



# Gaming the tax system

How the makers of Grand Theft Auto managed to pay no UK corporation tax and claim millions in government subsidies whilst making \$\$\$ billions in profit



## Key facts and figures:

**\$5bn**

Estimated operating profit of Rockstar games 2013-2019

**£42m**

Total Video Games Tax Credits claimed by Rockstar North Ltd, developer of Grand Theft Auto V, between 2015-2017 - 19% of all tax credits paid by government to the industry.

**£0**

Total corporation tax liability of Rockstar companies in the UK between 2009 and 2018

**\$800m** – sales of Grand Theft Auto V in first 24 hours of release

**\$6bn** – estimated total sales of Grand Theft Auto V since 2013

**\$3.4bn** – total bonus pool available to top managers and staff at Rockstar Games 2009-2019

### Key dates:

**2008** – Rockstar North, a UK based company starts development of Grand Theft Auto V (GTA V)

**2013** – GTA V released to the public

**2015** – GTA V certified as “culturally British” by the British Film Institute, allowing Rockstar North to apply for Video Games Tax Credits from HMRC

## Summary and Introduction

Grand Theft Auto V is the most commercially successful product in the history of the entertainment industry, with total revenues estimated to be \$6bn since the game's release in 2013.

The game is published by Take-Two Interactive Inc. under their Rockstar brand. Take-Two is a US listed multinational company.

Grand Theft Auto I was first developed in the UK by DMA Design in the late 1990s. After DMA was bought by Take-Two, game development continued in the UK at a company called Rockstar North Limited based in Edinburgh.

Despite the huge success of the title, our analysis shows that Rockstar and Take-Two companies based in the UK have not paid any corporation tax over the last ten years. Rockstar North Ltd, which led the game's development, has in fact claimed £42m in subsidies from the taxpayer over the last three years in the form of credits through the Video Games Tax Relief regime.

Video Games Tax Relief was introduced by the UK government in 2014 to provide targeted support for games that were "culturally British", with a particular focus on support for small and medium sized businesses.

Our analysis shows that the amount claimed by Rockstar North is the equivalent of 19% of the total relief paid to the entire video games industry in the UK since the programme came into effect. This raises serious questions as to whether the relief is being properly targeted, at a time when the industry is lobbying for the relief to be expanded and made more generous.

This report also raises questions as to whether an appropriate amount of profit has been allocated to the UK companies involved in the game's development. Seven active companies based in the UK, using the Take-Two and Rockstar names, declared a total profit before tax of £47.3m in the UK between 2013 and 2018. However, over the same period we estimated the operating profit of games published by Rockstar to be in the region of \$5bn.

Despite the minimal allocation of profits to the UK, Take Two interactive placed a substantial amount of value on the work of Rockstar employees, including those based in the UK. These key employees were given the rights to substantial amounts of the profit generated by the company in relation to games released under the Rockstar label.

It is our opinion that a more appropriate allocation of profit between the US and UK would have resulted in substantially more profit being allocated to the UK. This would have meant that Rockstar North would not be eligible for a payable tax credit. Instead, Take-Two and the Rockstar companies should have had a substantial tax liability in the UK.

## Video Games Tax Relief

Video Games Tax Relief was first announced in Alistair Darling's budget in 2010, the last budget of the Labour administration. However, with an election very soon afterwards, it was never implemented, with plans for the relief being cancelled by the incoming Coalition government.

After lobbying from the video games industry, a more modest relief was announced in the 2012 budget.

Video Games Tax Relief works by reducing the taxable profit of a video game developer. Developers can deduct an extra 25% of qualifying expenditure from their taxable profit. If a game is loss-making then the developer can claim a cash credit from HMRC.

After it was confirmed that the UK government would be going ahead with the scheme, the European Commission announced that it would hold an investigation into the proposed relief to determine whether the subsidy was permissible under state aid rules.<sup>1</sup> The Commission was concerned that the measure represented an unnecessary intervention, seeing no need to subsidise an industry that was thriving and making profits.

The UK Government's argument in support of the relief was that specific, targeted intervention was required to preserve the cultural character of the UK and European games industry. The government raised a concern that video games producers could make much more money creating games that were tailored towards the international market, because they could achieve huge economies of scale from targeting a larger community of gamers. As a result, producers were stripping out cultural references relevant to British and European gamers from the storylines of their games, and this was having an impact on British culture.

