

Section 481A Digital Games Corporation Tax Credit

Part 15-02-07

This document should be read in conjunction with section 481A of the Taxes Consolidation Act, 1997

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This Tax and Duty Manual (TDM) should be read in conjunction with:

- Regulation 593 of 2022 (Digital Games Regulations 2022)
- [TDM 38-03-17 \(Books and Records\)](#)
- [TDM Part 02-02-01 \(Corporation Tax – General Background\)](#).

Section 481A relief is subject to EU Commission rules in the granting of State Aid. Accordingly, reference is made to State Aid criteria within this guidance, with definitions taken directly from EU rules governing State Aid.

Note: This manual is currently subject to review and may not reflect up-to-date position.

Most recent version.

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1. Introduction

The purpose of this manual is to provide guidance on the operation of the digital games corporation tax credit ('the credit') provided for in section 481A, Taxes Consolidation Act, 1997 (TCA), and the Digital Games Regulations 2022 ('the Regulations'). It sets out the relevant principles for determining the value of the credit and explains the key terms.

The aim of the measure is to provide an incentive to digital games developers to produce digital games that contribute to the promotion and expression of Irish and European culture.

The relief is a corporation tax credit, the beneficiaries of which are digital games development companies. It is a notified State aid in accordance with EU State aid rules.

The relief is available from 22 November 2022 in respect of certain expenditure incurred by digital games development companies on the development of eligible digital games provided conditions, as laid out in statute and regulations, and as specified in the interim and/or final certificate issued by the Minister for Tourism, Culture, Arts, Gaeltacht, Sport and Media (the Minister) in respect of the game, are met.

The credit may be claimed either on an interim basis as the game is being developed (the interim digital games corporation tax credit), or in full on completion of the development of the game (the digital games corporation tax credit)¹.

Relief is given at 32% of the lowest of:

- (a) eligible expenditure (eligible expenditure incurred in an accounting period if the interim digital games corporation tax credit is claimed),
- (b) 80% of the qualifying expenditure (qualifying expenditure incurred in an accounting period if the interim digital games corporation tax credit is claimed), and
- (c) €25,000,000.

The relief may be claimed against a digital games development company's corporation tax liabilities in respect of a qualifying period. In the event that the relief due is greater than the liabilities of the digital games development company in respect of that qualifying period, a payment of the excess is made by Revenue to the company.

¹ References in the document to 'the credit' incorporate both the interim digital games corporation tax credit and the digital games corporation tax credit unless otherwise stated.

2. What is a digital game [section 481A(1)]?

A digital game means a game which integrates digital technology and incorporates at least three of the following in digital form: text, sound, still images and animated images.

The game must be capable of being published on an electronic medium and be controlled by software enabling the player of the game to interact fully with the dynamics of the game, including by providing feedback to the player, and enabling the player to control elements of the game and allowing the player to adapt elements of the game.

A sequel or follow on from an existing digital game may be considered a digital game within the meaning of section 481A provided it is capable of being played on a standalone basis without a requirement to be played in conjunction with either the original or any other existing game.

3. What is a completed digital game [section 481A(1)]?

A completed digital game is one that has been released to the public, or where the game is commissioned by a third party, where the game has been provided to that third party. The date of completion is the date that the game has been released to the public or delivered to the commissioning party.

4. What is a digital games development company [section 481A(1)]?

A digital games development company is a company that—

- (a) is resident in the State, or is resident in a European Economic Area (EEA) state,
- (b) carries on a trade of developing digital games on a commercial basis that are to be made available to the public, and
- (c) is not part of an undertaking which would be regarded as an undertaking in difficulty².

² Further information on the meaning of undertaking in difficulty is contained in [section 13.1.1](#).

5. Cultural certificate application [section 481A(2)]

In advance of making a claim for the credit, a digital games development company must have received cultural certification of the digital game by the Minister for Tourism, Culture, Arts, Gaeltacht, Sport and Media. The cultural certification indicates that the digital game meets the eligibility criteria and passes the required cultural test.

In order to be an eligible digital game, a game must—

- be developed on a commercial basis with a view to the realisation of profit and intended to be made available to the public, and
- be an exempted work within the meaning of the Video Recordings Act 1989, and
- not be produced solely or mainly for the purposes of gambling or advertising³

The cultural test is a points-based test with a requirement that the game scores a certain number of points from the maximum available. Points are awarded for the cultural content of the game and the creativity employed in its development, as well as the contribution of the game to the development of a cultural hub by reference to the extent to which the creative work takes place in Ireland or the EEA. Points are also available in respect of the educational content of games aimed at young children, the inclusion of themes relating to diversity and equality, and the promotion of the protection of the environment.

Full details of the cultural test and the application process are available in the Department of Tourism, Culture, Arts, Gaeltacht, Sport and Media's (DTCAGSM) guidance note⁴.

A digital games development company may apply to the Minister for an interim certificate in respect of a digital game that is to be developed by a digital games development company, or a final certificate in respect of a digital game that has been developed and completed by the company⁵. A game that has received an interim certificate is an interim digital game and a game that has received a final certificate is a qualifying digital game⁶. While companies may apply for interim certificates, they are not obliged to do so and may instead apply only for final certification in respect of a completed game.

