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Film industry incentives 2023

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Abstract:

Work out if you are eligible for a film tax offset if you invest in the Australian film industry and how to claim it.

Work out if you are eligible for a film tax offset if you invest in the Australian film industry and how to claim it.

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Australian screen production incentive

On 7 December 2021, changes to the Australian Screen Industry Incentive (Film Tax Offsets) received royal assent and became law. The amendments apply to films commencing principal photography on or after 1 July 2021.

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.

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.

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Film tax offsets

There are three film tax offsets you can claim.

On this page

- [The producer tax offset](#)
- [The location tax offset](#)
- [The post, digital and visual effects \(PDV\) tax offset](#)

The producer tax offset

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 from 1 July 2007
- 20% of the company's total QAPE on a film that is not a feature film from 1 July 2007 to 30 June 2021
- 30% of the company's total QAPE on a film that is not a feature film from 1 July 2021.

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 is completed.
- The company is either an Australian resident company, or a foreign resident company 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 company is only entitled to the producer tax offset in respect of the film if a final certificate is issued to that company by Screen Australia. Screen Australia will issue the certificate to a company only where it is satisfied the criteria set out in Division 376 of the ITAA 1997 have been met.

Broadly, Screen Australia must be satisfied that:

- 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

- the company's total QAPE on the film meets or exceeds relevant thresholds.

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

For more information, see [Screen Australia – Guidelines final certification](#).

The location tax offset

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 company, or a foreign resident company 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 that:

- 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
- 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.

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.

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

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:

- 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) if the PDV production commenced on or after 1 July 2011
- 15% of the company's total QAPE that relates to PDV production for the film if the PDV production commenced before 1 July 2011.

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 company, or a foreign resident company 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 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 that:

- 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.

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. 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.

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Revoking and repayment of a film tax offset

Certificates issued by the Minister for the Arts and Screen Australia can be revoked. In such a case, a revocation would require a full repayment of any film tax offset given.

Situations where the Minister can revoke the certificate include:

- fraud or serious misrepresentation
- a copy of the film is not provided to the Minister within 30 days upon completion of the film.

A decision to revoke a certificate previously issued or a decision not to issue a certificate are reviewable in the Administrative Appeals Tribunal.

How to claim film tax offsets

Companies must use the [Company tax return 2023](#). Claim all film tax offsets at **E Refundable tax offsets** on the calculation statement in the *Company tax return 2023*.