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If you invest in the Australian film industry, you may be eligible for a special tax deduction. NAT 0954

Last updated 29 June 2011

You can download this publication in Portable Document Format (PDF)
- download Film industry incentives 2011 (NAT 0954, PDF, 110KB).

What's new?



The Australian screen production incentive



QC 28001

What's new?

Last updated 29 June 2011

Change to eligibility

In the 2010-11 Budget the Government announced the intention to change the eligibility criteria for the film tax offsets. The proposed amendments will reduce the minimum qualifying expenditure threshold for the post, digital and visual effects (PDV) offset from \$5 million to

\$500,000. The amendments will also remove the requirement for films with qualifying expenditure of between \$15 million and \$50 million to have at least 70% of the film's total production expenditure as qualifying Australian expenditure in order to qualify for the location offset.

At the time of printing these instructions the changes had not become law. For more information, go to **www.ato.gov.au**

QC 28001

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 a film, known as 'the **location tax offset**' (the amount of the location tax offset is 15% of the company's total qualifying Australian production expenditure (QAPE) on the film)
- 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 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 on post, digital and visual effects production for a film, known as 'the **PDV tax offset**' (the amount of the PDV tax offset is 15% 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. Additionally, a company is not entitled to any of the three tax offsets in relation to an eligible film if:

- the company, or anyone else has claimed a deduction under Division 10B of Part III of the ITAA 1936 in relation to copyright in the film, or
- a final certificate for the film has been issued at any time under Division 10BA of the ITAA 1936.

Further, a company is not entitled to the producer tax offset in relation to an eligible film in either of these additional circumstances:

- the company or anyone else has deducted money paid for shares in a film licensed investment company (FLIC) and the FLIC has invested in the film
- anyone has received production assistance for the film (other than financial assistance towards the development costs for the film) from the Film Finance Corporation Australia Limited, the Australian Film Commission, Film Australia Limited or the Australian Film, Television & Radio School (AFTRS) prior to 1 July 2007.

 Further Information

For further information about Division 10B and Division 10BA, see Australian film industry incentives 2009.

The producer tax offset



The location tax offset



QC 28001

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, and
- before 1 July 2007, to the extent that the QAPE is attributable to goods or services provided 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 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


www.screenaustralia.gov.au/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

www.screenaustralia.gov.au/producer_offset/qual_expenditure.asp

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 www.screenaustralia.gov.au/producer_offset/final_certification.asp

QC 28001

The location tax offset

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The location tax offset is calculated at 15% of the company's total QAPE on a film. The location tax offset is available for films that do not

satisfy the significant Australian content test required for the producer tax offset.

The location tax offset applies to films commencing principal photography or production of the animated image on or after 8 May 2007.

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.
- If 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.
- If the company's total QAPE on the film is \$50 million or more, the company claims the tax offset in its income tax return for the income year in which the company's QAPE on the film ceased.
- The company is either an Australian resident or a foreign resident with a permanent establishment in Australia and an ABN.


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
- if the company's total QAPE on the film is less than \$50 million, that total QAPE must be at least 70% of the company's total 'production expenditure' on the film and the company has either carried out, or made the arrangements for carrying out, all the activities worldwide necessary for the making of the film

- if the company's total QAPE on the film is at least \$50 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.

Further details of the application process for provisional and final certification, guidelines and eligibility criteria are available on the [Department of Communications and the Arts](#)  website.

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 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 location tax offset.

QC 28001

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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