

AUSFILM 30% LOCATION OFFSET WEBINAR

Thu, Jun 01, 2023

SPEAKERS

Kate Marks, Jason Potkins, Bec Rush, Kendall Clayton

Kate Marks

Good morning, everybody or good afternoon.

Welcome to today's Ausfilm Webinar, my name is Kate Marks, and I'm the CEO of Ausfilm.

As we're hosting this morning's session from Australia, I would like to start by acknowledging the traditional custodians of the land on which we gather. For me, that is the Gadigal people of the Eora nation, and I pay my respects to their elders past and present.

Many of you would have seen the news that on the ninth of May this year, the Australian Government announced the location Offset will increase from 16.5% to 30%, and I know that if we're all together in a room right now, I'd be hearing lots of cheering.

This is huge for the Australian industry, and comes after more than a decade of advocating by Ausfilm and many others in the industry, both locally and internationally. It will provide you all with the ongoing certainty that you need to bring your productions to Australia now and into the future. And to further enhance the many wonderful partnerships you have with screen businesses and practitioners right across the country, many of whom are Ausfilm members. It will encourage new investments into infrastructure and new partnerships into training to further enhance and continue to develop the best crew possible and the best facilities here in Australia. Importantly, the location Offset will now align with the Post-production, Digital and Visual Effects Offset, the PDV Offset. Meaning that you will receive a consistent 30% from the very start of production right through to delivery. Our talented cast, crew, government agencies and screen businesses are here to support your productions and to help you bring them to life in Australia.

Ausfilm is super excited about this announcement, and we're deeply appreciative of the support and leadership of the Australian Government and the commitment they've made to ensuring Australia is a competitive filmmaking location for you all. We're also incredibly fortunate to have the support of the Office for the Arts. And we have them here today to take you through the detail.

So please use the Q&A function at the bottom of your screen, and we'll ask them at the end of the presentation.

And so it's now my pleasure to introduce you to Bec Rush, many of you had the opportunity to meet Bec during Ausfilm week in Los Angeles last October, but Bec - for those who didn't - is the Assistant Secretary of Australian screen industries with the Office for the Arts with the Australian Government. So, it's my pleasure to welcome you to the screen Bec.

Bec Rush

Thank you for that introduction, Kate. Good afternoon, Good morning everybody. My name is Bec Rush. I am joining you from Ngunnawal and Kghambury country, also known as Canberra, Australia's capital.

As Kate mentioned, there was an announcement in May, in the budget context, confirming that the Location Offset will be increased to 30%. I'm not going to talk for too long because you'll want to hear from my colleagues, Jason Potkins and Kendall Clayton on the details.

But I just wanted to flag with you that this was committed to, in this document called 'Revive', which is the government's cultural policy. Do yourself a favour, as Molly Meldrum would say, and get yourselves a copy. This was launched in January, and it was in this document that the government committed to ongoing support for large-scale production and attracting that production from offshore. So this is a cultural policy commitment, but it's also a trade policy commitment. And I would be remiss not to acknowledge the work and advocacy of my colleagues from Austrade. But in truth as Kate said, this is the result of years of work and data collection around the benefits of offshore production to the Australian Screen Production sector but also to the economy more generally. These are things that are well known, but worth repeating in this context.

I'd like to acknowledge the work of Ausfilm, my team, but also my predecessors, who will be well known to you, Carolyn Fulton and Jo Sharp.

I'd also like to, before I hand over to my colleagues, to acknowledge that this means that we will need to continue to look at the capacity issues in the sector, that is making sure that we continue to have the best and the brightest, above and below the line to support you when you come to Australia. And I think that I've had a quick look at my team's presentation and they will be talking you through some of the ways that we will leverage the Offset, to make sure that you come to our shores and continue to work with - not that I'm biased, but - the best in the world.

On that note, I will throw to my colleagues Jason Potkins, who is the Director of the Screen Industries team and Kennie [Kendall Clayton], the Assistant Director. Thank you.

Jason Potkins

Hello, everyone, I'm Jason Potkins. As Bec said, I am the Director of the Screen Incentive section here in Canberra. Essentially, we are responsible for all Screen Production policy and the Federal Tax Offsets, as well as the Location Incentive program, which many of you may be familiar with.

And it's our job to stay true to detail today. Also joining me is Kendall.

