate Greece continues to constitute an incentive[4] as a state aid scheme in accordance with the EU Regulation 651/2014 (Block Exemption Regulation) that has declared several types of state aid as compatible with the common market and the EU law according to articles 107 and 108 of the Treaty (the Regulation in article 54 includes specific provisions for aid schemes for audiovisual works)- therefore, the provisions of the Regulation are also applicable.

A new state-owned entity has been established, named **“Hellenic Film and Audiovisual Center S.A.- Creative Greece”** (“HFAC-Creative Greece”), under the supervision of the Ministry of Culture, following the merger of E.K.O.M.E. and the “Hellenic Film Center”. “HFAC-Creative Greece”, inter alia, constitutes the competent authority regarding Cash Rebate Greece.

Cash Rebate Greece includes three separate, distinct schemes: a) **“CRGR- Film and TV”**, b) **“CRGR- Animate”** and c) **“CRGR- Video Game Development”**.

The funding of Cash Rebate Greece comes from the Program of Public Investments, in accordance with the availability of funds either national or from the EU or other financial organizations, in accordance with the national and EU legislation.

Law 5105/2024 entered into force on 29.04.2024, however until 10.05.2024 EKOME remained the competent authority and the old cash rebate scheme was applicable. For the period 10.05.2024-30.09.2024 no new application for the cash rebate scheme can be submitted. The new Cash Rebate Greece scheme will be applicable when a joint ministerial decision of the Ministry of Culture and the Ministry of Finance will be issued (which shall not take place later than **01.10.2024** according to art. 94 par. 1 of the law 5105/2024).

2. The Scope

The state aid refers to audiovisual works including: **i) CRGR- Film and TV scheme:** films/TV movies, short films/TV movies, series (the incentive applies only for the first 2 seasons: min 17 episodes per season and max 150 episodes for the first season and max +25% episodes for the second season), mini-series (the incentive applies only for the first 2 seasons: max 16 episodes for the first season and max +25% episodes for the second season) and documentaries (Film, TV movie or series- for the series apply the same as the fiction series); **ii) CRGR- Animate scheme:** animated/ interactive content/ augmented reality (AR)/ virtual reality (VR)[5] films/TV movies, short films/TV movies, series (the incentive applies only for the first 2 seasons: min 17 episodes per season and max 150 episodes for the first season and max +25% episodes for the second season) and mini-series (the incentive applies only for the first 2 seasons: max 16 episodes for the first season and max +25% episodes for the second season); **iii) CRGR- Video Game Development scheme:** videogames.

The above audiovisual works can participate to the cash rebate scheme regardless of the way the works are going to be distributed (e.g. theaters, TV, online platforms, social networks, applications etc).

The following audiovisual works are excluded: **i)** filmed performances such as theatre, opera, dance, music; **ii)** sports broadcast; **iii)** TV or phone games, betting, contests, lotteries etc; **iv)** news and information broadcasts; **v)** entertainment shows, talk shows and TV interviews; **vi)** advertisements, teleshopping; **vii)** programs with pornographic content; **viii)** presentation and promotion of corporate, entertainment and cultural activities; **ix)** purely educational programs, tele-education and tele-information broadcasts; **x)** programs that insult the human dignity and programs that promote discriminations.

It is noted that (in accordance with art. 28 paras 3 and 4 of the law 5105/2024 and art. 54 par. 9 of EU Regulation 651/2014) Cash Rebate Greece is not applicable in the following cases: **a)** exclusively to specific activities of production or individual parts of the production value chain; **b)** in relation to the costs for the production of a “pilot” and **c)** in respect of aid for film studio infrastructures[6] which are not eligible under Cash Rebate Greece.

3. The Cash Rebate

The cash rebate is provided by the Greek State as a state aid/ incentive and it is:

- i)** for **CRGR- Film and TV** and **CRGR- Animate** schemes, **the 40% of the eligible costs**. The rebate cannot exceed the amount of €8,000,000 per audiovisual work and it can be increased up to €10,000,000 with a joint ministerial decision of the Ministers of Culture and Finance regarding strategic projects of national growth importance which are related with the promotion of Greece as a suitable place for the creation of audiovisual productions and
- ii)** for **CRGR- Video Game Development** scheme, **the 10% of the eligible costs of the initial phase of production** (prototype) (an advance payment of 50% of the incentive of the initial phase may be paid in advance taking into account the peculiarities of the Video Game Development sector) and **30% of the eligible costs of the final stage** of the project. The rebate cannot exceed the amount of €1,000,000 per audiovisual work.

The amount of the rebate does not increase the business income, but it constitutes deduction of the relevant expenses.

The state aid in principle may not be assigned to third parties, with the exception of Greek financial institutions for a short-term loan of the same amount with the state aid for the implementation of the project (i.e. the state aid may be used as a collateral).

Subject to the conditions of the law 5105/2024, the cash rebate can also be combined with other state aid schemes, provided that the total amount of the state aid for the same costs does not exceed the 50% of the total cost of the production (or the 60% in case of a cross-border production[7] or 100% in case of a “difficult audiovisual work”[8]).

