



Film industry incentives 2012-13

If you invest in the Australian film industry, you may be eligible for a special tax deduction.

28 June 2013

What's new?

Enhancements to film tax offsets

The following enhancements have been made to the film tax offsets, as a result of the recent review of the Australian independent screen production sector:

- The producer offset expenditure threshold has been lowered to \$500,000.
- Direct funding is available for low budget documentaries that fall under the \$500,000 expenditure threshold.
- The rate of the location offset has increased from 15% to 16.5%.
- The post, digital and visual effects (PDV) offset has increased from 15% to 30%.
- Some additional screen production costs can be claimed as qualifying Australian production expenditure (QAPE) under the film tax offsets.
- Television series will benefit from the producer offset for the first 65 broadcast hours (replacing the previous 65 episode limit).
- Goods and services tax (GST) amounts are excluded in determining QAPE for the film tax offsets.

The Australian screen production incentive



Fraud and misrepresentation



Claiming a film tax offset



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The Australian screen production incentive

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Division 376 of the *Income Tax Assessment Act 1997* (ITAA 1997) provides three tax offsets for certain Australian production expenditure incurred by a production company in making a film where a minimum level of expenditure has been incurred. The company is only entitled to one of the three tax offsets in relation to a film. The company can claim the tax offset in its income tax return.

The three tax offsets are:

- a refundable tax offset for Australian expenditure in making Australian films, known as 'the [producer tax offset](#)' (the amount of the producer tax offset is 40% of the company's total qualifying Australian production expenditure (QAPE) on a feature film or 20% of the company's total QAPE on a film that is not a feature film)
- a refundable tax offset for Australian expenditure in making a film, known as 'the [location tax offset](#)' (the amount of the location tax offset is generally 16.5% of the company's total QAPE on the film)
- a refundable tax offset for Australian expenditure on post, digital and visual effects production for a film, known as 'the [PDV tax offset](#)' (the amount of the PDV tax offset is generally 30% of the

company's total QAPE on the film that relates to post, digital and visual effects production for the film).

Where the production company has chosen to claim one of the three tax offsets for an eligible film, neither of the other two tax offsets is available in relation to the film. This means that a film may be certified for only one stream of the Australian screen production incentive.

The producer tax offset



The location tax offset



The post, digital and visual effects (PDV) tax offset



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The producer tax offset

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The producer tax offset is a refundable tax offset for Australian expenditure in making Australian films. The amount of the producer tax offset is:

- 40% of the company's total QAPE on a feature film
- 20% of the company's total QAPE on a film that is not a feature film.

The producer tax offset applies only to QAPE incurred on or after 1 July 2007.

The producer tax offset is available to a company for the making of an Australian film when the following conditions are met:

- The 'film authority' (currently **Screen Australia**) has issued to the company a final certificate for the film in relation to the producer tax

offset.

- The company claims the tax offset in its income tax return for the income year in which the film was completed.
- The company is either an Australian resident or a foreign resident with a permanent establishment in Australia and an Australian Business Number (ABN).
- The company has **not** been provided with financial assistance for the film under Screen Australia's Producer Equity Program.

The issue by Screen Australia of a final certificate to a company for a film in relation to the producer tax offset is the central requirement for the company's entitlement to the producer tax offset in respect of the film. Screen Australia will issue such a final certificate to a company only where it is satisfied the criteria set out in Division 376 of the ITAA 1997 for the issue of such a certificate have been met.

Broadly, Screen Australia must be satisfied of the following:

- the film is completed
- the film has 'significant Australian content' or it is an official co-production between Australia and another country
- the film is of an eligible format and genre
- the applicant company has either carried out, or made the arrangements for carrying out, all the activities necessary for the making of the film
- that company's total QAPE on the film meets or exceeds relevant thresholds.

For further information on the producer tax offset certification, including QAPE thresholds, and what is 'significant Australian content' and an eligible format and genre, go to


screenaustralia.gov.au/funding-and-support/producer-offset 


As part of the process of assessing an application for the final certificate, Screen Australia will formally determine the company's total QAPE on the film for the purposes of the producer tax offset. For a full discussion on what constitutes QAPE, go to

screenaustralia.gov.au/funding-and-support/producer-offset/guidelines/qualifying-expenditure 

Screen Australia will also provide a copy of the final certificate and its determination of the company's total QAPE on the film to us to enable us to verify claims. We will not reconsider that determination or aspects of Screen Australia's final certification process.

Once the company claims the producer tax offset in its income tax return for the income year in which the film was completed, we will calculate the company's producer tax offset based on the final certificate issued by Screen Australia and its determination of the company's total QAPE on the film. We will then apply that tax offset against the company's Australian tax liability for the income year in which the film was completed, and refund any remainder to the company.

 Further information

For further information about producer tax offset certification, see screenaustralia.gov.au/funding-and-support/producer-offset/guidelines/qualifying-expenditure 

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The location tax offset

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The location tax offset is available for films:

- that do not satisfy the significant Australian content test required for the producer tax offset
- where production (that is, principal photography or production of the animated image) commenced on or after 8 May 2007.

The location tax offset is calculated at:

- 16.5% of the company's total QAPE on the film if production of the film commenced on or after 10 May 2011
- 15% of the company's total QAPE on the film if production of the film commenced before 10 May 2011.

