



Implementation of the revised Film Act

Presentation FQIO

Ordinance on the Quota for European Films
and Investments in Swiss Film Production

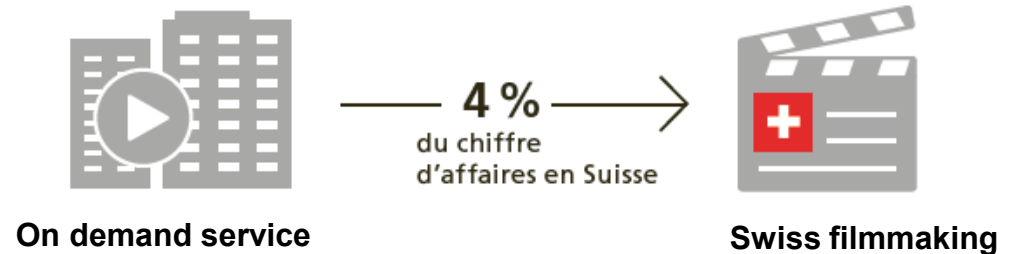
Revised presentation dated 7/12/2022, based on ordinance text adopted 6/9/2023.

Revision of the Film Act

- Companies with private TV stations (so far) and on-demand services (new) must invest 4% in Swiss filmmaking.
- Private TV stations (up to now) must offer 50%, on-demand services (new) 30% European films.
(European Directive AVMSD)

The two main amendments to the Film Act

Investment obligation



Quota on European works





Legal provisions

- **FiA** Art. 24 a (quota), Art. 24 b-f (investment obligation), Art. 24 g-i (procedure)
- **FQIO**
 - Quota obligation (Chapter 2 Art. 6-7)
 - Investment obligation (Chapter 3 Art. 8-21)
 - Procedure and obligation to report (Chapter 4-5, Art. 22-40)
- **FiFV/OECin** Certificates of origin and coproduction recognitions (5th title, art. 106-114)
- **International** coproduction agreements
- **RTVA/RTVO** TV investment obligation (until 2023), TV quota obligation



Eligible film

A film is defined as any sequence of structured images, with or without a soundtrack, intended for reproduction, which when viewed, gives the impression of movement, irrespective of the technical procedure for shooting, recording or playback chosen. (FiA)

Eligible (positive catalog)	Not eligible (negative catalog)
Documentaries	Daily news
Feature films	Entertainment shows (talk show, reality show, games)
Animation films	Live or deferred transmissions
Audio-visual works that are structured in their narrative or creatively designed in a comparable way	Video games
	Advertising, image films
	Didactic films
	Human dignity, sexism, racism, violence, pornography

Eligible feature-length film

	Single work	Series
Fiction and animation	Above 60 minutes	Season above 120 minutes
Documentary	Above 50 minutes	Season above 100 minutes
Other films	Above 50 minutes	
Application		
Threshold quota / investment	12 feature-length films	
Quota obligation	Option: number of feature-length films or total duration of all films	
Investment obligation	Duration does not matter: films of all durations are eligible	
Reporting obligation	Only feature-length films must be communicated	

Television and on-demand services

- **Media offer**
 - audio-visual content that is offered to the public for consumption
- **Television service**
 - Linear media offer (program) including eligible films
- **On-demand service**
 - Non-linear media offer (catalogue) including eligible films

Who is affected and how? Former legislation until 2023

	Television services	On-demand services
Registration	Yes (RTVA)	No
Quota obligation	50% ("substantial proportion" RTVA) National + regional-language programmes	No
Investment obligation	4% (RTVA) From 1 million CHF income and >1 film	No
Reporting obligation	No	Yes

Who is affected and how? New legislation

	Television services		On-demand services
	RTVA	FiA	FiA
Registration	No	Yes	Yes
Quota obligation	50%	No	30% and designation
Investment obligation	No	4%	4%
Reporting obligation	No	No	Yes
Exceptions	Local TV	Companies <= 2.5 million turnover Companies <= 12 films per year	
		Replay TV	Quota verified in EU country
Exceptions on request	Minority program Takeover of third-party offer without changes		
Not concerned	Retransmission of television programs Companies that are based abroad whose media offer do not target a Swiss audience User generated content (social networks)		



What is a European film (quota)?

