



Department  
for Culture  
Media & Sport

## British Video Game Certification

Version: 1.0

### Video Games Cultural Test Guidance Notes

#### **Guidance notes on qualifying for video games tax relief through the cultural test and obtaining a British Video Game certificate.**

There are separate guidance notes on: High-end Television programmes; Film (including Animated Film) and Animation programmes.

For further details on the Cultural Test, or to arrange a meeting to discuss a particular project, please contact the Certification Unit via [certifications@bfi.org.uk](mailto:certifications@bfi.org.uk) or telephone the Head of Certification, Anna Mansi, on 020 7173 3214.

Relevant legislation (please note these links may not include future amendments to legislation):

The Finance Act 2013, Schedules 17 and 18 can be found here:

<http://www.legislation.gov.uk/ukxi/2014/1962/contents/made>

The Cultural Test (Video Games) Regulations 2014 S.I 2014/1958 can be found here:

<http://www.legislation.gov.uk/ukxi/2014/1958/made>

Note: These Guidance Notes have been issued to help applicants understand how applications to the cultural test for video games will be considered and processed under the legislation. They provide guidance on the legislation and how it is understood to apply but should not be regarded as definitive. The way the law applies in any particular case can vary according to the circumstances and only the courts can give a definitive view.

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## Introduction

1. The BFI is responsible for assessing applications for British video game certification. A British video game certificate is obtained under:
  - a) Part 15B of the Corporation Taxes Act (CTA) 2009, as revised by Schedule 17 to the Finance Act 2013
  - b) The Cultural Test (Video Games) Regulations (S.I. 2014/1958) (“the Regulations”)
2. The Secretary of State for Culture, Media and Sport (DCMS) makes the decision about whether to grant approval and issue certificates, on the recommendation of the BFI Certification Unit.
3. Part 15B of the Corporation Taxes Act (CTA) 2009 sets out the application procedure and the requirements to be satisfied for a video game to be certified as a British video game. Obtaining a British video game Certificate is a condition for making claims to HM Revenue & Customs (HMRC) for video games tax relief. Video games tax relief is available under the CTA 2009 and the Finance Act 2013, to eligible companies.
4. This guidance only relates to the process of applying for certification of a video game as British.
5. For the purposes of this test a European Economic Area (EEA) state means: the UK (including citizens of the Isle of Man or Channel Islands), or any other EEA state (Austria, Belgium, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Italy, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Netherlands, Norway Poland, Portugal, Romania, Slovak Republic, Slovenia, Spain and Sweden).

## Applications for a British Video Game

### Who can apply?

6. An application for British video game certification must be made by the video games development company (VGDC) which must be registered as a company in the UK at Companies House (<http://www.companieshouse.gov.uk/>). There cannot be more than one video games development company in relation to a video game. That is, the company must be incorporated and be a company that:
  - (a) is responsible for designing, producing and testing the video game; and
  - (b) is actively engaged in planning and decision-making during design, production and any testing of the video game; and
  - (c) directly negotiates contracts and pays for rights, goods and services in relation to the video game.
7. Company means a limited liability company within the charge of UK Corporation tax. Individuals, partnerships and limited liability partnerships cannot apply for certification.

8. There can only be one VGDC in relation to a video game. Where there is more than one company meeting the conditions set out above, the company most directly engaged in these activities referred to is considered to be the VGDC.
9. The BFI will not be checking whether the VGDC meets HMRC's criteria for eligibility for tax relief.

### **How to apply?**

10. An online application form for a British Video Game Certificate under Section 1217CC of the Corporation Taxes Act (CTA) 2009 is available on the BFI web-site at:

<http://www.bfi.org.uk/film-industry/british-certification-tax-relief/cultural-test-video-games>

11. Supporting documents should be attached to the online application. If the file is too large it can be e-mailed to: [certifications@bfi.org.uk](mailto:certifications@bfi.org.uk)

Any other supporting documents can be sent to the following address:

Certification Unit  
British Film Institute  
21 Stephen Street  
London  
W1T 1LN

12. A copy of the completed video game should also be submitted with the final application. If the final video game differs in any way which may affect the points awarded in Section A or B then the BFI should be notified.
13. Applicants should read these guidance notes when completing an application form. They should also check the legislation (Part 15B of the CTA 2009) at <http://www.legislation.gov.uk/id/uksi/2014/1958> to ensure that their video game meets all the requirements. Incomplete or incorrectly completed applications may lead to delay. The BFI Certification Unit can provide guidance to applicants on any queries about the application process and the requirements under Part 15B of the CTA 2009. It is happy to meet applicants to discuss projects. There is no charge for processing applications or for issuing a certificate.
14. Once your online application has been submitted, a hardcopy of the completed application form with a signed statutory declaration should be sent to the BFI at the address on page 5. Applicants should ensure that the documentation submitted with the application accurately reflects the final video game as seen on screen. If information provided differs from the final video game in any way which may affect the points awarded in Section A or B then the BFI should be notified.
15. The BFI will normally issue certificates within 28 working days of the receipt of a fully completed application. Applicants are advised that the BFI cannot guarantee that certificates will be issued by a particular date. Delays may occur where application forms are not properly completed or where it is necessary to seek further information. Where applicants are aware of a deadline by which a certificate will be required, they should

submit their application in sufficient time and attach details of such deadline. The BFI accepts no liability for any missed deadlines.

