

Based on the Article 19 paragraph 3 of the Regulation on Incentives to the Investor to Produce Audiovisual Work in the Republic of Serbia („Official gazette of RS“, no. 10/18),

Minister of Economy adopts

**THE RULEBOOK
ON TYPES AND CONTENT OF THE RATIONALE FOR ELIGIBLE AND NON-
ELIGIBLE COSTS AND THE FORM OF APPLICATION FOR AWARDING AND
PAYMENT OF INCENTIVES TO THE INVESTOR WHO IS PRODUCING
AUDIOVISUAL WORK IN THE REPUBLIC OF SERBIA**

(“Official gazette of RS”, no. 39/2018)

I SUBJECT OF THE RULEBOOK

Article 1

This Rulebook specifies the types and content of rationale for eligible and non-eligible costs and the form of application for awarding and payment of incentives to the investor who is producing audiovisual work in the Republic of Serbia.

II ELIGIBLE – ACCEPTABLE COSTS

Article 2

The following are recognized as eligible or acceptable costs, in accordance with the Regulation on Incentives to the Investor to Produce Audiovisual Work in the Republic of Serbia (hereinafter: the Regulation):

- 1) costs regarding the production of the audiovisual work incurred and paid to legal entities or natural persons on the territory of the Republic of Serbia and which pertain to procured goods and provided services, the use of locations, payment of fees to members of the author, acting and technical team (hereinafter: the Team) who are citizens of the Republic of Serbia or foreigners who have the residence for at least one year on the territory of the Republic of Serbia, in accordance with the regulations of the Republic of Serbia;
- 2) costs incurred in connection with the use of goods, i.e. renting of movable and immovable property may be recognized only in the event that the goods, i.e. movable

and immovable property are owned by legal entities or natural persons from the territory of the Republic of Serbia.

Article 3

The eligible costs are:

- 1) fees and earnings, and all applicable taxes and contributions paid to members of the Team who are tax payers in the Republic of Serbia, wherever they provide their services;
- 2) costs connected with apartment rental or hotel accommodation for members of the Team – foreigners, during their stay in the Republic of Serbia, under the condition that these services are paid to a legal entity or natural person who is a tax payer in the Republic of Serbia and that all applicable taxes in the Republic of Serbia are paid;
- 3) daily allowances or reimbursements for the costs of food, accommodation and work and stay in the field or unpredicted costs that are paid to local members of the Team as well as to foreigners - Team members during their work in the Republic of Serbia, up to a maximum of 100 euros per day, under the condition that their daily allowances and reimbursements are paid in the Republic of Serbia with all applicable taxes;
- 4) costs of purchase of copyrights from residents or legal entities from the Republic of Serbia, provided that the application must include an agreement confirming the purchase of rights;
- 5) costs of procurement of goods, and if the goods were purchased for use in the production and then sold before submitting the application for payment of incentives, the acceptable cost will be the net difference between the original purchase price and the selling price;
- 6) all insurance premiums if they are provided by a legal entity registered in the Republic of Serbia for performance of insurance business activity;
- 7) general overhead expenses of business occurred at the time of realization of audiovisual work in the Republic of Serbia, in accordance with the production schedule and shooting plan;
- 8) business costs of the legal entity which provides services to the production of the audiovisual work in the Republic of Serbia or co-producer, if they are invoiced to the production for specific purposes, under the condition that the same are used for the production of the audiovisual work, and at market prices.

Daily allowances and other costs of the Team members from the paragraph 1 point 3) of this Article shall be accepted to the extent and regardless of whether the Team member is on location in the Republic of Serbia or elsewhere.

Specification of eligible costs from the paragraph 1 of this Article is given in the Appendix 3, which is printed with this Rulebook and makes its integral part.

Article 4

For the production of audiovisual works which relate to post-production, i.e. the visual processing of material which is not recorded in the Republic of Serbia, only the amounts of fees for Team members and all applicable taxes and contributions, together with the submission of work orders as proofs of their work, the amount of the production fee unless it exceeds 15% of the total production budget in the Republic of Serbia and the amounts of payments for services and goods of other legal entities if they do not exceed 30% of the total production budget in the Republic of Serbia, shall be considered as acceptable costs.

Article 5

Eligible or acceptable costs are the costs spent on the territory of the Republic of Serbia which are recognized as costs spent for the production of audiovisual work on the territory of the Republic of Serbia, and based on the report of the authorized audit company.

Report from the paragraph 1 of this Article is the report on costs of production of audiovisual work in the Republic of Serbia and business of the investor and it is being made on the basis of total costs record of production of audiovisual work and all used means on the territory of the Republic of Serbia, as well as proofs which confirm the stated costs (invoices, agreements, bank account excerpts with an indication of executed payment and similar).

Report from the paragraph 1 of this Article is being made on the basis of check of all eligible costs and cannot be based on the sampling method, i.e. checking of only certain documents.

