



Australian Government



FACT SHEET: The Producer Offset and Co-productions

FEBRUARY 2012

Please note: Screen Australia cannot provide legal or accounting advice and strongly recommends that all potential applicants for the Producer Offset and/or Co-production status seek competent independent professional assistance. The information in this fact sheet is general information only, not tailored to any project in any way, and not intended to be relied on in place of professional advice.

SCREEN AUSTRALIA PRODUCER OFFSET AND CO-PRODUCTION UNIT CONTACT DETAILS

Street

Level 4, 150 William St
Woolloomooloo NSW 2011
Australia

Post

GPO Box 3984
Sydney NSW 2001
Australia

Ph +61 2 8113 1042

Fax +61 2 8113 5999

Switch +61 2 8113 5800

Producer Offset www.screenaustralia.gov.au/producer_offset
POCU@screenaustralia.gov.au

Co-productions www.screenaustralia.gov.au/coproduction
POCU@screenaustralia.gov.au

The Producer Offset and Co-production Unit is: Alex Sangston – Senior Manager; Michele McDonald – Program Manager; Susan Wells and Colleen Champ – Senior Assessment Officers; Louisa Achille – Unit Coordinator.

Screen Australia is the 'relevant Commonwealth authority' responsible for international co-productions made under agreements between the Commonwealth and other countries. Acting in this capacity, Screen Australia is known as the 'competent authority'.

Screen Australia's day-to-day administration of the international co-production program is undertaken by the Producer Offset and Co-production Unit (POCU). Although the POCU also administers the Producer Offset, the requirements of the co-production program and the Offset are separate and distinct, and the two are administered accordingly.

Co-productions in this context refer to co-productions made under a co-production arrangement between Australia and another country. Such an arrangement may take the form of a co-production treaty or a memorandum of understanding (MOU).

For the purposes of the Producer Offset, co-productions are not subject to the Significant Australian Content (SAC) test, as they are deemed to be 'Australian Films'.

Producer Offset certification

Screen Australia cannot issue a Producer Offset certificate – provisional or final – until co-production status has been approved.

- You can apply for **both provisional Producer Offset certification and provisional co-production approval** at the same time. The Offset certificate will be issued once provisional co-production approval has been granted by both Screen Australia and the relevant foreign competent authority/ies.
- **A Producer Offset provisional certificate cannot be issued on the basis of a co-production Letter of Preliminary Compliance.**
- Before **final certification** for the Producer Offset, applicants must obtain final co-production approval from both Screen Australia (acting as the competent authority) and from the relevant foreign competent authority. A final certificate for the Producer Offset cannot be issued without final co-production approval.

What counts as Qualifying Australian Production Expenditure (QAPE)?

- **For the purposes of meeting the QAPE thresholds**, co-productions may include expenditure that is incurred by the foreign co-producer, provided that such expenditure would have been QAPE if it had been incurred in Australia.

This means that although part of the money is not spent in Australia, the level of eligible expenditure across the co-producing countries can assist in meeting the QAPE threshold and per hour eligibility.

Effectively, the co-producing country is treated as 'Australia' for the purposes only of qualifying for the Offset, but not for the purposes of determining the applicant's final Offset amount.

- **Other than for the purpose of meeting the QAPE thresholds**, all of the expenditure claimed as QAPE in the case of a co-production must be incurred by the Australian applicant company. Any expenditure incurred by the foreign co-producer is non-QAPE.
- If filming takes place in a location outside Australia, and the subject matter of the film reasonably requires the use of that location, remuneration and travel costs for an Australian resident working outside Australia, during principal photography, are considered QAPE. Any other expenditure incurred by the Australian co-producer offshore is non-QAPE (e.g. expenditure on foreign residents, development expenditure offshore, expenditure associated with Australian residents during pre-production or post-production).

The fact that a project is a co-production does not of itself mean that an overseas location will be accepted as reasonably required by the film's subject matter. In many instances the offshore expenditure for co-productions will not be QAPE. For example, if a Chinese-Australian co-production which is an animated children's television series chooses to undertake some of the animation work in China for budgetary reasons, expenditure on that work by the Australian co-producer would not be QAPE.

- All co-production budgets and QAPE spreadsheets must be submitted in Australian dollars and must include all expenditure, regardless of which co-producer spent the money and regardless of where the expenditure was incurred. On the QAPE spreadsheet, expenditure by the foreign co-producer must be listed as an exclusion, as it has not been incurred by the applicant company for the Producer Offset.
- Publicity and promotion expenditure incurred in publicising or otherwise promoting the film (including press expenses, still photography, videotapes, public relations and other similar expenses) are non-QAPE except to the extent to which the expenditure is:
 - a) incurred in producing material where the copyright in the material is held by an individual or a company that is an Australian resident; and
 - b) incurred in producing audio or visual content for the film otherwise than for use in the first copy of the film (e.g. footage for the 'making of DVD' or the EPK).

In the case of co-productions, the copyright position of each co-producer needs to be taken into account as the expenditure claimed may be subject to the terms of the co-producer's agreement. If the co-producer's agreement states that copyright in the relevant marketing materials is to be split between the co-producers in the same proportion as copyright in the film, as is commonly the case (e.g. 60% to the Australian co-producer and 40% to the overseas co-producer), then the amount claimed by the Australian co-producer as QAPE can only be that same proportion; in our example, 60% of the expenditure is QAPE as this represents the percentage of the copyright held by an Australian.

Expenditure on Australian vs non-Australian residents

In the case of expenditure by the Australian applicant company on an Australian resident who works on a co-production:

- a) Remuneration (which includes accommodation, transportation and per diems) for an Australian resident working outside Australia during principal photography are considered QAPE only if the subject matter of the film reasonably requires the use of the location for the shoot (or that part of the shoot).
- b) All expenditure incurred for work by the Australian resident that takes place in the co-production partner country *outside the period of principal photography* is non-QAPE.
- c) If an Australian cast or crew member is paid a total fee for the production and part of his/her work is non-QAPE (i.e. takes place overseas during pre-production or post-production) the applicant must calculate what portion of the fee is properly attributable to the overseas work and exclude that portion from the QAPE claim.

In the case of expenditure by the Australian applicant company on a non-Australian resident who works on a co-production:

- a) Any expenditure on a non-Australian crew member who works outside Australia is non-QAPE.
- b) Any expenditure on non-Australian cast and crew for work done in Australia is QAPE assuming that the expenditure satisfies the 'usual' QAPE tests (i.e. the *two-week rule* for non-cast applies – crew members, including producers and executive producers, must remain in Australia for at least two consecutive calendar weeks for expenditure attributable to their stay to be QAPE. Each visit is considered separately.)
- c) If a non-Australian crew or cast member is paid a total fee for the production and the filming takes place in both Australia and overseas, the applicant must calculate what portion of this fee is properly attributable to the overseas shoot and exclude it from the QAPE claim.