16. A copy of the final video game will be required for our assessment at final certification. An applicant may be asked to provide supporting evidence or to arrange for the video game to be seen by the BFI.
17. Where the BFI believes that an application fails to meet the requirements of Part 15B of the CTA 2009, the applicant will be informed that the application may be rejected, and will be offered the opportunity to make representations to the BFI before a final decision is made. No aspect of the approval of any previous application should be seen as a precedent. Each application is considered on its own merits.

### **PEGI**

18. Any certified British video games should be capable of satisfying the requirements for a PEGI age rating (for example, by not containing pornographic material). If the applicant is in any doubt about whether their game is suitable for a PEGI rating, they should discuss with the Games Rating Authority (the Video Standards Council) and PEGI. The BFI is not responsible for checking a video game meets PEGI standards.

<http://www.videostandards.org.uk/VSC/>

<http://www.pegi.info/en/index/>

### **Interim certification**

19. Applicants can apply for an interim certificate at any point before or during the production of the video game. An interim certificate will be issued before a video game is completed if the BFI and DCMS are satisfied that the video game passes the Cultural Test based on the proposals set out in the application. This offers the applicant comfort that the video game should pass the Cultural Test, based on the information provided. Interim certification is voluntary, however the VGDC will need to have an interim certificate if they wish to apply for tax relief from HMRC at the end of an accounting period (or periods) before the development of the video game is completed. Interim certificates must be confirmed by a final certificate once the game is completed in order for any tax reliefs to be confirmed.
20. The interim certificate will be valid for three years, beginning on the date specified on such certificate.

### **Final certification**

21. A final British video game certificate will only be issued after the video game is completed. Applications for a final certificate should therefore not be submitted prior to completion of a video game. A video game is completed when it is first in a form in which it can reasonably be regarded as ready for copies of it to be made and made available to the general public. It is possible for tax relief claims to be made to HMRC for qualifying core expenditure incurred after the final British video game certificate has been issued where these fully meet conditions set out in the legislation. For example, only core expenditure on the same game and by the same VGDC may be eligible and the terms of the final British video game certificate must still apply.

## **Letter of comfort**

22. Applicants who are not ready to make a full application (information may be incomplete or missing a signed statutory declaration) can submit a draft application and receive a letter of comfort that the video game should pass the Cultural Test. This letter of comfort cannot be used to submit a claim to HMRC but may reassure the applicant with their plans and help with financing. For further details on applying for a letter of comfort please contact Anna Mansi on 020 7173 3214.

## **Information sharing**

23. Information provided by the applicant as part of the application process will not normally be disclosed to third parties. However, information may be shared between DCMS, the BFI and HMRC. In particular, the BFI will use information for the purposes of preparing statistical information about the British video game industry in its advisory role to DCMS.

24. The Freedom of Information Act 2000 gives members of the public the right to receive information held by the BFI, subject to a number of exemptions. This includes information held in relation to applications received by the BFI. If you choose to apply to the BFI you should be aware that the information you supply, either in whole or in part, may be disclosed under the Act.

25. HMRC may also disclose to the BFI and DCMS information received for the purpose of obtaining video game tax relief. For example, if HMRC consider that information they receive is inconsistent with the basis on which certification was issued or the information provided by the applicant to the BFI or DCMS. If DCMS considers that this information constitutes evidence that a video game which has previously been certified as British ought not to have been certified, the certificate will be revoked. Such a video game would no longer be eligible for video game tax relief.

26. The BFI works closely with the DCMS and HMRC in the prevention and detection of crime and the apprehension or prosecution of offenders in particular in respect of tax reliefs, VAT and other taxes. For these purposes, when considering your application the BFI will carry out a risk assessment, and, where it believes there may be an attempt to defraud HMRC, the BFI may share information about your application with DCMS and HMRC. This might result in revocation of certification, payment of taxes and reliefs being delayed or withheld, the imposition of penalties and, in some cases, criminal prosecution.