The Video Games Tax Credit would therefore be available only to games that were culturally British, under a test administered by the British Film Institute. The

---

<sup>1</sup> Documents relating to the European Commission investigation into Video Games Tax Relief are available from the European Commission website - [http://ec.europa.eu/competition/elojade/isef/case\\_details.cfm?proc\\_code=3\\_SA\\_36139](http://ec.europa.eu/competition/elojade/isef/case_details.cfm?proc_code=3_SA_36139)

government argued that this targeting would mean that “The proposed tax relief should promote the production of video games with a cultural content as opposed to games that are purely for entertainment.”<sup>2</sup>

In order to qualify as being culturally British, games are scored against a number of criteria, including being set in the UK, having British lead characters, or being produced in the UK.

When introducing the relief, the government estimated that only around 25% of games produced in the UK would qualify, and that the major beneficiaries would be small games producers interested in the local market. The government expected only 10% of games that qualified for the relief would have a budget of more than £5m. A press release put out by the government at the time stated that 95% of video games development in the UK was performed by SMEs.<sup>3</sup>

The government estimated that the new relief would cost £35m a year, and committed to reviewing the relief after three years of operation to determine whether it had been effective.

There is no evidence that this review has taken place. If it had, the government would have seen that the programme is significantly over-budget, having cost £108m in 2017/18, and that a significant amount of the tax credit is being claimed by just one company.

## Grand Theft Auto's Tax Credits

A year after the scheme came into effect, Grand Theft Auto V was granted certification as “culturally British” by the British Film Institute. The certification has allowed the game’s developer, Rockstar North Ltd, to access substantial amounts of tax credits.

That Grand Theft Auto should receive any tax credits at all may seem bizarre to some. One of the criteria of the BFI Cultural Test for video games is how the game represents diversity. The guidance note for the cultural test states:

“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.

---

2 See European Commission Decision SA.36139 (13/C) (ex 13/N) - [https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.L\\_.2014.323.01.0001.01.ENG](https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.L_.2014.323.01.0001.01.ENG)

3 HM Treasury, *Video Games Companies to Begin Claiming Tax Relief*, <https://www.gov.uk/government/news/video-games-companies-to-begin-claiming-tax-relief>

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....

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.”

It is unlikely that the drafters of that guidance had in mind a game which allows the player to murder prostitutes when formulating the cultural test.

For most observers, the controversial game would probably fall under the category of a game produced purely for entertainment rather than a game with significant cultural content. The game was made famous by its free-wheeling game play which allows players to car-jack, carry out random killings and blow up things whilst progressing through the ranks of organised crime. None of the lead characters are British, and the 5<sup>th</sup> instalment in the series is set in Los Santos, a fictional representation of Los Angeles. Previous editions had been set in New York, Florida and California. The only part of the game set in the UK was an expansion pack to the second edition of the franchise, GTA II.

## Made in Britain

The game was however largely developed in the UK. The first two editions of the game, GTA and GTA 2, were developed by DMA Design Ltd, a UK based developer.

DMA was bought by Take-Two Interactive Inc, a US-based multinational, in 1999. The US company had already acted as the publisher of GTA 2 under their “Rockstar” label, which has been the publisher of all subsequent editions of the GTA franchise.<sup>4</sup> Game development continued in the UK at Rockstar North Ltd, a design studio based in Edinburgh. This connection with the UK is apparently enough to secure the culturally British test for Grand Theft Auto V.

---

<sup>4</sup> A short history of the development of the game is set out in the statement of case of Leslie Benzies in Leslie Benzies vs Take-Two Interactive Software Inc., Supreme Court of the State of New York, Index No. 651920/2016

Having been certified as culturally British in 2015, Rockstar North starting receiving Video Games Tax Credits in the financial year ending March 2016. The amount it claimed was substantial. The annual accounts of Rockstar North Ltd show that over the last three years the company has claimed £42m in Video Games Tax Credits. This is equivalent to 19% of the £227m that the government has granted to the entire industry since the relief was introduced in 2014.<sup>5</sup>

In 2016 the company also recorded a large retrospective adjustment for tax paid in previous years. The effect of tax credits and previous year adjustments means that over 10 years the company recorded a net loss for tax purposes, paid nothing in corporation tax, and claimed £70m in credits from HMRC. The amount of credit claimed by Rockstar North from HMRC was almost 6 times its operating profit over the period.