- Swiss film
- Film from the European Union
- Film from a country of the European Convention on Television (1989)
- Film from a country of the European Convention on Co-Production (1992 and 2017)

Which films are eligible for the investment obligation?

- Swiss film (proof: certificate of origin)
- Recognised cinema coproduction (proof: recognition)
 - Agreements with Italy, France, Germany, Austria, French Community of Belgium, Luxembourg, Canada, Mexico
 - European Convention on Co-Production (1992 or 2017)
- Recognised television coproduction (proof: recognition)
 - Agreements with Canada, Mexico, Belgium
 - European agreement under development
- Confirmation for commissioned films (proof: confirmation of origin)



Independence of the production company and the film

Independent production company	Independent work
<ul style="list-style-type: none">• Ownership• Influence• The number of commissioned films produced for the investing company may not exceed 50% of the number of produced films in the last 5 years.	<ul style="list-style-type: none">• Initiative for the project• Economic responsibility• Artistic responsibility <p>By an independent production company</p>
Professional organisation	Remaining rights must permit active exploitation
2 years of experience Single purpose entities are possible	

A commissioned film must be produced by an independent company, but it is not an independent work.

Eligible investments in film

	Acquisition	Commissioned film	Co-production
Existing films	Yes		
New films	Yes	Yes	Yes
Independent production company	Yes	Yes	Yes
Independent work	Yes	No	Yes
Transfer of rights	Own use only	All rights	Active exploitation by the production company must be possible
Limited duration	5 years (option 15 years)	No	7 years (option 15 years)
Eligible expenses	Payments	Payments	Payments
Eligible for production support		No	Yes

Co-production is defined here as a financial contribution of the service to the production of an independent work.

Purchases of existing films from independent third parties other than production companies, eg. distribution companies, are also eligible.

Other eligible investments

	Promotion	Copyright royalties	Film funding institution
Television services	500,000 per programme	Yes	Yes
On-demand services	No	Yes	Yes
Scope	Advertising services, film reviewing, film culture (magazines, film archives, festivals, continuing education, promotion)	Reference to eligible Swiss films Statutory collective exploitation (GT 14) Voluntary collective exploitation (industry standard and uniform tariff)	Institutions recognised by the FOC
Eligible expenses	Payments or services (market prices)	Payments	Payments

Reporting

- Services file an annual report on
 - Gross revenues
 - Expenses
 - Nature of expense
 - Title, production company, director
 - Payments (amount, recipient, legal grounds)
- Production companies apply at any time for
 - Certificates of origin / recognition of co-productions
- FOC
 - Advises services and production companies
 - Communicates the result of the audit based on the annual report
 - Possibly calculates the subsidiary levy after four years

Calculation of gross revenues

Principle: gross revenues excluding the VAT tax

Liquidationsabrechnung
 Datum der Kontoprüfung:
 Matrikel-
 ESTV-ID:

Bitte beachten: Die Liquidationsabrechnung ist auf jeden Fall anzuhängen, auch wenn keine Steuer zu zahlen ist.

5. UMSATZ (Zentrale Bilanzverfahren nach Art. 10 Abs. 1 des Bundesgesetzes vom 12.12.2010)
 Von Kaufmann oder von Dritten für Rechnung des Kaufmanns erworbene Erlöse für
 kulturgenussliche Dienstleistungen im selbstständigen, unternehmerischen Sinn, aus
 öffentlichen oder öffentlichen Anlagen (Kapitel 20)
 Zu ZHK 202 (einschliesslich Erlöse aus der Steuer ausgewiesenen Leistungen (Art. 27),
 die nach Art. 27 nicht sind)

Abgaben
 Von der Steuer befreite Leistungen (z.B. Spende, Art. 20), von der Steuer befreite Leistungen
 an begünstigte Einrichtungen und Personen (Art. 107 Abs. 1 bis 4)
 Leistungen im Ausland (Ort der Leistung im Ausland)

Übergang im Massnahmefall (Art. 30, Seite zusätzlich Form: "Wassermacht")

Von der Steuer ausgewiesene Erträge (Art. 27), für die nach Art. 22 nicht sind

Erträge aus anderen Quellen, z.B. Lotterien, usw.