## Definition of a British Video Game

### The Cultural Test

27. In order to be certified as a British video game the BFI must be satisfied that the video game passes the relevant cultural test. The cultural test for video games is set out in The Cultural Test (Video Games) Regulations 2014. Annex A of these guidance notes set out the statutory framework of the revised cultural test and how the DCMS and BFI intend to interpret and operate the tests.
28. A video game will pass the cultural test if it is awarded 16 points out of a possible 31 and provided that the undetermined location rule and the golden points rule do not apply (see Annex A for an explanation of these terms).
29. An applicant only needs to apply for the points that it considers it is eligible to be awarded.
30. If the amount of work carried out in respect of any category under Section C (cultural hubs) of the cultural test is considered to be insignificant in relation to the total amount of work carried out in making the video game, no points shall be awarded in that category of Section C. This will be handled on a case-by-case basis and is designed to exclude token amounts of work.

## Accountant's report for application for Final Certification

33. The Cultural Test (Video Games) Regulations 2014 requires that an application for a final certificate must include a report to the Secretary of State if it seeks to rely on points in Section C and/or Section D of the cultural test. Where an application does not seek to rely on any points in Section C and/or Section D, no such report is required at any stage.
34. Where a report is required, it must be prepared by a person who is eligible for appointment as a company auditor under section 1212 of the Companies Act 2006. That is, a member of:
- The Institute of Chartered Accountants in England and Wales,
  - The Institute of Chartered Accountants in Scotland,
  - The Association of Chartered Certified Accountants, or
  - The Institute of Chartered Accountants in Ireland.
35. The person preparing the report, in either case, must not be and must not have been at any time while the video game was being made in partnership with, nor in the employment of, the applicant and must not and must not have been at any time while the video game was being made: (i) an officer or servant of that company, or, if that company is a member of a group of companies, of any other company in that group; or (ii) in partnership with, or in the employment of, any such officer or servant.
36. The person preparing the report must not have a conflict of interest at any time while the video game was being made with the applicant. This includes (and is not limited to) the following examples:
- Acting as the production accountant;
  - Raising or providing finance;
  - Fees for client and recurring work must not account for more than 15% of gross practice income;
  - Having a mutual business interest with a client or their officers or employees;
  - Provision of other services such as significant valuations or acting for the client in adversarial situations.
37. However, that person may undertake the following activities:
- Preparation of statutory company accounts;
  - Engagement as auditor to the VGDC;
  - Reporting accountant to the Secretary of State on the cultural test;
  - Preparing and signing comfort letters;
  - Advice re EC certificates of nationality.
38. The accountant's report must verify the following information:
- (a) If the applicant is claiming points in section C, the total expenditure on the work in relation to which the applicant is applying for points to be awarded and the expenditure of that work carried out in the UK.
  - (b) The nationality or ordinary residence of all persons in section D in relation to whom the applicant is applying for points to be awarded.



39. The BFI expects applicants to provide auditors with copies of passports and/or other evidence of nationality and/or evidence of country of ordinary residence. The BFI recommends that, during the making of a video game, records be kept of the nationalities/places of ordinary residence of all persons for whom the applicant will seek points to be awarded under Section D. The BFI is content for auditors to take account of decisions taken by HMRC or relevant foreign tax authorities in order to determine whether a person is ordinarily resident in the UK or a member State. It may be possible in some circumstances to obtain written confirmation of residency status from HMRC or the relevant foreign tax authorities. Such evidence should be provided to auditors and a copy may be requested by the BFI.

The report should not be dated before the date of the application, as it is a report on the application. The original signed accountant's report on the accountant's own letter-headed paper should be addressed to: Certification Unit, British Film Institute, 21 Stephen Street, London, W1T 1LN.

40. The report is not required for applications for interim certification. See Annex B – Accountant's Report.

### **Statutory declaration**

42. The Cultural Test (Video Games) Regulations 2014 require the applicant to make a statutory declaration as to the truth of the particulars given in the application (the independent auditor's report does not need to be covered by a statutory declaration).

43. This statutory declaration may be made either before a practising solicitor, general notary, Justice of the Peace or other officer authorised by law to administer a statutory declaration under the Statutory Declaration Act 1835. He/she should be independent of the production and of anyone with a financial or similar interest in the video game including any law firm involved in the making of the video game. It is an offence to knowingly and willingly make a materially false statement in a statutory declaration.

44. A person making a false statutory declaration may be prosecuted and is liable on conviction to imprisonment for a maximum of two years (where conviction follows a trial on indictment), or a fine or both.

45. If the applicant seeks to make the statutory declaration whilst outside the UK, only the British Consul, British Embassy or the British High Commission in the country in question are authorised to administer a statutory declaration for this purpose.

46. Where any additional sheets are submitted as an addendum to the application:

- (a) mention of the addendum should be made in the appropriate place on the application form;
- (b) each page of any addendum should be signed by the same person making the application, and signed and stamped by the person (e.g. solicitor) administering the statutory declaration to show that the addendum formed part of the application when the statutory declaration was made.