Kendall Clayton

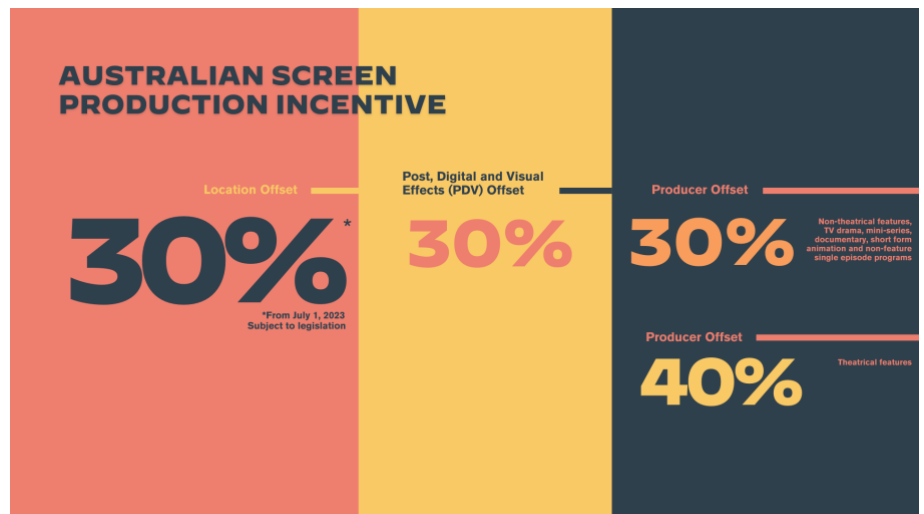
Hello, nice to see you all, I'm Kendall, the Assistant Director in the Screen Incentive section and I work with Jason.

Jason Potkins

So without any further delay, we'll just get into the details. So on the screen is an overview of the current screen production incentives that we have here. So you have the Location Offset, as announced in the budget from July 2023, will be increased to 30%. The current rate, of course, is 16.5%.

The other Offset we have is the Post, Digital and Visual Effects Offset, that's currently 30%.

And then we have the two rates for our Producer Offset, which has a cultural test and a significant Australian content test, and that's 40% for [theatrical] feature films and 30% for other [non-theatrical].



So we can walk through some changes, as I've just outlined in the previous slide, we are increasing the location of certain rates from 16.5% to 30%. The minimum expenditure thresholds are also changing, so the minimum Qualifying Australian Production Expenditure is increasing from A\$15 million, and A\$1 million per hour to A\$20 million and A\$1.5 million per hour.

There's also a couple of new eligibility requirements, and the people who have been through the Location Incentive program will be familiar with these.

First of all, there will be a commitment to training and capacity building, and that's to alleviate some of the capacity issues that Bec mentioned previously.

There's also a requirement to work with one or more of our Australian Post, Digital, VFX companies here in Australia.

And also we will be introducing some statistical requirements and reporting requirements at the application stage. So we can capture some data about the effect of the Offset on employment and other aspects.

Just to make it very clear upfront, the Offset is uncapped and unlimited. So all you have to do is meet those minimum expenditure requirements. There's no longer a requirement as there is under the Location Incentive program to secure State support before commencing for production to access the Offset.

And you don't have to be footloose, that is, you don't have to be not locked into Australia, so you can be locked into Australia.

So the changes will be made to amendments to our legislation, the Tax Act. The Tax Acts are the responsibility of the Treasurer, and the Treasury Department. Unfortunately, we can't give you any timeframes of when that legislation will pass. But as we've said, it will commence from 1 July, 2023. The changes will be applied retrospectively. So whenever the legislation passes, it will still start from that date. Also, I think we would kind of make it clear to people that the absolute end date that we would want to see the legislation passed by is the end of next financial year in Australia, which is 30 June, 2024.

The reason for that is if we travel over financial years, the tax arrangements can get quite complicated. So the absolute end date will be 30 June, but I think we would probably hope to see legislation introduced in the third or fourth quarter of this year with passage either late this year or early next year.

AUSTRALIA'S LOCATION OFFSET

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What is changing?

- Location Offset increasing to 30%
- Minimum qualifying Australian production (QAPE) increasing from A\$15M to A\$20M and A\$1M to A\$1.5M per hour for television series
- New eligibility requirements:
 - Commitment to training and capacity building
 - Requirement to work with one or more Australian post, digital or VFX companies
 - New reporting requirements

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How will the changes to the Location Offset be made?

- The changes will be made through legislative amendments to Division 376 of the Income Tax Assessment Act 1997.

What is the timeframe for the legislative amendments?

- The Australian Government intends to have the amendments to the Income Tax Assessment Act 1997 in place by 30 June 2024.

