Australian Government

AUSTRALIAN FILM COMMISSION

Submission to the Department of Communications, Information Technology and the Arts Review of Division 376 of the *Income Tax Assessment Act 1997:* Refundable Film Tax Offset Scheme August 2006

1. Introduction

The Australian Film Commission (AFC) is an Australian Government agency, operating as part of the Commonwealth Film Program to ensure the creation, availability and preservation of Australian audiovisual content. The AFC aims to enrich Australia's cultural identity by fostering an internationally competitive audiovisual production industry, making Australia's audiovisual content and culture available to all, and developing and preserving a national collection of sound and moving image.

As the major collector and analyser of data about the industry, the AFC leads opinion, outlook and policy about the audiovisual industries and screen content in Australia

The AFC appreciates the opportunity to provide input into the review of the refundable tax offset ("the offset") for film production. The AFC is aware that while this review is a separate statutory process, it will also fall within the context of the broader review of Australian Government support for the funding of Australian films announced by the Government on 9 May 2006. The AFC will be making a comprehensive submission to this review, expanding upon the views expressed in this submission including its views on using existing measures such as the offset to promote greater private investment into the local production industry.

2. Success of the offset as an incentive and its impact on industry

The offset has been available to eligible production companies since 4 September 2001. The offset was introduced at a time when a number of international territories were competing, or were beginning to compete, to attract large scale film and television productions – alternatively called 'runaway,' 'footloose,' 'offshore,' or simply 'foreign' productions – to their shores. The internationalisation of the US studio system and increasing costs in particular territories such as the US, led to a significant number of productions seeking to relocate. The introduction of the offset in Australia was during a period where there was a significant increase in the number of foreign productions relocating to Australia.

As stated in the Second Reading Speech, the measures are:

> *designed to give effect to the government's strategy to provide an incentive to attract expenditure on large budget film productions to Australia. This is aimed at providing increased opportunities for Australian casts, crew, post-production and other services to participate in large budget productions, and to showcase Australian talent, with flow-on benefits for employment and skills transfer*.

While importantly left open to both large-scale foreign *and* Australian productions, it is clear that the offset is aimed largely at foreign productions to create sustained employment opportunities for Australian crews. The ministerial announcement stated that the introduction of the offset was:

> *good news for foreign producers bringing their productions to Australia – providing certainty and flexibility – and good news for the local industry through increased employment and new opportunities to work on large budget films.*[1]

Foreign production provides both significant economic benefits to Australia and valuable training and greater depth and continuity of business for the Australian production and post-production industry.

As of 7 June 2006, 14 feature films and three television projects have been certified as eligible with a further three TV series/miniseries receiving provisional certifications. The qualifying Australian production expenditure (QAPE) for these productions totalled $885,255,244 and the aggregate benefit to the production companies (12.5 per cent of the QAPE) would be up to $111 million (the actual benefit would depend on the companies' tax liabilities, which the offset amount is applied against).

	No. applications	No. certified	No. under assessment	Qualifying Australian production spend[1] by certified films	Aggregate benefit[2]
Sept 2001 to June 2006	17	17	0	$885,255,244	$110,656,906