47. Once the statutory declaration has been made the application form cannot be altered without making another statutory declaration to cover the amendments. Where an applicant is concerned that the form has been completed incorrectly, he should seek

independent legal advice or submit the form to the BFI in draft before the statutory declaration is made. Supporting information such as the budget, chain of title and game design document do not need to be signed or stamped.

48. A statutory declaration is required for both Interim and final certification.

49. DCMS will refuse or withdraw the certificate where false or misleading information is supplied as part of an application, and will cooperate with HMRC, the Crown Prosecution Service and the police on prosecutions, as appropriate.

# Annex A: Cultural test for Video Games

The Cultural Test for Video Games is set out in The Cultural Test (Video Games) Regulations 2014.

In designing the video games tax relief, the Government took the view that the ordinary meaning of 'video game' was sufficient. The Cultural Test is therefore based on what most people would ordinarily understand a video game to be, but legislation does expressly exclude:

- (a) anything produced for advertising or promotional purposes, or
- (b) anything produced for the purposes of gambling (within the meaning of the Gambling Act 2005)

A copy of The Cultural Test (Video Games) Regulations 2014 can be obtained from the office of public sector information. [www.opsi.gov.uk](http://www.opsi.gov.uk)

## The Undetermined Location Rule

The "Undetermined Location Rule" applies if a video game is set in, or any character is from, an undetermined location. That video game shall be eligible to be awarded points in Section A1 and/or Section A2, but **only** if the video game is awarded at least one point in any of Sections A3, A4 or B.

The "Undetermined Points Rule" is to be applied before calculating scoring under the "Golden Points Rule". See Annex D for a flowchart explanation of the Undetermined Location Rule.

## The Golden Points Rule

The Golden Points Rule ensures that British video games certification consistently puts sufficient emphasis on creative content. It applies when a video game scores all 15 of the points available in sections C, D and A4: if it scores fewer than two points in section A1 and fewer than two points in section A2, it must additionally obtain the points in section A3 to pass the Cultural Test. If a video game scores two points in section A1 or two points in section A2, it will not require the additional points from section A3 in order to pass the test. See Annex C for a flowchart explanation of the Golden Points Rule.

## **Section A – Cultural Content**

### **A1 Video Game set in the UK, another EEA state, or the location cannot be determined**

**Up to 4 points**

- 4 points will be awarded if at least 75% of the video game is set in the United Kingdom or another EEA state.
- 3 points will be awarded if at least 66% of the video game is set in the United Kingdom or another EEA state or the location cannot be determined.
- 2 points will be awarded if at least 50% of the video game is set in the United Kingdom or another EEA state or the location cannot be determined.

- 1 point will be awarded if at least 25% of the video game is set in the United Kingdom or another EEA state or the location cannot be determined.

A video game is set in the UK or another EEA state if the story takes place in the UK or another EEA state. It does not matter where the video game is made. For the purpose of the test a video game is set in an EEA state if it is set in any location which is now part of the EEA.

The percentage assessment of where the video game is set will be measured by script pages if available. Where no script is available applicants will be asked to explain how the game meets the location points in A1. This could be by examining where each level or zone of the game is set, the number of assets, the aesthetic of the video game, visual content or audio content. This is not an exhaustive list. Where it is not immediately apparent from the video game and design documents, the BFI will consider alternative representations from the applicant where reasonable.

**A2 Lead characters are British/EEA citizens or residents or their nationality/species cannot be determined**

**Up to 4 points**

- 4 points to be awarded if two or more of the three lead characters depicted are from the UK, another EEA state, or their nationality/species cannot be determined. Or if there are only one or two characters depicted and all are from the UK, another EEA state, or their nationality/species cannot be determined.
- 2 points to be awarded if one of the two lead characters depicted is from the UK, another EEA state, or their nationality/species cannot be determined.
- 1 point to be awarded if one of the three lead characters depicted is from the UK or another EEA state, or their nationality/species cannot be determined.

A character is determined to be a British or another EEA state character if he or she is a: (a) a British Citizen or a citizen of another EEA state; or (b) a person resident in the UK or another EEA state.

A character who was a subject of a state or kingdom prior to that territory becoming part of the United Kingdom or another EEA state will be considered to be an EEA state character for the purposes of the test. An EEA state character also includes any character who, at the time the video game is set, was a Subject in a colonial territory.

A character can be anthropomorphic (i.e. with human characteristics). An anthropomorphic character can be treated as an EEA state character for the purposes of the test.

Where it is not immediately apparent from the video game, applicants will be asked to explain why the character should be regarded as a British or another EEA state character. It is not enough that a character is technically an EEA state character (e.g. via dual nationality or other artifice) there must be other evidence in the video game that the character can actually be linked to the state in question, for example with backstory, accent or, what is seen and heard on screen.

