


TD 2002/20A1 - Addendum - Income tax: if an Australian film production company alters its method of charging for film production services supplied to a foreign associate to account for the impact of the tax offset scheme under Division 376 of the Income Tax Assessment Act 1997, will the Commissioner apply Division 13 of Part III of the Income Tax Assessment Act 1936 or the Associated Enterprises article of a relevant double tax agreement to increase the charge?

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Addendum

Taxation Determination

Income tax: if an Australian film production company alters its method of charging for film production services supplied to a foreign associate to account for the impact of the tax offset scheme under Division 376 of the *Income Tax Assessment Act 1997*, will the Commissioner apply Division 13 of Part III of the *Income Tax Assessment Act 1936* or the Associated Enterprises article of a relevant double tax agreement to increase the charge?

This Addendum amends Taxation Determination TD 2002/20 to reflect that the previous Division 376 of the *Income Tax Assessment Act 1997* has been repealed and a new Division 376 substituted. The change was made as part of the *Tax Laws Amendment (2007 Measures No. 5) Act 2007*.

The new Division 376 provides for:

- a producer offset of 40% for a feature film and 20% for a film that is not a feature film of the company's qualifying Australian production expenditure on the film;
- a location offset of 15% of the company's qualifying Australian production expenditure of a large-budget production that does not satisfy the qualifying Australian content test for the producer offset; and
- a PDV offset of 15% of the company's qualifying Australian production expenditure to the extent that it relates to post, digital and visual effects production for the film.

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TD 2002/20 is amended as follows:

1. Date of effect paragraph

Insert at the end of the paragraph:

Note: the previous Division 376 of the *Income Tax Assessment Act 1997* was repealed and a new Division 376 substituted as part of the *Tax Laws Amendment (2007 Measures No. 5) Act 2007*. The legislative change is of no consequence to the continuing operation of this Determination.

2. Legislative references

Insert:

- Tax Laws Amendment (2007 Measures No. 5) Act 2007

Commissioner of Taxation

25 June 2008

ATO references

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ATOlaw topic: Income Tax ~~ Tax offsets, credits and benefits ~~ film production tax offset
Income Tax ~~ Entity specific matters ~~ transfer pricing