³ Section 481A(1)

⁴ The DTCAGSM guidance is available at <https://www.gov.ie/en/publication/4cf7f-creative-arts-digital-games>

⁵ Section 481A(1)

⁶ Section 481A(1)

5.1 Interim cultural certification [section 481A(2)(a)]

An interim cultural certificate may be applied for by a digital games development company at any point before or during the development of the digital game and prior to its completion. An interim certificate will be issued if the Minister is satisfied that the digital game as proposed will, when completed, meet the eligibility criteria and pass the cultural test.

Interim cultural certificates are subject to conditions including in relation to the employment responsibilities of the digital games development company in the development of the digital game⁷.

When an interim cultural certificate is issued, the company can claim the interim digital games corporation tax credit. Further detail on claiming the interim digital games corporation tax credit is provided in [section 6.1](#) of this manual.

On the expiry of an interim certificate, the certificate ceases to have effect and is treated as having never had effect unless an application for a final certificate is made in advance of the expiry date and, on the determination of that application, a final certificate is issued by the Minister⁸. If an application for a final certificate is not made or is not successful, any interim claims will be subject to withdrawal. As final certificates can only be applied for in respect of completed games, this means that the development of a digital game must be completed prior to the expiry of an interim certificate in order to avoid withdrawal of interim relief.

5.2 Final cultural certification [section 481A(2)(b)]

On completion of a digital game, the company has 6 months to apply to the Minister for final certification⁹. If the Minister is satisfied that the completed game meets the eligibility criteria and passes the cultural test, and that any conditions stipulated in the interim certificate, if issued, have been complied with, the Minister issues a final certificate. Final certificates are also subject to conditions including in relation to the employment related responsibilities of the digital games development company for the development of the digital game. On receipt of final certification, the company may claim the digital games corporation tax credit in respect of the qualifying digital game less, if applicable, any interim amounts already claimed in respect of that game. Further detail on claiming the digital games corporation tax credit is provided in [section 6.2](#) of this manual.

⁷ Section 481A(6)

⁸ Section 481A(8)

⁹ Regulation 4 of the Regulations

6. Making a claim through ROS

Once a digital games development company has received either an interim or final cultural certificate, as the case may be, and complies with the other conditions in section 481A, the company may claim either the interim digital games corporation tax credit or the digital games corporation tax credit as appropriate by amending its corporation tax return (Form CT1) for the qualifying period. The qualifying period is the accounting period the specified return date of which immediately precedes the claim¹⁰. Further detail with regard to the qualifying period is set out in [section 10](#) of this manual.

Revenue may request supporting documentation to substantiate the claim at this time. The company is required to have all records necessary to support the claim for relief available for consideration by Revenue at the point of making the claim¹¹. Further details of the supporting documentation required is contained in [section 12](#) of this manual.

6.1 Claims for the interim digital games corporation tax credit [section 481A(19)]

Where an interim certificate has been granted by the Minister and the game is in the process of being developed, a claim for the interim digital games corporation tax credit may be made. The interim digital games corporation tax credit is calculated by reference to expenditure incurred by a digital games development company in an accounting period and means 32% of the lowest of:

- (a) the eligible expenditure incurred in that accounting period,
- (b) 80% of the qualifying expenditure incurred in that accounting period, and
- (c) €25,000,000.

Claims must be made within 12 months of the end of the accounting period in which the expenditure giving rise to the claim has been incurred and prior to the expiry date of the interim certificate. The aggregate of all claims for the interim digital games corporation tax credit cannot exceed €25,000,000.

¹⁰ Section 481A(1) and section 481A(21)

¹¹ Part 3 of the Regulations

6.2 Claims for the digital games corporation tax credit [section 481A(20)]

Where the Minister has issued a final certificate in respect of a completed game, a company may claim the digital games corporation tax credit less the amount, if any, of the interim digital games corporation tax credit claimed.

The digital games corporation tax credit is calculated by reference to expenditure incurred by a digital games development company throughout the development of the game. The relief is given at 32% of the lowest of:

- (a) the eligible expenditure,
- (b) 80% of the qualifying expenditure, and
- (c) €25,000,000.

Claims must be submitted within 6 months of completion of the digital game. Further information on the meaning of a completed game is provided in [section 3](#).

7. Costs against which the relief may be claimed [section 481A(1) and the Regulations]

7.1 Qualifying Expenditure [Regulation 9]

Qualifying expenditure is expenditure incurred directly by the digital games development company on the design, production and testing of a digital game. It excludes expenditure incurred on:

- Designing the initial concept for the digital game,
- In debugging or maintaining a completed digital game, and
- Sub-contractor payments exceeding €2,000,000.

Qualifying expenditure is further limited to certain costs as follows:

- (i) the costs of employees working under a contract of employment with the digital games development company,
- (ii) the capital costs of assets used for the development of the qualifying digital game,
- (iii) the costs of renting or leasing equipment for the development of the qualifying digital game,
- (iv) the costs of consumable items and software and copyrights and other intellectual property rights used in the development of the digital game,
- (v) sub-contractor payments incurred in relation to the development of the qualifying digital game, provided that they do not exceed €2,000,000.