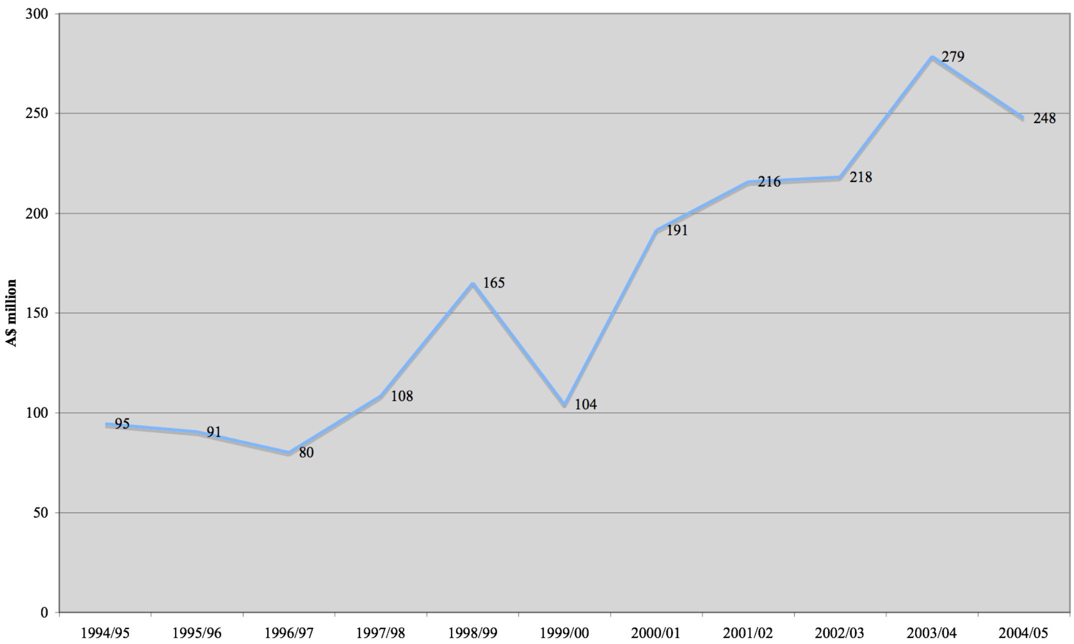
Source: Department of Communications, Information Technology and the Arts, June 2006[2]

At the time of the offset's introduction, the level of foreign film and television production was $216 million made up of $185 million of film and 31 million in television. In 2004/05 this figure has increased to $248 million with $243 million of that (approximately 98 per cent) in film, with foreign television production falling to $4 million. Averaged over the last 10 years, foreign productions have comprised 76 per cent film and 24 per cent television.

[1] Senator the Hon Richard Alston, Minister for Communications, Information Technology and the Arts and The Hon Peter McGauran MP, Minister for the Arts and the Centenary of Federation, Media Release, *12.5 per cent Refundable Tax Offset for Large Film Productions*, 4/8/2001

[2] Notes:
1. Total qualifying Australian production expenditure (QAPE) defines the costs eligible for the 12.5 per cent tax offset; it is the production expenditure incurred in making a film that is reasonably attributable to:
– goods and services provided in Australia;
– the use of land provided in Australia; or
– the use of goods that are located in Australia at the time they are used in the making of the film.
2. This amount represents the *maximum* possible benefit. That is, it does not take into account the companies' tax liabilities which the offset amount is first applied against.

Spend in Australia by foreign features and TV drama, 94/95 to 04/05



Preliminary findings for the AFC's annual National Survey of Film and Television Drama Production, indicate a significant drop (well over 50 per cent) in foreign production is expected in 2005/06, with only two high budget US productions (one feature and one TV drama) plus smaller amounts of spending by Indian and Japanese productions.

Despite this fall, the foreign production sector is increasingly becoming a vital part of the industry accounting for 73.4 per cent of feature production and 46.3 per cent of total (features and television drama) production expenditure in Australia in 2004/05. This compares to the 10 year average of 53.5 per cent for features and 31.5 per cent of total.

This ascendency takes on added economic significance for the industry as levels of local production fall. More and more, as local production declines, foreign production provides stable ongoing employment, maintains key infrastructure and takes on a greater role in providing training to the industry.

Use by Australian productions

As stated above 14 feature films and three television projects have been certified as eligible. Of these 14 were foreign, two were co-productions and one Australian.

This low level of Australian use of the offset is largely due to the offset's focus on large budget features with an eligibility threshold of $15 million qualifying Australian production expenditure. Most Australian production budgets fall well below $15 million. There have been few Australian films in the recent past made with budgets above $15 million – *Ned Kelly* and *The Proposition* (both, Australian/UK co-productions), *Collision Course*, *Swimming Upstream* and *Happy Feet* (still in production).

The number of features films by budget range, expressed as a five year (2001-2005) average, has been 17 features and two co-productions per year made below $10 million, and one feature and two co-production per year made for over $10 million.

