



AT A GLANCE

A QUICK REFERENCE GUIDE TO THE PRODUCER OFFSET

Revised edition first published May 2013

This version published 4 October 2018 (see page 2 for Change Log)

At a Glance offers a combination of a glossary of terms, and a general description of what is, and is not, QAPE.

It is intended to supplement what is set out in the Producer Offset Guidelines, and to offer practical, general guidance to applicants and their advisers.

Each project is of course different and *At a Glance* can only address QAPE issues in general terms.

At a Glance is not a legally enforceable document and is not binding on Screen Australia when assessing individual applications for the Producer Offset.

Screen Australia's Producer Offset and Co-production Unit (POCU) encourages applicants to seek professional legal and/or accounting advice regarding Producer Offset applications.

In the case of any inconsistency with *At a Glance*, the provisions of Division 376 of the *Income Tax Assessment Act 1997* (as amended) (ITAA) and the *Producer Offset Rules 2007* (as amended) (Rules) take precedence.

Screen Australia is bound by tax secrecy laws and will not disclose information provided by applicants or their representatives otherwise than in accordance with those laws. Subject to compliance with tax secrecy laws, in the performance of its duties as the film authority for the Producer Offset, Screen Australia may disclose certain information to third parties notably Independent Film Production Consultants (who assist in the assessment of applications on behalf of Screen Australia), the Australian Taxation Office, the Treasury Department and the Office for the Arts.

Criminal and civil penalties apply to persons who make false or misleading statements to Screen Australia or the Australian Taxation Office. In addition, if a certificate issued by Screen Australia was obtained by fraud or serious misrepresentation, Screen Australia can revoke the certificate.

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CHANGE LOG

Date	Changes	Name
4/10/18	Updated '2011-12 Offset Reforms'; Amended entry for 'Gallipoli Clause'; Added entry for 'Archival Footage'.	KS
1/07/16	Updated 'Fees for provisional certification' entry; amended entry for 'Film Vaults' for clarity.	LA
16/05/16	Amended entry for 'Marketing' in relation to official co-productions.	LA
1/03/16	Amended entry for 'Gallipoli Clause'.	LA
9/12/15	Updated link to the ATO; amended the following entries : 'Credits', 'Travel – for Australian residents', 'Travel – for non-Australian residents' (including diagram); deleted the following entries: 'Distribution', 'SAC' and 'Threshold' as they are now covered in the Guidelines.	LA
10/11/15	Referred to 'Accounting, audit and tax advice' in 'Company set up' entry Amended 'Website/online' entry for clarity	LA
19/10/15	Updated 'Fees for provisional certification' entry; updated 'Company set up / Company expenses' entry; updated diagrammatic overview in 'Travel' entry.	LA
10/8/15	Replaced 'Audit' entry with 'Accounting, audit and tax advice (all subject to the 'Accrual Basis of Expenditure')'; updated 'Overheads' entry.	MB
30/3/15	Updated 'Credits' entry.	MB
19/3/15	Updated SPAA to SPA; updated 'Credits' entry; updated hyperlink in 'Statutory declaration' entry; updated hyperlink under 'Companion travel'.	MB
12/12/14	Amended 'Accrual basis of expenditure' regarding the evidence required to substantiate a liability to pay.	CG
9/10/14	Amended 'Development assistance (including loan repayments)' entry for clarity.	MB
1/10/14	Added entries for 'Australia' and 'Childcare'. Amended entries for 'Gallipoli Clause' and 'Two week rule' for clarity.	MB
24/6/14	Updated fees for Provisional Offset application.	CG
23/6/14	Added entry for 'Travel' providing a diagrammatic overview of when flight and travel costs are QAPE.	CG
26/3/14	Added entries for 'Sizzle reel', 'Pitch reel' and 'Teaser' (cross referenced). Amended 'Non-Australian service providers' text for clarity.	LR
6/3/14	Added 'Sequel fees' entry.	LR
22/1/14	Added cross reference to 'Travel' under 'Marketing'.	LR
16/10/13	Various updates following forms revision: replacement thresholds table – new rules (p44), added 'Principal cast' cross reference.	LR
2/8/13	Updated definition of documentary and moved into main body of document.	LR

2011–12 OFFSET REFORMS

The Australian Government's 2011–12 Budget included a number of proposed reforms to the Producer Offset, which have now been enacted.

The reforms took effect for:

- **Projects with Screen Australia production funding** (investment or grant), where funding approval was given (ie Letter of Approval) on or after 1 July 2011.
- **All other cases** (ie projects without Screen Australia production funding), where pre-production commenced on or after 1 July 2011.

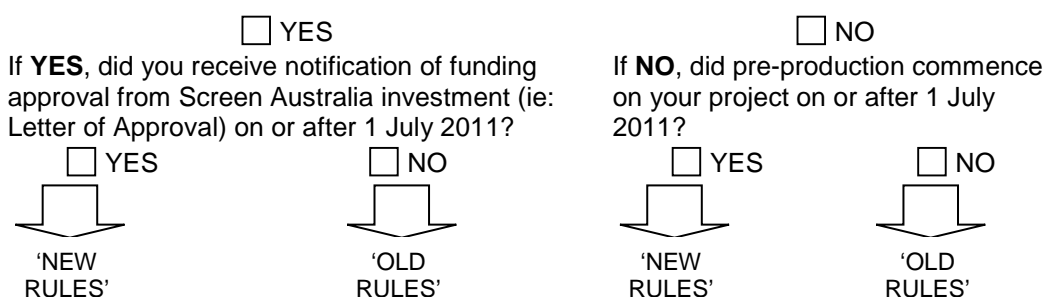
The provisions of the Producer Offset, taking into account the reforms, are referred to in this *At a Glance* as the '**new rules**'.

The provisions of the Producer Offset as it existed prior to the reforms are referred to as the '**old rules**'.

This version of *At a Glance* takes into account both the 'old rules' and the 'new rules'. All changes are clearly marked throughout the document.

Use the questions below to ascertain whether your project falls under the '**old rules**' or the '**new rules**'.

Did the project receive Screen Australia investment?



Key changes introduced under the '**new rules**' include:

ELIGIBILITY

- 'Overall' QAPE thresholds:
 - Feature films (40% Offset): threshold reduced from \$1 million to \$500,000
 - Non-feature single-episode drama programs including direct-to-DVD films, telemovies, and films made for online distribution (20% Offset): threshold reduced from \$1 million to \$500,000; and
 - Documentary projects – whether for a series, a season of a series or single-episode programs: threshold of \$500,000 introduced.
- Instead of receiving the Offset, eligible documentaries with budgets of \$500,000 or less are able to apply for a Producer Equity payment equal to 20% of the budget. (Guidelines for the Producer Equity Program, which is administered by Screen Australia's Documentary Unit, are [available here](#).)
- The 65-episode cap has been amended to 65 commercial hours.
- Short-form animated documentary is now an eligible format.

QAPE

The scope of expenditure that is considered QAPE has been broadened. The changes include:

ATL cap: the 20% cap on above the line QAPE has been removed for all non-feature documentaries.

Financing expenditure: The changes limit what is excluded from QAPE as 'financing expenditure'. Broadly speaking, this means that only the most direct costs of financing – such as application and administrative fees, interest payments, financiers' legal fees, and in some circumstances executive producer fees – will be excluded as financing charges. As a result, assuming that they satisfy the 'usual' QAPE tests, the following may be considered QAPE:

- completion guarantor fees
- all production insurances, including E&O Insurance
- company set up fees for special purpose vehicles
- investors' audit fees
- QAPE opinion fees
- production company legal fees associated with financing (eg work on the PIA).

Marketing, publicity and distribution: Under the 'old rules', marketing and publicity expenses that could be claimed as QAPE were limited to expenses incurred before completion of the film (assuming that the expenses directly result in the creation of material copyright in which is held by an Australian entity). This provision has been extended to include all such expenses incurred before the end of the financial year in which the film is completed.

This would provide the ability for applicants to claim such expenditure (assuming the expenditure satisfies the 'usual' QAPE tests) incurred on production of study guides, posters, trailers and EPK, even if the work takes place after the first version of the film is finished, provided that the expenditure is incurred prior to the end of the relevant financial year. The cost of copying and distributing these materials is still considered a distribution cost and therefore remains non-QAPE.

In addition, expenditure on publicist services provided in Australia can be counted as QAPE if the expenditure is incurred after the completion of the film but prior to the end of the financial year in which the film is completed.

Distribution expenses: The new legislation also now specifically includes as QAPE limited costs that were previously excluded as distribution expenses, being expenditure relating to:

- acquiring Australian classification certificates
- sound mastering licences (eg Dolby licences)
- storing the film in a film vault in Australia
- re-versioning the film in Australia
- freight services provided by a company in Australia for delivery of contracted deliverables in relation to the film,

as long as the expenditure is incurred prior to the end of the financial year in which the film is completed.

In addition to the above, the new legislation allows expenditure incurred in Australia in relation to offsetting carbon emissions created during the making of the film to be claimed as QAPE.

Foreign currency exchange: Under the 'new rules' the ITAA requirements for conversion of foreign currency expenditure into Australian dollars only apply to projects with QAPE of \$15 million and above. For films with QAPE of less than \$15 million, applicants are able to

convert expenditure incurred in a foreign currency at the exchange rate applicable at the time when expenditure is incurred on the film (this would generally be the expenditure as reported in the final cost report).

GST: The new legislation specifies that production expenditure for the Offset's purposes – and therefore QAPE – is to be calculated on a GST-exclusive basis, which means that the GST component of any expenditure claimed as QAPE must be excluded.

Please note that under both the 'old rules' and the 'new rules' expenditure on wrap parties and other entertainment, or on work that takes place outside of Australia and does not meet the usual requirements for QAPE, remains non-QAPE.

ACRONYMS

ACN	Australian Company Number
ABN	Australian Business Number
ADG	Australian Directors Guild
AIA	Acts Interpretation Act 1901
ARBN	Australian Registered Body Number
ASIC	Australian Securities and Investments Commission
ATL	Above the line
ATO	Australian Taxation Office
BTL	Below the line
CSDS	Cultural Script Development Scheme
DGA	Directors' Guild of America
E&O	Errors and Omissions Insurance
EM	Explanatory Memorandum to the Tax Laws Amendment (2007 Measures No.5) Bill 2007
FBT	Fringe Benefits Tax
FPI	Film Producers' Indemnity Insurance
GDI	General Development Investment
GST	Goods and Services Tax
HD	High Definition
ITAA	Income Tax Assessment Act 1997
ITAA 1936	Income Tax Assessment Act 1936
PEP	Producer Equity Program
PIA	Production Investment Agreement
PDV	Post, Digital and Visual effects production
POCU	Producer Offset and Co-production Unit
QAPE	Qualifying Australian Production Expenditure
RBA	Reserve Bank of Australia
SA	Screen Australia
SAC	Significant Australian Content
SAG	Screen Actors Guild of America
SAP	Substituted Accounting Period
SPA	Screen Producers Australia
SPV	Special Purpose Vehicle
TCAA5	Tax Laws Amendment (2007 Measures No.5) Act 2007

USEFUL LINKS

Producer Offset website

www.screenaustralia.gov.au/producer_offset

Legislation, Rules and Guidelines

www.screenaustralia.gov.au/producer_offset/legislation.aspx

Application materials

Provisional certification application form and spreadsheets for calculating QAPE

www.screenaustralia.gov.au/producer_offset/prov_certification.aspx

Final certification application form and spreadsheets for calculating QAPE

www.screenaustralia.gov.au/producer_offset/final_certification.aspx

Co-productions only - provisional Producer Offset certification for official co-productions

www.screenaustralia.gov.au/coproductions/provisional_approval.aspx

Co-productions only - final Producer Offset certification for official co-productions

www.screenaustralia.gov.au/coproductions/final_approval.aspx

Screen Australia's A-Z budget templates for features and documentaries including templates for QAPE calculations

www.screenaustralia.gov.au/filmmaking/budgeting/a_z.aspx

Guidance materials

Producer Offset Fact Sheets

www.screenaustralia.gov.au/producer_offset/fact_sheets.aspx

Producer Offset 101 (video)

www.screenaustralia.gov.au/producer_offset/offset101.aspx

Other programs

Screen Australia's International Co-production Program website

www.screenaustralia.gov.au/coproductions/

Producer Equity Program (PEP)

www.screenaustralia.gov.au/funding/documentary/ProducerEquity.aspx

Other sites

Location and PDV Offsets

arts.gov.au/film-tv/australian-screen-production-incentive

Australian Taxation Office (film industry pathway)

<https://www.ato.gov.au/Forms/Film-industry-incentives-2014-15/>

A-Z OF TERMS

Please note that, consistent with the ITAA, the term 'film' is used generically. Unless otherwise indicated, 'film' applies to all Offset-eligible projects.