7.1.1 Design, production and testing stages

Design, production and testing of a digital game means the stages of development of the game following the design of the initial concept up to the date of completion, which is the date on which the game is first made available to the public, or where the game is commissioned by a third party, the date on which the game is provided to that third party.

7.1.2 Design of the initial concept for the digital game

Designing the initial concept for the digital game refers to the stage of development of a digital game where the concepts or ideas that form the basis for the digital game and which are further developed in the subsequent design, production and testing stages, are decided. The costs incurred in designing the initial concept for the digital game are excluded from the relief. It is for the digital games development company to demonstrate the date by which the initial concepts were designed. Generally, it will be expected that a company will decide the initial concepts for the game following consideration of the feasibility of developing a game based on those concepts or ideas having regard to matters such as:

- gameplay/type of game e.g. racing game,
- setting and story,
- target audience,
- requirements and schedule,
- staff and budget estimates.

In cases where the digital game is developed pursuant to a contract or agreement with a publisher or commissioning agent, it will be the date that the agreement or contract has been entered in to.

Some costs may relate both to the design of the initial concept stage of a digital game and to subsequent stages of development. In so far as that is the case, such expenditure, or where appropriate a portion of that expenditure, may constitute qualifying expenditure to be determined on a case-by-case basis.

7.1.3 Debugging and maintaining a completed game

Debugging and maintaining a completed game refers to post completion work on a digital game following the date of completion and is excluded from qualifying costs for the purposes of the relief.

7.1.4 Sub-contractor payments [Regulation 2 and Regulation 9]

Sub-contractor payments are defined in the Regulations and mean payments made by a digital games development company to a third party in respect of subcontracting of part of the development of the digital game where—

- (i) the expenditure in respect of the subcontracted development would have constituted qualifying expenditure had it been carried out by the digital games development company, and
- (ii) subcontracting is limited to part only of the development of the digital game and does not include the management and general administration of the development of the digital game which is at all times carried out by the digital games development company.

The sub-contracting limit is €2,000,000 per game.

7.1.5 Employee costs [Regulation 9(i)]

Employee costs incurred on work carried out by employees on the design, production and testing of the interim or qualifying digital game, as the case may be, may be included in a claim for the relief where the employee is engaged under a contract of employment with the digital games development company. Such costs include salary, pay related social insurance contributions and other statutory costs provided the remuneration is in line with the company's usual policy on remuneration as well as industry rates. It is calculated according to the rate of actual work carried out by the employee on the design, production and testing of the digital game. Where a digital games development company has employees on its payroll who work on a number of different games and/or whose work includes duties other than the design, production and testing of the digital game, the employee costs should be apportioned accordingly.

In calculating the amount that can be claimed, the costs associated with having employees such as HR costs, hiring costs, and training costs should be excluded. Any travel and subsistence costs or the payment of any expense items incurred by employees should also be excluded along with gifts/ gratuities and voluntary payments. Any association or membership fees paid by the company on behalf of employees are not covered by the relief. Such expenses although falling outside of what is permitted by section 481A and the Regulations may still qualify for a corporation tax deduction. [See TDM Part 02-02-01 Corporation Tax – General Background.](#)

7.1.6 Capital items [Regulation 9(ii)]

The capital costs of assets corresponding to the capital allowances arising during the design, production and testing stages and in line with the rate of actual use of those items constitute qualifying expenditure. Revenue recognises that a digital games development company may utilise capital items over the course of the development of a number of games. Revenue will accept as reasonable the apportionment of the cost across a number of games where the costs have been calculated in line with general rules relating to capital allowances. It will be the responsibility of the digital games development company to provide evidence of the cost they are claiming on an individual development and equally across all developments where the cost is being claimed.

Example No. 1

A digital games development company purchases IT equipment to develop a game. On completion of the development two years later, the IT equipment still has a value and can still be utilised. It is not appropriate to claim the full cost of that equipment. In the normal course of business, this item is depreciated at 12.5% per annum based on the net cost of the asset. It may be acceptable that an apportionment of 12.5% per annum for the two years of development may be claimed as qualifying expenditure.

7.1.7 Costs of renting or leasing equipment [Regulation 9(iii)]

The costs of renting or leasing equipment corresponding to the rate of actual use of those items in the design, production and testing stages constitutes qualifying expenditure. Where those items are utilised in the course of the development of a number of games, Revenue will accept as reasonable the apportionment of the cost across a number of games in line with the extent to which the equipment is used for each game. It will be the responsibility of the digital games development company to provide evidence of the cost they are claiming on an individual development and equally across all developments where the cost is being claimed.

7.1.8 Costs of consumable items and software and copyrights and other intellectual property rights [Regulation (9)(iv)]

The costs of consumable items and software and copyrights and other intellectual property rights corresponding to the rate of actual use of those items in the design, production and testing stages constitute qualifying expenditure. Consumable items and software are defined in the Regulations and mean materials and software specific and key to the design, production and testing of the qualifying digital game. Where those items are utilised in the course of the development of a number of games, Revenue will accept as reasonable the apportionment of the costs across a number of games in line with the extent to which the items/ licences/ copyrights etc. are used for each game.

