



PDV Offset Amendment Rules 2023

I, Tony Burke, Minister for the Arts, make the following rules.

Dated 26 October 2023

TONY BURKE
MINISTER OF THE ARTS

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1 Name

This instrument is the *PDV Offset Amendment Rules 2023*.

2 Commencement

This instrument commences the day after this instrument is registered.

3 Authority

This instrument is made under subsections 376-260(2) and (3) of the *Income Tax Assessment Act 1997*.

4 Schedules

Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

Schedule 1—Amendments

PDV Offset Rules 2018

1 Section 6 (note)

Repeal the note, before subsection (1) insert:

Note: A number of expressions used in this instrument are defined in section 995-1 of the Act, including the following:

- (a) ABN;
- (b) accounting standards;
- (c) arm's length;
- (d) arrangement;
- (e) Arts Minister;
- (f) associate;
- (g) Australian resident;
- (h) company;
- (i) completed;
- (j) film;
- (k) permanent establishment;
- (l) production expenditure;
- (m) qualifying Australian production expenditure;
- (n) tax offset.

2 Section 6 (definition of 'statutory declaration').

Repeal definition of "statutory declaration" from this section.

3 Section 6 (interpretation)

After definition of "application for a certificate for the PDV offset", insert:

Arts Department means the Department administered by the Arts Minister.

4 Section 13 (note)

Repeal the note.

5 Clause 2.8 of Division 2 of Part A of Schedule 1

Before "Division 10B of Part III of the *Income Tax Assessment Act 1936*", insert "former".

6 Clause 2.9 of Division 2 of Part A of Schedule 1

Before "Division 10BA of Part III of the *Income Tax Assessment Act 1936*", insert "former".

7 Clause 2.10 of Division 2 of Part A of Schedule 1

Repeal the clause, substitute "Whether a deduction has been claimed under former Division 10BA of Part III of the *Income Tax Assessment Act 1936* in relation to the film".

8 Clause 1.1 of Part B of Schedule 1

Repeal the clause, substitute:

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- 1.1 A declaration made in digital form by the applicant or an authorised representative, stating that:
- (a) the information contained in the application for the certificate; and
 - (b) each document attached to the application;
- is correct and true in every particular.

9 Clause 1.2 of Part B of Schedule 1

Repeal the clause, substitute:

- 1.2 A declaration under clause 1.1 has the effect of a statement to a taxation officer for the purposes of the *Taxation Administration Act 1953*.

10 After Clause 1.2 of Part B of Schedule 1

Insert:

- 1.3 Evidence, if it is available, that:
- (a) for an applicant that is an Australian resident—the applicant is an Australian resident; or
 - (b) for an applicant that is not an Australian resident—the applicant has:
 - (i) a permanent establishment in Australia; and
 - (ii) an ABN.

11 Clause 2.9 of Division 2 of Part A of Schedule 2

Before “Division 10B of Part III of the *Income Tax Assessment Act 1936*”, insert “former”.

12 Clause 2.10 of Division 2 of Part A of Schedule 2

Before “Division 10BA of Part III of the *Income Tax Assessment Act 1936*”, insert “former”.

13 Clause 2.11 of Division 2 of Part A of Schedule 2

Repeal the clause, substitute, “Whether a deduction has been claimed under former Division 10BA of Part III of the *Income Tax Assessment Act 1936* in relation to the film”.

14 Clause 1.1 of Part B of Schedule 2

Repeal the clause, substitute:

- 1.1 A declaration made in digital form by the applicant or authorised representative, stating that:
- (a) the information contained in the application for the certificate; and
 - (b) each document attached to the application;
- is correct and true in every particular.

15 Clause 1.2 of Part B of Schedule 2

Repeal the clause, substitute:

- 1.2 A declaration under clause 1.1 has the effect of a statement to a taxation officer for the purposes of the *Taxation Administration Act 1953*.

16 Clause 1.3 of Part B of Schedule 2

Repeal the clause, substitute:

- 1.3 Evidence, if it is available, that:
- (a) for an applicant that is an Australian resident—the applicant is an Australian resident; or
 - (b) for an applicant that is not an Australian resident—the applicant has:
 - (i) a permanent establishment in Australia; and
 - (ii) an ABN.

17 After clause 1.3 of Part B of Schedule 2

Insert:

- 1.4 Any agreement relating to:
- (a) the establishment of the applicant company; or
 - (b) the transfer of any film production responsibility from an outgoing company to the applicant; or
 - (c) the distribution or exhibition of the completed film.
- Examples for paragraph (c):
- 1 A deal memorandum.
 - 2 A letter of confirmation, on official letterhead, from the distributor.
- 1.5 Written confirmation from the production company for the film, or from the person that commissioned the applicant's services in relation to the film, that the applicant is the company that either carried out, or made the arrangements for the carrying out of, all the activities in Australia that were necessary for the post, digital and visual effects production for the film.