



Australian Government



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# FACT SHEET: The Producer Offset and Official Co-productions

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Please note: Screen Australia cannot provide legal or accounting advice and strongly recommends that all potential applicants seek 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

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## Introduction

An official co-production is a film made under a co-production arrangement (**Arrangement**) between Australia and another country (or in some cases between government agencies). Such an Arrangement may take the form of a co-production treaty or a Memorandum of Understanding (MOU). If a film is an official co-production, the film is considered a 'national film' of both countries and is able to access all the benefits attaching to such films from those particular countries.

In order to be considered an official co-production, the film must be approved as such by the 'competent authorities' in each country that is party to the relevant Arrangement. Screen Australia is the competent authority responsible for administering the International Co-production Program in Australia.

For the purposes of the Producer Offset, an official co-production automatically bypasses the Significant Australian Content (**SAC**) test as it is deemed to be an 'Australian Film'.

All other films will need to pass the SAC test in order to be eligible for the Producer Offset.

It is important to note that a film may be referred to as a 'co-production' in the marketplace, however unless it is granted such status by the competent authorities, it is not an 'official co-production' and is not entitled to the benefits which would accrue.

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.

## The Australian co-producer must apply to Screen Australia for the following:

[Provisional approval](#): Producers should apply for provisional approval when they are able to substantiate the finance plan with at least letters of interest, and that a draft Co-producers' Agreement has been prepared. In any event, applications must be lodged before pre-production commences.

[Final approval](#): Once the film is complete, an application for final approval must be made in order to secure official co-production status.

## Interaction between co-production and Producer Offset

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

- Applicants should apply for **both provisional co-production approval and provisional Producer Offset certification** at the same time. The Offset certificate can only be issued once provisional co-production approval has been granted by both Screen Australia and the relevant foreign competent authority/ies.
- Applicants should also apply for **both final co-production approval and final Producer Offset certification** at the same time. Final Producer

Offset certification can only be issued once final co-production approval has been granted by both Screen Australia (acting as the competent authority) and the relevant foreign competent authority/ies.

## QAPE

### What counts as QAPE?

**For the purposes of meeting the relevant QAPE thresholds only**, 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 by the Australian applicant company.

This means that although part of the budget is not incurred by the Australian applicant company, the level of eligible expenditure across the co-producing countries can assist in meeting the relevant QAPE threshold(s) (including per hour threshold where relevant).

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, any 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.

### Expenditure on Australian residents whilst shooting overseas

The *Gallipoli Clause* is a reference to a provision in the Producer Offset legislation which provides that in certain limited circumstances, some expenditure incurred outside Australia is QAPE. It takes its name from the example given in the Explanatory Memorandum (EM), where it is acknowledged that a film about 'Gallipoli' may need to shoot on location in Turkey.

It is important to note that the *Gallipoli Clause* applies to official co-productions.

The provision in the legislation covering expenditure incurred overseas which may be QAPE is narrow and limits the expenditure to situations where the following three elements are all met:

1. It is remuneration for *Australian residents* or the purchase of goods or services from companies or permanent establishments that have an ABN, and
2. It is during *principal photography* for the film, where
3. The *subject matter* of the film reasonably requires the use of the overseas location.

The first element, *Australian residents*, refers to the *residency* of personnel, not their *nationality*. For example, a cast member employed on a film who was born in Australia but has lived in the UK for the past five years would not be considered an Australian resident for the purposes of claiming QAPE. Remuneration in this context refers to wages and associated fringes and per diems.

For more information on the concept of 'residency' in relation to the Producer Offset, refer to the *At a Glance* (under 'Australian resident').

The second element, *principal photography*, is a temporal requirement referring to the period of time when the Gallipoli Clause applies. For clarity, the Gallipoli Clause is about *expenditure overseas* during *principal photography overseas*. For example, an applicant cannot claim expenditure overseas during principal photography if the principal photography is actually taking place in Australia. This situation may arise where the expenditure relates to a producer travelling to the US to meet with sales agents during the time that principal photography occurs in Australia, or where a second unit shoots VFX plates offshore.

The *subject matter* relates to the story and the setting of the film (evidenced by the script, treatment, outline and finished film). It does not relate to commercial or budgetary reasons for offshore shoots.

The fact that a project is an official 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 undertakes some animation work in China for budgetary reasons, expenditure on that work by the Australian co-producer would be non-QAPE.
- If a UK-Australian co-production is set in a fantasy world or parallel universe and chooses to shoot in another country, expenses relating to this offshore filming will be non-QAPE unless the applicant can demonstrate that the overseas location is reasonably required by the subject matter.
- If the film is actually set in another country, expenditure relating to this offshore filming will be QAPE if the elements listed at (1) and (2) above are also met.

For more detailed information on the Gallipoli Clause refer to the *At a Glance* (under 'Gallipoli clause').

### **Expenditure on non-Australian residents**

In line with the Producer Offset legislation, in the case of expenditure by the Australian applicant company on someone who is not an Australian resident who works on a co-production, the following applies:

- Any expenditure on a cast or crew member who is not an Australian resident and who works in Australia is QAPE (subject to the two week rule for crew).
- Any expenditure on a crew or cast member who is not an Australian resident and who works outside Australia is non-QAPE.
- If a crew or cast member who is not an Australian resident 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 QAPE.

## **Expenditure statements**

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 final QAPE spreadsheet, expenditure by the foreign co-producer must be listed as an exclusion (in column B1), as it has not been incurred by the applicant company for the Producer Offset.

A co-production budget (regardless of what budgeting software is used) must clearly identify and separate the spend by the Australian co-producer and the foreign co-producer(s).

Screen Australia recommends that prior to preparing the budget, the applicant considers what type of accounting software is to be used and what the capabilities of that software are. Particularly important is the capability of the software in regards to coding and flagging different types of expenditure (ie QAPE and non-QAPE versus Australian or non-Australian spend).

Film and television accounting software usually allows expenditure to be clearly coded. This means that as long as all expenditure is accurately grouped / coded, a legend can be printed along with a top sheet which provides a breakdown of the expenditure by both the Australian applicant company and the foreign co-producing company.

This information assists the POCU to undertake a more timely assessment of applications.

## **From provisional to final co-production approval**

An applicant must advise the POCU of any proposed changes it intends to make to the film after provisional co-production approval has been granted.

Provisional approval is granted on the basis of the film meeting the requirements of the relevant Arrangement and Screen Australia's Co-production Guidelines. Therefore, any changes after this approval may result in the film no longer meeting those requirements and thus being ineligible for final approval.

If a film is refused final co-production approval it will likely be ineligible for a final certificate for the Producer Offset.

## **Further reference:**

For further information, including the International Co-production Program Guidelines, please refer to Screen Australia's co-production website:  
<http://www.screenaustralia.gov.au/coproduction/>