III LIMITED ACCEPTABLE COSTS

Article 6

Costs that can be limitedly included in acceptable costs are:

- 1) reimbursement paid for production services, fees for producers and co-producers who are citizens of the Republic of Serbia;
- 2) fees of other related parties;
- 3) costs of the promotion.

A related party from paragraph 1 point 2) of this Article is the individual or legal entity who is a director or a shareholder of the legal entity who is submitting the application for the awarding of incentives, and as well includes the parent company and/or its branch offices.

Reimbursement paid for production services, fees for producers and co-producers

Article 7

Fees for producers who are citizens of the Republic of Serbia, including travel and accommodation costs, work and stay in the field, are excluded from acceptable costs to the extent that the amount exceeds 10% of the production budget in the Republic of Serbia.

Other costs, such as office leasing and rental of equipment are not included in the amount referred to in paragraph 1 of this Article, provided that it is necessary to establish that all payments to related parties have been invoiced at market prices.

Fees of other related parties

Article 8

Fees of all other related parties whose amount, together with travel costs, accommodation costs of work and stay in the field, exceeds a specified limit are excluded from acceptable costs to the extent that the amount exceeds 10% of the production budget in the Republic of Serbia.

Promotion costs

Article 9

Costs incurred as part of promotional activities or during search of partners for distribution may be recognized as acceptable in case when these costs are incurred during the production of audiovisual work, i.e. before submitting the application for payment of incentives and if they do not exceed 10% of the total acceptable costs.

IV NON-ELIGIBLE – NON – ACCEPTABLE COSTS

Article 10

Costs which are, in accordance with the Regulation, especially not recognized as acceptable costs incurred in relation to the production of audiovisual work (non-acceptable costs) are: marketing costs, costs related to the purchase of real estates, distribution costs and VAT costs.

Non - acceptable costs are as well:

- 1) costs of financing of interests and commissions;
- 2) fees of foreign producers;
- 3) deferred payments, participation in profits, remaining payments;
- 4) payable advances;
- 5) costs related to the purchase of land and buildings;
- 6) costs of services included in the costs of goods;
- 7) costs incurred after submitting the application for payment of incentives;
- 8) costs of gifts and entertainment;
- 9) costs of making of report of authorized audit company.

Costs of financing interests and commissions

Article 11

Non-acceptable costs of financing of interests and commissions include interest on loans, financing of reimbursements and commissions, including costs connected with the collection and servicing of funds for production.

Fees of foreign producers

Article 12

Fees for foreign producers during their stay in the Republic of Serbia are excluded from acceptable costs.

Deferred payments, participation in profits, later costs

Article 13

Non-acceptable costs are also in particular costs:

- 1) which depend on the commercial effect of the production of an audiovisual work and its earnings, because they cannot be quantified until the audiovisual work is broadcasted;
- 2) payments which are deferred until the production of the audiovisual work provides financial income through the sale of cinema tickets, earnings or profit (e.g. bonuses paid to directors);
- 3) payments which depend on the final profit incurred from the production of the audiovisual work;
- 4) payable amounts in relation to the remaining rights of Team members in terms of commercial exploitation of the audiovisual work through future broadcasting and distribution;
- 5) recoverable advance payments, i.e. any amount paid in advance, which is refundable if certain conditions are not met. Evaluation of these costs may require the revision of main contracts concluded with Team members according to which part of their fee is considered acceptable;
- 6) services included in the cost of goods, if the costs of certain services are already covered by costs related to specific goods which was delivered to the investor who submits the application, and these services were largely provided outside the borders of the Republic of Serbia, and as such are not considered to be provided in the Republic of Serbia. The stated does not apply to imported goods whose supplier owns a registered company that previously procured certain goods (for example, Kodak products);
- 7) incurred after submission of the application for payment of incentives, because the same cannot be included in the application, given that all payments according to issued invoices should be realized before submitting the application for payment of incentives;
- 8) gifts, entertainment and gratuities (cost of buying alcoholic beverages, production parties and gifts or any other costs that may be considered unjustified).

V RATIONALE FOR COSTS

Content of rationale for costs

Article 14

The rationale for costs should include the total production budget, as well as costs classified according to the criteria of acceptability, likewise those which are the subject of payment, as well as those which cannot be the subject of payment in accordance with the Regulation and this Rulebook.

The rationale for costs should include all costs incurred during the production of the audiovisual work, from preparations for shooting until the time when the answer-print, i.e. digital copy is ready for distribution, broadcast or screening to the general public.