**Table 1: Key Financial Data Rockstar North Limited 2009-2018**

(Year to March 31 <sup>st</sup> )	2009	2011 (17 Months)	2012	2013	2014	2015	2016	2017	2018	Totals
Turnover	£14,853,498	£25,828,898	£18,054,810	£20,127,149	£32,252,221	£42,909,043	£53,446,092	£57,089,880	£79,158,894	£343,720,485
Cost of Sales	-£9,079,562	-£14,218,633	-£11,789,637	-£12,404,764	-£16,111,491	-£26,501,031	-£26,641,448	-£29,087,405	-£40,799,868	-£186,633,839
Gross Profit	£5,773,936	£11,610,265	£6,265,173	£7,722,385	£16,140,730	£16,408,012	£26,804,644	£28,002,475	£38,359,026	£157,086,646
Admin Expenses	-£8,288,372	-£11,368,142	-£7,423,997	-£6,413,329	-£13,986,232	-£13,600,894	-£23,308,165	-£24,257,130	-£30,116,236	-£138,762,497
Operating Profit	-£2,514,436	£5,415,849	-£12,681,786	£1,309,056	£2,154,498	£2,807,118	£3,496,479	£3,745,345	£8,242,790	£11,974,913
Operating Margin	-16.93%	20.97%	-70.24%	6.50%	6.68%	6.54%	6.54%	6.56%	10.41%	3.48%
Profit before Tax	-£2,507,040	£5,419,081	-£12,679,587	£1,136,416	£2,162,491	£2,819,685	£3,515,268	£3,763,815	£8,300,782	£11,930,911
Tax	£202,688	£135,510	£46,992	-£2,461,467	-£887,635	-£718,156	£33,416,310	£13,121,157	£26,915,315	£69,770,714
Profit for the year	-£2,304,352	£5,554,591	-£12,632,595	-£1,325,051	£1,274,856	£2,101,529	£36,931,578	£16,884,972	£35,216,097	£81,701,625
Video Games Tax Relief	£0	£0	£0	£0	£0	£0	£11,278,530	£11,918,339	£19,116,178	£42,313,047

## Grand Theft Auto Profits

Although the statutory accounts of Rockstar North, the maker of Grand Theft Auto V, state that the company is hardly making any profit, the game is widely reported to be the most profitable media product in history. The game broke several world records for the speed of its sales, and generated \$800,000,000 in revenue for Take-Two within the first 24 hours of its release. Within three days the game had hit \$1bn in sales, making it the fastest selling entertainment product in history. Within one year, the game had hit \$3bn in sales, making it the biggest selling game of all time.<sup>6</sup> The game continues to sell, and in May 2019, Take-Two disclosed that they had sold over 110m copies.<sup>7</sup>

<sup>5</sup> HMRC, Creative Industry Statistics July 2018, Published April 2019

<sup>6</sup> See Statement of Case of Leslie Benzies in Benzies vs Take-Two Interactive Software

<sup>7</sup> Rockstar Intel, Take-Two Q4 Earnings Report, <https://rockstarintel.com/take-two-q4-2019-earnings-report-red-dead-redemption-2-has-sold-over-24-million-copies-worldwide>

Alongside GTA V, the company developed an add-on GTA Online, which created a new virtual world where gamers could interact with other players over the internet. GTA Online generates revenue for Take-Two as players can buy virtual currency to purchase new items in the game.

In 2015, two years after the release of the game, 8 million people were still playing GTA every week, and the add-on had generated an additional \$500m for the company.<sup>8</sup> The huge sales of GTA V and the popularity of GTA Online has generated an estimated \$6bn in sales for Take-Two over the current lifetime of the product.<sup>9</sup>

These sales have translated into vast profits for the company and its senior management. Between 2009, when development on GTA V is known to have started, and the 2014 financial year in which the game was released, Rockstar North had total costs of £110m. In 2013, the Scotsman reported that the game had a total development and marketing budget of £170m.<sup>10</sup> Adding in distribution costs and other ongoing development costs, Take-Two should have generated gross profits in the region of \$5bn from the game. This figure is corroborated by data on internal royalties paid by the company.

Under a profit sharing agreement signed with senior staff at Rockstar Games, three “Principals” and other unnamed Rockstar employees were entitled to a profit share worth 50% of the operating profit made on Rockstar titles.