The lead characters will be determined by taking account of the centrality and prominence of the character in the video game across all levels. Applicants will be asked to identify the main characters and make the case for a character's centrality and prominence in the video game.

A narrator can, for the purpose of the test, be treated as a lead character in their own right if they are telling the story from his or her own point of view.

**A3 Video game based on British or EEA subject matter or underlying material**

**4 points**

Four points will be awarded if the video game depicts a British story, or a story which relates to another EEA state. A video game depicts a British or EEA story: (a) if the subject matter of the video game is British or relates to another EEA state; or (b) if the underlying material on which the video game is based is by a British/EEA citizen or resident.

In relation to (a) the subject matter is British or relates to another EEA state, for example, if the video game is about a British or EEA state non-fictional event even though it is not set in the UK; or the video game is about a British or EEA state historical or fictional character. Applicants will be asked to make a case for how their video game depicts a British story or a story which relates to another EEA state.

In relation to (b) the underlying material (e.g. book, story, film, game, television or animation programme, an original screenplay, script, or article) is written by a British/EEA Citizen or resident.

**A4 Original dialogue or voice-over recorded mainly in English language Up to 4 points**

4 points will be awarded if at least 75% of the original dialogue or voice-over is recorded in the English language or in a recognised regional or minority language.

3 points will be awarded if at least 66% of the original dialogue or voice-over is recorded in the English language or in a recognised regional or minority language.

2 points will be awarded if at least 50% of the original dialogue or voice-over is recorded in the English language or in a recognised regional or minority language.

1 point will be awarded if at least 25% of the original dialogue or voice-over is recorded in the English language or in a recognised regional or minority language.

The UK has six indigenous minority languages under the Council of Europe's Charter for Minority or Regional Languages (Scottish-Gaelic, Welsh, Irish, Scots, Ulster Scots and Cornish). This list may be updated as further languages are added under the Charter.

Original dialogue will be measured by the number of words spoken against the total number of words of dialogue in the script. Text-based dialogue, as opposed to spoken dialogue, will also be measured. Dialogue can include narration but not stage directions.

**Total for Section A - 16 points**

## **Section B – Cultural Contribution**

Video games play an important role in contributing to the promotion, development and enhancement of British culture. Section B (Cultural Contribution) in particular seeks to identify those video games which make a significant Cultural Contribution over and above the cultural content assessed in the four categories in Section A. Section B will be assessed under three key categories: Cultural Creativity, Cultural Heritage and Cultural Diversity.

### **Cultural Creativity**

Video Games are able to communicate both the culture of the originating country as well as an individual's point of view. They have profound abilities to impact. That impact of a video game and its success in communicating British culture can in large part be dictated by its creative approach. The success of a video game in reaching out to particular groups or sections of society can be fundamentally influenced by the developer's approach. Young people, for example, may respond in a more positive manner to the novel portrayal of British culture than an older generation. The ability of the developer to tailor his/her creative approach to their target audience can have a profound effect on the video game's Cultural Contribution and can therefore be a clear marker for a culturally British video game.

Points will be awarded based on the following determinants:

- a. Subject: does the video game's portrayal of British culture come as a result of a developer's creative approach? i.e. the content is not necessarily dictated by a pre-existing work but is a creative, new interpretation of British culture;
- b. Other factors relating to creativity which can be shown to have an impact on the final content: for example British technical or creative innovations in: (i) gameplay; (ii) graphics; (iii) user interface; (iv) artificial intelligence, audio or physics; or (v) online or multiplayer functionality.

### **Cultural Heritage**

Britain's cultural heritage is an important determinant of the British national identity. It is therefore important to preserve British cultural heritage in video games for audiences of the present and the future. British cultural heritage shapes a common understanding of representation of British people and their contemporary and historical culture. Points will be awarded for a representation of British cultural heritage. For example, a video game which tells the story of a British historical event, but which might not necessarily be set in the UK – e.g. Total War Napoleon. The issues handled by these video games are an important part of the unique British heritage and video games can play an important role in ensuring they remain relevant to modern society – for instance by reaching a new younger audience.

More contemporary historical stories with strong resonances for the development of British history, ethnicity and culture are another example of the relevance of British heritage to modern British culture.

The portrayal of cultural heritage in video games is a key determinant of a culturally British video game. Heritage also has the potential to be a catalyst for creativity in allowing unique interpretations of stories of British cultural heritage. Preserving cultural heritage builds the collective memory of the nation, establishing a sense of citizenship and the individual's place in the community.

A Cultural Test which values heritage and which values British cultural perspectives, modern and ancient history and the interpretation of the past and the future is therefore a more accurate arbiter of culturally British video game creation.

Points will be awarded based on the following determinants:

- a. subject: does the video game contribute to or reflect British cultural heritage - e.g. does the video game explore a historical or imagined event whether or not set in the UK?; and
- b. other factors relating to cultural heritage which can be shown to have an impact on the final content.