Dividenden (z.B. Wert der Aktien, Aktiva/Passiva-Misstand)

Steuervergütung Gesamtwert (ZK 204 bis 205)

6. STEUERBERECHNUNG

Saldo	Leistungen CHF ab 01.01.2018	Steuer CHF / % ab 01.01.2018	Leistungen CHF bis 31.12.2017	Steuer CHF / % bis 31.12.2017
Nettoertrag	100	2,7%	100	2,7%
Nettoertrag	110	2,7%	110	2,7%
Nettoertrag	120	2,7%	120	2,7%
Nettoertrag	130	2,7%	130	2,7%
Total geschätzte Steuer (ZK 301 bis 302)				398
Vorteile auf Material- und Dienstleistungsaufwand			400	
Vorteile auf Fortschreibungen und übrigen Betriebsaufwand			400	
Vorteile aus anderen Quellen (z.B. Spende, Art. 20)			410	
Vorteile aus anderen Quellen (z.B. Spende, Art. 20)			420	
Total ZHK 400 bis 403				478
Zu bezahlende Betrag				478
Guthaben der steuerpflichtigen Person				478

6. ANDERE MITTELFLÜSSE (Art. 18 Abs. 2)
 Subventionen, durch Steuern ausgenommenen Transaktionsgebühren, Erbschaften und
 Abrechnungen (ZK 404 bis 405)

Spenden, Dividenden, Schenkungen usw. (ZK 41)

Die erteilte Umsatzsteuerbescheinigung ist mit dieser Abrechnung anzuhängen.
 Datum: _____

Special case company with other main activity

- Network operator
- Majority of revenue from media offer without eligible films
- Majority of revenue from activities without media offer
→ Calculation based on revenue from television and on-demand services

Special case of economically related companies

→ Option of aggregation (mutualisation)

Calculation of the subsidiary levy every four years

	Revenues	4 %	Investments	Difference	Balance	Subsidiary levy
2024	10 000 000	400 000	200 000	200 000	200 000	
2025	15 000 000	600 000	550 000	50 000	250 000	
2026	17 500 000	700 000	800 000	-100 000	150 000	
2027	20 000 000	800 000	900 000	- 100 000	50 000	50 000
2028	22 500 000	900 000	850 000	50 000	50 000	
2029	25 000 000	1 000 000	900 000	100 000	150 000	

Data collection and publication

	Register	Reporting obligation	Quota obligation	Investment obligation
Condition		Paid viewings only	Only if not already reported in the EU	
Data	Contact details, business model	On-demand viewings of feature-length films	Feature-length films and series	Revenues, investments
Collection	FOC	FSO	FOC	FOC
Publication	Register (public)	Anonymous statistics	Quota (not) fulfilled	Investment statistics, subsidiary levy

The list of published data in the ordinance is exhaustive.



Schedule

	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
2024	In force		Registration					Notification obligations				
2025				Annual report				Notification audit result				
2026				Annual report				Notification audit result				
2027				Annual report				Notification audit result				
2028				Annual report				Ruling audit result Subsidiary levy				
2029				Annual report				Notification audit result				



The FOC advises services and production companies

Do you have a film project?

Are you wondering about eligibility as a Swiss film or coproduction?

Are you wondering about eligibility as an investment?

Are you wondering about the admissibility of contracts?

Do you have any questions about reporting?

- Contact us with your questions.
- We are available for consultation.
- Contact us early so that you have time to make your decisions.



Thank you for your attention

Do you have questions about the presentation or the ordinance?