The location tax offset is available to a company for the making of a film when the following conditions are met:

- The Minister for the Arts has issued to the company a final certificate for the film in relation to the location offset.
- The company is either an Australian resident or a foreign resident with a permanent establishment in Australia and an ABN.

The company generally claims the tax offset in its income tax return for the income year in which the company's QAPE on the film ceased.

However, if the company commenced production of the film before 1 July 2010 **and** the company's total QAPE on the film is less than \$50 million, the company claims the tax offset in its income tax return for the income year in which the company's 'production expenditure' on the film ceased.

The issue by the Minister for the Arts of a final certificate to a company for a film in relation to the location tax offset is the central requirement for the company's entitlement to the location tax offset in respect of the film.

An application to the Minister for the Arts for such a final certificate is considered by the Film Certification Advisory Board, comprising industry representatives and a senior official from the Office for the Arts, which advises the Minister on whether to issue a final certificate.


Broadly, the Minister for the Arts must be satisfied of the following:

- the film is of an eligible format and genre
- the company's total QAPE on the film is at least \$15 million
- the company has either carried out, or made the arrangements for carrying out, all the activities in Australia necessary for the making of the film.

If the company commenced production of the film before 1 July 2010 and the company's total QAPE on the film is less than \$50 million:

- total QAPE must be at least 70% of the company's total 'production expenditure' on the film, **and**
- the company must have either carried out, or made the arrangements for carrying out, all the activities worldwide necessary for the making of the film.

 Further information

For further information from the Office for the Arts on the application process for provisional and final certification, and for the guidelines and eligibility criteria, go to arts.gov.au 

Like the producer tax offset, the company's total QAPE on the film is determined as part of the final certification process for the location tax offset. That information, along with a copy of the final certificate, is provided to us to enable us to verify claims and process payment of the location tax offset.

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The post, digital and visual effects (PDV) tax offset

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The PDV tax offset applies to the production of PDV for a film that commences on or after 1 July 2007. It is designed to attract post-production, digital and visual effects production to Australia, no matter where the film is shot.

The PDV tax offset is available to a company in respect of a film when the following conditions are met:

- The Minister for the Arts has issued to the company a final certificate for the film in relation to the PDV tax offset.
- The company claims the PDV tax offset in its income tax return for the income year in which the company ceased incurring QAPE related to PDV production for the film.
- The company is either an Australian resident or a foreign resident with a permanent establishment in Australia and an ABN.

The PDV tax offset is 30% of the company's total QAPE that relates to PDV production for the film which is, broadly, expenditure on PDV production work undertaken in Australia. However, if the PDV production commenced before 1 July 2011, the PDV tax offset is 15% of the company's total QAPE that relates to PDV production for the film.

The issue by the Minister for the Arts of a final certificate to a company for a film in relation to the PDV tax offset is the central requirement for the company's entitlement to the PDV tax offset in respect of the film.


An application to the Minister for the Arts for such a final certificate is considered by the Film Certification Advisory Board, comprising industry representatives and a senior official from the Office for the Arts, which advises the Minister on whether to issue a final certificate.

Broadly, the Minister for the Arts must be satisfied of the following:

- the film is of an eligible format and genre
- the company's total QAPE related to PDV production for the film is at least \$500,000 (or \$5 million if PDV production in Australia commenced before 1 July 2010)
- the company has either carried out, or made the arrangements for carrying out, all the activities in Australia necessary for the PDV production for the film.


PDV production for a film is:

- the creation of audio or visual elements (other than principal photography, pick-ups or the creation of physical elements such as sets, props or costumes) for the film
- the manipulation of audio or visual elements (other than pick-ups or physical elements such as sets, props or costumes) for the film
- activities that are necessarily related to the activities mentioned above.

This includes expenditure on VFX, 2D and 3D animation, audio post editing, green-screen photography and miniatures undertaken in Australia. For a more extensive list of activities and further details of the application process for certification, guidelines and eligibility criteria, see arts.gov.au 

The company's total QAPE related to PDV production for the film is determined as part of the final certification process for the PDV tax offset and that information along with a copy of the final certificate is provided to us to enable us to verify claims and process payment of the PDV tax offset.

 Further information

For further information from the Office for the Arts about location and PDV tax offsets, including certification, go to arts.gov.au 

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Fraud and misrepresentation

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Certificates issued by the Minister for the Arts and Screen Australia can be revoked in cases of fraud or serious misrepresentation. In such a case a revocation would require a full repayment of any film tax offset given. Decisions not to issue or to revoke a certificate previously issued are reviewable in the Administrative Appeals Tribunal.

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Claiming a film tax offset

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Companies must use the Company tax return 2013 (NAT 0656). All film tax offsets should be claimed at **E Refundable tax offsets** on the calculation statement on page 11 of the Company tax return.

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Our commitment to you

We are committed to providing you with accurate, consistent and clear information to help you understand your rights and entitlements and meet your obligations.

If you follow our information and it turns out to be incorrect, or it is misleading and you make a mistake as a result, we will take that into account when determining what action, if any, we should take.

Some of the information on this website applies to a specific financial year. This is clearly marked. Make sure you have the information for the right year before making decisions based on that information.

If you feel that our information does not fully cover your circumstances, or you are unsure how it applies to you, contact us or seek professional advice.

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