[A](#) [B](#) [C](#) [D](#) [E](#) [F](#) [G](#) [H,I](#) [J,K,L](#) [M](#) [N](#) [O](#) [P](#) [Q](#) [R](#) [S](#) [T](#) [U](#) [V](#) [W](#)

A

Above the line

[see ITAA s.376-170(4)(b)]

Above the line (ATL) QAPE is capped at 20% of total film expenditure. Any expenditure in excess of the cap remains part of total film expenditure, but it is non-QAPE.

Please note that exceeding the cap does not impact on the film's eligibility for the Offset.

Under the 'new rules' the 20% ATL cap on QAPE does not apply to non-feature documentaries.

The following types of expenditure must sit ATL and are therefore subject to the 20% ATL cap:

- **DEVELOPMENT EXPENDITURE**, including expenditure on 'story and script'.
- **REMUNERATION** (a benefit for services rendered) for the categories of personnel listed below. Please note that 'remuneration' for these purposes includes fringes, but does not include payment for travel (i.e. flights, ground transport and per diems), or accommodation of relevant personnel. Remuneration includes annual leave and superannuation entitlements, but *excludes* payroll tax and workers compensation.
 - a) **Principal Director(s)**: Remuneration of the principal director (or directors if relevant for a series) contracted to direct the film
 - b) **Producers**: Remuneration of producers, executive producers and co-producers
 - c) **Principal Cast**: including, but not limited to, remuneration of:
 - any cast member who is a requirement of financing, completion guarantee, distribution or broadcast
 - any cast member whose remuneration is substantially above other cast members; and
 - any imported cast.

For **short form animation** or **animation series**, Screen Australia would not usually expect actors to be placed ATL. This will be considered on a case by case basis.

Applicants are encouraged to discuss specifics with the POCU at the time of lodging an application.

For final certification applicants must supply contracts for all ATL personnel, including producers, directors and principal cast. Contracts must be fully executed by all relevant parties.

Accommodation – overseas

[see ITAA item 2, subs.376-170(2)]

Expenditure on accommodation for Australian residents incurred overseas during the period of principal photography is QAPE, provided that the subject matter of the film reasonably requires the use of the overseas location. This limitation applies equally to co-productions (see [Gallipoli Clause](#)).

Expenditure on accommodation for Australian residents incurred overseas outside the period of principal photography is non-QAPE.

Expenditure on accommodation for non-Australian residents incurred overseas is non-QAPE.

Accounting, audit and tax advice (all subject to the Accrual Basis of Expenditure)

[see ITAA Item 6 of subs. 376-150 (1)]

Under both 'old' and 'new' rules, expenditure on an annual company tax return that is not part of the incorporation or liquidation of the applicant company are not considered part of the cost of the making of the film and are non-QAPE.

The cost of the QAPE audit (for the purposes of a Producer Offset application) under both the 'new' and 'old' rules is QAPE.

Under the 'new rules', fees for incorporation and liquidation of the company that makes or is responsible for making the film are QAPE, therefore auditor and ASIC fees directly relating to incorporation and liquidation are QAPE.

Under the 'new rules', expenditure on a production audit for investors performed by a registered Australian auditor is QAPE. Accounting and audit advice in relation to QAPE performed by a registered Australian accountant or auditor is QAPE.

Under the 'old rules', expenditure on auditor fees in relation to incorporation and liquidation is considered a financing charge and is non-QAPE.

Under the 'old rules', expenditure on an audit for an investor is considered a financing charge and is non-QAPE.

When applying for a final certificate under the 'old rules', the applicant must provide an invoice from the auditor with a breakdown of fees spent on both the QAPE audit and the general production/investor audit (if applicable) for which QAPE is claimed.

Accrual basis of expenditure

[see ITAA subs.376-125(5)]

The Producer Offset operates on an accrual basis of accounting. Applicants should note that:

- QAPE must be incurred in the financial year for which the Producer Offset is claimed (the financial year in which the film is completed) or an earlier year.
- Expenditure can only be claimed as QAPE where a liability to pay is in place before the end of the financial year in which the film is completed.
- Generally, where expenditure is claimed as QAPE, but payment has not actually been made, applicants must ensure a liability to pay is in place and supply supporting

documentation to demonstrate the liability. Acceptable documentation would be:

- tax invoices for the confirmed amount, and/or
- an executed contract for the work relating specifically to the production, dated prior to 30 June of the relevant financial year.

An example of this would be expenditure on an audit, invoiced prior to the end of the financial year in which the film is completed, but which takes place in the subsequent financial year.

ACN & ABN

[see ITAA para.376-55(1)(d)]

All applicants must be either Australian resident companies or foreign resident companies with a permanent establishment in Australia and an ABN. Each applicant will need to provide an ASIC company statement which includes the registered address of the applicant and the names and addresses of directors and shareholders of the company.

A company acting in the capacity of a trustee of a trust is not eligible for the Producer Offset and therefore can neither be certified, nor incur QAPE (see [Trusts](#)).

Additional content

[see ITAA item 4, subs.376-150(1)]

With the exception of permitted expenditure on general business overheads, the general rule is that expenditure which is not incurred in the 'making of the film' is not QAPE (as it is not directly attributable to the production of the first copy of the film).

However, the ITAA allows some expenditure to be QAPE where it is incurred in producing additional content for a release of the film, provided that it is incurred in Australia prior to completion of the film. This could apply to, for example, a 'behind the scenes' documentary for inclusion on a Blu-ray or DVD release of a film.

You will note that 'additional content' must still be for a subsequent release of the same film and does not mean content which itself amounts to, or is for, a completely different film. If additional content amounts to a different film, not material associated with a release of the same film, then the expenditure would not form part of the film's application. Under both the 'old rules' and the 'new rules' the work would need to take place in Australia and the expenditure would need to be incurred prior to completion of the first copy of the film.

For the treatment of the costs of 're-versioning', see [Versions](#).

Agency fees

[see ITAA item 1, s.376-135]

Administration fees – including Producer Offset provisional certificate application fees – paid to State and Federal funding bodies (for example ScreenWest, Film Victoria, Screen Australia) are non-QAPE, as they are considered financing expenditure. For information regarding Producer Offset provisional application fees, see [Fees for provisional certification](#)

Applicant company

[see ITAA para.376-65(1)(a)]

There can only be one applicant company, which must be responsible either for the making of the film or for undertaking the arrangements necessary for the making of the film in its entirety.

The applicant company must be the entity that incurs the production expenditure (unless the circumstances outlined in [‘Prior company expenditure’](#) apply).

A company acting in the capacity of a trustee of a trust is not eligible for the Producer Offset and therefore can neither be certified, nor incur QAPE (see [Trusts](#)).

There is no requirement that a provisional and final certificate for the same project must be held by the same entity. For example, a production company (often the producer’s own company) which intends to set up an SPV to make the film may apply for and obtain a provisional certificate prior to incorporation of the SPV.

It is not necessary to seek the re-issue of a provisional certificate in the name of the SPV unless the move to an SPV structure could adversely impact on the project’s claim to a significant Australian content. For example, it may be relevant for a particular project that a non-Australian national is a director and/or shareholder of the SPV but not of the original applicant. In such a case, the applicant is encouraged to consult the POCU.

Archival Footage

[see ITAA item 2 of subs, 376-150 (1)]

Archival footage can only be claimed as QAPE if it is still in copyright and that copyright is held, or licenced by, an Australian resident individual or company.

Applicants must provide the relevant licence agreements and invoices to substantiate their claim and a detailed breakdown of the archival footage used in the film at the final certificate stage.

In cases where bulk amounts of archival footage are used from the one source (e.g. more than three minutes) a sliding scale of rates, as per industry standard, is expected to be applied.

In cases where archival footage is licenced from a related entity, the applicant will need to substantiate that the rates charged and the arrangement itself is incurred on an arm’s length basis (see ITAA s. 376-175 – Arm’s length arrangement).

Archival storage / film vaults

Under the ‘new rules’, expenditure on storing film or archives in a vault in Australia is QAPE but only until the end of the financial year in which the film is made.

Under the ‘old rules’ such expenditure is non-QAPE.

Arm's length arrangements

[see ITAA s.376-175]

Under the Producer Offset legislation, Division 376 of the *Income Tax Assessment Act 1997* (the Act), expenditure can only be claimed as QAPE if it is incurred on an 'arm's length' basis (section 376-175).

In determining whether parties are 'dealing with each other at arm's length', an assessment must be made as to whether the parties deal with each other as arm's length parties normally do, so that the outcome of their dealing is a matter of real bargaining, reflecting a true market price. Where a transaction is not conducted at arm's length, the expenditure able to be claimed as QAPE will only be the amount that would have been incurred if the parties *were* dealing at arm's length.

Often the reason why parties do not transact at arm's length is because of a corporate or business relationship between those parties. Screen Australia has previously referred to parties between whom such a relationship exists as 'related parties'. To provide greater clarity to applicants for the Producer Offset, Screen Australia will now describe these parties as 'interested parties'.

Screen Australia must be satisfied that expenditure incurred by an applicant on acquiring goods or services from an interested party is commercially reasonable, reflecting a fair market price.

In determining whether expenditure has been incurred on an arm's length basis, there are several elements for Screen Australia to consider:

- Was the expenditure genuinely incurred?
- What was the expenditure incurred for (ie: what goods or services were provided in exchange for this expenditure)?
- Would a company acting at arm's length actually contract for those particular goods and/or services? and
- Once satisfied of the above, is the quantum of the fee paid an arm's length price?

For final certification, applicants must complete Worksheet (e) of the final QAPE spreadsheet –Interested Party Expenditure Transactions – for any expenditure incurred by the applicant in acquiring goods or services from an interested party. (Note, this was previously referred to as 'Related Party Expenditure'.)

For more information, see *Interested Parties* fact sheet available on the [Producer Offset website](#).

ADG (Australian Directors Guild) levies

Guild levies paid to the ADG by the applicant are QAPE.

Assets

See [Depreciating assets](#).

ATOM study guide

[see ITAA item 3, subs.376-150(1)]

See [Study guides](#).

Australia

'Australia' is not defined in the *Income Tax Assessment Act 1997*. Its meaning is therefore taken from the *Acts Interpretation Act 1901* (AIA). The AIA defines Australia to exclude 'external territories'. 'External territories' include Norfolk Island and the Australian Antarctic Territory, for example. Expenditure in any external territories can only be QAPE if it falls under the '[Gallipoli Clause](#)'.

However, the Territories of Christmas Island and the Cocos (Keeling) Islands are specifically included as part of Australia by the AIA.

Australian resident

The concept of 'residency' is used in two different ways in relation to the Producer Offset:

- For the purposes of assessing significant Australian content (SAC);
- In relation to QAPE generally.

For the purposes of SAC [see ITAA subs.376-70(1)]

In considering a project's claim against the SAC test, Screen Australia must have regard (among other things) to the nationality and **place of residence** of persons involved in the making of the film. 'Place of residence' is not a defined term in the ITAA.

For the purposes of the SAC test, Screen Australia is assessing the 'Australianness' of a film, so will consider someone to be 'Australian' if that person is an Australian citizen (no matter where they reside) **or** if they are an Australian permanent resident (regardless of their nationality).