7.2 Eligible expenditure

Eligible expenditure is the portion of the qualifying expenditure that is expended on the development of the digital game in the State or the EEA. Where the qualifying expenditure includes sub-contractor payments, those payments are included in the eligible expenditure if the sub-contractor is based in Ireland or the EEA.

7.3 Development costs that will not qualify for the relief

The development of downloadable content (DLC), being additional content that can be added to an existing digital game to enhance the features of the game, does not qualify for the relief as DLC does not constitute a digital game within the meaning of section 481A¹². As such content requires an existing game in order to play, it cannot be considered a digital game for the purposes of the credit.

As mentioned in [section 2](#), a sequel or follow on from an existing digital game may be considered a digital game within the meaning of section 481A provided it is capable of being played on a standalone basis without a requirement to be played in conjunction with either the original or any other existing game. If any aspects or parts of the original or any other game are incorporated into the sequel, the credit is not, however, available in respect of the costs incurred in the development of those aspects or parts of the original or other game. The credit is only available in respect of certain expenditure incurred in the design, production and testing stages of the development of the digital game for which the Minister has issued an interim or final certificate.

The costs associated with the release of a previously released digital game on an additional electronic platform are also not covered by the credit.

7.4 Calculating the value of the credit

Once the qualifying expenditure and the eligible expenditure for either an interim digital game or a qualifying digital game, as the case may be, have been identified it is then possible to calculate the value of the credit.

In calculating the value of the credit, a *de minimis* threshold applies and a digital games development company cannot claim the digital games corporation tax credit if the value of the qualifying expenditure in respect of a completed game is less than €100,000¹³.

¹²The following is a non-exhaustive list of examples of DLC: expansions, new maps or levels, or additional characters as well as content such as cosmetic options for a player's character¹².

¹³ Section 481A(13)(d) Interim claims can be made where the qualifying expenditure incurred at the time of making the interim claim is less than €100,000. The requirement that the qualifying expenditure must not be less than €100,000 applies only at the time of making a claim for the digital games corporation tax credit in respect of a completed game.

Furthermore, under State aid rules, the maximum aid intensity that may be availed of by a digital games development company in respect of the development of a digital game cannot exceed 50% as provided for in the Cinema Communication (paragraph 52.2)¹⁴. This is also one of the conditions of certification of digital games by the Minister¹⁵.

8. Claiming the credit

The corporation tax liability of the company for the qualifying period is reduced by the amount of the credit claimed, which should not exceed that corporation tax liability [section 481A(22)]. Further information on the meaning of qualifying period is set out in [section 10](#) of this manual.

8.1 Excess credit [section 481A(23)]

In the event that the credit claimed exceeds the corporation tax liabilities for the qualifying period in which the claim is made, and the digital games development company has no other outstanding taxes, the excess amount is paid by Revenue to the digital games development company¹⁶.

¹⁴ OJ No C332, 15.11.2013, p.1

¹⁵ Section 481A(6) as respects interim certificates and section 481A(11) as respects final certificates

¹⁶ Section 481A(24)

9. Date from which relief is available

The relief is available from 22 November 2022, which is the date the Digital Games Regulations 2022 came into operation. Subject to all conditions being met, the relief may be claimed where:

- the expenditure was incurred on or after that date, **and**
- the project (i.e. the development and completion of the digital game) commenced on or after that date.

It is for a digital games development company to determine whether the date of commencement of a project falls on or after 22 November 2022. The following may assist in determining if that is the case:

1. Where work on those stages of development of a digital game for which the credit is available started prior to 22 November 2022, it is considered that the project had commenced as of that date and cannot now benefit from the relief.
2. Where an agreement had been entered into between the digital games development company and a commissioning agent or publisher in relation to a specified project for which deliverables had been agreed prior to 22 November 2022, irrespective of whether work on those stages of development for which the credit is available had started prior to 22 November 2022, it is considered that the project had commenced as of that date and cannot now benefit from the relief.
3. Where on 22 November 2022, a company had submitted a proposal or pitch to a commissioning agent or publisher in relation to a project and had not yet had confirmation as to whether that proposal or pitch had been accepted, the project is not considered to have commenced as of that date, and therefore the project could, provided all other conditions are met, benefit from the relief.
4. Where on 22 November 2022, a company was preparing a proposal or pitch for a commissioning agent or publisher but had not yet submitted it, the project is not considered to have commenced as of that date and therefore the project could, provided all other conditions are met, benefit from the relief.
5. Where on 22 November 2022, a company was considering whether an idea/concept was feasible and no decision had been made with regard to whether to proceed to the subsequent stages of development of a game, the project is not considered to have commenced as of that date and therefore the project could, provided all other conditions are met, benefit from the relief.

The points above are not an exhaustive nor definitive list, and all facts and circumstances surrounding each individual case must be examined in determining whether relief is available.

10. Qualifying period [section 481A(1)]

On receipt of either an interim or final cultural certificate in respect of the digital game, and once all other requirements set out in section 481A are met, a digital games development company may make a claim for relief. The relief reduces the corporation tax liability of the company for the qualifying period by the value of the credit.