The AFC believes that the offset should be made more accessible to independent Australian productions. One way to do this would be to lower the QAPE threshold for the offset and allow independent producers to combine the offset with existing Commonwealth funding, FFC, FLIC and 10BA/10B incentives, as the AFC argued in its submission to the 2005 DCITA Review into Divisions 10B and 10BA.[3]

The existing policy recognises that the larger the budget of a film, the more economic benefits it creates. The money is paid to Australian individuals and enterprises, who on-spend it and who pay more tax. Increasing the accessibility of the offset to lower budget independent Australian films would also increase local production activity, creating similar economic benefits.

Screen production levels are low, partly as a result of low levels of private investment. Making investment more attractive will deliver increased economic returns, through increased economic activity and through the development of the Australian audiovisual industry. When intellectual property is retained in Australia, foreign returns are repatriated.

To continue to attract foreign production requires, above all, a sophisticated domestic industry: ongoing levels of foreign production can only be sustained where local film industries have reached a high level of sophistication and capability. Foreign production in Australia is completely dependent on the existence of a strong and energetic local production sector, where cast, crew and infrastructure are available to service foreign productions; and the employee pool's skill level is high and up-to-date with technological advances.

The AFC is currently undertaking economic modelling to develop various options to use the offset to deliver increased Australian investment and production in the film, television and digital content sectors. The work will be completed as part of the AFC's submission to the broader Review.

3. Operation and administration of the offset

Industry perception of the operation and administration of the offset has been overwhelmingly positive. The AFC has consulted with the investment and production community regarding the offset, including film and television producers, large production companies, investment managers, state film offices and industry bodies. The AFC has also spoken with a number of investment community practitioners familiar with international film tax

[3] http://www.afc.gov.au/downloads/policies/10barev_1105.pdf

incentive models. This consultation found that the offset has been enthusiastically received and utilised by producers. Producers report that the offset is clear, efficient and timely, and does not require onerous additional legal and accounting expenses. It is perceived to be closely monitored, financially transparent and not able to be rorted, as it is based on audited expenditure.

Particular mention is made of the speed of DCITA's evaluation and the absence of "middlemen" – no need for the additional layer of additional financial and legal fees that many other schemes require.

Nevertheless, the industry still has concerns. These relate to the threshold level, exclusion of insurance and freight expenses, decreased competitiveness due to currency fluctuations, and the formats eligible for the offset.

Threshold

As mentioned above the threshold as it currently stands, excludes significant use by Australian co-produced features and television projects.

The minimum threshold that must be spent in Australia to qualify for the refundable tax offset is high when compared to the incentive schemes offered in other countries, which generally have much lower thresholds. In some instances, provided a certain proportion of a production's budget is spent in the relevant location, no threshold applies. However, a cap on the total amount eligible under the rebate may apply. For example, Ireland offers a 20 per cent rebate for qualifying local expenditure capped at A$13.2 million. Similarly, Hungary offers a 20 per cent rebate, provided a local partner is involved.

A range of incentives is offered by individual states in the United States. Generally, no threshold spend is required, or relatively low thresholds apply, provided the production has some connection with the location. For example, Hawaii, New York, New Jersey, Pennsylvania and New Mexico do not have any minimum threshold and requirements for other states are relatively low (i.e. Arizona A$4 million, Florida A$1.1 million, Georgia A$0.7 million, Louisiana A$1.3 million, and North Carolina A$0.3 million). However, aggregate caps on the total amount of rebate that may be obtained each year apply in some locations.

Of the countries that do impose a minimum threshold, both South Africa (15 per cent rebate applies once spend exceeds A$4.8 million spend) and New Zealand (12.5 per cent rebate applies once spend exceeds A$12.2 million) impose lower thresholds than Australia. Fiji offers a 15 per cent rebate once spend exceeds A$0.2 million. In the UK however, a 20 per cent rebate applies provided a film: satisfies a cultural test of being a 'British' film, UK spend is 25 per cent of total production, and A$40 million of spend is in UK. For expenditure greater than A$49.5 million, a 16 per cent rebate applies.

For further information see Appendix A.

When comparing similar tax incentive schemes internationally, the eligibility threshold of the Australian refundable tax offset is amongst the highest in the world. This diminishes the attractiveness of locating a production in Australia.