For the purposes of QAPE [see ITAA 1936 subs.6(1)]

The concept of Australian residency arises in several areas of the QAPE rules, most commonly in relation to the '[Gallipoli Clause](#)'.

The concept of Australian residency is outlined in the *Income Tax Assessment Act 1936* and explained on the ATO website: <https://www.ato.gov.au/Calculators-and-tools/Are-you-a-resident/>

The ATO explains that generally a person is an Australian resident for tax purposes if any of the following applies:

- The person has always lived in Australia
- The person has moved to Australia and lives here permanently
- The person has been in Australia continuously for six months or more, and for most of the time has been in the same job and living in the same place
- The person has been in Australia for more than half of the relevant financial year, unless:
 - their usual home is overseas, and
 - they do not intend to live in Australia.

Some examples:

- An Australian citizen who lives permanently in Los Angeles would be considered an Australian for the purposes of the SAC test (as s/he has Australian nationality), but not an Australian resident for the purposes of calculating QAPE.
- A UK citizen, who has lived in Australia for 12 months and intends to stay in Australia permanently, but who does not hold permanent residency, would not be considered Australian for SAC purposes (as s/he has neither Australian nationality or permanent residency), but *would* be an Australian resident for the purposes of calculating QAPE.

- Crew working on a temporary business visa (ie a 457 visa) in Australia are not considered Australian residents and – like all crew who enter Australia to work on the film – will be subject to the ‘two week rule’ (see ITAA s376-155(b)(iv)).

Australian resident company

[see ITAA 1936 subs.6(1)]

This is defined under the *Income Tax Assessment Act 1936* as a company which is incorporated in Australia, or which, while not being incorporated in Australia, carries on business in Australia, and has either its central management and control in Australia, or its voting power controlled by shareholders who are residents of Australia.

For further information please refer to the ATO website:

<http://www.ato.gov.au/taxprofessionals/content.asp?doc=/content/64131.htm>

A reference to a ‘company’ means a company acting in that capacity.

A company acting in the capacity of a trustee of a trust is not eligible for the Producer Offset and therefore can neither be certified, nor incur QAPE (see [Trusts](#)).

B

Bank fees

Bank fees incurred on the applicant's account maintained for the production are generally QAPE.

However, overdrawn fees or interest charges are non-QAPE. Additionally, if an applicant incurs bank fees that relate to non-QAPE expenditure, those fees are also non-QAPE.

An example is where an applicant company is paying a fee via telegraphic transfer to a 'non-Australian' actor for work that took place outside Australia. As the fee for the actor is non-QAPE, the fee for the telegraphic transfer facilitating this transaction would also be non-QAPE.

Budget formats

The POCU accept budgets in any format (eg Screen Australia's A-Z, Movie Magic, EP budgeting) as long as the budget is accompanied by a completed QAPE spreadsheet (see links below).

It is very important that applicants do not create their own QAPE spreadsheets as the spreadsheets provided by Screen Australia contain valuable formulas which will assist applicants in preparing their application and assist the POCU in assessing it. For each new application, please download the latest spreadsheets from the Producer Offset website.

The Screen Australia A-Z budget has a QAPE spreadsheet attached to it, with formulas linked to the budget. Expenditure that is non-QAPE can be earmarked in the budget and will automatically appear as exclusions in the QAPE spreadsheet.

Screen Australia has taken care to ensure that the formulas in the budget and the QAPE spreadsheets are correct. However, as not all formulas are locked, errors can occur when numbers are entered to override formulas and/or when lines are added or subtracted. Screen Australia takes no responsibility for the accuracy of budgets or spreadsheets provided by an applicant. Please check each line to ensure the accuracy of the sub-totals and totals lines and columns.

Please download the relevant budget and QAPE spreadsheets from the Screen Australia website from the links below.

- Spreadsheets for the purpose of calculating QAPE for provisional certification are available at: http://www.screenaustralia.gov.au/producer_offset/prov_certification.aspx
- Spreadsheets for the purpose of calculating QAPE for final certification are available at: http://www.screenaustralia.gov.au/producer_offset/final_certification.aspx
- Screen Australia's A-Z budget templates (incorporating templates for QAPE calculation) are available at: www.screenaustralia.gov.au/filmmaking/budgeting/a_z.aspx

C

Carbon emission offsets

Under the 'new rules', expenditure incurred in relation to a carbon unit or carbon offset is QAPE. The expenditure must be incurred in Australia and paid to a recognised service supplier which is accredited by the Australian Government or a State or Territory Government (or which complies with an appropriate industry standard). An example of this would be a payment to an airline to offset carbon emissions for a flight which is claimed as QAPE.

Under the 'old rules', expenditure incurred in relation to a carbon unit or carbon offset is non-QAPE.

Catering

Expenditure on production catering in Australia is QAPE. Expenditure on production catering whilst on location outside Australia is non-QAPE.

Censorship fees (eg Classification Board)

See [Classification costs](#).

Chain of title

Chain of title is the set of documentation that establishes the applicant's right to make the film (including rights in the script, underlying novel or other work, if relevant). Draft chain of title documents, or a solicitor's opinion letter regarding chain of title, is sufficient for provisional certification.

However, for final certification, a full set of chain of title documents (including solicitor's opinion letter, if available) is required and an application for a final certificate cannot be considered until full chain of title is provided.

Please note that all chain of title documents may be required at an earlier stage depending on the circumstances. Expenditure on legal work related to acquiring and securing the chain of title is QAPE if the legal service is provided in Australia (ie the legal firm is Australian).

Childcare

Any costs in relation to meeting the requirements of state child protection agency regulations for child actors will be QAPE.

The cost of childcare, such as nannies and tutors for children of cast and crew, *may* be QAPE if the expense meets the 'usual' QAPE tests (i.e. the expenditure is reasonably attributable to the making of the film and is for services provided in Australia).

Childcare may be reasonably attributable to the making of the film, for example, where it is necessary for a cast or crew member to take a young child on location for a shoot away from their usual residence.

Ultimately, the question of childcare expenditure being classed as QAPE will rest on whether the childcare arrangements have been altered or specially arranged directly as a result of the employment of the cast or crew member during the making of the film.

Please note that childcare costs in relation to employment may attract Fringe Benefits Tax. This is an issue to be discussed with your tax advisor.

Classification costs (eg Classification Board)

Under the 'new rules', expenditure incurred when applying to the Classification Board for classification is QAPE, provided the expenditure is incurred before the end of the financial year in which the film is completed.

Under the 'old rules', expenditure incurred when applying to the Classification Board for classification is non-QAPE.

Closed caption expenditure

Closed caption expenditure is QAPE provided expenditure is incurred in Australia and prior to the completion of the film.

Companion airfares

See [Remuneration other than by salary](#).

Company set up / Company expenses

Under the 'new rules', expenditure relating to establishing and/or liquidating an SPV is QAPE.

Under the 'old rules', expenditure relating to establishing and liquidating an SPV is non-QAPE.

Company fees for non-SPVs are not considered to be part of making the film and are non-QAPE.

See [Accounting, audit and tax advice](#)

Completed film

[see ITAA subs.376-55(2)]

A film is completed when it is first in a state where it could reasonably be regarded as ready to be distributed, broadcast or exhibited to the general public. Screen Australia considers that a film is in such a state when it is in a form ready for presentation to an audience in a cinema, on disc, on television or for streaming or download, in that the dialogue and music are married to vision.

Generally, the following will be considered a completed film:

- if the film is a feature film, a release print or digital equivalent (DCP), and
- for other distribution platforms, a fully mixed digital master.

For clarity, completion of a non-theatrical film (eg television series) is not the date the film is delivered to the broadcaster, but is the date that the master is created by the post house and the tech check for that master is dated.

Screen Australia may require proof of the completion date for final certification. This would take the form of the tech check or letter of confirmation from the post house.

Completion guarantee / Completion bond

[see ITAA item 1, s.376-135]

Under the 'new rules', expenditure on a completion guarantee or bond is QAPE to the extent that the expenditure is incurred in Australia (i.e. Australian bond provider).

Under the 'old rules', expenditure on a completion guarantee or bond is non-QAPE, as it is a financing cost.

Contingency

During production, note that some of the contingency may be spent on non-QAPE items. Consistent with completion guarantors' views, for provisional certification the POCU recommends that 100% of the contingency be excluded from QAPE.

For final certification, unspent contingency must not be listed on the QAPE spreadsheet (neither as 'total film expenditure', nor 'exclusions') as it has not been incurred.

Co-productions

[see ITAA subpara.376-65(2)(a)(ii), para.376-170(1)(c)]

Screen Australia is the competent authority responsible for administering the International Co-production Program in Australia. Official co-productions are films made under co-production arrangements (treaties and memoranda of understanding (MOUs)) Australia has entered with other countries.

Note that the co-production application process and the Producer Offset certification process are separate and distinct as they relate to different, but complementary programs. Applications are, however, usually undertaken contemporaneously.

For the purposes of the Producer Offset, official co-productions 'bypass' the Significant Australian Content (SAC) test, as they are considered to be 'Australian films'.

Screen Australia cannot issue a Producer Offset certificate – provisional or final – until co-production status has been approved. Further, it is important to note that a Producer Offset provisional certificate will not be issued on the basis of a Letter of Preliminary Compliance (see *Screen Australia's Co-production Guidelines*, available at www.screenaustralia.gov.au/coproductions).

For further details regarding QAPE and official co-productions, see *The Producer Offset and Official Co-productions* fact sheet available at on the [Producer Offset website](#).

Copyright acquisition & licensing

[see ITAA item 2, subs.376-150(1)]

Expenditure on acquiring copyright, or a licence of copyright, in a pre-existing work (such as music or stock footage) is considered QAPE only where the copyright (in the relevant work) is held by an Australian resident individual or company. This is interpreted to mean that the applicant can claim as QAPE the cost of acquiring ownership, or a licence, of copyright from an Australian resident. As in other contexts, the applicant will need to supply invoices to substantiate the claim.

If the copyright is not held by an Australian resident, the fact that an Australian music supervisor is engaged to source the music will not suffice to make the cost of the purchase/licence of the copyright QAPE.

Credit card interest

Interest paid on credit card purchases is considered financing and is therefore non-QAPE.

Credits

There is no requirement to credit Screen Australia or the Australian Government in the completed film in order to receive the Producer Offset.

However, successful applicants for a Provisional Certificate for the Producer Offset are invited to include a credit acknowledging the support of the Australian Government through the Producer Offset in the credit roll.

Crediting the Producer Offset is optional, which means that:

- The applicant can decide whether or not it wishes to use the credit for its production.
- There is no requirement under the ITAA97, the Rules or from Screen Australia to credit the Australian Government's support in any way.
- Screen Australia will not take the use of the credit into account in any way in the assessment of the application – or any other application – for the Producer Offset.

Where the applicant chooses to include the credit, Screen Australia may publicise that the film was made with the support of the Producer Offset and may contact you to request permission to use marketing materials or stills from the film. However, Screen Australia cannot disclose any other details about the project or the applicant. Where the applicant does not include the credit, consistent with tax secrecy principles (above), Screen Australia is unable to disclose that the project received the Producer Offset.

If an applicant chooses to use the credit it must be worded as set out below but can be in any preferred font.

The Producers acknowledge the support of the Australian Government through the Producer Offset and Screen Australia.

The applicant may also use the Screen Australia logo with the credit. Information on use of the logo is available on the [Screen Australia website](#).

We ask that you avoid giving personal 'thank you' credits to POCU staff.

Cultural Script Development Scheme (CSDS) – Film Victoria

See [Development assistance \(including loan repayments\)](#).

D

Deductibles

Deductibles on insurance claim pay-outs with Australian insurers are QAPE. Also, in a situation where, for example, damage to a hire car carries an excess, this excess is QAPE (assuming the premium itself is QAPE).

Deferments / Deferrals

[see ITAA item 6, s.376-135]

Amounts which are only payable out of the profits, receipts or earnings of a film (in this context commonly referred to as deferments or deferrals) are excluded from QAPE (but see [Investment of fees](#)).