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As Bec and Kate mentioned, the objective of the Location Offset is to encourage large-scale screen production. That's another reason why we've increased our minimum expenditure thresholds. And really, what we're trying to do is encourage the long term growth in the sector. In the past Australia has offered ad-hoc funding, we've recently had the Location Incentive program, which was both capped and time limited. But with the Location Offset increase, means that we now have an opportunity to secure a long-term pipeline of productions into the future.

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Why is the Location Offset being increased?

- The objective of the Location Offset is to encourage large-scale screen productions to film in Australia.

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It means that hopefully, studios and production companies can start planning in the long term rather than in the kind of production-by-production basis as well.

We will obviously keep as many people as we possibly can updated on the eligibility requirements as we go through the process. We'll start informal consultation on several of the new eligibility requirements in the next few weeks. Particularly, we'll be focusing on the new training requirement, that is obviously something that we're very keen to get right and to get your views on. So, informally, we will be reaching out to people and then there will be a formal consultation process once the legislation is actually introduced into the Parliament as well.

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When will we know the details about the new eligibility requirements?

- Consultation is being undertaken with key stakeholders about the proposed new eligibility requirements. Similar eligibility requirements currently exist as part of the Location Incentive.

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If you commence principal photography before 1 July 2023 or up until June 30, June 2023, you can still claim the Location Offset at 16.5%. If you commence principal photography after 1 July 2023, then you will be captured by the newer Offset rate and the new eligibility requirements under that Offset.

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Can I still claim the Location Offset at 16.5%?

- Yes. Up until 30 June 2023
- Productions that commence principal photography after 1 July 2023 will need to meet the new requirements specified in the legislation.

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If you commence your production after 1 July 2023, you will only be eligible for the new Offset rate. So, basically the date when you commence principal photography, or manipulation of the moving image, essentially determines which rate you will be captured by.

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Can I claim 16.5% rebate for expenditure before 1 July 2023 and claim 30 per cent for expenditure on or after 1 July 2023?

- **No. The date when principal photography commences will determine what rebate rate you will receive provided all other eligibility criteria is met.**

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Pre-production costs will be covered by the new Offset rate. So, if you commence principal photography after 1 July [2023], your pre-production costs will be captured under that new 30% rate. So it's the entire production process will be covered.

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I started principal photography after 1 July 2023, will my pre-production expenditure that occurred before this date still be counted as QAPE?

- **Yes. Eligible expenditure can still be counted as qualifying Australian production expenditure.**

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If you want to apply for a provisional certificate before the legislation is passed, and if you want that to reflect the 30% rate, at the moment until the legislation passed, that is not possible. But you should reach out to us to discuss what the options are and what the new changes will be, so that we can walk you through the process. But, at this point in time, we can only issue provisional certificates based on the legislation, as it stands.

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Can I apply for a Location Offset provisional certificate to get confirmation of eligibility for the Location Offset at 30%?

- **If you want to apply prior to the legislation being passed reach out to the Office of the Arts to discuss.**

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We don't anticipate that a production company will be able to go from pre-production, principle photography or post production, before the legislation actually comes into effect. Given that our end date is June 2024. If you think that could actually apply to your production, though, then please, you should reach out to us and we can discuss some options.

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What if I need to apply for a final certificate and the legislation has not passed?

- It is unlikely that any production will complete production prior to the Legislation passing, however if you believe it will, please contact the Office for the Arts to discuss.

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Once the legislation is passed, and once it's actually into effect, then we will very quickly update relevant guidelines, our application forms and other areas to reflect the new changes. But unfortunately, we can't anticipate what Parliament might do with the legislation, so we can't finalise those right at this time. But, as we make changes, we will obviously keep people informed as soon as we possibly can.

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When will Guidelines and Application Forms be available?

- Once the details of the legislation are settled, the Location Offset Rules, Guidelines, Glossary and Application Form will be updated to align with the legislation.
- Updates to arts.gov.au will be made as the legislative process progresses.

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The increase to the Location Offset won't affect your Location Incentive application. So if you have applied for the Location Incentive and are receiving funding under the Location Incentive program, and commenced principal photography before 30, June 2023, there will be no changes to the process whatsoever, you will still continue to be covered by that scheme and get payments under that scheme. If you've applied for the Location Incentive, have been committed funding, but won't commence principal photography until after 1 July 2023, then you should contact us and we can work with you on the options there. And of course, if you've applied but hadn't received an offer, or haven't received any kind of funding, and are commencing principal photography after 1 July 2023, then you will be covered by the new Location Offset rate.

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Will the Location Offset changes affect my Location Incentive application?

- The Location Incentive will cease accepting applications from 30 June 2023. If you have applied to the Location Incentive, please contact the Office for the Arts.

