

Digital Gaming Tax Credit



The Finance Act 2021 introduced Ireland's newest tax incentive, the Digital Gaming Tax Credit. This offers companies developing digital games a tax credit of up to 32% per qualifying game. This credit can be claimed by the company on an annual basis or at the conclusion of the game development effort. This new tax credit regime is subject to European state aid approval prior to coming into effect.

Who can claim the credit?

This credit is available to companies who are resident in Ireland, or who are EEA resident and operate in Ireland through a branch or agency.

What type of game qualifies?

The first thing that should be considered is whether the company is developing a qualifying 'digital game'. This is defined as a game that integrates digital technology, can be published on an electronic medium, is interactive/built on an interactive software and incorporates at least three of the below:

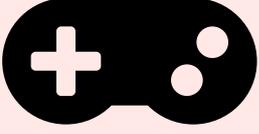
- Text
- Sound
- Still images
- Animated images.

Expenditure on the design, production and testing of the digital game should be considered allowable for the purpose of this tax credit.

Development effort must be certified

Before a company can avail of this new tax credit, there is a requirement to attain certification from the *Minister for Tourism, Culture, Arts, Gaeltacht, Sport and Media*.

 **32%**
RELIEF RATE

minimum spend 
€100,000

 **€25 million**
spend cap

When deciding whether to grant a certificate, consideration will be given to areas including:

- The proportion of the activity carried out in Ireland or the EEA, as well as the proportion of Irish or EEA nationals/residents involved
- The Irish or European cultural relevance of the setting, characters, language, or storyline of the game
- The use of materials or music created in Ireland or Europe, including that created by an Irish or EEA national/resident
- The educational content of games intended for children, and the themes relating to diversity and equality
- The content of the game pertaining to the promotion of eco sustainability, and minimisation of climate change.

Certification types

The Minister can issue one of two types of certificates:

An interim certificate – this is issued to companies who are still in the process of developing their game.

A final certificate – this is issued to companies who have completed development of their game.

Information regarding the timeline of the application process for the cultural certificate from the *Minister of Tourism, Culture, Arts, Gaeltacht, Sport and Media* has yet to be confirmed. Given the similarities between this tax credit and the *Section 481 Film Corporation Tax Credit*, it is notable that with the Film tax credit, application for the cultural certificate must be filed no later than 21 days prior to the commencement of the bulk of the film production.



Calculating the Credit

The Digital Gaming Tax Credit will be available to qualifying companies at 32% of the lowest of:

- Eligible Expenditure
- 80% of the Qualifying Expenditure
- €25,000,000

Qualifying Expenditure is the total expenditure incurred by the development company on the design, production, and testing of a digital game.

Eligible Expenditure is the portion of Qualifying Expenditure that is spent in Ireland or the EEA.

Example 1

Company A spends €30,000,000 on the development of a digital game, with €10,000,000 expended in the EEA and the remaining €20,000,000 spent outside of the EEA. Three potential scenarios arise:

- 32% of €10,000,000 = **€3,200,000**
- 32% of 80% of €30,000,000* = **€7,680,000**
- 32% of €25,000,000 = **€8,000,000**

Therefore, **Company A** would be able to avail of a tax credit amount of €3,200,000.

*80% of €30,000,000 = €24,000,000

Example 2

Company B spends €30,000,000 in the development of a digital game, with €25,000,000 expended in the EEA and the remaining €5,000,000 spent outside of the EEA. Three potential scenarios arise:

- 32% of €25,000,000 = **€8,000,000**
- 32% of 80% of €30,000,000 = **€7,680,000**
- 32% of €25,000,000 = **€8,000,000**

Therefore, **Company B** would be able to avail of a tax credit amount of €7,680,000.

Example 3

Company C spends €50,000,000 in the development of a digital game, with all of the €50,000,000 expended in the EEA. Three potential scenarios arise:

- 32% of €50,000,000 = **€16,000,000**
- 32% of 80% of €50,000,000 = **€12,800,000**
- 32% of €25,000,000 = **€8,000,000**

Therefore, **Company C** would be able to avail of a tax credit amount of €8,000,000.

In any scenario, the maximum credit a company will be able to avail of for a single project, should be €8,000,000.



Use of the credit

Where a company has been issued with an interim certificate, the credit can be claimed within twelve months of the end of the accounting period in which the expenditure is incurred.

For example, if a company's year-end is 31st December 2022, then a claim relating to the expenditure from 1st January 2022 to 31st December 2022 must be made by 31st December 2023.

If a company has been issued with a final certificate, then they may make a final claim, less any amounts already received under the interim certificate, and provided the overall credit amount does not exceed €8,000,000.

The Digital Gaming Tax Credit must first be used to offset any corporation tax liability that the company has for that accounting period. In the event that there is no corporation tax liability or if the credit exceeds the corporation tax liability, then the company may claim the excess in the form of a cash refund.

Documentation

When availing of the Digital Gaming Tax Credit, a company must maintain sufficient records of their expenditure and activities in order that the Revenue Commissioners can validate same. This detail should focus on whether and how the expenditure relates to design, production or testing and the stage of development when the expenditure is incurred.

In line with other similar tax credit regimes, it is expected that Revenue guidance will issue in due course setting out more details on their expectations regarding the nature of documentation.

For further information please contact,



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Disclosure of Information

If a Company avails of the Digital Gaming Tax Credit, the Revenue Commissioners may disclose high level information in relation to the project which is expected to take a similar form to that outlined below:

Year	"2022"
Applicant	"Digital Games Production Company A"
Project Title	"Best Game Ever"
CT Credit	"€1m-2m"
Category of Enterprise	"Micro"
NACE Group	"5821"
Territorial Unit	"Dublin Region"
Date of Grant	"20/12/2022"

Who cannot avail of the credit?

There are specific exclusions set out as part of the Digital Gaming Tax Credit legislation. A company cannot avail of this tax credit if:

- They have not been issued with an interim or final certificate
- The interim certificate has expired and no final certificate has been issued
- The digital game they are developing is primarily for the purposes of advertising or gambling
- The company is, or is part of, an undertaking which would be regarded as an undertaking in difficulty
- The qualifying expenditure amount does not exceed €100,000.

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