The qualifying period is the accounting period the specified return date of which immediately precedes the date the claim was made¹⁷. Where this accounting period is less than twelve months, the qualifying period includes the previous accounting period that commences on a date 12 months or more before the end of the short accounting period. Where the qualifying period is made up of two (or more) accounting periods the corporation tax of the earlier period is reduced in priority to the later period.

The claim is made by amending the corporation tax return, for the qualifying period. It is not possible to make a claim until the specified return date has passed and accordingly it is not possible to make the claim on a return that has been filed early. However, it would be possible in such a scenario to make a claim on the previous return which has been filed and for which the specified return date has passed. Some examples are set out below to illustrate this principle. The examples apply to both interim and final cultural certificates.

Example No. 2

Digital Games Development Company A received a cultural certificate on 1 February 2023. It prepares its accounts for the accounting period to 31 December each year.

The Form CT1 in respect of the accounting period to 31 December 2022 is due to be filed on or before 23 September 2023. Therefore, the claim cannot be made by amending the Form CT1 for the accounting period 31 December 2022 for the certification received on 1 February 2023 until after the 23 September filing date.

The Form CT1 in respect of the period to 31 December 2021 was due and filed on 23 September 2022. Digital Games Development Company A can amend this Form CT1 following certification to claim relief once all the other requirements of the credit are met.

Example No. 3

¹⁷ Section 481A(21)

Digital Games Development Company B received a cultural certificate on 1 February 2023. The digital games development company prepared its accounts for the accounting period 1 June to 31 May each year up to 2021. In 2021 it opted for a short accounting period from 1 June to 31 December 2021 after which it prepares accounts from 1 January to 31 December annually.

The Form CT1 in respect of the accounting period to 31 December 2022 is due to be filed by 23 September 2023. Therefore, the claim cannot be made by amending the Form CT1 for the accounting period to 31 December 2022 for the certification received on 1 February 2023 until after the 23 September filing date.

The Form CT1 for the period 1 June to 31 December 2021 was due and filed on 23 September 2022. However, this was a short accounting period. Therefore, the qualifying period includes the preceding accounting period of 1 June 2020 to 31 May 2021 and the amendment should be made in the return for the earlier accounting period.

The Form CT1 in respect of the period to 31 May 2021 was due and filed on 23 February 2022. Digital Games Development Company B can amend the Form CT1 in respect of the accounting period to 31 May 2021 following certification once all other requirements of the credit are met.

Example No. 4

Digital Games Development Company C received a cultural certificate on 1 February 2023. The company prepares its accounts for the accounting period to 30 June each year. The Form CT1 for the accounting period for 30 June 2022 is due to be filed by 23 March 2023 but Digital Games Development Company C files this return on 1 January 2023 in advance of the receipt of the cultural certificate.

While the Form CT1 has been completed and filed in respect of the accounting period ending 30 June 2022, Digital Games Development Company C cannot amend the Form CT1 for the period to 30 June 2022 to claim the relief until the return filing date of 23 March 2023 has passed.

However, the Form CT1 in respect of the accounting period to 30 June 2021 was due and filed on 23 March 2022. Digital Games Development Company C can amend the Form CT1 for the accounting period 30 June 2022 and claim the relief.

Example No. 5

Digital Games Development Company D received a cultural certificate on 1 February 2023. The digital games development company prepares its accounts for the accounting period to 30 June each year.

The Form CT1 for 30 June 2022 is due to be filed by 23 March 2023. However, Digital Games Development Company D files this return early, on 1 March 2023 after receiving the cultural certificate. The Form CT1 for the accounting period to 30 June 2023 cannot be amended until the specified return date has passed.

However, the Form CT1 in respect of the accounting period to 30 June 2021 was due and filed on 23 March 2022. Digital Games Development Company D can amend the Form CT1 for the accounting period 30 June 2022 and claim the relief.

11. Illustrative claims that may be made pursuant to an interim certificate and a final certificate

The following example illustrates the claims for the credit that may be made pursuant to an interim certificate and a final certificate.

Example No. 6

Company X applies for an interim certificate in respect of a project commenced on 22 November 2022. The interim certificate is issued on 1 July 2023 and expires on 1 July 2026.

Company X's annual accounting period runs from 1 January to 31 December.

The digital game is completed on 1 June 2026. The final certificate is applied for on 15 June 2026 and is issued on 15 July 2026.

Company X could make claims for the credit as follows:

- The company can make its first interim claim on or after 1 July 2023 (date of issue of the interim certificate) in respect of expenditure incurred from 22 November 2022 (the date of commencement of the project) to 31 December 2022 (end of accounting period) by amending the CT1 filed in respect of the period 1 January 2021 – 31 December 2021 as the specified return date (23 September 2022) has passed.

The claim can be made any time from 1 July 2023 (the date of issue of the interim certificate) up to 31 December 2023 (12 months after the end of the accounting period in which the expenditure giving rise to the claim has been incurred).