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If you've already received a Location Incentive Grant, then as I said, the changes won't affect you whatsoever. It's only going to affect you if your principal photography commencement date is after 1 July 2023.

AUSTRALIA'S LOCATION INCENTIVE

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What if I have already received a Location Incentive Grant?

- If starting principal photography after 1 July the Location Offset will apply.
- The 30% rate and new eligibility requirements will apply to eligible productions that commence principal photography on or after 1 July 2023.
- If your production is receiving the Location Incentive, and commences principal photography before 1 July 2023, the changes will not affect you.

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Unfortunately, you can't claim the Location Incentive and the Location Offset at the increased rate. Basically, we will prevent you from claiming anything more than 30%. But again, it's the date that your principal photography commences, that determines at what rate you will apply, and the mix between the Location Incentive and Location Offset.

And again, if you've recently applied for the Location Incentive, and I know that quite a few people have, then please reach out to us. We've probably already contacted you, but if we haven't, or if you haven't heard from us or if you're not clear about the process, then please reach out.

Kate Marks

Thank you, Jason and Kendall. That takes us through the formal presentation.

Again, I encourage people to submit any questions they have, now is the time, the Q&A button is at the bottom of your screen. Just to point out, we recognise that there is a period of transition, between where we're at now with both the Offset at 16.5%, and also the Location Incentive legislation process. So we recognise that there is a transition that we'll all need to work with, but I just reiterate to speak to Jason and his team or of course, speak to Erin and the Ausfilm team to help guide you through that process. But we know that a lot of the new eligibility requirements are what people have been already doing with the Location Incentive Grant, it will become more straightforward and streamlined. One of the key reasons we've been wanting the Location Offset

AUSTRALIA'S LOCATION INCENTIVE

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Can I claim the Location Incentive and the Location Offset at the increased rate?

- No. The total support claimed under the Location Incentive, and the Location Offset cannot exceed 30%.
- The date when principal photography commences will determine what rebate you will receive provided all other eligibility criteria are met.
- If you have applied to the Location Incentive, please contact the Office for the Arts.

I have recently applied to the Location Incentive. What will happen to my application?

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Q&A

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with any questions and for support on location packages and introductions to Government agencies and Ausfilm Members

[increased] rather than the Incentive is to make it easier for you, for it to be a very streamlined, simple process. Many of you have been working with the Location Offset for probably close to 20 years, and we know that that process itself is simple, it's straightforward, it's certain. So what we're working towards is having the Offset at 30% working in a very similar manner.

Okay, Jason and Kendall, I'm going to start throwing you some questions.

I have a question about that transition, so that's a good starting point. During the transition, are there any specifics around the give back for training? So how do people, while we don't have legislation in place, how do clients know what to work towards in that training piece?

Jason Potkins

There are no specifics yet. As I said, we are going to go out to consultation around the training element and that will probably give you an idea of what our thinking is. We're trying to incentivize long term training, rather than specific production-by-production training, but, there's ways and means of doing that. Certainly, at this point in time, we've got no specific details. I would probably say, if you've done training under the Location Incentive previously, then the outcome will probably be very similar to that. We're not trying to reinvent the wheel here, we're just trying to make sure that training that has been happening, is continued into the long term.

Thanks Jason. Should applicants be looking to budget differently to accommodate that training? So, should they look at including a number of trainees, any particular number, whether it's four or five or more? Is there any guidance you can give?

Jason Potkins

We can't give specific guidance; we are looking at maybe a minimum expenditure requirement on training. The reason for that is just to quantify the minimum amount that we would expect. There's two aspects there, first of all, we want to make it very, very transparent and very clear to people before they start production in Australia exactly what the requirement is. So they can be absolutely certain that they will meet the requirements before they start. And the second aspect is, we can't make the training requirements so onerous that it actually distracts from the attraction of the Offset. So essentially, we're trying to kind of get a middle-ground where we get long-term training for the sector to relieve that capacity. But at the same time, mean that productions can meet it relatively easily. I would just encourage people to reach out and actually talk to us directly, we can walk you through where we're thinking as well.

What are the specifics around the requirement for production to use one or more Australian providers in terms of PDV?

Jason Potkins

There's no real specifics. Anybody who's gone through the Location Incentive program had this requirement. And really, what we're looking at is that you just use one or more PDV production houses in Australia, we're not looking at expenditure thresholds or minimum requirements at this point in time. The reason for that is really, it's a little problematic, it's easy for a large VFX-heavy company or film to actually meet an expenditure requirement for PDV. But for a drama, for example, which is mid-budget, they might have a very low budget for that. So really, we're not looking at the expenditure thresholds at the moment, but that's something we'll obviously continue to review in terms of what the outcomes are into the future.