Although the level of the offset and its threshold requirements needs to be considered in the full context of economic factors that affect foreign film production, lowering the level of the eligibility threshold would bring Australian foreign tax incentives into line with international equivalents, and be likely to have a beneficial effect in increasing Australia's attractiveness to foreign production.

Furthermore, a number of countries have in place incentive schemes specifically directed at local production, or requiring some local component to allow for co-productions. For example, South Africa offers a 25 per cent rebate on local productions (compared to 15 per cent offered to foreign production), Hungary's rebate is predicated on the involvement of a local partner, while the UK rebate requires the film being produced to pass a cultural test as a 'British film'. Such measures are also designed to encourage investment in film production that originates locally.

The AFC believes that this should be considered in the Australian context.

Insurances and freight expenses

On 1 March 2006 the Australian Tax Office (ATO) published two taxation determinations, TD 2006/2 and TD 2006/3, relating to production expenditure on certain insurances and freight expenses in respect to the application of the refundable tax offset ("the Offset") provisions contained in Division 376 of the *Income Tax Assessment Act 1997* (ITAA 1997).

The ruling TD 2006/2 states that not all insurance premiums incurred in the production of a film can be included as film production expenditure for the purposes of Division 376 of the ITAA 1997. Premiums incurred by way of, or in relation to, the financing of a film are excluded.

The ruling TD 2006/3 states that freight costs are included in "qualifying Australian production expenditure" (QAPE) to the extent that these costs relate to the provision of freight costs within Australia.

While the AFC accepts the logic of the ATO's interpretation of the relevant legislation, the AFC is of the belief that these determinations are inconsistent with the spirit and intent of the Offset provisions as an incentive to film and television production in Australia. The AFC, as well as AusFilm and the Media Entertainment and Arts Alliance (MEAA), have written to the ATO to express their concern at the adverse impact of the delay.

The AFC notes that:

> *The tax offset has been designed to ensure that Australia remains competitive in attracting high budget film productions, and is aimed at providing increased opportunities for Australian casts, crew, post-production companies and other services to participate in these productions.*

The AFC is of the belief that TD 2006/2 is a significant disincentive to producers of large budget productions seeking access to the benefits of the Offset.

In coming to its decision in TD 2006/2, the ATO has relied on the definition of "the making of a film" in section 376-25 of the ITAA 1997 which specifically excludes arranging or obtaining finance for the film. Therefore premiums that cover risks to the financing of the film production are excluded from the Offset. The AFC also noted:

1. It is standard practice for most film productions, especially large budget productions, to have in place insurances (such as completion bonds and film producer's indemnity) to give security to the financiers of these productions. No prudent investor or producer would proceed without these.

2. The UK, South Africa and New Zealand's treatment of such insurances is far less restrictive than is the case in TD 2006/2.

3. While not strictly relevant to the ATO determination, expenditure on such insurance premiums are included as eligible expenditure for the purposes of Divisions 10B and 10BA and qualifying Australian spend for the purposes of the AFC's co-production guidelines. To this extent there is a clear inconsistency of treatment across film support mechanisms and thus increased complexity for producers and investors.

The effect of TD 2006/3 is also a significant concern for Australia's film and television production industry. The AFC believes that, similar to TD2006/2, limiting qualifying expenditure to that expenditure incurred in freight within Australia is inconsistent with the intentions of the tax offset. Large budget foreign production will incur significant freight costs moving materials in and out of Australia due to the nature of the production itself or the location of production partners (in the case of footloose productions). Remote or 'exotic' Australian locations are a key factor in the choice to relocate a production. This by its very nature, necessitates high freight costs. A production entity is always concerned with the aggregate of services provided by a freight provider not merely the activities taking place within Australia. The AFC believes that the approach of the ATO to apportion freight costs according to those involved in freight within Australia and freight outside of Australia is administratively burdensome for producers and again contrary to the spirit and intent of the Offset.