## **Cultural Diversity**

The diversity of Britain is a celebrated feature of British culture and a key determinant of a culturally 'British' video game is the communication of this element of our society. When we refer to 'diversity', we are recognising and attaching value to those aspects or dimensions of self and/or community identity relating to gender, ethnicity or national origins, religion or belief, age, sexuality, disability, social and economic background.

An approach which values diversity therefore values and encourages differences in attitudes, cultural perspective, beliefs, ethnic, ability, skills, knowledge and life experiences of people of diverse backgrounds living in Britain. The treatment of such diversity is therefore an important determinant of a culturally British video game.

Diversity also has the potential to be a catalyst for creativity and for stimulating cultural value by enhancing the range of stories to be told, the way they are told on screen, and levels of access and engagement in video games culture for audiences.

Cultural diversity can directly influence the content and tone of a video game; its sensibility and authority. For example, much has been written on a lack of female video game developers, and the differing perspectives and sensibilities that women bring to video game productions.

Encouraging cultural diversity implies challenging preconceptions, assumptions and ways of working. It goes beyond simple equal opportunities and recognition of difference and emphasises the potential creative connections that can be forged across different perspectives through access, inclusion, and collaboration – and the direct impact of these on the video game as a cultural product.

Lack of diversity, on the other hand, has a potentially cooling effect on content, and a denial of wider access to producing content reduces the ability of local diverse communities to apply any influence over content, by bringing their cultural sensitivity or authenticity into play. It is necessary therefore that diverse communities have the opportunity to be engaged and actively contribute to reflect our position as a culturally diverse nation.

Points will be awarded based on the following determinants of diversity:

- a. subject/portrayal: exploring contemporary social and cultural issues of disability, ethnic diversity and social exclusion on screen; promoting and increasing visual, on-screen diversity; and

- b. other cultural diversity factors which can be shown to have an impact on the final content.

Points for each category will be awarded as follows:

- Significant representation/reflection of British Cultural Heritage (1 point)
- Significant representation/reflection of British culture through a novel and creative approach to video games making (1 point).
- Significant representation/reflection of British Cultural Diversity:
  - 1 point for subject/portrayal
  - 1 point for other factors impacting on the final content

Two points may be awarded if a video game can demonstrate it makes an outstanding contribution towards these factors. A maximum of four points can be awarded in the whole section.



## **Section C - Cultural Hubs**

The amount of work on a particular video game-making activity in this section will be calculated by the amount of expenditure on that work. In order to calculate the proportion of the expenditure on a video game development activity that is carried out inside the UK it will be necessary to analyse production costs on the basis of where a person works on a video game, where goods are supplied from, and where the services are performed.

Where expenditure on a video game activity is split between activity inside and outside the UK then the apportionment of expenditure must be made on a fair and reasonable basis. Normally we would expect this to be done on a time-basis calculated on calendar days. For example, a graphics programmer supervisor is hired (i.e. as part of expenditure on programming), and for a third of his time on the video game works inside the UK, and two-thirds of his time outside the UK. One-third of his labour costs should be attributed to work inside the UK and two-thirds to work outside the UK.

Any living expenses of persons directly engaged in a cultural hub's work and incurred for the purposes of production (e.g. staying in a hotel in the UK) should be counted towards activity inside the UK; staying in a hotel abroad should be counted towards activity outside the UK. Any travel/transport costs will be considered as expenditure carried out in the UK if the travel began in the UK.

### **C1 Conceptual Development/ Storyboarding/Programming/Design 2 points**

Two points will be awarded if at least 50% of the work on any one of the following activities is carried out in the UK:

- (a) Conceptual development
- (b) Storyboarding
- (c) Programming
- (d) Design

### **C2 Music recording/voice recording/audio production 1 point**

One point will be awarded if at least 50% of the work on any one of the following activities is carried out in the UK.

- (a) Music recording: This will not include source music. The performing and recording of the following qualify: a new piece of music composed for the video game; or a new arrangement/score, of an existing piece of music, created specifically for the video game.
- (b) Voice Recording
- (c) Audio Production

**Total for Section C – 3 points**

## **Section D – Cultural Practitioners**

For the purposes of this test a qualifying person means a citizen or a person ordinarily resident in:

- i) the UK (including citizens of the Isle of Man or Channel Islands);or
- ii) any other EEA state (Austria, Belgium, Bulgaria, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Italy, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Netherlands, Norway, Poland, Portugal, Romania, Slovak Republic, Slovenia, Spain and Sweden)

To qualify for a point a person must be a citizen or resident of one of these countries at the time the video game was being made. If a person holds dual nationality he/she may choose either nationality for the purpose of the test.

