

Taking an Innovative Approach to Secure Returns

Life Begins Film & The Chelsea Cowboy

Background

In March 2022, ReSolve partners Cameron Gunn and Chris Farrington were appointed Joint Administrators over Life Begins Film Limited (LBF), a small, independent film production company based in London. The Company had run out of funding before it could complete work on The Chelsea Cowboy, a biopic based on the life of legendary gangster, actor and lothario John Bindon.

The almost-finished feature-length film was the Company's principal asset, and preserving it was regarded as vital due to the huge time and investment made in the project. Following complex negotiations over six months, the film was sold to a consortium of investors including a major original investor who is continuing to fund the post-production and delivery of the film.

As part of a routine Administration process, we have a duty to review the book and records of the Company and make enquiries to identify and realise all assets for the benefit of creditors. At the outset of this Administration, we were aware of two principal assets, one being the unfinished film and the other being pre-appointment VAT returns.

Following enquiries with the Company's director, our team learned that the Company qualified for film tax credits as a result of the film being classed as a 'UK production'. Like R&D tax credits, film tax credits are designed to offer production companies certain reliefs or refunds on qualifying expenditure, thus encouraging the UK's creative industry to flourish amid tight budgets.

Challenge

Certain criteria must be met for a film to qualify for film tax relief, including:

- Certified as British by the British Film Institute ('BFI');
- Intended for theatrical release;
- 10% of core costs must be related to UK activities.

Although The Chelsea Cowboy appeared to meet the criteria for film tax relief, the process was made increasingly complicated due to the administration. In addition, one of the hurdles to qualify for the tax credit related to the company's intention to complete and release the film. While that was true during the period to which the tax return related, and even after administration, the film was sold with the full intention of being finalised and released; however since the Company had been placed into administration, this intention was arguably put in jeopardy.

There was another catch: as far as we were aware, no one has ever successfully claimed film tax credits for a production company in administration, leading to a cash injection into the company's estate. On first review as the credits appeared to be similar to R&D tax credits, which are not fully accessible to a company in a formal insolvency process, it was not clear as to what extent the film tax credits would operate in a similar way.

Taking an Innovative Approach to Secure Returns *Life Begins Film & The Chelsea Cowboy*

A Novel Approach

Following a thorough investigation of all the qualifying criteria, ReSolve determined there was a good chance that LBF would qualify for the film tax credit and therefore it was worth pursuing further. In August 2022, ReSolve engaged specialist tax advisors to further research the issue and examine any precedents, working on a contingent fee basis that would ensure no cost fell upon the Administration estate unless the film tax credit was successfully realised as cash.

It was important to understand whether the film met the criteria to qualify for tax relief, and in particular, whether the appointment of Administrators would have a terminal effect on the right to claim the tax creditors.

The tax advisors therefore undertook an extensive investigation and review of the technical guidance in relation to film tax creditors and determined that, whilst the rules were not absolutely clear, the intention to release the film must have been true at the end of the accounting period when the qualifying expenses were incurred, rather than when the tax returns are submitted.

Following careful consideration, we determined there was a good enough chance that the claim would be successful and therefore our next step was to recreate the Company's accounting records with a view to determining what qualifying expenditure was incurred in the relevant periods.

A Noteworthy Outcome

Working alongside our specialist tax advisors, ReSolve produced draft computations for three periods in the lead up to the Administration. Tax returns were submitted in December 2022 and during May 2023 we received payment of the film tax credit as a cash refund for a total amount of more than £400k. There were no liabilities owed to HMRC and we had recently brought the Company's pre-Administration VAT returns up to date, which likely expedited the process and timeline of the return.

Having obtained the tax refund and successfully realised all the Company's other assets we are now in the process of agreeing the creditors' claims so funds may be distributed to them.



Chris Farrington, Partner and Joint Administrator at ReSolve, commented:

"This is very good news and highlights ReSolve's strength in using fresh thinking to secure a positive outcome for its clients. By using this innovative approach to claim the film tax relief we have been able to obtain funds for creditors that would otherwise have been lost, while also allowing the film to be completed and released to the public. Hopefully we have been able to set a precedent here and I would urge other film companies that are under stress to reach out to us to see how ReSolve can support them and ensure that more films can be completed for release when finances are tight."