Currency fluctuations

The competitiveness of the 'economic package' presented by Australia weighing up factors such as labour and material costs, financial rebates or incentives, are impacted significantly by Australia's foreign exchange rate. This competitive advantage has historically been attractive to US offshore productions. The AFC's 2002 survey of foreign production in Australia indicated that the attractive exchange rate was a key factor in deciding to bring a project to Australia[4]. Since 2001 the Australian dollar, and other major currencies, have steadily risen in value against the US dollar.

Historical Average Annual Rate of Exchange/ US$ per currency unit[5]

Country	Monetary Unit	2001	2002	2003	2004	2005	Percentage decrease over 5 years
Australia	Dollar	1.9346	1.8392	1.5328	1.3578	1.3111	-32 %
Canada	Dollar	1.5487	1.5704	1.4008	1.3017	1.2115	-22 %
European Union	Euro	1.1171	1.0578	0.8833	0.8040	0.8033	-28 %
New Zealand	Dollar	2.3798	2.1529	1.7176	1.5053	1.4186	-40 %
South Africa	Rand	8.6093	10.5176	7.5550	6.4402	6.3606	-26 %
United Kingdom	Pound	0.6946	0.6656	0.6117	0.5456	0.5493	-21 %

From September 2001 to 2005, the value of the US dollar against the Australian dollar declined by approximately 32 per cent. This has had the effect of diminishing the attractiveness of the 'economic package' as a potential site for offshore US production.

The value of the US dollar has experienced similar declines against other currencies (with a particularly strong decline of 40 per cent against the New Zealand dollar). While the increasing strength of the Australian dollar is broadly in line with the increasing strength of other currencies, the fall in value of the US dollar in Australia has been slightly higher than in other countries

This suggests that while the attractiveness of Australia's economic package compared to the US domestic market may have suffered during this period, as the increasing strength of the Australian dollar is broadly in line with the increasing strength of other currencies, the negative impact of a weaker US dollar on the attractiveness of the Australia as a location is likely to be shared by other film industries around the world.

It is clear that at the time of the introduction of the Offset in 2001, the level was set when the US dollar was at a peak of its strength against other currencies. One way to combat the strengthening trend of the Australian dollar

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[4] *Foreign Film and Television Drama Production in Australia: A Research Report: Australia as a production destination; employment patters; crew experience and attitudes,* Australia Film Commission, June 2002, p14.

[5] Source: The Federal Reserve, United States of America, 3 January 2006 Release and 3 January 2005 Release.

and the decrease in competitiveness that flows from this is to increase the tax offset level. The AFC believes the level of the Offset needs to be regularly reviewed to maintain this competitiveness. The AFC supports the proposal by AusFilm to increase the rebate percentage of the Offset from 12.5 per cent to 15 per cent.

Further administrative and competitive improvements

AusFilm's submission details a number of possible changes to the offset that it believes would improve the offset's ability to attract offshore productions. These include administrative streamlining such as permitting an interim claim once QAPE had reached A$50 million (subject to administrative issues), and extending the offset to encompass pure Post, Digital and Visual effects (PDV) work. In doing so it is proposed that PDV-only work would gain access to the offset at a threshold of A$5 million QAPE and be exempt from the 70 per cent test.

Furthermore, AusFilm propose the removal of the 70 per cent test for productions with QAPE of more than A$15 million and a "piggybacking scheme to those productions that have a QAPE in excess of $50 million. This "demonstrated commitment" to Australia would give the producer the right to add extra work – traditional, PDV or a combination of both – to the original amount within two years from the end of principal photography of the "primary" production. AusFilm argues this would reward large budget productions and be a unique selling point for Australia.

The AFC supports these proposed changes to the offset.

Appendix: International models[6]

A number of countries have introduced incentive mechanisms similar to the Australian RTO. However a number of these have slightly different rules that improve attractiveness. The following summary is based on extensive research prepared by AusFilm:

New Zealand[7]
New Zealand operates a Large Budget Screen Production Grant Scheme, with a 12.5 per cent rebate and a 70 per cent local expenditure requirement.

A production is eligible for the Grant with qualifying New Zealand spend of A$12.2 million. Between A$12.2 million and A$40.8 million, there is a requirement that 70 per cent of the global production spend be in New Zealand, although this does not apply for spend above A$40.8 million.

