

---

TBA

---

EXPOSURE EXPLANATORY MATERIALS

## **Consultation preamble**

Treasury seeks feedback on the effectiveness of this exposure draft explanatory material in explaining the policy context and operation of the proposed new law, including, but not limited to:

- how the new law is intended to operate;
- whether the background and policy context is sufficiently comprehensive to support understanding of the policy intent and outcomes of the new law;
- the use of relevant examples, illustrations or diagrams as explanatory aids; and
- any other matters affecting the readability or presentation of the explanatory material.

Feedback on these matters will assist to ensure the Explanatory Memoranda for the Bill aids the Parliament's consideration of the proposed new law and the needs of other users.

Treasury and the ATO work closely to identify aspects of new tax laws which may benefit from ATO public advice and guidance (PAG). Feedback is also sought on any aspects of the new law where ATO PAG should be considered, to support stakeholders' understanding and application of the new law. Stakeholder feedback on this question will be shared with the ATO.

# Table of Contents

Glossary	3
Chapter 1: Producer tax offset.....	4





# ***Glossary***

---

This Explanatory Memorandum uses the following abbreviations and acronyms.

<b><i>Abbreviation</i></b>	<b><i>Definition</i></b>
ITAA 1997	<i>Income Tax Assessment Act 1997</i>

# Chapter 1: *Producer tax offset*

---

## Outline of chapter

- 1.1 Schedule # to the Bill amends the ITAA 1997 to make changes to the producer tax offset to allow a film production company to qualify for the producer tax offset by spending a minimum of \$35 million of qualifying Australian production expenditure for a season of a drama series, over a maximum period of 12 months of production or 36 months for an animated image film series.

## Context of amendments

- 1.2 The producer tax offset is a refundable tax offset calculated by reference to the Australian expenditure incurred in making the film. A film production company may be entitled to this offset for their film production. The tax offset is intended to support and develop the Australian screen industry by providing concessional tax treatment for Australian film expenditure.
- 1.3 The amendments introduce an alternative means by which a film production company can access the producer tax offset if it produces drama series.
- 1.4 The Government recognised the need to add a new category for eligibility for the producer offset to support the production of long-term Australian drama series.

## Comparison of key features of new law and current law

### *Comparison of new law and current law*

<b><i>New law</i></b>	<b><i>Current law</i></b>
<p>A season of a drama series also qualifies for the producer tax offset if:</p> <ul style="list-style-type: none"><li>• qualifying Australian production expenditure for the season of the series is \$35 million or more;</li><li>• the season of the series contains two or more consecutive episodes; and</li></ul>	<p>Not applicable</p>

<b><i>New law</i></b>	<b><i>Current law</i></b>
<ul style="list-style-type: none"> <li>the season of the series is completed in no more than 12 months or 36 months for a digital or other animated image film series.</li> </ul>	

## Detailed explanation of new law

### Season of a drama series

- 1.5 Schedule # to the Bill introduces a new test for a film production to enable a film production company to qualify for the producer tax offset.
- 1.6 The new category provides for film productions that are a season of a series, and the series is a drama series. A film production must have Australian production expenditure on the film of \$35 million or more. There is no per hour minimum spending threshold requirement that applies. This new category supports the production of longer drama series that have significant expenditure over their season of the series but they do not satisfy the per hour expenditure requirement due to their lower per hour production costs.

***[Schedule #, item 21, table item 7A of subsection 376-65(6) of the ITAA 1997]***

- 1.7 The season of a drama series must satisfy certain conditions to establish eligibility including that it:
- is produced wholly or principally for public release on television (this term includes streaming services) under a single title for the drama series; and
  - comprises two or more episodes that are intended for exhibition together in a national market or markets.

***[Schedule #, item 22, paragraphs 376-65(6B)(a) and (b) of the ITAA 1997]***

- 1.8 The principal photography for a season of a drama series must be completed in no longer than 12 months after commencement of the principal photography or no longer than 36 months after commencement of production of a series that is mainly digital or other animated images. The maximum production time periods do not include the photography of any pilot episode for the production which can be undertaken outside this time period. The time period in which the principal photography must be completed ensures that the minimum of qualifying Australian production expenditure of \$35 million must be incurred

within the specified timeframe for a drama series to be eligible for the producer tax offset. This time period cap excludes productions that can only reach the minimum expenditure requirement over a longer time period (noting that digital or other animation allows a three-year period).

***[Schedule #, item 22, paragraph 376-65(6B)(c) of the ITAA 1997]***

- 1.9 A season of a drama series can qualify for the producer tax offset under either the new eligibility criteria inserted by Schedule # or under existing table item 7 of subsection 376-65(6) of the ITAA 1997. Existing table item 7 of subsection 376-65(6) requires \$1 million minimum of qualifying Australian production expenditure and a minimum of \$500,000 per hour expenditure. The existing law provides flexibility to ensure that higher production cost drama series can continue to be supported by the producer tax offset in operation prior to the amendments as well as longer drama series with lower per hour production costs to which Schedule # applies.

***[Schedule #, items 21 and 22, subsection 376-65(6) and subsection 376-65(6A) of the ITAA 1997]***

## Commencement, application, and transitional provisions

### Commencement

- 1.10 Schedule # commences on the first day of the first quarter after Royal Assent.

***[Clause 2]***

### Application

- 1.11 Schedule # to the Bill applies:

- for a film that is predominantly a digital animation or other animation—the making of the film; or
- otherwise—the principal photography for the film;

that commenced on or after 1 July 2024.

***[Schedule #, item 23]***