- The company can submit its second interim claim on or after 1 January 2024 in respect of expenditure incurred from 1 January 2023 to 31 December 2023 by amending the CT1 filed for the period 1 January 2022 to 31 December 2022. The claim can be made at any time from 1 January 2024 to 31 December 2024.
- The company can submit its third interim claim on or after 1 January 2025 in respect of expenditure incurred from 1 January 2024 to 31 December 2024 by amending the CT1 filed for the period 1 January 2023 to 31 December 2023. The claim can be made any time from 1 January 2025 to 31 December 2025.
- The company can submit its fourth interim claim on or after 1 January 2026 in respect of expenditure incurred from 1 January 2025 to 31 December 2025 by amending the CT1 filed for the period 1 January 2024 to 31 December 2024. The claim can be made any time from 1 January 2026 to 30 June 2026 (the expiry date of the interim certificate).
- On receipt of the final certificate, the company may claim the digital games corporation tax credit. The digital games corporation tax credit is the full amount of the relief due in respect of the development of the game less the amount of the interim claims. It includes expenditure incurred in the period 1 January 2026 to 1 June 2026 (the date of completion).

12. Record keeping and documentation to support claims

A digital games development company is required to have all relevant documentation prepared before making a claim for either the interim digital games corporation tax credit or the digital games corporation tax credit¹⁸.

In order to minimise delays or queries, information, records and documentation should be maintained to a standard that ensures that entitlement to the relief is clear to both the taxpayer and Revenue. In the event of a Revenue intervention, any claim for relief must be substantiated and evidenced, otherwise any claim to relief may be subject to a withdrawal.

Books and records should be used to support a claim for digital games relief and should clearly show the accounting process. For example, costs included in any claim for relief, should be evidenced by:

- a) being recorded in books of account in a manner that clearly shows the amounts involved and matters to which each amount relates, and
- b) supported by receipts and invoices.

¹⁸ Part 3 of the Regulations

Such payments being recorded as, for example, “petty cash” would not be appropriate.

Regulation 5 of the Regulations sets out certain books and records which must be kept by a digital games development company over and above the normal requirement to keep books and records as set out in the Tax Acts. The company is required to keep these records for a period of 6 years from the completion of the qualifying digital game or from the date of the claim for the digital games corporation tax credit, whichever is later¹⁹.

The records which must be kept include but are not limited to the following:

- books of first entry;
- trial balances;
- all linking documents to the financial statements i.e. petty cash documents; receipts etc;
- invoices;
- credit notes;
- bank statements;
- all ledgers.

These records should be available to Revenue on a compliance review. If during a compliance review, Revenue raises questions on the make-up of a figure included, the company is required to have this back-up documentation ready. Separately, it is important to have regard to the rules elsewhere in the TCA with regard to maintaining books and records. Helpful information regarding the maintenance of books and records can be found in Revenue’s Books and Records [TDM Part 38-03-17](#).

12.1 Information to support a claim for the interim digital games corporation tax credit

Prior to making a claim for the interim digital games corporation tax credit under section 481A(19), the digital games development company must have available the information set out in Schedule 2 of the Regulations. This includes vouched breakdowns of the qualifying expenditure and the eligible expenditure. Details of any transactions with any connected persons must also be kept. Connected persons are parent/subsidiary companies or companies that are controlled by the same persons as the digital games development company or their relatives (the term relatives generally includes spouses, brothers, sisters, ancestors and lineal descendants – for full details see Section 10 of the TCA).

¹⁹ Regulation 6 of the Regulations

12.2 Information to support a claim for the digital games corporation tax credit and the Compliance Report

Prior to making a claim for the digital games corporation tax credit under section 481A(20), the digital games development company must have available the information set out in Schedule 3 of the Regulations. The company must also prepare a compliance report. This includes the declaration set out in Schedule 4 to the Regulations and the documents listed in Schedule 5. These include details of the amount of the qualifying expenditure, the eligible expenditure and the details of the sources of all amounts used to finance the entire development expenditure. The compliance report must also include details of transactions with connected persons.