Deliverables

Expenditure on delivery items produced in Australia and incurred before the end of the financial year of the film's completion can be QAPE in the following circumstances:

- **Feature Films:** If delivering on film - 2 x internegs plus an answer / check print and release print for each interneg; or if delivering digitally, 2 x DCPs. (Any prints or DCPs budgeted for beyond this are treated as distribution costs and are therefore non-QAPE. All other contracted delivery items are QAPE.) Screen Australia acknowledges that some post production (specifically lab) work can no longer be undertaken in Australia. Regardless, expenditure on this work is non-QAPE as the services are provided offshore.
- **Television:** If there is delivery to more than one broadcaster and this delivery is outlined in the applicant's PIA, distribution agreement/s, completion bond documents, or makes up part of their finance plan, then expenditure on all these deliverables is QAPE. For example, if an Australian TV series has a pre-sale to the BBC (UK) or ZDF (Germany), expenditure on these contracted delivery items for these broadcasters would be QAPE.

Under the 'new rules', if the applicant intends, or is required, to deliver more than one version of the program, expenditure on the work involved in making another version can be QAPE subject to the 'usual' QAPE rules (eg the work on re-versioning must take place in Australia and the expenditure must be incurred prior to the end of the financial year in which the program is completed) (also see [Versions](#)).

Under the 'old rules', expenditure on re-versioning must have been incurred before completion of the first version of the film.

Depreciating assets

[see ITAA subs.376-125(6)-(7)]

Where a company holds a depreciating asset and uses it in the making of the film, the company's production expenditure on the film includes an amount equal only to the decline in the value of the asset to the extent to which that decline is reasonably attributable to the use of the asset in the making of the film.

Applicants cannot arbitrarily assign a value to a piece of capital equipment (an asset which your company owns or leases). For QAPE purposes, it has to be the tax depreciable amount according to tax law.

A fact sheet has been created to assist applicants in understanding how depreciating assets should be treated for the purposes of the Producer Offset and is available to download from the Screen Australia website under [Producer Offset > Resources > Fact sheets](#).

It is recommended that applicants consult with their accountants for further guidance.

Development expenditure

[see ITAA subs.376-55(5), item 1, subs.376-150(1)]

Development expenditure that is for goods and services provided in Australia, the use of Australian land, or the use of goods located in Australia, is QAPE. Development expenditure is defined as expenditure on development for the film, and includes expenditure on any of the following:

- location surveys and other activities undertaken to assess locations
- storyboarding
- scriptwriting / purchase of story rights
- research
- casting
- budgeting
- scheduling

Development expenditure can be incurred by an entity other than the applicant company (eg a parent company which then forms an SPV to undertake production). The ITAA provides that where one company (eg an SPV) takes over the making of the film from a prior company, the incoming company is deemed to have incurred the expenditure of the prior company (see [Prior company expenditure](#)).

Where this applies, development expenditure must meet the same eligibility conditions applicable to the applicant (i.e. the 'usual' QAPE rules).

In either case, if the company incurring the development expenditure was acting in the capacity of a trustee of a trust, that expenditure cannot be QAPE (see [Trusts](#)).

Development assistance (including loan repayments)

[see ITAA item 1, s.376-135, para.376-170(4)(a)]

The repayment of development loans to a funding body is non-QAPE as loan repayments are a financing cost. However, the expenditure made on development using the loan funds may be QAPE.

As a result, for the purposes of the Producer Offset, the relevant expenditure for the film is not the repayment of development loans – this is effectively ignored – it is the expenditure made by a company using the development loan funds.

For example, a producer might receive a development loan of \$30,000 from a funding body. For the Offset's purposes, the expenditure which is considered is the expenditure made using those funds, and – as per the usual QAPE rules – expenditure incurred outside Australia or on financing is therefore non-QAPE. The \$30,000 development loan may result in the following QAPE claim:

- \$15,000 spent on the first draft of a screenplay by an Australian writer would be QAPE
- \$10,000 spent on budgeting and scheduling in Australia would be QAPE, and
- \$5,000 spent on accommodation at MIPCOM would be non-QAPE.

Any slate support loan repayments – eg a Business Development Fund – are generally non-QAPE in any event as they pertain to a slate of projects.

However, where an applicant can establish that a proportion of a slate loan has been spent on a particular film (and on QAPE items), the applicant may be able to claim this expenditure as QAPE.

For provisional certification, the POCU recommends making a reasonable apportionment of what development expenditure may or may not be QAPE. For final certification, the applicant must provide a detailed breakdown (and appropriate supporting documentation) of development expenditure claimed as QAPE.

In addition to the above rules, the legislation specifies that in all cases, expenditure on the film that is paid for with development assistance received from Screen Australia (or Film Australia, the Australian Film Commission or the Australian Film, Television and Radio School) is *non-QAPE* unless the assistance has been repaid (or 'rolled-over' into production investment).

Thus, if Screen Australia provides development assistance in the form of a grant that is not repaid, the entire amount of the grant will be non-QAPE.

However, please note that where a development loan or grant is 'rolled over' into investment funding, for Producer Offset purposes the development assistance is considered to have been repaid through the 'roll over' process.

Any interest paid on loans of any sort is non-QAPE as it is a financing cost.

Documentary

[see ITAA subs. 376-25(1) and 25(2)]

For projects that **commence principal photography on or after 1 July 2012**, what constitutes a 'documentary' for the purposes of the Producer Offset is defined in the *Income Tax Assessment Act 1997* (the Act).

The Act defines a 'documentary' in subsection 376-25(1):

A film is a *documentary* if the film is a creative treatment of actuality, having regard to:

- (a) the extent and purpose of any contrived situation featured in the film; and
- (b) the extent to which the film explores an idea or a theme; and
- (c) the extent to which the film has an overall narrative structure; and
- (d) any other relevant matters.

Subsection 376-25(2) further clarifies that a film is *not* a documentary if it is an 'infotainment or lifestyle program' or a 'magazine program'.

This means that, for a film to be eligible for Producer Offset certification as a documentary, the applicant must be able to satisfy Screen Australia that the film is a creative treatment of actuality that is not an 'infotainment or lifestyle program' or a film with the typical features of a magazine-style program.

The features of a magazine-style program are explained in paragraph 276-25(2)(b) of the Act to mean a film that:

- (i) presents factual information; and
- (ii) has 2 or more discrete parts, each dealing with a different subject or a different aspect

of the same subject; and
(iii) does not contain an over-arching narrative structure or thesis.

'Infotainment or lifestyle program' is specified in the Act as having the same meaning as in Schedule 6 to the *Broadcasting Services Act 1992*, that is, a program '...the sole or dominant purpose of which is to present factual information in an entertaining way, where there is a heavy emphasis on entertainment value'.

This approach to the definition of documentary should be familiar to industry, as it is consistent with the Australian Communications and Media Authority (ACMA)'s *Documentary Guidelines*.

For projects that commenced principal photography *before* 1 July 2012, Screen Australia will decide whether a film is a documentary having regard to both the '*Lush House*' decision of the Administrative Appeals Tribunal (EME Productions No 1 Pty Ltd v Screen Australia) and ACMA's *Documentary Guidelines*.

For more information, see [What is a documentary?](#) on the Producer Offset website.

Dolby™ licence

Under the 'new rules', expenditure incurred in acquiring a Dolby™ license is QAPE.

Under the 'old rules', expenditure incurred in acquiring a Dolby™ license is non-QAPE as it relates to the purchase of copyright (license fee) from a non-Australian resident. However, the applicant may claim some of this expenditure as QAPE where there is an allocation in the licence for service from a nominated Australian Dolby™ technician. As these are goods & services provided in Australia, they would be QAPE. If this provision is also contained in a sound licence for SDDS or DTS, then the same policy would apply.

Driver / car hire in another country

[see ITAA item 2, subs.376-170(2)]

If a driver is required in another country to transport an Australian cast or crew member, and the driver and the vehicle are hired together as part of a package (eg car service in the UK picking up crew members from the airport) this would be considered QAPE (assuming the project meets the test in the [Gallipoli Clause](#) and the service takes place during principal photography). However, if the driver is employed as an individual, separate from the hire of the vehicle (eg the production hires a car for six weeks and employs a driver to drive this hire car to transport the director) the driver's fee would be non-QAPE.

E

Electronic press kit (EPK)

See [Marketing](#).

Enterprise Program

See [Development assistance \(including loan repayments\)](#).

Entertainment

Entertainment expenses (for example wrap party, crew & cast screenings, press screenings, the purchase of alcohol and birthday cakes) are always non-QAPE.

Episode cap

[see ITAA subs.375-55(2), para.376-170(4)(c), subs.376-170(5)]

See [Series or season of a series](#).

Errors & Omissions Insurance (E&O)

[see ITAA item 1, s.376-135]

See [Insurance](#).

Estimate to complete (as per cost report)

See [Accrual basis of expenditure](#).

Exchange rate fluctuation

See [Foreign currency fluctuation](#).

Executive Producer fees

Where an Executive Producer (EP) fee is solely a requirement of a financing or distribution arrangement (regardless of whether an individual is receiving an EP credit), the fee is considered to be a financing cost and is non-QAPE. An example would be an EP fee for a Producer Offset cashflow provider or a distributor.

However, EP fees may be QAPE if the EP in question provides her or his services in Australia and the services form part of the 'making of the film' (i.e. not solely financing or distribution).

Evidence in the form of contracts and credit listings may be required for final certification.

As is normally the case, expenditure on an EP who is not an Australian resident is only QAPE when the work by the EP takes place in Australia (NB: the [Two week rule](#) applies).

Expenditure in a foreign currency

[see ITAA items 9 and 9B, subs.960-50(6)]

For the purposes of the Producer Offset, all expenditure incurred in foreign currency must be converted into Australian dollars. However, the rules for the applicable exchange rate differ as below.

Under the 'new rules', for projects with QAPE under \$15M, any expenditure incurred in a foreign currency (regardless of whether that expenditure is QAPE or non-QAPE) must be converted into Australian dollars using the foreign exchange rate as reported in the final cost report provided under the principal financing agreement.

For all projects with QAPE over \$15M, the expenditure incurred in a foreign currency must be converted into Australian dollars and recorded as outlined below.

Under the 'old rules', if the applicant for the Producer Offset incurs any expenditure in a foreign currency (regardless of whether that expenditure is QAPE or non-QAPE), all expenditure incurred in a foreign currency must be converted into Australian dollars and recorded as outlined below.

EXCHANGE RATE #1

For the purposes of calculating whether a project meets the applicable QAPE thresholds, foreign currency expenditure must be converted into Australian dollars using the foreign exchange rate (eg, from rba.gov.au) for the day on which principal photography commenced. This is to provide certainty to applicants that they have met the requisite QAPE threshold.

EXCHANGE RATE #2

For the purposes of calculating the final QAPE figure upon which the Producer Offset is based, the exchange rate (eg from rba.gov.au) used for converting expenditure incurred in a foreign currency must be averaged across the entire period in which QAPE was incurred.

Please note that if the foreign currency expenditure is incurred by a party other than the applicant, the above rules do not apply. For example, an individual film maker may use his or her personal credit card to pay for accommodation, location fees, food, transport etc. whilst on a shoot overseas. The film maker invoices the applicant company and is reimbursed in Australian dollars on his or her return. The applicant company has not actually incurred the expenditure in a foreign currency. Therefore there is no need to convert any foreign expenditure.

For final certification, the POCU requires a breakdown of all currency conversions. For assistance in calculating currency exchange, please refer to Worksheet (d) on the final QAPE spreadsheet.

Screen Australia strongly recommends applicants contact the POCU prior to embarking on any foreign currency conversions as submitting incorrect calculations will slow down the application process.

F

Fees for provisional certification

[see ITAA item 1, s.376-135]

Applications for Producer Offset provisional certificates lodged with Screen Australia are required to pay a processing fee, based on the estimated budget of the film. The amounts payable are detailed on the Producer Offset webpage and on the Provisional certificate application form. Fees will automatically increase with CPI at the commencement of each financial year.