In principle, the beneficiary of the state aid can be, under the conditions of the law:

- a)** for **CRGR- Film and TV** and **CRGR- Animate** schemes: **i)** an enterprise which is established or has a branch in Greece or it will be active in Greece at the time of the application for the cash rebate until the finalization of the audit, and has as a purpose the production or execution of the production of audiovisual works/animation or the production of audiovisual works/animation in the framework of cross-border productions; **ii)** a foreign enterprise of production of audiovisual works if, for the purposes of law 5105/2024, it contracts with an enterprise established or has a branch in Greece or it will be active in Greece and has as a purpose the execution of production of audiovisual works or part of them (however the foreign enterprise must not have a seat or permanent establishment in states which are considered “uncooperative” in the meaning of art. 65 par. 3 of the Greek Code of Income Tax[9]).

- a)** for **CRGR- Video Game Development** scheme: **i)** an enterprise which is established or has a branch in Greece or it will be active in Greece at the time of the application for the cash rebate until the finalization of the audit, and has as a purpose the production or execution of the production of game software prototypes, provided that, under conditions: **i)** it has declared the relevant Code Number of Business Activity to the tax authorities (either as main or secondary) the last calendar year; **ii)** it has already

distributed for sale from an e-shop at least of one video game for PC, consoles or mobile devices, within the last two years; **ii**) a foreign enterprise of production of audiovisual works if, for the purposes of law 5105/2024, it contracts with an enterprise established or has a branch in Greece or it will be active in Greece and has as a purpose the execution of production of game software prototypes of the relevant Code Number of Business Activity (however the foreign enterprise must not have a seat or permanent establishment in states which are considered “uncooperative” in the meaning of art. 65 par. 3 of the Greek Code of Income Tax[10]).

4. The Prerequisites

As a prerequisite for the Cash Rebate Greece scheme the law provides a minimum of costs to be incurred in Greece (Minimum Local Spending). In particular:

a) For **CRGR- Film and TV: i)** for films/ TV movies (fiction) at least €200,000; **ii)** for films/ TV movies (documentary) at least €60,000; **iii)** for short films/ TV movies (regardless of the content) at least €45,000; **iv)** for mini-series (fiction) at least €120,000 per episode; **v)** for series (fiction) at least €35,000, **vi)** for series (documentary) at least €25,000 per episode.

b) For **CRGR- Animate: i)** for films/ TV movies at least €80,000; **ii)** for short films/ TV movies at least €50,000; **iii)** for mini-series (max 16 episodes) at least €50,000 per episode[11].

c) For **CRGR- Video Game Development:** at least €50,000.

Furthermore, art. 26 par. 1 of the law 5105/2024 provides for a cultural test to be set, so that the audiovisual work can be evaluated as a “cultural product” (see also article 54 par. 2 of the Regulation 651/2014 according to which: “*Aid shall support a cultural product. To avoid manifest errors in the qualification of a product as cultural, each Member State shall establish effective processes, such as selection of proposals by one or more persons entrusted with the selection or verification against a predetermined list of cultural criteria*”). The cultural test will be specified by a Ministerial Decision, as the law provides, which has not been issued yet (however, taking into account the cultural test which was set under the previous legal framework, the cultural criteria were quite broad, so it was possible for a wide variety of audiovisual works to be considered eligible for the cash rebate scheme. It is reasonable to expect that grosso modo the new cultural test will be also broad.

5. The Eligible Costs

The eligible costs are the costs for the production of the audiovisual work that are incurred in Greece or abroad (see below) and they cannot exceed the 80% of the total cost of the production.

For **CRGR- Film and TV** and **CRGR- Animate** schemes, the eligible costs include: **a)** “above the line” costs, regarding fees of screenwriter, director, IP rights for music score and additionally, especially for CRGR- Animate, the fees of animator, storyboard designer and character designer; **b)** “below the line” costs for any type of provision of services directly related to the production of the audiovisual work, such as accommodation and meals, transportation, equipment and studio rental, supply of materials, purchase of equipment and consumables that are not fixed assets, salary costs of the jobs for the implementation of the investment plan; **c)** post-production costs, such as editing, visual effects, sound processing; **d)** other production costs and **e)** costs related to the improvement of accessibility for disabled persons.

For the calculation of the total eligible production costs, the following restrictions apply: **a)** insurance premiums and guarantee costs are counted/taken into account in their entirety, with a maximum eligible expenditure corresponding to 5% of the total eligible production costs, **b)** the music rights, as well as the remuneration of the director, the screenwriter and the two lead actors cannot exceed 30% of the total eligible costs, **c)** the costs for financial assets elements, fixed assets and their depreciation, such as technological equipment, land and buildings, borrowing costs, bank costs and the costs of promotion and communication are not calculated to the total eligible production costs.

