



5 December 2008

The Review Team
Review of Film Tax Offsets
Business Tax Division
The Treasury
Langton Crescent
PARKES ACT 2600

Via email: filmsreview@treasury.gov.au

Dear Sir/Madam

Statutory Review of Division 376 In Relation to Certain Production Levels

We refer to the Federal Government's Statutory review of the Refundable Tax Offsets as legislated in Division 376 of the *Income Tax Assessment Act 1997*.

Beyond International Limited (**Beyond**) welcomes the opportunity to make a submission on the effect of the film tax offsets on levels of independent and in-house television production.

1 BEYOND BACKGROUND INFORMATION

Beyond is a leading Australian independent television producer and distributor with offices in Australia, Ireland, the United Kingdom and the USA. Since its inception in 1984, Beyond has produced and/or co-produced over 1,800 hours of television programming, including information and documentary programs, magazine and lifestyle series as well as drama, children's, light-entertainment, variety, comedy and mini-series.

In the last 12 months, Beyond has produced over 225 hours of television programming. In addition, Beyond currently has over 5,000 hours of programming in its television catalogue.

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2 KEY SUBMISSIONS

2.1 SPAA Submission

Beyond supports the views outlined in the SPAA submission to the refundable tax offsets dated 5 December 2008. In particular, Beyond strongly supports SPAA's views in relation to the television broadcasters and pay television operators access to the Producer Offset. Beyond has previously made a number of submissions to the Federal Government regarding the establishment of the Producer Offset. In particular, Beyond endorsed the Federal Government's incentive to boost support to the Australian film and television production industry. Beyond welcomed the Government's announcement that the Producer Offset would *"help the film and television industry to become more competitive and responsive to audiences"* and to allow for *"producers to retain significant equity in their productions and build stable and sustainable production companies, both important for the long term growth of the film industry"*.

Beyond maintains the availability of the television broadcasters and pay television operators to access the Producer Offset is directly at odds with the original intention of the Federal Government's incentive to support the Australian independent television production sector. As outlined in the SPAA submission, since the Producer Offset was announced in the May 2007 budget the Australian television networks have increased the level of in-house television production. As Beyond has previously submitted, the Producer Offset will simply reduce the broadcaster's and pay television operators programming costs to the detriment of the independent production sector. This could hardly be the intention of the Federal Government's film package initiative announced in the 2007 budget. Australian broadcasters are already among the most profitable and heavily protected by legislation in the world.

Beyond strongly supports the recommendations outlined in the SPAA submission. In particular, Beyond supports;

- (a) the recommendation that the Federal Government alter the legislation to expressly prevent Australia's major television networks and subscription service operators from claiming the Producer Offset;
- (b) the recommendation that the Federal Government strengthen the current legislation to expressly forbid broadcasters and pay television operators from claiming the benefits of the Producer Offset through discounting of program licence fees or by requiring the independent producer treat their Producer Offset as gross receipts back to the networks; and
- (c) the recommendation that the Federal Government alter the legislation to enable tax acquittal of projects with a final certificate in the most timely manner.

2.2 QAPE Thresholds and Per Hour Minimums

As previously submitted by Beyond to the Federal Government during the implementation of the Producer Offset, Beyond remains concerned that the current minimum expenditure thresholds for documentaries is too high and excludes the majority of documentary television programs produced in Australia. In relation to television documentaries Beyond submits the minimum QAPE per hour for documentaries be reduced from \$250,000 to a minimum per hour QAPE of \$200,000.

2.3 Location Offset

Beyond submits the current required minimum level of QAPE for the Location Offset is an impediment to attract foreign commissioned television series to be produced in Australia.

Currently the Location Offset is only available for projects with QAPE of at least \$15 million. In relation to television series, in order to qualify for the Location Offset the television series must also have an average of at least \$1 million of QAPE per hour. To date it has been Beyond's experience that the current QAPE thresholds prohibit the commissioning of any documentary television series, telemovies or mini-series by foreign broadcasters.

Beyond submits the minimum QAPE for a television series should be lowered to \$5 million dollars with an average of at least \$400,000 of QAPE per hour. In addition, the minimum QAPE for a telemovie should be lowered to \$3 million.

We would be pleased to elaborate on the submissions set out in this letter. Please contact me if require any additional information.

Yours faithfully



Peter Tehan
General Manger, Legal & Business Affairs