

## **A REMINDER OF THE REPAYMENT REGULATIONS FOR THE ADVANCE ON RECEIPTS**

The rules for repayment of the advance are set out in Article 7 of the general rules on Co-production Support (current regulations), as well as in Article 8 of the Support Agreement. The main points of these rules are summarised below.

Revenue statements for each film should be sent – without prior request by Eurimages – at least annually even in the absence of producers net receipts, and should state for each film:

- the details of gross revenue for all types of distribution support and for all types of receipts (theatrical, home video, TV, merchandising, remake rights, etc.) for exclusive territories and international sales;
- the details of deductible costs;
- the calculation of producers' net receipts.

The standard Eurimages form – downloadable here – may be used for the revenue statement. If necessary, Eurimages reserves the right to require its use.

In all cases, copies of accounts or statements from distributors and sales agents must be attached as well as any other document justifying the amounts indicated in the producer's statement.

In the case of a group of national co-producers, one of the co-producers will be in charge of providing the statements and making payments on behalf of all of the co-producers of the group.

In the absence of a collection agent, receipts arising in the Rest of the World territories should be declared by the delegate producer, who will be solely liable to Eurimages for repayments on the basis of these receipts.

If a collection account management agreement has been signed, the producer should provide revenue statements for territories which are not covered by this contract.

At any time during the examination of support applications and follow-up of Support Agreements, Eurimages reserves the right to request a detailed revenue recoupment plan from the co-producers, in order to verify the correct application of the present rules and those of the Support Agreement concerning repayment of the support granted.

### **1. Definition of producer's net receipts**

The producer's net receipts can be considered as: all the receipts resulting from the exploitation of all or part of the film and all products/materials derived from the film, in the territories exclusively attributed

to producers, as well as in territories other than those exclusively attributed to producers, after deduction of the “deductible costs” linked to the exploitation of the film.

All presales or distribution guarantees exceeding the necessary financing to cover the production costs approved by Eurimages, as well as the sales agreed upon after completion of the answer print, will be considered as net receipts for the repayment of support granted.

In order to avoid being considered a receipt by Eurimages, presales or distribution guarantees must be included in the list of deductions approved by Eurimages (or failing this, for old files, in appendix IV of the Support Agreement), before payment of the second instalment of support.

If a producer is also the distributor of the film, and where both activities are undertaken by the same company, the producer’s/distributor’s commitment to provide a minimum guarantee (in the form of a letter of intent with amount and a bank letter) can be accepted as a source of financing for the purposes of Article 2.9 of the Co-production Support regulations (Eligibility criteria). However, this minimum guarantee cannot be deducted from revenues on which the Eurimages recoupment percentage is due.

## 2. Deductible costs

Only the following costs will be accepted as “deductible costs” in the calculation of the following net receipts:

- a) distribution commission with an upper limit fixed at 25% (per set of right of rights sold in one territory), except in the national territory of the co-producing countries;
- b) provided that the costs listed below are not fully or partially included in the production budget approved by Eurimages:
  - technical costs related to the manufacture and forwarding of release prints of the film, as well as the manufacture of the foreign language version of the work;
  - costs related to publicity for the launch of the film (P&A) announced, incurred and paid by distributors and/or sales agents, and approved by each co-producer upon receipt of all items of evidence of these costs;
- c) non-deductible taxes paid to the public authorities for the exploitation of the film;
- d) custom duties and fees to professional organisations, costs related to submission of the film to censorship, control and conservation authorities, as far as they are directly related to the film concerned.

A sales agent’s fee on the “Rest of the World” territories superior to 25% can be accepted on condition that this fee is not superior to 50% of gross receipts AND:

- the fee includes the technical and publicity costs listed in Articles 7.3.1. to 7.3.3. No other deduction from gross receipts will in this case be accepted by Eurimages;

OR

- the fee is related to non-commercial exploitation (cultural or educational institutions) or festival screenings.

Deferrals, cash contributions, royalties, revenue sharing arrangements and copyright payments are not deductible.

In order to be deductible, costs must be justified by means of contracts made for the exploitation of the film, distributors' revenue statements and invoices paid. The above-mentioned costs which are already included in the film's production budget are not deductible.

### 3. Distribution expenses covered directly by producers

a) The producer does not have a distributor and self-distributes the film:

Distribution expenses, as defined in the support agreement with Eurimages, are deducted in the same way as they would be for a distribution company independent of the producer. However, the amount of these expenses must be certified annually by an independent chartered accountant who confirms that these costs:

- relate to the project in question,
- were established using project-based accounting,
- were not included in the production budget.

The deduction of a distribution fee is also acceptable as long as it is within the percentage limits generally applied to the territory(ies) and to the right(s) concerned.

b) The producer uses a distribution company which does not advance all the distribution expenses:

The distribution company states in writing (either in a separate document, or in the distribution agreement) that it has not paid the expenses deducted by the producer.

The expenses deducted by the producer must be listed and certified by an independent chartered accountant who also confirms that these costs:

- relate to the project,
- were established using project-based accounting,
- were not included in the production budget.

#### 4. Revenue Statements for the exploitation of the work

The presentation of the revenue statements is required at the very least at the end of each twelve-month period following the first commercial exploitation of the film, without prior request by the Eurimages Secretariat.

The presentation of revenue statements is compulsory even if the net receipts amount to zero for the period concerned: the obligation to present revenue statements will end only when the advance on receipts has been fully reimbursed.

These statements must clearly show all the receipts and deductible costs and provide as an annex the detailed list of deductible costs, the list of international sales or any other explanatory documents. Eurimages can ask for a standard form to be used ([downloadable here](#)).

Except where specifically foreseen in the corresponding distribution contracts, the receipts resulting from different supports or media may not be cross-collateralised.

#### 5. Repayment of support

The support amount is repayable from the first euro of each co-producer's net receipts, at a rate equal to the percentage of Eurimages' share in the financing of the film.

The percentage due to Eurimages shall be paid either by each co-producer out of their share of the net receipts or by the co-producer responsible for exploitation in certain territories or, where applicable, by their authorised representative, distributor or sales agent.

In the case of a group of national co-producers, one of the co-producers will be in charge of providing the statements and making payments for all of the co-producers from the countries concerned.

In the absence of a collection agent, receipts for the rest of the world territories must be declared by the delegate producer who will be solely liable to Eurimages, for repayments on the basis of these receipts.

#### 6. Failure to make a declaration or payment, or false declaration

Total or partial assignment of the exploitation rights of the film requires prior approval from Eurimages. Any breach of this contractual agreement may lead to a request for immediate repayment of the support granted.

Failure to make a declaration and non-payment of the amounts due to Eurimages, as well as false or incomplete declarations, are grounds for breach of agreement which could lead to a request for immediate repayment of support. They are also grounds for ineligibility for new requests for support.

Payments should be made within one month further to the call for funds. Payments made after this deadline may be charged interest at a rate of 1% per calendar month or part of month.

## 7. Intervention by a third party

Eurimages is authorised by the co-producers to audit revenue statements either directly, or through organisations or persons designated by Eurimages.

Eurimages may require the appointment of a 'collection agent' and must be signatory to all contracts made with this type of company for films having received support.