Fees for provisional certification are considered a financing cost and therefore are non-QAPE (see also [Agency fees](#)).

Film vaults / archival storage

Under the 'new rules', expenditure on film vaults or archive storage is QAPE, to the extent that the expenditure is incurred in Australia and but until the end of the financial year in which the film is completed.

Under the 'old rules' such expenditure is non-QAPE.

Financial year

[see ITAA subs.376-125(5)]

QAPE expenditure can be incurred in any financial year (commencing with the 2007/08 year) up until the end of the financial year in which the film is completed.

Expenditure incurred in a financial year subsequent to the completion of the film is non-QAPE.

See [Accrual basis of expenditure](#).

See [Completed film](#) for further information on the definition of completion.

Where relevant, see [Substituted accounting period \(SAP\)](#).

Financing expenses

[see ITAA item 1, s.376-135; item 6, subs.376-150(1); item 5, subs.376-170(2)]

Under the 'new rules', only the costs of financing – such as application and administrative fees paid to funding bodies, interest payments, financiers' legal fees and in some circumstances executive producer fees - are considered 'financing expenses' and therefore non-QAPE. [QAPE opinions](#) are now QAPE.

Under the 'old rules', all expenditure that represents, or derives from, financing costs (and this includes some forms of insurance and legals) is considered a financing cost and non-QAPE, regardless of where it is placed in the budget.

Under both rules, the Producer Offset application fee is considered a financing cost and is non-QAPE.

Fines

Fines are non-QAPE (i.e. parking fines, late fees or penalties).

Foreign currency

See [Expenditure in a foreign currency](#).

Foreign currency fluctuation

Some budgets contain an allowance for exchange rate fluctuations. For provisional certification this allowance must be excluded from QAPE. At final certification it will be evident whether the allowance was spent on QAPE or non-QAPE items. Any foreign currency losses are non-QAPE.

Format

[see ITAA item 1, paras.376-65(2)(c) and (d)]

The following formats are ineligible for the Producer Offset:

- advertising programs and commercials
- discussion, quiz, panel or variety programs or programs of a like nature
- any film of a public event (that is not a documentary)
- training films
- computer games (within the meaning of the Classification [Publications, Films and Computer Games] Act 1995)
- news or current affairs programs, or
- reality TV programs (that are not documentaries).

Format fees

Format fees paid to Australian entities are QAPE, however, for the purposes of the Producer Offset, this expenditure must be part of ATL costs under 'story rights' as it is considered an acquisition of copyright in an underlying work.

Free days

Expenditure on services provided under a 'free days' arrangement can be claimed as QAPE provided that the services are provided in Australia. Where services are provided partly in Australia and partly elsewhere (including services such as ADR or publicity under a 'free days' arrangement), the applicant must make a reasonable apportionment of the relevant expenditure.

Freight

[see ITAA item 3, subs.376-170(2)]

Freight expenditure incurred in transporting goods either within Australia or between Australia and another country is QAPE provided the goods are used in the making of the film. Note that the actual cost of the good (i.e. the good that is being freighted) is subject to the usual QAPE rules.

For clarification:

Filming in Australia

- If the production were to hire a piece of equipment from New York for use in the making of the film in Australia, the freight from New York to Australia would be QAPE,

but not the freight from Australia back to New York as it would not be for the making of the film.

- If the production had requirements to deliver rushes (but under the 'old rules', not deliverables) to an overseas partner (ie broadcaster) the freight from Australia to the other country would be QAPE.

Filming outside Australia

- All freight from Australia to the other country (eg camera equipment, stock, props, and wardrobe) is QAPE. Generally, the freight back to Australia would be non-QAPE as it would not be for the making of the film. However, if the production filmed overseas and then freighted equipment back to Australia for further filming, then the freight to Australia would be QAPE as it is for the making of the film.
- Freight within another country could be QAPE if the destination of the goods is to be involved in the making of the film. For example if shooting takes place in Manchester in the UK and a camera body is freighted from London to Manchester for the shoot, the cost of this would be QAPE. However, any freight back to London from Manchester would not.
- Freight of rushes back to Australia for editing is QAPE as this is considered part of the making of the film.

Under the 'new rules', expenditure on freight relating to the delivery of a project (either within Australia or from Australia to an overseas destination) is QAPE.

Under the 'old rules', expenditure on freight relating to the delivery of a project (either within Australia or from Australia to an overseas destination) is non-QAPE as the destination of the goods is not involved in 'the making of the film'.

Fringe Benefits Tax (FBT)

Fringe Benefits Tax (FBT) is QAPE only when paid against QAPE items. For example, if FBT is paid on the purchase of alcohol for the wrap party, this portion of the FBT is non-QAPE. For final certification applicants may be asked for a breakdown of the FBT payments.

Fringes

[see ITAA para.376-170(4)(b)]

For Australian residents

Fringes are QAPE to the extent that the associated salary/wage/remuneration is QAPE. Fringes include annual leave & superannuation entitlements, but *exclude* payroll tax & workers compensation. Please note that all fringes for ATL personnel must be placed ATL (please refer to [Above the line](#)).

For non-Australian residents

- Fringes paid to non-Australian residents working in Australia are QAPE, subject to the usual QAPE rules, and notably the 2 week rule
- Fringes paid to non-Australian residents working in another country (for example an LA based actor working in Vietnam) are non-QAPE.
- Where an employee's salary/wage/remuneration is part QAPE and part non-QAPE, the fringes must be pro-rated accordingly.

Please refer to [Payroll tax](#) and [Workers compensation](#) for further information.(NB: Two week rule for non-cast/non-residents applies; see [Two week rule](#)).

G

Gallipoli Clause

The 'Gallipoli Clause' is a reference to a provision in the ITAA which provides that in certain limited circumstances, some expenditure on goods and services provided outside Australia is QAPE. It takes its name from the example given in the Explanatory Memorandum (EM) where it is acknowledged that 'some documentaries, iconic films on Australian events overseas and co-productions may need to shoot outside Australia' and that a film about 'Gallipoli' may need to shoot on location in Turkey (para.10.106).

The policy intent is that if there is a location-specific requirement in your story it can be reasonable to claim costs relating to the location shoot. However, the Offset will only help to cover the costs of [Australian residents](#) working on location. In effect, the Offset will assist with a location shoot, but only where Australian residents are taking part in it.

The provision in the legislation is narrow and limits the expenditure to situations where the following three elements are *all met*:

- The expenditure is remuneration of *Australian residents*, and
- It is during *principal photography* for the film, and where
- 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, associated fringes and per diems.

Travel costs such as airfares, accommodation, transportation and per diems are also treated the same way. However, this sort of expenditure is limited to the actual costs of accommodating and transporting the Australian resident crew whilst at the overseas location (i.e. the travel costs are QAPE only if the salary is QAPE). Any expenditure such as on-set catering or the purchase of food from offshore providers is non-QAPE.

The second element, *principal photography*, is a temporal requirement referring to the period of time when the Gallipoli Clause applies: the Gallipoli Clause is about *expenditure overseas* during *principal photography overseas*. So, an applicant cannot claim expenditure overseas during principal photography if the principal photography is actually taking place in Australia (for example, if the expenditure relates to a producer travelling to the US to meet with sales agents during that time), or second unit work shooting VFX plates offshore.

The *subject matter* relates to the story of the film (evidenced by the script, treatment, outline and finished film). It limits the reason for shooting offshore to the story and setting, and not to commercial or budgetary reasons. For example:

- If a film 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 applicant is making an animation and chooses to use an overseas animation studio, the expenditure incurred overseas will be non-QAPE as the subject matter would not require the use of an overseas animation studio.
- Any expenditure incurred overseas related to the use of a studio shoot or interiors will be highly unlikely to be considered to be 'reasonably required' as such locations can be effectively found in Australia.

Importantly, depending on the circumstances and the location required, the applicant may be required to justify that the location cannot be effectively doubled in Australia. Note that the Gallipoli Clause is based around the *subject matter* requiring the location, so the fact that an offshore location is cheaper than doubling in Australia will not trigger the Gallipoli Clause.

The Gallipoli Clause applies to all films including official co-productions.

See [Per diems](#), [Australian resident](#), [Travel – for Australian residents](#), [Offshore work](#), [Principal cast](#), [Above the line](#), [Principal photography – definition when working in another country](#) and [Subject matter of the film](#).

General Development Investment (GDI)

See [Development assistance \(including loan repayments\)](#).

Gratuities

All gratuities are non-QAPE, including donations paid in lieu of location fees.

GST

Under the 'new rules' production expenditure and QAPE excludes GST.

For example, if a rental company charges the applicant company \$5,000 + \$500 GST for camera hire in Australia, the applicant is only able to claim QAPE on the GST-exclusive cost of \$5,000.

Under the 'old rules', the Producer Offset is GST-inclusive. For example, if a rental company charges the applicant company \$5,000 + \$500 GST for camera hire, the applicant is able to claim QAPE on the GST-inclusive cost of \$5,500.

If a film falls under the 'old rules' it is recommended that the GST expenditure on QAPE and non-QAPE items be tracked throughout production to assist in reporting GST accurately for final certification. For final certification applicants may be required to provide copies of the relevant BAS statements.

For assistance in calculating GST, please refer to the final QAPE spreadsheet, available on the [Producer Offset website](#).

H, I

Insurance

[see ITAA item 1, s.376-135]

Under the 'new rules', expenditure incurred on all insurances for the making of the film is QAPE to the extent that such expenditure is incurred in Australia (i.e. the insurance services are provided in Australia). This includes expenditure on the following kinds of insurance:

- E&O
- extra expense
- film producer's indemnity
- negative film risk
- weather insurance
- miscellaneous equipment (ie multi-risk)
- money, props, sets & wardrobe (ie multi-risk)
- public liability
- travel and vehicle

See also [Completion guarantee / Completion bond](#).

Under the 'old rules', certain kinds of insurance are considered financing and therefore non-QAPE. The following applies:

NON-QAPE:

Completion Guarantees & Bonds
E&O
Extra expense insurance
Film Producer's Indemnity (including medical checks
Negative Film Risk
Weather Insurance

QAPE:

Miscellaneous Equipment (i.e. multi risk)
Money
Props, Sets & Wardrobe (i.e. multi-risk)
Public Liability
Travel

NB: Deductibles on insurance pay-outs may be QAPE (assuming the premium is also QAPE).

For final certification, insurance details must be itemised by the insurer. Alternatively, where a parent company has a global policy that covers a slate of films, the applicant must provide a breakdown with QAPE and non-QAPE items reasonably apportioned to the project in question.

In the case where an Australian insurance broker is used but the policy provided is ultimately from a non-Australian insurance provider, these insurance costs can be claimed as QAPE if the work being insured is performed in Australia and the type of insurance in question is QAPE (further to the breakdown above).

Interest payments

[see ITAA item 1, s.376-135]

Interest payments are considered part of financing expenditure and therefore non-QAPE, regardless of where they are placed in the budget.

Interested party transactions

[see ITAA s.376-175]

See

[Arm's](#) length arrangements

Investment of fees

As outlined above in [Deferments / Deferrals](#), amounts payable from exploitation of the film (ie box office receipts) are not QAPE, as no expenditure has been incurred (Item 6 in the table in ITAA section 376-135). However, where a service provider invests some or all of its fees for goods or services, the fees are not considered deferments and may be QAPE, depending on whether they satisfy the usual QAPE tests. Note, however, this must impose a legal liability on both parties.

An example of this situation arises where an individual producer has contracted with the applicant company to be paid a fee of \$100,000, and then decides to invest \$10,000 of this fee in the film. In order for the entire \$100,000 to be claimed as QAPE, the POCU would expect to see:

- an invoice issued by the producer to the applicant company for \$100,000; and
- an invoice issued by the applicant company to the producer for \$10,000 (the invested amount)
- The entire \$100,000 recorded in the general ledger and cost report as remuneration of the producer.
- The producer sharing in \$10,000 worth of equity in the film.