Take-Two’s annual reports in the United States disclose a cost which it calls “internal royalties”. It describes these as allowing “selected employees to each participate in the success of software titles that they assist in developing.” Between 2009 and 2019 Take-Two paid out \$3.4bn in “internal royalties”, 22% of the total revenues of the company over that period. Between the financial year ending in 2014 (the year Grand Theft Auto V was released) and 2019, internal royalties stood at \$2.5bn.

The success of the Grand Theft Auto franchise would suggest that the vast majority, if not all of the cash being allocated to internal royalties by Take-Two is being used to fund the Rockstar royalty plan. That would also put the total operating profit (which also includes deductions for head office costs and contributions from other games) generated by Rockstar at \$5bn over the last 5 years.

---

8 See Statement of Case of Leslie Benzies in Benzies vs Take-Two Interactive Software, paragraph 42

9 Sky News, Grand Theft Auto V grosses more than any movie ever, available from: <https://news.sky.com/story/grand-theft-auto-v-grosses-more-than-any-movie-ever-11326135>

10 The Scotsman, New GTA release tipped to rake in £1bn in sales, available from: <https://www.scotsman.com/lifestyle/gadgets-gaming/new-gta-v-release-tipped-to-rake-in-1bn-in-sales-1-3081943>

How is it possible that a game made in the UK, generating billions of dollars in profit for its parent companies and senior management, makes a loss for tax purposes in the UK and is able to claim tax back from the government?

Rockstar North is one cog in the Take-Two machine, but an important one. Given that the game is not set in the UK, and does not feature British characters, in order to meet the BFI's culturally British test the game makers will have had to argue that a substantial amount of creative input for the game came from the UK, and would have signed a statutory declaration to this effect.<sup>11</sup>

In return for creating this intellectual property, Rockstar North would presumably have had a contract with Take-Two to remunerate it for its work. The contract would appear to have been constructed so that Rockstar North receives not much more than the cost of its work. Between 2009 and 2018 the company made an average operating profit of just 3.5%; between 2013 and 2017 operating profit kept stable at around 6.5%, whilst sales of the product it created were beating all expectations.

Other Rockstar companies based in the UK show even less profit. Rockstar Lincoln Ltd, which was involved in testing the game, declared a total profit before tax of £1.2m between 2009 and 2018, and a total tax bill of £226k over the same period.

#### Accounts for UK based Take-Two operations, 10 years to March 31st 2018.

	Turnover	Tax	Profit
Take-Two Europe	Dormant	Dormant	Dormant
Take-Two GB	£760,245,000	-£1,961,000	£9,672,000
Take-Two Interactive	£947,099,300	-£6,217,560	£13,442,120
Rockstar International	£14,581,000	£759,000	£1,328,000
Rockstar North	£343,720,485	£69,770,714	£81,701,625
Rockstar London	£10,898,961	-£147,413	£342,334
Rockstar Leeds	£24,782,310	-£290,847	£776,689
Rockstar Lincoln	£20,797,349	-£225,534	£996,074
<b>Totals</b>	<b>£2,122,124,405</b>	<b>£61,687,360</b>	<b>£108,258,842</b>

11 The cultural test administered by the BFI awards points if the lead programmers and developers work in the UK or the European Economic Area, and if more than 50% of the design or development of the game is carried out in the EEA.

In order to work out the taxable profits of a business, revenue authorities around the world do not look at a multinational company as a whole, but treat each subsidiary as an independent entity. In the case of Rockstar North Ltd, the question they will be asking themselves is whether the contract Rockstar North had with its parent company was one that independent companies would negotiate in the real world.

On the facts that we have been able to determine, we believe the answer is no.

## Profit share

Given the importance of the games produced by the Rockstar label to Take-Two's business, Take-Two entered into a royalty agreement with certain key people in the Rockstar team as early as 2002.

Following the success of GTA 3 and GTA 4, the Rockstar principals, as they were called, felt they had the leverage to increase their profit share and renegotiated a new deal: the 2009 Royalty Plan. The Plan named three people as Rockstar Principals: Sam Hauser, Dan Hauser, and Leslie Benzies.<sup>12</sup> Sam and Dan Hauser created the original Grand Theft Auto. Sam Hauser is the President of Rockstar Games and Dan Hauser, his brother, is Vice President of Creativity.