Certain terms used in the rationale of costs shall have the following meanings:

- 1) list of author, acting and technical team is a list of the team of authors, acting division, the heads of sectors and all other associates required for realization of audiovisual work;
- 2) funding schedule of audiovisual work contains an overview of sources of funding for the audiovisual work, by which the producer intends to provide funds for closure of financial construction with a precisely indicated funding status (in application, under negotiations, confirmed);
- 3) weekly plan for spending of funds during the realization of audiovisual work (*Cash Flow*) is a weekly plan for spending of funds in the period from the preparations to the completion of the audiovisual work;
- 4) schedule for realization of audiovisual work (*Schedule*) gives an overview of the production of a film by phases, in a specific time period;
- 5) call sheet is a daily shooting schedule issued by an assistant director which is delivered at the end of each shooting day for the next shooting day to the full acting, author and associate team of the film. This document contains all needs, itemized and in unit measures, for the next shooting day, as well as the precise hour schedule for the acting, author and associate team;
- 6) daily production report is prepared by a production coordinator. This document contains all the information from the previous shooting day (itemized and in unit measures: consumption of all types of materials, services, work hours, etc.);
- 7) weekly financial report (*Cost Report*) monitors the expenditure of funds within the week in relation to the budget.

Value Added Tax (VAT)

Article 15

All amounts of costs contained in the application for payment of incentives should include the amount of value added tax, but the amount of value added tax shall not be included in the basis for calculation of the amount which is the subject of payment.

Currency conversion

Article 16

All production costs incurred in a foreign currency must be indicated in RSD amounts in the cost reports per middle exchange rate of the National Bank of Serbia on the day of payment.

Market – based costs

Article 17

The arm's length principle is taken into consideration when evaluating the acceptability of certain costs, with the aim to ensure that the amount of costs paid between the investor who is submitting the application and all other related parties for the procurement of goods or provision of services is market (commercially) acceptable.

When costs incurred by the applicant are not part of the market acceptable deal, which significantly increases or decreases the price of certain goods or services in respect of the production of audiovisual work, then only the amount which is not higher than the commercially accepted amount for the said goods or services may be recognized as acceptable.

The commercial rate is the amount that would have been incurred if the parties agreed according to the arm's length principle, by charging the price they would normally charge to the unrelated party.

The arm's length principle is being applied to any activity or transaction which is directly or indirectly related to the costs incurred by the applicant, meaning that this principle also applies in situations where, due to lack of a market-based deal between the other parties, the amount of costs incurred for certain goods or services ordered by the applicant increases.

Cost basis

Article 18

In order to be included a certain cost into acceptable costs, it must be a cost incurred during the production of the audiovisual work for which the application is submitted.

The cost from paragraph 1 of this Article must be invoiced to the applicant and realized prior to submission of the application for payment of incentives.

If the applicant is purchasing goods for use in the production of the audiovisual work, or sells it or disposes with it in any other way before the end of production, it is possible to report only the amount of the difference in the purchase and selling price of the goods as an acceptable cost.

VI SUBMITTING THE APPLICATION FOR AWARDING AND PAYMENT OF INCENTIVES

Article 19

Application for awarding of incentives is being submitted to the Committee for awarding of incentives via Serbian Film Center, on the filled prescribed form which is printed with this Rulebook and makes its integral part (Appendix 1), accompanied with the documentation prescribed by the Article 10 of the Regulation.

Application from the paragraph 1 of this Article cannot be submitted after the production of audiovisual work on the territory of the Republic of Serbia is finished.

Application for payment of incentives is being submitted to the Committee for awarding of incentives via Serbian Film Center, on the filled prescribed form which is printed with this Rulebook and makes its integral part (Appendix 2), accompanied with the documentation prescribed by the Article 16 of the Regulation.

Application from the paragraph 3 of this Article is being submitted to the Committee for awarding of incentives within the deadline of 45 days after the end of the production of audiovisual work on the territory of the Republic of Serbia.

In case that the production of audiovisual work on the territory of the Republic of Serbia is finished before the conclusion of the agreement on awarding of incentives from the Article 13 of the Regulation, the deadline of 45 days for submission of the application for payment of incentives starts from the conclusion of that agreement.

VII TRANSITIONAL AND FINAL PROVISIONS

Article 20

Application for payment of incentives submitted in the procedure, which is, based on the provision of Article 21 of the Regulation being conducted in accordance with the Regulation on Incentives to the Investor to Produce Audiovisual Work in the Republic of Serbia („Official

gazette of RS“, no. 72/15), is being submitted in accordance with the Article 19 paragraph 3-5 of this Rulebook.

With the application for payment of incentives from paragraph 1 of this Article is being submitted the documentation prescribed by the Article 16 of the Regulation on Incentives to the Investor to Produce Audiovisual Work in the Republic of Serbia („Official gazette of RS“, no. 72/15).

Article 21

By entering into force of this Rulebook ceases to be valid the Rulebook on Types and Content of the Rationale for Eligible and Non-Eligible Costs and the Form of Application for Payment of Incentives to the Investor who is Producing Audiovisual Work in the Republic of Serbia (“Official gazette of RS”, no. 36/16).

Article 22

This Rulebook enters into force on the eight day of its publishing in the “Official gazette of Republic of Serbia”.

No. 110-00-00058/2018-02

In Belgrade, on May 17th, 2018

MINISTER

Goran Knezevic