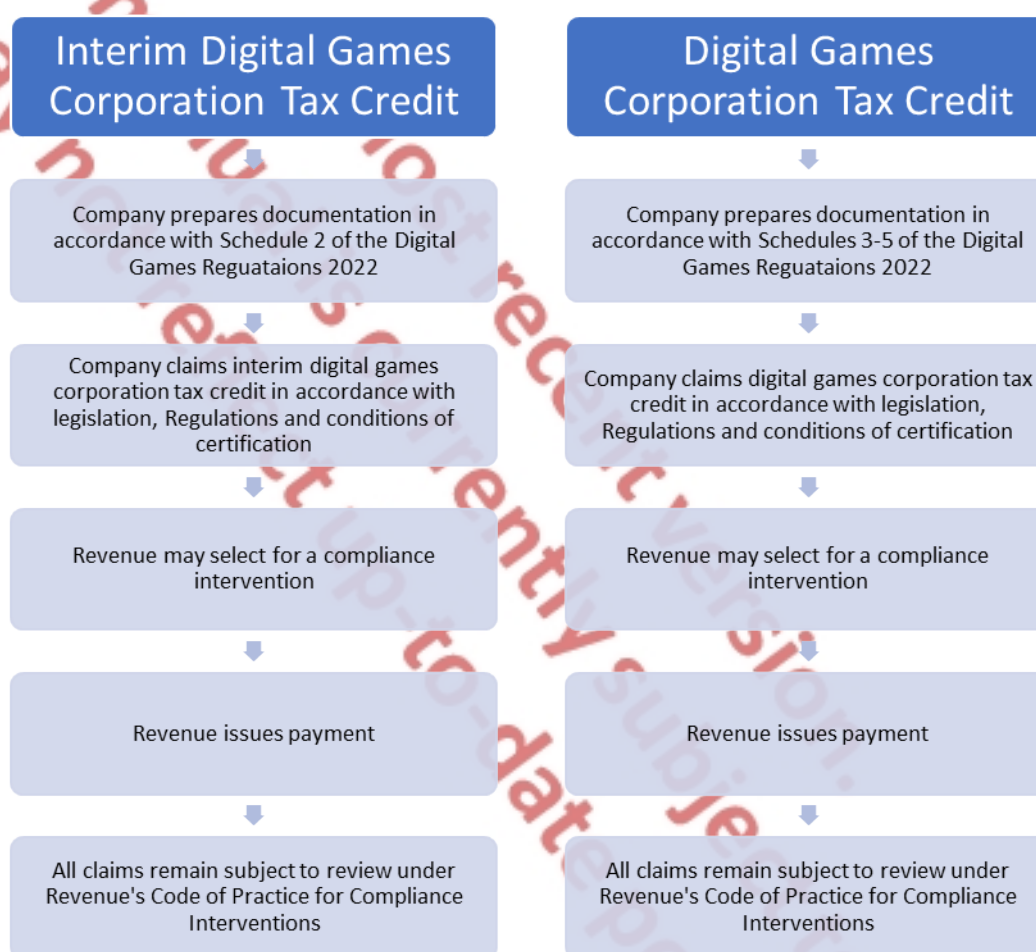


Figure 1: Application Process

13. Eligibility for relief

When making a claim for either the interim digital games corporation tax credit or the digital games corporation tax credit, a company must have regard to section 481A(13) and (14) which set out the circumstances in which a claim may not be made.

Digital games development companies must further ensure that none of the circumstances set out in section 481A(16) whereby a company is not regarded as a digital games development company in respect of an interim or qualifying digital game apply.

13.1 Circumstances in which a company may not make a claim for the credit – section 481A(13)

A company may not claim either the interim digital games corporation tax credit or the digital games corporation tax credit where at the time of claiming the credit any of the following apply:

- a) the company has not been issued an interim or final cultural certificate in respect of the digital game,
- b) in the case of interim certificate, the expiry date has passed,
- c) the digital games development company, any company controlled by the digital games development company, or any person who is either the beneficial owner of, or able directly or indirectly to control more than 15% of the ordinary share capital of the digital games development company is not tax compliant,
- d) in the case of applications for the digital games corporation tax credit, the qualifying expenditure is less than €100,000²⁰,
- e) the company is an undertaking in difficulty,
- f) any company in an undertaking of which the company is part is subject to an outstanding recovery order in relation to State aid,
- g) a company resident in an EEA State does not carry on business in the State through a branch or agency, or
- h) the company has not filed a corporation tax return, CT1, following 21 months of trading as a digital games development company.

13.1.1 Undertaking in difficulty [section 481A(13)(e)]

A digital games development company or an undertaking of which it is part will be considered an “undertaking in difficulty” when, without intervention by the State, it will almost certainly go out of business in the short - medium term. Therefore, an undertaking is considered to be in difficulty if at least one of the following circumstances occurs:

²⁰ This requirement does not apply at the time of making a claim for the interim digital games corporation tax credit.

- a) in the case of a limited liability company, where more than half of its subscribed share capital and share premium has disappeared as a result of accumulated losses. This is the case when deduction of accumulated losses from reserves (and all other elements generally considered as part of the own funds of the company) leads to a negative cumulative amount that exceeds half of the subscribed share capital;
- b) in the case of an unlimited company, where more than half of its capital as shown in the company accounts has disappeared as a result of accumulated losses; or
- c) where the undertaking is subject to collective insolvency proceedings or fulfils the criteria under its domestic law for being placed in collective insolvency proceedings at the request of its creditors.

For the avoidance of doubt where the company is part of an undertaking and on consolidation the overall undertaking is not an “undertaking in difficulty” then the digital games development company or the undertaking of which it is part will not be considered an “undertaking in difficulty”.

13.1.2 Outstanding recovery order [section 481A(13)(f)]

The digital games development company cannot make a claim for the credit if it or any company in the undertaking of which it is part is the subject of an outstanding recovery order. This is known as the Deggendorf rule and provides that an applicant in respect of State aid in one Member State cannot be granted aid where a declaration is made by the European Commission to the effect that an aid granted by another Member State is illegal and incompatible with the internal market. This remains in place until all amounts due to be repaid to the latter Member State have been returned.

