



Screenwest (Australia) Ltd
ABN 43 620 492 300

Director
Industry Tax Policy Unit
Individuals and Indirect Tax Division
Treasury
Langton Cres
Parkes ACT 2600

14 April 2022

By email: digitalgames@treasury.gov.au

Dear Madam / Sir,

Re: Submission - Draft Digital Games Tax Offset Legislation

Screenwest appreciates the opportunity to provide a submission outlining our feedback on the draft Digital Games Tax Offset (DGTO) legislation.

Screenwest is Western Australia's not-for-profit screen funding organisation, supporting the development and production of film, television, and interactive projects in Western Australia. Our purpose is to support and grow a more sustainable Western Australian screen industry.

Screenwest supports the DGTO. We understand the purpose of the DGTO is to strengthen the digital games industry in Australia; expand employment opportunities for digital and creative talent; enhance the industry's international competitiveness; and make Australia an attractive destination for foreign investment.

We believe the DGTO will favourably complement Screen Australia's *Games: Expansion Pack* initiative. Both Federal initiatives will make a significant and positive contribution to the growth of the Western Australian games and interactive industry, generating an increased demand for transferrable skills which will benefit the wider digital economy.

Screenwest submission: draft Digital Games Tax Offset legislation – 14 April 2022

30 Fielder Street,
East Perth WA 6004
P/ +61 8 6169 2100 T/ 1800 463 043

E/ info@screenwest.com.au
W/ screenwest.com.au
W/ filminwesternaustralia.com.au

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Sport and Recreation



Outlined below are the key elements that Screenwest wishes to bring to your attention.

1. Further Funding for Development Budgets Below \$500,000

Federal initiatives like the DGTO and the *Games: Expansion Pack*, will make a significant impact on the Western Australian games and interactive sector. Screenwest urges the Government to consider additional funding beyond 2022-23 to support projects with development budgets under \$500,000. The security of ongoing lower-level funding is an integral part of the ecosystem required to grow a sustainable Australian games sector and expand Western Australia's emerging games and interactive industry.

In its current form the proposed DGTO will not benefit many Western Australian game development studios. Whilst our nascent industry demonstrates talent, innovation and passion, most studios have development projects below \$500,000. Additional funding initiatives targeted specifically at small and medium sized companies will support the growth of such companies. This will lead to larger projects, more jobs and increased revenue contributing to the local economy and the expansion of the Australian game and interactive industry.

The *Games: Expansion Pack* provides production funding for projects under \$500,000. This initiative is only funded for the next two years. Small, medium and emerging independent game developers working on original game ideas, form the bulk of projects in Western Australia's emerging games and interactive industry. Without further funding support at grass roots level, a number of smaller studios and independent developers will fall through the cracks, unable to access alternative and more traditional forms of funding. This has already been the case with several studios previously formed in Western Australia.

Smaller studios are an integral part of Western Australia's games and interactive ecosystem. They provide students with internships and graduates with crucial learning and experience in part-time paid employment within small teams. Due to a lack of studios offering full time or consistent employment, once individuals gain several years' experience, they often seek opportunities interstate or overseas. Many transfer to other industries that take advantage of their transferrable skills in 3D design, spatial computing and software development particularly in Western Australia's lucrative mining and resources sector.

The result is a "hollowing out" of the State's creative screen sector working in games and immersive technologies. This results in less original content, fewer local stories, and fewer opportunities to develop intellectual property with resulting financial benefits.

Screenwest strongly urges the Federal Government to consider extending the *Games: Expansion Pack* initiative beyond 2022-23. It is much more effective to support and assist the emerging talent and expertise that is already here in Australia than to appeal and coax back those who have already left.

2. Australian and Foreign Owned Entities

The draft DGTO legislation defines eligible companies to include those that are Australian residents or foreign residents with a permanent establishment, to ensure that only companies that carry on their game development business in Australia are eligible for the offset.

Screenwest supports that development expenditure excludes expenditure incurred on or in connection with engaging employees and contractors, as Western Australian based game development studios have previously been contracted by global companies to work on high-profile projects.

Although the DGTO is designed in part to make Australia an attractive destination for foreign investment, we believe it will also benefit those Australian states and territories with already well-established game and interactive sectors.

It is vital that the DGTO does ultimately benefit Australian-owned and operated studios, as they nurture and support our national game and interactive industry.

3. Australian Content and Stories

It is important the DGTO, as well as similar future initiatives, prioritise and promote Australian content, stories and our unique perspective.

The DGTO will no doubt attract foreign investment, however, it would be an unfortunate outcome if few of the projects that benefited from the offset reflected diverse and original Australian content.

4. Glossary adjustments to incorporate the diversity of games and interactive experiences

Screenwest welcomes the distinction that has been made between games and corporate experiences/simulations that are primarily developed for industrial, corporate, or institutional purposes. With the latter deemed ineligible for the DGTO.

This exclusion will allow the DGTO to appropriately target games and interactive experiences that fall primarily in the entertainment and storytelling sector, where there is little existing support or funding.

5. Eligibility of Geo-fenced Experiences

Screenwest urges the Government to reconsider the eligibility of games and interactive experiences with a specific location element.

Under section 1.36 of the draft legislation games *“restricted to one or a very small number of locations such that they cannot be considered to be effectively available to the general public are also ineligible games”* are deemed ineligible.

Some geo-fenced games are in fact able to demonstrate that this element of their design is a positive player experience rather than a feature designed to be restrictive or exclusive. For example, Pokémon Go is a mobile application available on App Stores with location-based content that can only be accessed when a user is physically located at a specific set of geocoordinates.

As a large global entity, Niantic, the game development studio that created Pokémon Go, has vast resources to anchor content at locations all around the world. However, a small development studio with limited resources could still create a quality game experience within a specific geographical area in one or more cities.

6. Eligibility of Play to Earn

Section 1.31, Screenwest strongly agrees with the draft legislation denoting a digital game as ineligible if it is a “gambling service (within the meaning of the Interactive Gambling Act 2001) or substantially comprises gambling or gambling-like practices”.

However, the Government may wish to consider the eligibility of "play to earn" games where players can receive rewards with real world value. For example, games like Roblox and Axie Infinity. We suggest that these types of games should remain eligible as they present an alternative and viable business model for independent game studios, requiring less dependence on traditional funding channels.

7. Eligibility of Cryptocurrency

The draft legislation is silent on the eligibility of cryptocurrency or Non-Fungible Tokens (NFTs). It should be noted that some digital games include the purchase or pay out rewards using cryptocurrency.

Screenwest's understanding is that current Australian law does not equate digital currency with fiat currency and does not treat cryptocurrency as "money" although Australia is looking to create a licencing framework for cryptocurrency exchanges.

Both cryptocurrencies and NFTs have proven to be a popular and viable addition to player experience and online communities. Screenwest recommends the Government include these types of games as eligible under the DGTO legislation.

Screenwest's vision is a growing, inclusive and more sustainable Western Australian screen industry that showcases Western Australia and its diverse community, talent, culture and Country. We hope the final DGTO legislation and Federal initiative/s provide a future for small, medium and emerging game development and interactive studios who play an integral part in Western Australia's screen ecosystem.

Thank you again for the opportunity to contribute.

Yours Sincerely,



Rikki Lea Bestall

CEO