As the scheme is a grant from the Ministry of Economic Development, rather than a rebate from the Tax Office, it is possible to lodge an interim claim once qualifying New Zealand spend has reached A$40.8 million, allowing productions to maintain cash flow.

South Africa[8]
The incentive scheme administered by the Department of Trade and Industry allows foreign films to claim a 15 per cent rebate on their South African spend, once expenditure exceeds A$4.8 million. The rebate is capped at A$1.9 million per project.

Bundling is permitted, which allows up to three projects (excluding TV series) from a common overseas source (i.e. with common copyright holding) to comprise the threshold spend, provided it occurs within a 12 month period.

Co-productions (or local productions) are eligible for a rebate of 25 per cent. Furthermore, productions are required to have a South African person credited at a senior level on the film.

UK[9]
The UK operates a two-tier structure for its incentive scheme, having reformed its previous ‘sale and leaseback’ model. Provided UK production expenditure represents at least 25 per cent of total production expenditure, and the film passes a cultural test of being a ‘British film’:

- for films made for under A$49.5 million, 20 per cent of qualifying British expenditure can be claimed; and

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6 With research assistance from AusFilm.
7 Figures calculated at an exchange rate of A$ 1 = NZD 1.22
8 Figures calculated at an exchange rate of A$ 1 = ZAR 5.26
9 Figures calculated at an exchange rate of A$ 2.48 = GB 1.00

- for films made for greater than A$49.5 million, 16 per cent of qualifying British expenditure can be claimed.

Ireland[10]
Section 481 in Ireland operates as a tax incentive through the Irish Department of Arts, Sport and Tourism and the Irish tax authorities, and provides a rebate of up to 20 per cent of Irish eligible spend. The total amount of rebate granted is capped at A$13.7 million, but is payable as a cash benefit on the first day of filming. A local producer must apply for the incentive and receive a producer credit on the film

Fiji[11]
Fiji offers a rebate of 15 per cent, provided a minimum spend of A$0.2m is achieved and Fiji spend represents 35 per cent of overall production expenditure. Once Fiji expenditure exceeds A$19 million, no local percentage criterion applies, however a cap on the total rebate of A$2.9 million applies.

Hungary
A 20 per cent rebate to all qualifying expenditure applies in Hungary, provided a local partner is involved, including animation films and documentaries.

Canada[12]
A range of incentives at both Federal and provincial level operate in Canada. These incentives may often be combined, and are generally based on rebates for qualifying local salaries and wages.

- Federal
Federally, the Film or Video Production Services Tax Credit provides a tax credit equal to 16 per cent of salary and wages paid to Canadian residents or taxable Canadian corporations (for amounts paid to employees who are Canadian residents) for services provided to the accredited production in Canada. No financial cap applies in respect of the credit.

- British Columbia (BC)
British Columbia offers the following incentives:

- British Columbia Production Services Tax Credit (Basic PSTC), offering 18 per cent of accredited qualified BC labour expenditures;
- Regional Tax Credit, offering 6 per cent of accredited qualified BC labour expenditures for productions outside the Vancouver area; and
- Digital Animation or Visual Effects Tax Credit, which offers 15 per cent of accredited qualified BC labour expenditures on digital animation or visual effects.

[10] Figures calculated at an exchange rate of A$ 1.71 = EUR 1.00
[11] Figures calculated at an exchange rate of A$ 1 = FJD 1.31
[12] Figures calculated at an exchange rate of A$ 1 = CAD 0.82

- Manitoba
Manitoba's Film and Video Production Tax Credit is a refundable corporate income tax credit available to qualifying producers of eligible Manitoba Productions and Co-Productions.

- Film and Video Production Tax Credit: 45 per cent tax credit based on eligible Manitoba labour expenses;
- Frequent Filming Bonus: 5 per cent of eligible qualified Manitoba labour expenditures (two hours of airtime equals one frequent filmer's credit); and
- Rural Filming Bonus: 5 per cent of eligible qualified Manitoba labour expenditures (35km from the centre of Winnipeg).