The producer's entire \$100,000 fee could then be QAPE, provided that there is appropriate supporting documentation confirming the above and the usual QAPE tests are satisfied. For final certification applicants must supply contracts for all ATL personnel, including producers, directors and principal cast. Contracts must be fully executed by all relevant parties.

The above also applies to a situation where a post-production house invests in a film under a 'post-production deal'.

ISAN Registration

Registering a film with the ISAN Australasia is QAPE so long as it is incurred before the end of the financial year of the film's completion.

J, K, L

Legal fees & expenses

[see ITAA item 1, s.376-135]

Expenditure on legal services that are integral to production activity (eg including but not limited to contracting cast & crew, music clearances, lease agreements etc.) are QAPE.

Under the 'new rules', expenditure on legal services provided in Australia to the applicant company that relate to raising and servicing the financing of the film (i.e. work on a PIA, license/broadcast agreement, and where relevant, a co-production agreement) are also QAPE. However, legal fees charged by financiers (such as cash-flow lenders) are considered financing fees and therefore non-QAPE.

Under the 'old rules', expenditure on legal services relating to the financing of the film are themselves considered financing fees and therefore non-QAPE. This includes all expenditure on legal work on a:

- Production and Investment Agreement (PIA),
- license/broadcast agreements,
- where relevant, co-production agreement, and
- solicitor's opinion letter regarding chain of title prepared for investors.

Under the 'old rules', for final certification, applicants will be required to provide an invoice from their lawyer that contains a specific breakdown of services provided (ie work on financing versus work on production legals).

M

Marketing

[see Item 3, subs.376-135 (5) and item 3, subs.376-150(1)]

Generally speaking, all expenditure related to the marketing, publicity and promotion of the film is non-QAPE as it is not for the 'making of the film'.

However, the legislation provides limited allowances for QAPE claims related to some publicity and promotional expenses,

This is limited to expenditure which is:

- incurred in producing material where the copyright in the material is held by an individual or a company that is an Australian resident; and/or
- incurred in producing audio or visual content for the film otherwise than for use in the first copy of the film (eg footage for the 'making of DVD' or the EPK)

For example, this could include expenditure on the taking of production stills, the design of the poster, and the creation of the trailer, e-books, apps (other than games) and the electronic press kit, but only where the copyright is held by an Australian company.

For the avoidance of doubt, expenditure relating to marketing consultants' fees, games, and attendance at conferences, markets and/or festivals cannot be QAPE under any circumstances. However, please note that expenditure relating to travel is treated

separately to this. See [Travel](#) – for Australian residents for further details on the QAPE rules.

Any expenditure on duplication and distribution of the above items is non-QAPE (unless they are required as part of the film's delivery schedule/contract).

For final certification an applicant must provide the relevant documents that confirm the above requirements.

The 'new rules':

- extended the timeframe during which expenditure on publicity and promotion material could take place and be claimed as QAPE, and
- changed the treatment of unit publicists.

Under the 'new rules', the relevant work must take place in Australia and expenditure must be incurred before the end of the financial year in which the film is completed.

Specifically, under the 'new rules', expenditure on unit publicist services provided in Australia within the relevant year is QAPE.

Under the 'old rules' all expenditure on publicity materials claimed as QAPE must be incurred prior to completion of the film.

Under the 'old rules', generally, the remuneration of a film publicist is non-QAPE, as the work of a publicist is not directly attributable to creating copyright material (ie preparing publicity campaigns, scheduling press screenings or press junkets, organizing journalists to come to set etc.).

However, if the publicist prepares material which results in Australian held copyright prior to completion of the film (such as press releases, EPK), the proportion of the fee attributable to that work may be QAPE. This is a narrow provision, and unless the expenditure directly relates to creating copyright in the material, the expenditure will be non-QAPE. The applicant must provide evidence of this expenditure for final certification.

Medical fees

[see ITAA item 1, s.376-135]

Under the 'new rules', as Film Producer's Indemnity Insurance (FPI) is QAPE, any expenditure on medical examinations required by FPI insurance is also QAPE so long as the examination takes place in Australia.

Under the 'old rules', expenditure on medical examinations required by FPI insurance is non-QAPE, consistent with the fact that FPI itself is non-QAPE (see [Insurance](#)).

Music copyright

[see ITAA item 2, subs.376-150(1)]

See [Copyright acquisition & licensing](#).

N

New creative concept

[see ITAA subs.376-70(2)]

Under the 'new rules', a series (or season thereof) is deemed completed at the completion of the 65th commercial hour of the series, including all commercial hours made prior to the commencement of the Offset.

Under the 'old rules', a series (or season thereof) is deemed completed at the completion of the 65th episode of the series, including all episodes made prior to the commencement of the Offset (see [Series or season of a series](#)).

However, where a series is a 'spin-off' from a prior series, or where a prior series is revived after a lapse of time, then the new series may be considered to be a 'new film', provided that it demonstrates a 'new creative concept' relative to the original series. Where this is the case, the effect is to 'restart' either the 65-commercial hour cap (under the 'new rules') or the 65-episode cap (under the 'old rules').

In making a decision whether a 'new creative concept' is present, Screen Australia must have regard to:

- the title of the series
- whether the series has substantially different characters, settings, production locations and individuals involved in the making of the series compared to any other series, and
- any other matters that it considers to be relevant.

'Other matters' could include, for example, whether there had been a significant lapse in time since the completion of the prior series.

In 2011, the Administrative Appeals Tribunal explained the 'new creative concept' test as implying '... more than mere difference and ... more than a different treatment of the subject matter, even if the treatment of a subject is an important matter. The words suggest an idea or design for the film in question that involves some originality in how the subject matter is addressed.' (*Beyond Productions Pty Ltd and Screen Australia* [2011] AATA 39, para.71). See also [Series or season of a series](#).

New Zealand

The Australia-New Zealand Closer Economic Relations Trade Agreement (CER) does not apply to government subsidies, tax concessions and measures for nationals of either country. Therefore:

- NZ residents are not considered Australian residents for the purposes of SAC.
- NZ residents are treated the same as any other 'non-Australian' residents for the purposes of QAPE.

However, the CER does apply to the official co-production program. Therefore, for the purposes of qualifying as an official co-production, New Zealanders are considered to be Australians in official co-productions (except for Australian-New Zealand co-productions). Refer to the fact sheet *Producer Offset and Official Co-productions* on the [Producer Offset website](#).

Non-arm's length arrangements

[see ITAA s.376-175]

See

[Arm's](#) length arrangements.

Non-Australian service providers (inc. crew and cast)

QAPE generally refers to expenditure on goods and services provided in Australia.

Therefore:

- Any expenditure on non-Australian cast and crew who work in Australia is QAPE. Please note however that non-Australian crew are subject to the two week rule (see [Two week rule](#)).
- Any expenditure on non-Australian resident cast and crew who work outside Australia is non-QAPE.
- If a non-Australian crew or cast member is paid a total fee and the filming takes place in both Australia and overseas, the applicant must calculate what portion of this fee was attributed to the overseas shoot and exclude it from QAPE.
- If expenditure is incurred on the use of non-Australian goods it will be QAPE if it is for use in Australia for the making of the film. For example, an applicant company hires a camera from the US which will be used during principal photography in Australia, the expenditure on the camera hire will be QAPE.



Offshore work

[see ITAA item 4, subs.376-170(2)]

QAPE can only be claimed for expenses relating to offshore filming where the subject matter of the film reasonably requires the use of the overseas location. This applies equally to Co-productions (see [Gallipoli Clause](#)).

Under no circumstances can work undertaken on PDV (including animation or lab work) outside Australia be QAPE.

OFLC

See [Classification costs](#).

Overheads (general business overheads)

[see ITAA item 1, subs.376-170(2), subs.376-170(3)]

The Producer Offset legislation allows a proportion of the general business overheads incurred by an applicant company to be claimed as QAPE. For the purposes of the Producer Offset, the overheads for any single project are capped at 5% of the total film expenditure or \$500,000, whichever is the lesser (legislative cap).

Any general business overheads claimed as QAPE must be genuinely incurred expenditure and represent a reasonable apportionment between those overheads attributable to the making of the film and the overheads attributable to the other activities undertaken by the company during the relevant period. It should be noted that general business overheads may include the amounts payable for the services of certain personnel providing services in connection with the production in their capacity as company officers.

The POCU expects to see the claimed overheads form part of the applicant's original budget and final cost report, as well as being reflected in the general ledger for the project.

Please note that under the 'old rules' the overhead cap is GST inclusive. This means that if a parent company invoices an SPV for \$500,000 plus \$50,000 GST, the applicant company can only claim \$500,000 as QAPE, not \$550,000.

Under the 'new rules' a company's expenditure and QAPE excludes GST.

Please note that it is the *total* overheads incurred by all relevant parties claimed that is subject to the legislative cap. This means that any overheads for development placed above the line need to be included in the total overhead calculation against the 5% overheads cap. Note that the overheads incurred in development should remain above the line as the expenditure forms part of development expenditure which is subject to the 20% above the line QAPE cap.

P

Payroll tax

In most cases payroll tax for cast/crew (for both Australians and non-Australians) is QAPE because it relates to work undertaken in Australia. The general rule is that if the person's remuneration is QAPE then the Payroll Tax linked to that salary is also QAPE. Please note, however, that for crew working in Australia the two week rule applies (see [Two week rule](#)).

Per diems

[see ITAA item 4, subs.376-170(2)]

All per diems paid (ie to both Australian and non-Australian residents) working in Australia are QAPE (note, however, that the [Two week rule](#) applies).

Assuming expenditure is incurred by the applicant company, while filming in another country:

- Per diems paid to Australian residents during the period of principal photography are QAPE where the subject matter of the film reasonably requires the film to shoot overseas (see [Gallipoli Clause](#)).
- Per diems paid to non-Australian residents are non-QAPE.

Pitch reel

See [Sizzle reel](#).

Poster design

[see ITAA item 3, subs.376-150(1)]

See [Marketing](#).

Pre 1 July 2007 expenditure

[see TLAA5 Sch.10, Item 91(3)]

QAPE can only be claimed for expenditure incurred on or after 1 July 2007.

Principal cast

See [Above the line](#).

Principal photography – definition when working in another country

[see ITAA items 2 and 4, subs.376-170(2)].

Expenditure incurred outside Australia is QAPE only where a project meets the test in the [Gallipoli Clause](#). This applies equally to co-productions.

When calculating expenditure incurred overseas during principal photography, the dates for principal photography can include the travel days on either side of the official start and finish dates of principal photography.

Drama

Principal photography is the period of time during which the main shooting of the film takes place. It is expected that the director, director of photography, cast and ancillary supporting crew (such as continuity, hair and makeup) will be present, working to a defined schedule. If a pick-up shoot or re-shoot meets the above definition, then this will also be considered principal photography.

Documentary

Principal photography is the period of time required to capture the image of the subject matter of the project, where the director is present for the shoot. In some cases the presence of a field director may enable the shoot to be considered principal photography. Time critical photography (eg mating seasons, seasonal necessities, lecture series, etc.) will be dealt with on a case by case basis.

Animation

Principal photography is defined as the period from the day on which production of the animated image commenced, until the day that the animated images are completed.

Prior company expenditure

[see ITAA s.376-180]

The Offset legislation provides that where one company (eg an SPV) takes over the making of the film from a prior company (usually the parent company), the new company is deemed to have incurred the expenditure of the prior company. However, note that:

- Expenditure incurred in order for a company to take over a production from a prior company – such as legal work on rights buyouts or reimbursements – is non-QAPE.
- Any expenditure incurred by a company acting in the capacity of a trustee of a trust is always non-QAPE. Therefore, if any development expenditure is incurred by either the

prior company or the new company when either of those companies is acting in the capacity of a trustee of a trust, such expenditure cannot be QAPE (see [Trusts](#)).

- Any expenditure prior to 1 July 2007 is non-QAPE (see [Pre 1 July 2007 expenditure](#)).

