

Post-implementation review NCL  
The Board of Taxation  
c/- The Treasury  
Langton Crescent  
Parkes ACT 2600

**Re: Post-implementation review of non-commercial losses**

Division 35 is of particular relevance to Australia's filmmaking community as a large proportion of filmmakers operate in a freelance or self-employed capacity, sometimes working two or three jobs.

The Australian Film Commission has previously supported a submission by the Arts Law Centre seeking a public ruling providing guidance as to whether a person is carrying on a "business" as a professional practising artist for the purposes of the *Income Tax Assessment Act 1997* ('the 1997 Act').

The Australia Council has made a submission to the Board of Taxation's Post-implementation Review of non-commercial losses provisions in Division 35 of the *Income Tax Assessment Act 1997* (the Act). This submission has been made on behalf of the Artists Foundation of Western Australia, the Arts Law Centre of Australia, the Australian Dance Council (Ausdance), the Australian Major Performing Arts Group, the Australian National Playwrights' Centre, the Australian Society of Authors, the Music Council of Australia, the National Association for the Visual Arts, Playworks Inc., and Youth Performing Arts Australia. This submission argues that all professional artists should be exempted from the operation of Division 35 because the division does not adequately take into account the actual circumstances of individual artists and the commercial practices of the arts industry generally.

The Australian Film Commission endorses this submission.

Yours Sincerely,

Kim Ireland  
Director, Policy, Research and Information  
Australian Film Commission  
17 March 2004