- New Brunswick
New Brunswick offers a Film Tax Credit to a maximum of 40 per cent of eligible salaries paid to New Brunswick residents. The Film Tax Credit amounts to a percentage of wages to be paid to bona fide New Brunswick residents. Tax credits may accrue to a maximum of 50 per cent of the total production costs (including the portion of non-New Brunswick ownership) less the amount of production costs funded by other government agencies. Wages in excess of 50 per cent of the total costs of production are not eligible for consideration. The value of this credit may also be included as part of the calculation of a production company's equity in a production.

- Newfoundland and Labrador
Newfoundland and Labrador Film Tax Credit is based on a calculation of eligible labour limited to the lesser of 25 per cent of the total eligible budget or 40 per cent of the total eligible labour expenditures. The credit may also be considered as part of a producer's equity in a given production. At least 25 per cent of the total salaries and wages must be paid in Newfoundland and Labrador to eligible employees.

- Nova Scotia
The Nova Scotia Film Industry Tax Credit is calculated as the lesser of 35 per cent of eligible Nova Scotia labour or 17.5 per cent of the total production costs for productions that occur in the Halifax region or the lesser of 40 per cent of eligible Nova Scotia labour or 20 per cent of total production costs for productions that occur in other regions of the province. There is also an additional 5 per cent frequent filming bonus to companies for a third project that commences principal photography within a two-year period.

- Ontario
Ontario has the following two tax credit schemes aimed at footloose productions:

- The Ontario Production Services Tax Credit is a refundable tax credit based upon eligible Ontario labour expenditures, and is calculated as 18 per cent of the eligible Ontario labour expenditures. There is no limit on the amount of eligible labour expenditures. The production cost must be at least A$1.2 million, except in the case of a series consisting of two or more episodes or a pilot for such a series. In the case of a series or pilot, the cost for each episode which has a running time of thirty minutes or less must be at least A$0.12 million and the cost for each episode with a longer running time must be at least A$0.24million.

- The Ontario Computer Animation And Special Effects Tax Credit is calculated as 20 per cent of the eligible Ontario labour expenditures incurred by a qualifying corporation with respect to eligible computer animation and special effects activities. There is no cap for eligible Ontario labour expenditures incurred after May 11, 2005. Eligible computer animation and special effects activities are activities carried out in Ontario directly in support of the production of eligible animation or visual effects for use in eligible productions.

A 20 per cent rebate is also available to Ontario based companies (which may be foreign owned) in relation to labour expenditure, marketing and distribution expenses for interactive digital media tax credit.

- Québec
The Québec Production Services Tax Credit offers 20 per cent of eligible labour expenditures by an eligible corporation for services provided in Québec by Québec residents or corporations with an establishment in Québec.

- Saskatchewan
The Saskatchewan Film Employment Tax Credit Program allows producers to include all above-the-line salaries and wages in the calculation of the tax credit, offering a credit of 45 per cent of the total wages of all eligible above the line and below-the-line eligible labour. There is also a supplementary 5 per cent for producing outside the major urban areas. A further 5 per cent is available on projects that attain 6 out of 10 points on the following positions: costume designer, director, director of photography, gaffer, key grip, locations manager, production designer, production coordinator, property master and writer.

- Yukon
Yukon offers rebates of 50 per cent on travel from Calgary, Edmonton or Vancouver, and 35 per cent on local labour costs on productions (provided local labour accounts for at least 25 per cent of the person-days on the local portion of the production). The labour component is capped at 50 per cent of total local expenditure. There is also a training rebate, which can amount to 50 per cent of a trainee's wages.

USA[13]
The United States does not provide any incentives federally, however, individual states offer a range of incentives. A summary of several is set out below:

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[13] Figures calculated at an exchange rate of A$ 1 = USD 0.74

- Arizona
A range of incentives is aimed at production companies with a physical presence in Arizona spending more than A$4.0 million in the state. The incentives include a staggered range of tax credits up to 20 per cent and are subject to an aggregate annual cap (A$40.3 million in 2006).