13.2 Circumstances in which a company may not make a claim for the credit – section 481A(14)

The legislation further provides that a claim for the credit may not be made where:

- a) any particular item of expenditure in the claim is inflated,
- b) the company has obtained relief under Part 29, the Research and Development (R&D) tax credit in respect of the expenditure,
- c) the company has obtained relief under section 481 relief for investment in films in respect of the expenditure,
- d) the expenditure has been otherwise subsidised by a grant, or by the State or another State, or any board, authority, institution, office or body in any State, or by the European Union,
- e) there is no commercial rationale for the corporate structure of the digital games development company for either the development, financing, distribution or sale of the digital game, or for all of those purposes,

- f) the corporate structure would hinder Revenue in verifying compliance with the conditions governing the relief, or
- g) the company does not have such information and records available in advance of making a claim as Revenue may require to determine that any claim made is in compliance with section 481A.

13.2.1 Corporate Structure [section 481A(14)(e)]

Simple structures provide the most transparent mechanism for the delivery of the project. Complicated structures involving a large number of companies or other entities for the development of a game may result in any claim for digital games relief being refused where it is reasonable to consider that there is no commercial rationale behind the structure. Equally, a digital games development company may not be entitled to make a claim in respect of digital games relief where the corporate structure hinders Revenue in verifying or establishing compliance with the conditions of the relief.

13.3 Circumstances in which a company is not considered a digital games development company [section 481A(16)]

A company is not considered a digital games development company in respect of an interim or qualifying digital game if any of the following apply:

- a) the financial arrangements that the company enters into, in relation to an interim or qualifying digital game, are:
 - (i) financial arrangements of any type with a person resident, registered or operating in a territory other than an EEA state or a territory with which Ireland does not have a Double Taxation Agreement (DTA); or
 - (ii) financial arrangements under which funds are channelled, directly or indirectly, to or through a territory outside the EEA or a territory with which Ireland does not have a DTA,unless
 - I. the arrangements relate to the development of the game in such a territory, and
 - II. the digital games development company has sufficient records to verify the amount of each item of expenditure in the territory, and
 - III. the digital games development company has records in place to substantiate the expenditure in advance of making a claim for the interim digital games corporation tax credit or the digital games corporation tax credit,
- b) the company does not provide the records necessary for Revenue to verify compliance with section 481A when requested to do so,
- c) the company does not provide a copy of the completed game to Revenue when requested to do so in relation to a claim for the digital games corporation tax credit under section 481A(20),

- d) the company does not notify the Minister within 6 months of the date of completion of the digital game that the game has been completed and provide the Minister with a copy of the game,
- e) the company does not make a claim for the digital games corporation tax credit under section 481A(20) within 6 months of the date of completion of the digital game or it does so without having a compliance report prepared to submit should it be requested by Revenue,
- or
- f) the company ceases the trade of producing digital games on a commercial basis within 12 months of completion of the digital game.

14. Withdrawal of the relief

14.1 Recovery of funds [section 481A(26)]

Where a credit has been paid to a digital games development company by Revenue and it is subsequently found that all or part of the amount is not in accordance with section 481A, referred to as an unauthorised amount, then the overpaid amount may be recovered from the company, any director of the company, or any person who is the beneficial owner or able to control more than 15% of the ordinary share capital of the digital games development company.

14.2 Unauthorised amount [section 481A(27)]

The legislation provides that an unauthorised amount arises where the digital games development company:

- a) makes a claim for the interim digital games corporation tax credit contrary to section 481A(19) or for the digital games corporation tax credit contrary to section 481A(20),
- b) fails to comply with any of the provisions of section 481A or the Regulations,
- c) fails to comply with any of the conditions specified in a certificate,
- d) fails to comply with section 481A(13)(c) in relation to the tax compliance obligations of the digital games development company, any company controlled by the digital games development company, and each person who is either the beneficial owner of, or able directly or indirectly to control more than 15% of the ordinary share capital of the digital games development company.

14.3 Interest and penalties [section 481A(28) and Code of Practice for Revenue Compliance Interventions]

Where applicable, interest will accrue from the date on which the unauthorised amount was paid by Revenue. Depending on the reason for the relief being withdrawn, and the manner in which the withdrawal happens, penalties, publication and prosecution may also be applicable.

Regard should be had to the Code of Practice for Revenue Compliance Interventions to determine whether or not a penalty or publication may arise. A penalty may be avoided, for example, in the case of a “self-correction”, an “innocent error” or a “technical adjustment”.

15. Publication requirements [section 481A(29)]

In order to comply with State aid transparency requirements, a dedicated section of Revenue’s website www.revenue.ie provides information on all aspects of the credit including a section on beneficiaries of the relief and links to lists of the recipients of the relief. The information published is as follows:

- (a) the name of the company,
- (b) the name of the digital game,
- (c) the Companies Registration Office number of the company,
- (d) the NACE classification code,
- (e) the amount of interim digital games corporation tax credit or digital games corporation tax credit, as the case may be,
- (f) whether the company is an SME or larger enterprise, and
- (g) the territorial unit, within the meaning of the NUTS Level 2 classification specified in Annex 1 to Regulation (EC) No. 1059/2003 of the European Parliament and of the Council of 26 May 2003²¹.

²¹ OJ No. L154, 21.6.2003, p. 1