Ordinary residence has the following characteristics: it is a regular habitual mode of life in a particular place; it must be lawful; it must have been adopted voluntarily; it must be for a settled purpose; its continuity has persisted despite temporary absences; and it may be of long or short duration. HMRC and the Home Office have published guidance on what ordinary residence means. See:

<http://www.hmrc.gov.uk/manuals/cbtmanual/cbtm10020.htm>

<http://www.ukba.homeoffice.gov.uk/glossary?letter=O>

Possession of a contract for employment on the video game does not in itself mean that someone is ordinarily resident in the UK. Nor does a contract's terms about length of employment in the UK. Nor does paying someone throughout their contract where the person has received a contract for work in the UK. Nor does possession of a right of abode where abode may or may not be taken up from time to time. Nor does ownership of a house in the UK. Nor does marriage to a British spouse.

It is accepted that in smaller studios in particular, a qualifying person may perform more than one of the practitioner roles set out below. If so, a single individual is able to qualify for multiple points in Section D.

### **D1 Project Leader**

**1 point**

One point will be awarded if at least one of the project leaders (or, if there are more than three, one of the three main project leaders) is a qualifying person.

Applicants will be asked to make a case for who are the project leaders.

The project leader will be determined by taking into account factors including: the person who takes the credit in the video game, the creative input and time spent working on the video game.

**D2 Scriptwriter****1 point**

One point will be awarded if at least one of the scriptwriters (or, if there are more than three, one of the three lead scriptwriters) is a qualifying person.

Applicants will be asked to make a case for who are the lead scriptwriters.

A scriptwriter will be determined by taking into account factors including: the person who takes the credit in the video game, creative input on the script and time spent working on the script.

**D3 Composer****1 point**

One point will be awarded if at least one of the composers (or, if there is more than three, one of the three lead composers) is a qualifying person.

Applicants will be asked to make a case for who are the lead composers.

The composer will be determined by taking into account factors including: the person who takes the credit in the video game, the creative input on the original music score (not including source music) and time spent working on the score.

**D4 Artist****1 point**

One point will be awarded if at least one of the artists (or, if there are more than three, one of the three lead artists) is a qualifying person.

Applicants will be asked to make a case for who are the lead artists.

**D5 Programmer****1 point**

One point will be awarded if at least one of the programmers (or, if there are more than three, one of the three lead programmers) is a qualifying person.

Applicants will be asked to make a case for who are the lead programmers.

**D6 Designer****1 point**

One point will be awarded if at least one of the designers (or, if there are more than three, one of the three lead designers) is a qualifying person.

Applicants will be asked to make a case for who are the lead designers.

**D7 Key Staff****1 point**

One point will be awarded if at least one of the heads of department is a qualifying person.

The heads of department are: the lead gameplay programmer, lead level designer, lead character artist, lead sound designer, lead graphics programmer, lead level artist and lead gameplay designer.

**D8 Majority of Development Team****1 point**

One point will be awarded if at least 50% of the development team are qualifying persons. Development team means all the people directly involved in the development of the video game. That is, people involved directly in the design, production and testing the video game but not people involved in providing ancillary services e.g. caterers. Whether a person is in the development team will be determined by taking into account factors including if he or she is contracted by the development company to perform services on the video game; and if he or she has industry-standard on-screen credits.

**Total for Section D - 8 points****Total for Sections A, B, C, D – 31 points.**

# Annex B: Accountant's report

## ACCOUNTANT'S REPORT TO THE SECRETARY OF STATE FOR CULTURE, MEDIA AND SPORT FOR A CULTURAL TEST APPLICATION FOR FINAL CERTIFICATION

This report is prepared for the purposes of The Cultural Test (Video Games) Regulations 2014 ("the Regulations") and accompanies the application for Final Certification of the video game "[project name]" as a British video game under Part 15B of the Corporation Taxes Act (CTA) 2009.

I/We confirm that this report has been prepared by a person who is eligible for appointment as a company auditor under section 1212 of the Companies Act 2006 and who is not and was not at any time while the video game was being made: in partnership with the applicant or any officer or servant of the applicant; in the employment of the applicant or any officer or servant of the applicant; or an officer or servant of the applicant or, if the applicant is a member of a group of companies, of any other company in that group.

The applicant is responsible for the preparation of the application. It is my/our responsibility to independently verify the particulars in the application set out below and to independently state our opinion about whether any point should be awarded under regulation 14 of the Regulations based on my/our examination and to report those matters to the Secretary of State.

I/We have examined the application dated [XX], together with the supporting documentation and the books of the applicant so far as they relate to the making of this video game. My/our assessment includes examination, on a test basis, of evidence relevant to the amounts and information in the application and supporting documents. I/We planned and prepared this report so as to obtain all the information and explanations which I/we consider necessary in order to provide us with sufficient evidence to give reasonable assurance that the information contained in the application and supporting documents are free from material misstatement, whether caused by fraud or other irregularity or error.