- Florida
A cash reimbursement of up to 15 per cent on the total Florida budget of a filmed entertainment program is available where at least A$1.1 million is spent in qualified expenditures, capped at A$2.7 million. Episodic television, commercials, telemovies and reality TV series are all eligible. In addition, a 5 per cent rebate of annual gross revenue (capped at A$134,500) is available to qualified digital media effects companies that furnishes digital material to filmed entertainment. All schemes are subject to an annual limit on the aggregate amount of payouts, which for 2006-07 was A$27 million.

- Georgia
A 9 per cent credit on Georgia spend, with an additional 3 per cent credit for labour costs for Georgia residents, is available provided that at least A$0.7 million is spent in the state. An A$0.7 million salary cap applies for any one individual. Multiple TV projects from the same producer with spent totalling more than A$27.0 million receive an additional 2 per cent tax credit. Additional incentives of 3 per cent are also available for filming outside the Atlanta area.

- Hawaii
A tax credit amounting to 15 per cent of total "qualified production costs" incurred while filming on Oahu (the most populous island), and 20 per cent on the other islands, is available, subject to a cap of A$10.8 million per production. All TV, commercials, interactive games, short and feature films are all eligible formats, subject to a minimum Hawaiian spend of A$0.3 million. Insurance and bonding are included as eligible expenditures.

- Louisiana
Louisiana offers a 10 per cent tax credit, with a minimum Louisiana spend of A$0.4 million, rising to 20 per cent once Louisiana expenditure exceeds A$1.3 million. Insurance and bonding are included if purchased through a Louisiana-based entity.

- New York
A tax credit of up to 15 per cent of production expenditure is available through the Film Production Tax Credit programs for feature films, episodic television series, television pilots, television movies and miniseries (comprised of a 10 per cent credit from the State of New York and a 5 per cent credit from New York City).

To be eligible for the credit, productions must: shoot on a set, stage, or at a qualified production facility in New York State; and complete at least 75 per cent of the total facility related expenses at a qualified facility. If the facility is within New York City, these productions will also qualify for the additional New

York City 5 per cent tax credit. Documentaries, daytime soap operas, reality programs, commercials, music videos are excluded from the program.

The State of New York has allocated A$33.7 million in aggregate credits per calendar year, and the City of New York has allocated A$16.8 million per year, giving a total of A$50.5 million, and credits are assigned on a first-come-first-served basis.

- New Jersey
A 20 per cent tax credit of qualified production expenses is available to production companies where:

- at least 60 per cent of the total expenses of a project, exclusive of post-production costs, must be incurred for services performed and goods used or consumed in New Jersey; and
- principal photography of a project commences within 150 days after the approval of the application for the credit.

- New Mexico
A 25 per cent tax rebate on all production expenditures (including New Mexico labour) that are subject to taxation by the State of New Mexico is offered. This operates as a refund rather than a tax credit. Insurance coverage and bonding are included if purchased through a New Mexico-based insurance agent.

- North Carolina
A production company that spends at least A$0.3 million in North Carolina on a motion picture or television production is eligible to receive a refundable tax credit of up to 15 per cent on in-state spending for goods, services and labour. Eligible film productions include theatrical, television, and direct-to-video/DVD features, episodic television series, television mini-series, animation productions, and commercials. The maximum tax credit for a production is A$10.1 million while an A$1.3 million cap applies to the amount that may be claimed on any one person's labour costs.

- Pennsylvania
Pennsylvania provides up to a 20 per cent Film Production Grant for film production expenses incurred. The grant is available for feature films, television films, television pilots or each episode of a television series. In order to qualify for the grant, 60 per cent of the total production expenses must be incurred in Pennsylvania. No more than A$13.5 million per year can be awarded.

- Puerto Rico
Puerto Rico offers a 40 per cent tax credit on Puerto Rican spend on motion pictures, TV series and original soundtrack recordings, provided at least 50 per cent of the project's principal photography taking place in Puerto Rico. The tax credit is subject to an aggregate maximum of A$20.2 million.

- Rhode Island

Rhode Island is introducing a law to provide a 25 per cent motion picture company transferable tax credit for all Rhode Island spending. There are no caps or limits on payouts. It also includes salaries for people working on the ground, in Rhode Island. The film/TV commercial/video game production must be filmed primarily in the state of Rhode Island and have a minimum budget of A$0.4 million.