Producer Equity Program (PEP)

Under the 'new rules', documentaries that do not meet the new overall QAPE threshold of \$500,000 are ineligible for the Producer Offset, but may be eligible for financial assistance under Screen Australia's Producer Equity Program. A company in receipt of this financial assistance is ineligible to apply for the Producer Offset for the same film.

The program is administered by Screen Australia's Documentary Unit. For further information regarding this program please see

www.screenaustralia.gov.au/funding/other/ProducerEquity.aspx

Production investment (from Screen Australia)

The Producer Offset is administered by the Producer Offset & Co-production Unit (POCU) of Screen Australia.

This unit operates independently to the other departments of Screen Australia, including Production Investment.

Further information on Screen Australia's funding programs is available at

www.screenaustralia.gov.au/funding/

Production investment agreement (PIA)

[see ITAA item 1, s.376-135]

The PIA is the contract between the producer and investors in the project (eg Screen Australia, other screen agencies and broadcasters contributing equity to the project), which sets out the terms and conditions of the investment.

Under the 'new rules' all legal work undertaken in Australia on a PIA is QAPE.

Under the 'old rules' all legal work on a PIA is considered financing and expenditure on it is therefore non-QAPE.

Provisional certificate

A provisional certificate provides a guide as to whether, based solely on the information and assurances provided by the applicant, Screen Australia is satisfied that the film is – if made – likely to meet the legislative requirements for certification for the Producer Offset.

Being issued with a provisional certificate does not guarantee or entitle the applicant to a final certificate, and does not bind Screen Australia in considering applications for final certificates. Screen Australia can revoke a provisional certificate in a case of fraud or serious misrepresentation. Note also that a provisional certificate has no bearing on the success or otherwise for an application for production investment from Screen Australia.

Applying for a provisional certificate is an optional step; it is not a pre-requisite for a final certificate. In practice, investors and other financiers are likely to require that a provisional certificate be applied for, where the film appears to be eligible. Fees are payable when applying for a provisional certificate (see [Fees for provisional certification](#)).

It is important to note that for provisional certification, the POCU will not:

- Certify that transactions between associated or interested parties as outlined in the budget are budgeted at arm's length, or
- Audit the claims in your application form and associated documentation, but rather relies only on the information provided in making its assessment

Finally, as a provisional certificate is based solely on information provided in the application, if any material changes to the film or its structure are made which decrease the level of Australian content, they may have a bearing upon the eligibility of the film for a final certificate. As a result, a provisional certificate holder must notify the POCU of any such proposed changes and of any other changes to the film which may impact on its eligibility for the Producer Offset within a reasonable time before the changes are implemented. A re-assessment fee will be payable.

Publicity & promotion expenditure

See [Marketing](#).



QAPE

[see ITAA s.376-145]

QAPE stands for Qualifying Australian Production Expenditure.

QAPE opinions

[see ITAA item 1, s.376-135]

Under the 'new rules', expenditure obtaining 'QAPE opinions' from accountants or line producers for cash-flow lenders, investors or guarantors is QAPE, to the extent that the expenditure is incurred in Australia.

Under the 'old rules', expenditure obtaining 'QAPE opinions' from accountants or line producers for cash-flow lenders, investors or guarantors is non-QAPE as it is a financing expense.

QAPE spreadsheets

QAPE spreadsheets for both provisional and final certificates are available from the Producer Offset website. The POCU will not accept alternative QAPE spreadsheets created by the applicant, as the spreadsheets provided by the POCU contain valuable formulas which assist in the assessment process.

Screen Australia takes no responsibility for the accuracy of your budget or spreadsheets. Please check each line where you have entered figures and ensure the accuracy of the sub-totals and totals lines and columns.

For each new application please download the latest spreadsheets to ensure the most recent version is being submitted.

Please see the links below to download the relevant budget and QAPE spreadsheets:

- Spreadsheets for the purpose of calculating QAPE for provisional certification are available at: http://www.screenaustralia.gov.au/producer_offset/prov_certification.aspx
- Spreadsheets for the purpose of calculating QAPE for final certification are available at: http://www.screenaustralia.gov.au/producer_offset/final_certification.aspx

R

Related party transactions

[see ITAA s.376-175]

Now referred to as 'Interested party transactions', but see

[Arm's](#) length arrangements.

Remuneration other than by salary

If cast/crew are contractually remunerated other than by salary (such as by the payment of companion airfares or where an individual is paid an allowance for their own travel arrangements) such payments will form part of the cast/crew member's total remuneration.

For example, a non-Australian marquee actor's fee is \$500,000. The actor has an allowance for additional airfares in his contract (for his family) to the value of \$25,000. Therefore, the expenditure on these airfares is treated as part of his remuneration and brings his total remuneration up to \$525,000 (plus fringes if applicable).

The expenditure on the airfares is therefore treated the same way as the actor's fees, i.e. if their fee is sitting ATL and is 100% QAPE then the expenditure on the airfares must also sit ATL and is 100% QAPE (ie this is treated as remuneration and not as a travel cost).

If the actor undertakes work outside Australia (eg for ADR undertaken in LA), the QAPE apportionment must be based on the entirety of his remuneration (including his fee, the companion airfares and fringes if applicable).

This does not apply to the travel expenses for the marquee actor if they are paid by the production company. In this case, the expenses are not considered remuneration and therefore would sit BTL and be subject to the usual QAPE travel rules.

Payments for Holiday Pay and Superannuation are included in the calculation of remuneration.

Payments for Payroll Tax and Workers Compensation are not included in the calculation of remuneration.

Note that remuneration other than by salary may attract FBT liabilities.

For final certification applicant must supply contracts for all personnel who are remunerated other than by salary.

Residuals / buyouts

[see ITAA item 8, s.376-135]

Buyouts of residual rights are QAPE if they are paid out before the production is completed and are connected with an actor's fee that is QAPE.

However, any residual payments that are incurred after completion of the film (eg triggered by box office receipts or USA TV Sales) are non-QAPE.

Re-versioning

See [Versions](#).

S

SAG (Screen Actors Guild) fees

SAG benefits are QAPE to the extent that the wage/salary of the actor is QAPE.

Screen Business Venture Program (SBVP)

See [Development assistance \(including loan repayments\)](#).

Season of a series

See [Series or season of a series](#).

Sequel fees

Sequel fees are considered to be part of the chain of title (see [Chain of title](#)) of a film and therefore, for the purposes of the Producer Offset, should be budgeted above the line (ATL) under story and script.

This includes when sequel fees are purchasing a financier's interest in the film.

These fees are QAPE subject to the normal QAPE rules and form part of the ATL calculation for the 20% cap (see [Above the line](#)).

Series or season of a series

[see *ITAA subs.376-55(2), subs.376-65(5)*]

When applying for the Producer Offset, applicants must clearly state the title of the project and, where it is a series, identify whether the project submitted is a new series or a season of an existing series, for example *Film Title* or *Film Title – Season 2*, respectively.

The distinction between 'new series' and 'new season of an existing series' is important.

For the purposes of the Producer Offset, a 'new series' must involve a new creative concept (see [New creative concept](#)).

Whilst it may be common industry practice to refer to a program as, for example, *TV Project – Series 1*, or *TV Project – Series 2*, for the purposes of the Producer Offset, the titles of these projects are *TV Project – Season 1* and *TV Project – Season 2*, and both are seasons of the series *TV Project*.

Under the '**old rules**', a company was only entitled to the Producer Offset for a series or season of a series which must have been at least two episodes and no more than 65 episodes.

The 65 episode limit is a cumulative cap on the support the Producer Offset will provide to a series. It recognises that once a series has been in production for such a number of episodes, it should be capable of being made without Australian Government support and effectively become self-sufficient.

Under the '**new rules**', the 65 episode limit is changed to allow a company to benefit from the Producer Offset for their first 65 commercial hours of content.

This means that when the 65 commercial hour limit has been reached, that series will be deemed completed and only QAPE on the episodes up to and including the 65th commercial hour are eligible for the Producer Offset. Further hours on episodes or seasons of the series are ineligible for the Producer Offset.

The examples below set out a number of scenarios to illustrate the transition between the 65 episode limit (the 'old rules') and the 65 commercial hours limit (the 'new rules').

Scenario 1

An applicant has made a series consisting of 70 x 26 minute (commercial half hour) episodes, all completed prior to 1 July 2011. The series has been completed and the applicant will not make any further seasons of this series. The Producer Offset can only be claimed for the first 65 episodes of the series.

Scenario 2

An applicant is making Season 3 of a series consisting of episodes 53 to 78, with each episode being 22 minutes (commercial half hour).

Season 3 commenced prior to 1 July 2011 and therefore falls under the 'old rules' and the '65 episode' cap applies. The applicant can only claim QAPE up to and including the 65th episode.

However, the applicant can make a further season of this series under the 'new rules' and still be eligible for the Producer Offset. Subsequent seasons of the series will be subject to the '65 commercial hour' cap, rather than the '65 episode' cap.

Episodes 66 to 78 (which were made under the 'old rules') cannot form part of the applicant's QAPE claim in any way. In effect they fall into a gap and are 'lost' for the purposes of the QAPE claim. However, episodes 66-78 are included in the 'commercial hour' count if subsequent seasons of the series are made, as in the example below.

In other words, if the applicant starts Season 4 after 1 July 2011 (made under the 'new rules'), the applicant could be eligible for the Offset, as the series to that date consists of 39 commercial hours (78 episodes x commercial half hour).

The applicant could then seek the Producer Offset for another 36 commercial hours of the series produced after 1 July 2011 (i.e. 72 episodes, commencing from episode 79 onwards).

Scenario 3

An applicant will produce a new series with the first season being made after 1 July 2011. The Producer Offset will be capped at 65 commercial hours.

Services embodied in goods

[see ITAA s.376-160]

Where goods are located in Australia when used in the making of a film, but the real value of the goods lies in a service embodied in them, the service must be provided in Australia for the expenditure associated with the goods to be QAPE.

This means that where the goods themselves have little or no value as an item, and the value rather lies in the service embodied in those goods, then Screen Australia will look to where the service is provided rather than where the goods are located to decide whether QAPE can be claimed.

For example, if an Australian post production house outsources the work on the striking of release prints to an offshore company, the portion of the work that took place offshore would be non-QAPE. This is regardless of whether the expenditure is payable directly to the Australian post production house as the true value of the goods lies with an overseas company.

In this scenario, the true value of the goods lies in the services provided by the overseas production house in striking the release prints rather than in the goods themselves (the prints).

Sizzle reel

Expenditure incurred on the preparation of a sizzle reel which is prepared for the purposes of attracting finance is non-QAPE.

SPA (Screen Producers Australia) levies

Guild levies paid to SPA by the production are QAPE.

Special Purpose Vehicle (SPV)

SPV is an expression used to describe a company formed specifically to produce a film. The SPV will therefore be the company that carried out, or made the arrangements for the carrying out of, all the activities that were necessary for the making of the film.

Applicants who do not set up an SPV to make their film should refer to the *Assets & Rentals for non-SPVs* fact sheet which is available at:

www.screenaustralia.gov.au/producer_offset/fact_sheets.aspx.

See also [Prior company expenditure](#).

Statutory declaration

The information in an application for a provisional or final certificate must be certified as true and correct in a Statutory Declaration sworn by an person from the applicant company who is in a position to attest to the veracity of the application form and its attachments – normally this would be a company director, often the physical producer – and witnessed by somebody authorised at law to witness a statutory declaration. A pro forma statutory declaration is available when you download the application forms for either provisional or final certification. Below is a link to the Attorney General's website, confirming who is authorised to witness a statutory declaration:

www.ag.gov.au/Publications/Pages/Statutorydeclarationsignatorylist.aspx

Please note that outside of Australia, there are very limited options for witnessing Statutory Declarations (for example, as per the statutory declaration signatory list listed on the Attorney General's website, a legal practitioner, medical practitioner or notary public must be certified to practice *in Australia* in order to validly witness a Statutory Declaration). In the event that an Australian applicant is overseas when completing a Statutory Declaration, that applicant is advised to visit the nearest Australian High Commission, Embassy or Consulate to arrange witnessing by an authorised person.