Kate Marks

And I could just add there that obviously, at 30% now, we are encouraging you to do as much of your post production and visual effects work in Australia. So don't just think of visual effects, think of the full gamut of your picture, sound and music post, because you will get 30% as I said, from the very start to delivery. So you are encouraged to do as much, and reach out to Erin to talk you through all our wonderful post production Ausfilm members, just a little plug for them, if I can add that in.

Are there any changes to - again, we did touch on this, but some people may have come in late - any changes to the spend threshold or any caps on any specific expenditure.

Jason Potkins

The minimum expenditure thresholds are increasing from \$15 million, and \$1 million per hour to \$20 million, and \$1.5 million per hour. So that is the minimum expenditure threshold, there is no cap and there is no limit on the amount of funds available under the Location Offset is uncapped, and it's unlimited.

Thank you. Is there a plan to allow users of the Location Offset to also access the PDV Offset?

Jason Potkins

The short answer is no, all of the Offsets are mutually exclusive. So you can only choose one but obviously, with the Location Offset, as you've just outlined, you can cover all of your pre-production, principal photography, and post-production costs, the whole production process under the Location Offset. Similar as you can do under the Producer Offset if you meet the relevant Australian content tests. So no, we won't allow the people to access both, but the whole process will be covered.

Thank you. Are there any changes to the post-production Offset or the Producer Offset through this recent announcement?

Jason Potkins

No, none at all, those are being kept separate. This is purely to ensure the long term continuity of international production and large scale production in Australia.

Thank you. And again, you touched on this during the presentation, but for those who may have come in late, there's two questions around some of the eligibility that might not be there anymore. Will you still need to be footloose to come in for the Offset?

Jason Potkins

No, you don't need to be footloose, so you can be locked into production. Essentially, the footloose requirement was brought in as part of the Location Incentive program. It's never applied to the Location Offset. We essentially just carried on the Location Offset rule in that regard.

Great. That therefore, is the same for the question around the state government support. You will no longer need to get state government support prior to being eligible, correct?

Jason Potkins

That's correct, yeah. When we moved to the 30%, we knew that the state government support, although it's very important, and can be very beneficial for companies coming in, it can be subject, just as the Location Incentive program was, to decisions by ministers, limited amount of funds, those kinds of aspects. So we wanted to make sure that the Offset was standalone, and attractive to companies to bring them in, irrespective of what was happening with state support.

And this might be the final question unless others are coming in. We've just made it clear that you don't need State Incentive to be eligible, but can you still get State Incentives, on top of the Federal Offsets, so whether it's a Production Attraction grant from a state or a specific state top-up PDV?

Jason Potkins

Yes, you can, and that will be in addition to the 30%, that you get under the Location Offset. So we're not stopping anybody going for state support, it's just that you don't need it as an eligibility requirement under the new Location Offset.

Kate Marks

Great. So we recommend that you all continue to talk to the relevant State Screen Agencies as well as us, about what might be available. Some of which, particularly those PDV Offsets around the country are quite specific in what they get, up to 10% to 15%.

And the Production Attraction ones, if you're looking to shoot; have a conversation with your State Screen Agency, to look at what that negotiated incentive may be.

I'm just going to have a quick look through all the questions to make sure we've answered most. I think a couple of these we talked about through the presentation. So I think that is it. This is your last chance to put in an application, sorry, a question or two, not an application quite yet.

Jason Potkins

Not yet

Kate Marks

Not yet, but okay, well, that is your questions answered. I do, again, recommend that you, in the very first instance, reach out to Erin and Simon who just started with us this week in LA and Vivian is there, and the Ausfilm team in Sydney, of course, and Jason and his team at the Office of the Arts, as well as the states. So as you know, there's always a number of avenues for you to talk to us, across the country to really support your production. We're here to help, we know there's a transition that we need to go through, but we really think this is a game changer for our industry.

A particular thank you to Jason, Kendall, and the team, they have been working tirelessly behind the scenes to get us to this point. I know they'll continue to work tirelessly to get us through the legislation and to get you all the details that you need to start putting in those applications.

As I've said before, it's something we have been working towards for many, many years and I do want to thank all of you for your ongoing support through this process. You've all participated in one way or another in getting us here. So as I said, we're super excited. We're looking forward to seeing all your productions come down, not just now, but really into the future, and that's what's going to make a difference to us here, and the opportunities for us to really collaborate closely and further enhance the wonderful relationships that we all have with you. So, thank you for all your support over the years. We look forward to it ongoing.

Thank you very much for today.

Jason Potkins

Thank you.