On the basis of such examination, I/we verify:

- (a) The total expenditure of the work on [area of work] is £[XX] and the expenditure of such work carried out in the United Kingdom is £[XX].

*[Provide a separate statement in the form of paragraph (a) above for each element of expenditure, for example conceptual development / storyboarding / programming / design / music recording / voice recording / audio production as applicable]*

- (c) The nationality or ordinary residence of the [D1-D8 as applicable] is [ ].

*[Repeat as necessary]*

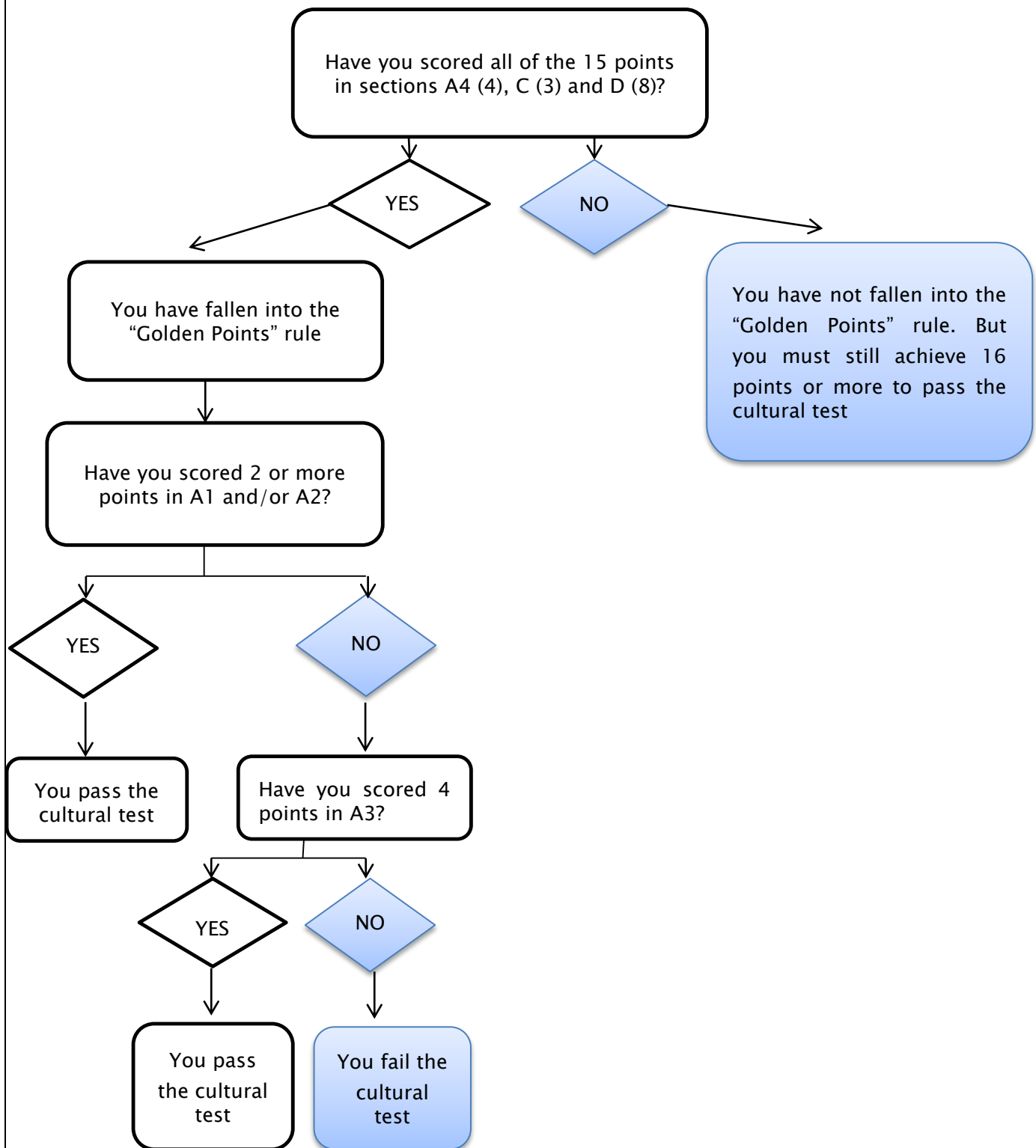
On the basis of such examination, it is my/our opinion that [XX] points should be awarded in accordance with regulation 14 of the Regulations.

Signed [name of individual]

On behalf of [name of firm]

Date

# ANNEX C: VIDEO GAMES TAX RELIEF GOLDEN POINTS FLOWCHART



# ANNEX D: VIDEO GAMES UNDETERMINED POINTS FLOWCHART