Study guides

[see ITAA item 3, subs.376-150(1)]

A study guide is material created to help teachers interpret films for school students and may be prepared after production is completed.

Under the 'new rules', the fee paid to a study guide provider for the production of a study guide is QAPE, provided that the work is carried out in Australia, the copyright resides with an Australian resident and the expenditure is incurred before the end of the financial year in which the film is completed.

Under the 'old rules', the fee paid to a study guide provider for the production of a study guide is generally non-QAPE as such expenditure is usually incurred after completion of the film. Expenditure on a study guide *could* be considered QAPE if incurred in Australia before completion of the film, provided that the copyright resides with an Australian resident.

Subject matter of the film

[see ITAA item 4, subs.376-170(2)]

QAPE can only be claimed for expenditure relating to offshore filming where the subject matter of the film reasonably requires the use of the overseas location. This applies equally to co-productions (see also [Gallipoli Clause](#)).

Subsequent financial year (to completion of the film)

QAPE may have been incurred in the income year for which the Producer Offset is claimed and also in earlier financial years (after 1 July 2007). Any expenditure incurred in a subsequent financial year (to the completion of the film) is non-QAPE (see [Completed film](#)).

Substituted accounting period (SAP)

Some applicant companies are authorised by the ATO to use an income year which differs from the usual 1 July to 30 June financial year. This is known as a Substituted Accounting Period (SAP) and can only be adopted by a taxpayer with the Commissioner of Taxation's permission. Applicants are asked to identify in the final application form whether or not they use a SAP for their company. Any expenditure incurred in an income year (financial year) subsequent to that of a film's completion cannot be claimed as QAPE, so applicant companies with SAPs should note that their differing accounting calendar may impact their QAPE claim.

T

Teaser

See [Sizzle reel](#).

Test screenings

The ability for expenditure on screenings to be claimed as QAPE is very limited. These screenings must be genuine 'test screenings', not cast and crew screenings or promotional screenings. Test screenings may involve both technical screenings and preview screenings with audiences. In the latter case, audiences would complete a questionnaire or provide feedback in some form. Screen Australia may also require evidence of the use of a professional research company or details of those who attended the screening.

Test screenings must take place in Australia prior to completion of the film.

Title clearances / searches

Generally, expenditure on title clearances and searches is paid to companies based in the USA and as such would be non-QAPE.

Total film expenditure

[see ITAA subs.376-170(6)]

Under the 'new rules', total film expenditure means total budget as understood in the Australian film industry, and excludes GST.

Under the 'old rules', total film expenditure means total budget as understood in the Australian film industry, but for final certification includes GST.

Trailer

See [Marketing](#).

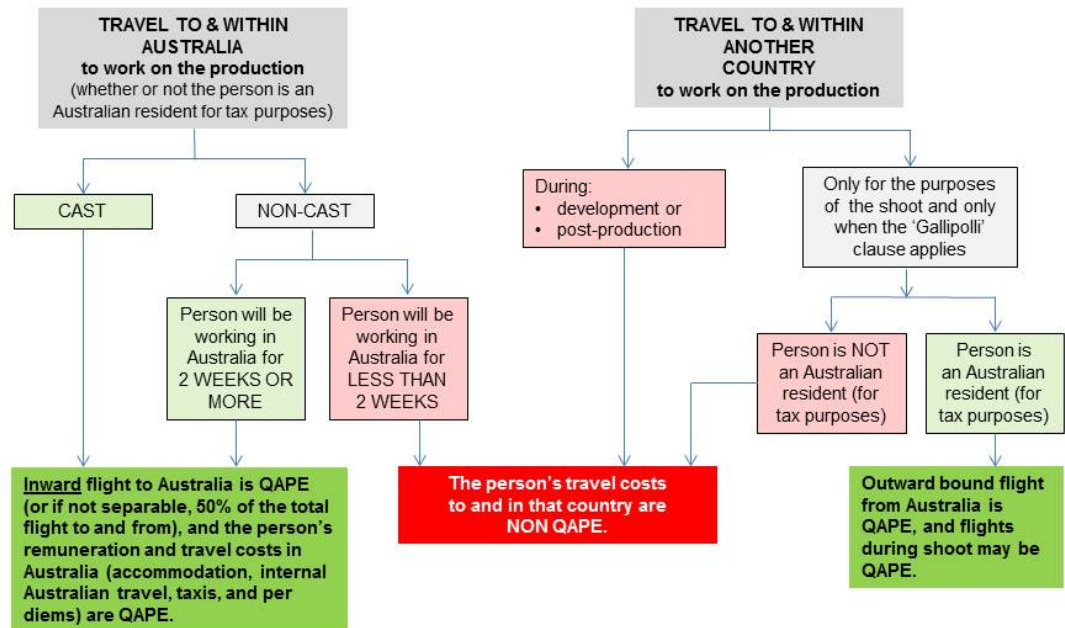
Travel

[see ITAA item 2, subs.376-170(2)]

The diagram on the following page will help you work out whether flight and travel costs are QAPE.

See [Travel - for Australian residents](#) and [Travel for non-Australian residents](#).

QAPE DECISION CHART FOR FLIGHT AND TRAVEL COSTS For people working on a production*



* For information about travel relating to people who are not crew or cast working on the production, please refer to 'At a Glance' under 'Remuneration other than by salary'

* For information about travel relating to people who are NOT cast or crew working on a production, refer to [Remuneration other than by salary](#)

Travel – for Australian residents

[see ITAA item 2, subs.376-170(2)]

All travel for Australian residents working on the film within Australia is QAPE.

Some expenditure on Australian residents in relation to overseas travel may be claimed as QAPE, subject to meeting the requirements of the [Gallipoli Clause](#). Overseas travel includes accommodation, per diems and transportation (eg hire car, taxi, petrol, parking, carnet, excess baggage).

The principle for expenditure in relation to travel, is that if a person's remuneration is QAPE at a location, then the expenditure on their travel to that location is also QAPE. Therefore –

Travel to Australia

- Non-cast Australian residents travelling to Australia to work on the film can claim their inward flight providing they are working on the film for at least two weeks (see [two week rule](#)).

Travel to another country

- Australian residents travelling from Australia overseas for principal photography can claim their outgoing airfare as QAPE if the purpose of their travel is to work on the shoot and the Gallipoli clause applies.

Travel overseas during principal photography

- Travel expenditure incurred overseas on Australian residents during the period of principal photography is QAPE. This includes transportation to and from locations within the country in question. For example, if a shoot is taking place in India and the Australian crew are required to travel from Mumbai to Delhi and Goa, then back to Mumbai, the expenditure on the domestic travel within India is QAPE.

Travel overseas outside principal photography

- Please note any travel expenditure incurred overseas on Australian residents outside the period of principal photography is non-QAPE. For example, if a crew member travels to Italy for a location survey during pre-production, and travels from Rome to Venice and to Milan and back to Rome, the expenditure on the domestic travel in Italy is non-QAPE.

When calculating expenditure incurred overseas during principal photography, the dates for principal photography can include travel days on either side of the official start and finish dates of principal photography offshore (see [Principal photography](#) – definition when working in another country).

See also [Travel](#) or a useful diagram and [Offshore work](#) and [Accommodation – overseas](#).

Travel – for non-Australian residents

[see ITAA item 2, subs.376-170(2)]

Overseas travel includes accommodation, per diems and transportation (eg hire car, taxi, petrol, parking, carnet, excess baggage).

The principle for expenditure in relation to travel, is that if a person's remuneration is QAPE at a location, then the expenditure on their travel to that location is also QAPE.

Therefore, subject to the [two week rule](#) for non-cast, all travel for non-Australian residents working on the film within Australia is QAPE.

Travel to Australia

- Travel to Australia for a non-Australian resident can be claimed as QAPE. For example if a US resident flies from New York to Sydney return, in to undertaken work in Australia, only the flight from New York to Sydney can be claimed as QAPE.

Travel to another country

- Travel from Australia to another country by a non-Australian resident is non-QAPE regardless of whether the destination is involved in the making of the film. For example if a US-resident cast member is filming in Sydney, then flies to Indonesia to continue filming, the flight from Sydney to Indonesia is non-QAPE.

Travel overseas at any time

- Travel within another country by a non-Australian resident is NON-QAPE, whether for principal photography or otherwise.

See also [Travel](#) or a useful diagram, [Offshore work](#) and [Accommodation – overseas](#).

Trusts

[see ITAA subss.960-100(1) and (4)]

A company acting in the capacity of a trustee of a trust is not eligible for the Producer Offset and therefore can neither be certified, nor incur QAPE.

It is important to note that this also applies to any 'prior company expenditure'.

The Offset legislation provides that where one company (eg an SPV) takes over the making of the film from a prior company, the new company is deemed to have incurred the expenditure of the prior company. Therefore, if for example any development expenditure is incurred by either the prior company or the new company when either of those companies is acting in the capacity of a trustee of a trust, such expenditure cannot under any circumstances be QAPE.

Two week rule

[see ITAA para.376-155(b)]

The 'two week rule' applies to crew only. All crew members (including producers and executive producers), whether Australian or non-Australian residents, must remain in Australia and work on the film for at least two consecutive calendar weeks (14 consecutive nights) for expenditure attributable to their stay to be QAPE (including salary, fringes, per diems and travel and accommodation). Each visit is considered separately.

U

Union fees

Union fees (including to offshore unions) are QAPE where the wage/salary of the person is QAPE (see [SAG \(Screen Actors Guild\) fees](#)).

V

Versions

An example of a different 'version' might be when an applicant is making a 16-part television series and as part of its delivery requirements the applicant must also deliver a pilot in the form of a telemovie. The additional expenditure on creating this telemovie (i.e. scripting, picture edit, sound post production) may be able to be claimed as QAPE. Another example might be where an applicant company is contractually required to deliver a different version of the film to an overseas territory.

Under the 'new rules', expenditure incurred in Australia on re-versioning a film can be QAPE if the work takes place in Australia and the expenditure is incurred before the end of the financial year in which the film is completed. Please note, however, this refers to an alternate version of the same film; it does not allow a completely different film to be made and claimed as a new version. For example, if a feature film and a 6-episode spin-off TV series are shot at the same time about the same subject, one company cannot claim the expenditure on both the film and the series as QAPE on a feature film. However, recutting a 2 hour feature film into a 2 x 1 hour miniseries could be claimed as a reversion cost in the feature film application.

Under the 'old rules', the work must take place in Australia and such expenditure must be incurred before completion of the first version of the film.

See also [Additional content](#).

Visas

[see ITAA item 2, subs.376-170(2)]

The rules for visas – for both Australian and non-Australian residents – follow the same rules as for travel. Therefore, the principle is that if a person's remuneration is QAPE at a location, then the expenditure on their visa to that location is also QAPE regardless of the country in which the visa is purchased.

See [Australian resident](#) for visas and residency status.

Please note Screen Australia is not able to provide advice on any visa requirements.

W

Website / online content

[see ITAA item 3, subs.376-150(1)]

Expenditure in relation to online/web content, including webisodes, can fall within two areas of the legislation, depending on the use of the content. In most cases it sits within the 'marketing/promotion and publicity' provision of the legislation. However, in some circumstances it can sit within the 'additional content' provision.

On either basis, under the 'new rules', the work must take place in Australia and the work must be completed, and the expenditure incurred, before the end of the financial year in which the film is completed.

Under the 'old rules,' only expenditure incurred prior to the completion of the film is QAPE.

Under both old and new rules, any expenditure incurred in relation to the cost of website maintenance, editing or hosting is non-QAPE.

The POCU would expect to see a breakdown of expenditure on a website for final certification to ascertain what expenditure may be QAPE. See [Marketing](#) or [Additional content](#) for further information.

Workers compensation

In most cases workers compensation for cast/crew (for both Australians and non-Australians) is QAPE because it is for work undertaken in Australia. The general rule is that if the person's remuneration is QAPE then any workers compensation linked to that salary is also QAPE.