Leslie Benzies is largely credited with the technical advances in game playing which led to the popularity of Grand Theft Auto exploding with the release of GTA V.<sup>13</sup> At the time of the development of GTA V he was President of Rockstar North Limited.

Although the Hauser brothers are based in New York, it was part of Leslie Benzies's contract that he was to be employed in Edinburgh, and any requirement for him to move from Edinburgh could be cited as cause for termination of the contract.<sup>14</sup>

The 2009 Royalty Plan, which in reality was not a royalty payment but a profit share agreement, gave the Rockstar Principals and unnamed qualifying Rockstar employees entitlement to a bonus pool of 50% of the operating profits of games produced under the Rockstar label. Under the plan, the principals were entitled to no more than 60% of the total pool, with no individual able to receive more than 25% of the pool.

---

12 A copy of the 2009 Royalty Agreement is available from the the Supreme Court of the State of New York on the docket of Leslie Benzies vs Take-Two Interactive.

13 Connor Sheridan, One of the Fathers of Grand Theft Auto has left Rockstar, Gamesradar January 12 2016, <https://www.gamesradar.com/uk/gta-leslie-benzies-leaves-rockstar/>

14 Paragraph 6 (d) 2012 Employment Contract of Leslie Benzies.

When setting up the incentive schemes for the principals, lawyers agreed a side letter setting out the tax treatment of the payments the principals would receive.<sup>15</sup> This letter makes clear that the remuneration would be paid as a service for employment, and that in the case of Leslie Benzies his employment was with Rockstar North Limited. The reason for this stipulation was likely to prevent the imposition of US employment taxes on his income, as part of the royalty plan involved assigning certain intellectual rights to a Delaware LLP which the three principals were partners of. However, despite this stipulation, the remuneration does not appear to be included in the Rockstar North accounts. It is not known whether and how much UK income tax has been paid by the principals on these profit shares.

The significance of all of these arrangements is that they demonstrate that had Rockstar been an independent company, then the management would clearly not have been satisfied with selling the rights to their work for the cost of production plus a small margin. In fact, the reality of the relationship between Rockstar and Take-Two was that the management of Rockstar demanded huge sums in compensation for their contribution. After the release of GTA V, Leslie Benzies left the company following a dispute with the other Rockstar Principals. However, the existence of a profit sharing agreement in 2009 which included Mr Benzies suggests that Take-Two placed a substantial amount of value on work carried out on its behalf in the UK.

All of this stands in stark contrast to the tiny profits allocated to Rockstar North and other Rockstar companies in their UK accounts, suggesting that profits allocated to the company should have been much higher than stated. It is impossible to say how much higher, although it is not unreasonable to believe that that profit should have been in the hundreds of millions if not billions. At this level, HMRC would not be paying tax credits to Rockstar North. Instead, the tax collected from Rockstar in the UK would likely be enough to pay for the entire Video Games Tax Credit Programme.

---

<sup>15</sup> Tax Side Letter between Take-Two Interactive, Another Game Company and the Rockstar Principals, available on the docket on the Leslie Benzies vs Take-Two Interactive Inc.

## Conclusions and recommendations

Grand Theft Auto has been referred to by some as a “Great British Export”.<sup>16</sup> However, a brief look at the accounts of the UK based developer of the game, with its slender profits, would not lead one to that conclusion. Rather than a picture of success, the accounts of the developers of the game, Rockstar North, show that the company has earned so little that they have been eligible to claim tax credits from the government.

The situation is absurd. The large amounts of subsidy that Rockstar North has been able to claim from the UK government demonstrates that the Video Games Tax Credit system is not working as intended. The government should hold an immediate review into its effectiveness.

Furthermore there are serious questions over how the company has been treated for tax purposes in the UK.

Take-Two appears to believe that it is reasonable that close to 100% of the profit should flow to their US based parent companies and senior management, whilst almost no profit flows back to the UK companies involved in either making or selling the game. We do not believe that this division of profits can be justified under the so-called “arm’s length” standard found in international tax law.

There is no evidence that HMRC have challenged this set-up or that Take-Two or any of the individuals named in this report has acted illegally. However, it is open for HMRC to challenge the allocation of profit under the transfer pricing system and we urge them to investigate this case urgently.

---

<sup>16</sup> Sophie Curtis, GTA 5: a Great British export, The Telegraph 18 September 2013, <https://www.telegraph.co.uk/technology/video-games/10316267/GTA-5-a-Great-British-export.html>