Furthermore, regarding audiovisual works where the eligible costs are over €8,000,000, for the costs regarding the fees of the director and the fees of the 2 protagonists from the cast and additionally, especially for CRGR- Animate, the fees of animator, **invoices from foreign natural persons or legal entities**[12] **are also acceptable/taken into account**, however the value of these invoices (excluding VAT) must not exceed the 20% of the total eligible costs of the project.

For **CRGR- Video Game Development** scheme, the eligible costs are considered to be the costs directly related to the audiovisual project as follows: **a)** costs related to staff fees; **b)** costs of related services, such as translation, actors and writing, up to 20% of the amount of the eligible costs, if they are done in languages other than Greek; **c)** expenses related to invoices for the provision of other services by third parties, up to 20% of the amount of eligible costs; **d)** costs related to the PEGI Rating certification; **e)** costs related to software licenses, purchase of game assets, rentals (equipment and studio), up to 10% of the amount of eligible costs and **f)** costs related to account maintenance in the digital store through which the game will be distributed.

Costs which are incurred in the period between the application and the commencement of the investment plan, may be included if they meet the cost eligibility conditions of CRGR- Video Game Development scheme. The costs for financial assets, fixed assets and their depreciation, such as technological equipment, land and

buildings, borrowing costs, bank costs and the costs of promotion and communication are not calculated to the total eligible production costs.

6. The Procedure

The competent public organization regarding the applications is “Hellenic Film and Audiovisual Center S.A.- Creative Greece” (“HFAC-Creative Greece”). Up to 10 days before the beginning of the production[13], the beneficiary[14] may file an online application and the documentation required by the law. The law provides the double evaluation of the application i.e. on one hand the completeness and legality of the application and the documentation and on the other hand the evaluation of the content. The whole procedure of the evaluation of the application must be concluded within 3 months from the filing of the application.

More specifically, the evaluation of the completeness and legality of the application cannot exceed 30 working days (the Evaluation Committee checks the supporting documentation of the file within 20 working days from submission of the application and if it considers necessary for the applicant to resubmit, complete or correct these supporting documentation, it informs the applicant via e-mail and the latter is obliged, within 10 working days, to resubmit, complete or correct the relevant supporting documentation or information- after that period no other submission, correction etc is acceptable. Under certain conditions a short extension may be granted). Subsequently the application is evaluated by the Evaluation Committees in terms of the elements of the investment plan, the sources of financing and compliance with the general rules of the aid scheme, the cultural criteria and any other issue that is provided by the relevant ministerial decisions. Following the above, either the application is accepted and the project is included in the scheme of Cash Rebate Greece or it is declined.

After the inclusion of a project in Cash Rebate Greece scheme, a modification of the conditions of inclusion may take place during the realization of the project, until its end, following an application of the beneficiary, under the conditions set by the law.

Furthermore, the above decision can be revoked in case the project does not meet the prerequisites of the law.

The completion of the project[15] cannot exceed 3 years from its commencement, (unless the end date of the investment plan has been extended, in accordance with the provisions of the law).

The project that is under the aid scheme is audited by a chartered auditor/accountant or a firm of chartered auditors/accountants, which is appointed by the competent authority following an application of the beneficiary, after the completion of the production. The auditor audits the supporting documentation and the data accompanying the audit request, taking into account that: a) all eligible costs documents must have been issued and paid by the time the audit request is submitted and relate to incurred costs until the end of the project and b) the project must have implemented 50% of the of eligible costs of the investment plan that has been included in Cash Rebate Greece scheme, under the condition that the total of eligible costs that took place in Greece and correspond to the above percentage, exceeds the minimum limits of eligible costs as defined by the law. Accordingly, the auditor drafts an audit report. The beneficiary incurs the cost of the audit.

For CRGR- Film and TV and CRGR- Animate schemes, the beneficiary, within 6 months from the completion of the production, has to file an application along with the required by the law documentation for the certification of the completion of the project. For CRGR- Video Game Development scheme, the application for the first phase of the project is filed within 3 months from the end of this phase and for the second phase within 6 months from the completion of the production.

Within 3 months from the publication of the decision that certifies the completion of the project, the aid is paid by electronic bank transfer to a Greek bank or a bank of the state where the seat or the permanent establishment of beneficiary is[16].

7. Conclusion

The law 5101/2024 redesigns the already successful cash rebate scheme of 4487/2017 (as amended on various occasions), reorganizing the mechanisms and prerequisites of the state aid scheme, in an attempt to maintain Greece as an attractive destination for the production of audiovisual works and simultaneously to address several problems that were created by the previous legal framework.

Nevertheless, based also on the experience of the previous cash rebate scheme and its immense success, it is reasonably expected that Greece will remain a popular destination for the realization of various investment projects/ productions of audiovisual works.

As a final remark, it is noted that the new legal framework about Cash Rebate Greece is very recent and the relevant ministerial decisions (which will provide more details on the scheme) have not been issued yet. The present article constitutes only a brief, general outline of the relevant provisions and procedures and obviously it does not cover all the detailed legal provisions. For each particular matter therefore, any interested person must seek specific legal advice from a qualified lawyer.

