



the dti

Department:
Trade and Industry
REPUBLIC OF SOUTH AFRICA

PROGRAMME GUIDELINES

The South African Film and Television Production and Co-Production Incentive

Issued: 1 September 2014

Incentive Design and Administration Division
Department of Trade and Industry
Private Bag X86, Pretoria 0001
Website: www.thedti.gov.za
Call Centre: 0861 843 384

the dti Campus
77 Meintjies Street,
Sunnyside, Pretoria 0002
Republic of South Africa

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Disclaimer:

This guidelines document provides the criteria to assess proposals from potential film and television projects and the process of applying for the incentive. The guidelines are approved and issued by the Minister of Trade and Industry for the purpose of ensuring clarity on the aim and requirements of the incentives programme. **the dti** reserves the right to amend the guidelines as it deems appropriate.

1. OVERVIEW

- 1.1 The South African Government recognises the potential of the film industry and has prioritised it as one of the sectors under its Industrial Policy Action Plan (IPAP). The growth of the industry has a tremendous impact on economic development in terms of employment and exports, while stimulating a host of supplier industries.
- 1.2 The South African Government takes cognisance of the significant contribution that the film and television industry potentially has in stimulating the country's economic growth, job creation and its role in facilitating dialogue for national building. This is attested in the past by production such as the award-winning *A Million Colours* and the internationally acclaimed Nelson Mandela *Long Walk to Freedom*.
- 1.3 To support the growth of the sector, the Department of Trade and Industry (**the dti**) is offering incentives to increase local content generation and improve location competitiveness for foreign film productions. In addition to incentives, **the dti** is working with other role players on raising the profile of the sector in general and a number of strategic co-production treaties are set to improve distribution locally and internationally.
- 1.4 I hereby extend an invitation to industry players to make use of this facility and to support the South African Government in realising its goals of growth, employment and equity.

Dr Rob Davies, MP
Minister of Trade and Industry

PREAMBLE

- 1.5 The purpose of this document is to provide guidelines for the South African Film and Television Production and Co-production Incentive.
- 1.6 The guidelines are intended to enable enterprises to present their applications to **the dti** and provide a framework for **the dti** to evaluate such applications. Approval will only be considered for those projects that meet the strategic objectives of South African Film and Television Production and Co-production Incentive as interpreted by these guidelines and remains in the sole discretion of **the dti**. To qualify for the incentive, applicants have to receive approval from **the dti** and any such decision will be final.
- 1.7 The guidelines for the South African Film and Television Production and Co-production Incentive may be amended as deemed necessary by **the dti**. These amendments will be published on **the dti** website and will be of immediate effect upon publication.
- 1.8 Where the guidelines lend themselves to varying interpretations or do not deal with specific subject matter, the interpretation of **the dti** must be requested and such interpretation will be decisive and final. A new version of the guidelines may, from time to time, be published on **the dti** website.
- 1.9 Approval of applications will be subject to compliance with the incentive guidelines, the relevant provisions of the Public Finance Management Act (PFMA) and, more specifically, the availability of funds.

2. DESCRIPTION OF THE SOUTH AFRICAN FILM AND TELEVISION PRODUCTION INCENTIVE

- 2.1 The South African Government offers a package of incentives to promote its film and television production industry. The package consists of the South African Film and Television Production Incentive, which aims to assist local film producers in the production of local content; the South African Emerging Black Filmmakers Incentive, which aims to nurture and grow emerging black filmmakers to take up big productions; and the Foreign Film and Television Production Incentive to attract foreign-based film productions.
- 2.2 The South African Film and Television Production Incentive is available to qualifying South African productions and official treaty co-productions with total production budgets of R2.5 million and above¹.
- 2.3 The objective of the South African Film and Television Production Incentive is to support the local film industry and contribute towards employment opportunities in South Africa.
- 2.4 The South African Film and Television Production Incentive provide financial assistance to local productions in the form of a rebate of up to 35% of the Qualifying South African Production Expenditure (QSAPE). No cap will apply for this rebate.
- 2.5 The incentive is effective from 1 September 2014 (subject to paragraph 3.1) and will be administered for a period of three years up to 2017.

3. ELIGIBILITY CRITERIA

3.1 Commencement

- Principal photography should not commence until an approval letter has been received from **the dti**.
- Applications submitted without relevant supporting documents will not be considered.

3.2 Registered legal entity/special purpose vehicle

- An applicant must be a Special Purpose Corporate Vehicle (SPCV) incorporated in the Republic of South Africa solely for the purpose of the production of the film or television project. The SPCV and parent company(ies) must have a majority of South African

¹ There is a separate Programme Guideline document for the Foreign Film and TV Production Rebate, targeted at attracting larger-budget international productions as well as Emerging Black Filmmakers for productions with a total budget below R2.5 million

shareholders, of whom at least one must play an active role in the production and be credited in that role.

- An applicant must be the entity responsible for all activities involved in the making of the production in South Africa and must have access to full financial information for the entire production.
- Only one film production, television drama or documentary series per entity is eligible for the incentive.
- The applicant must comply fully with its obligations in terms of the Legal Deposit Act, 1997 (Act No. 54 of 1997).

3.3 **Compliance with Broad-Based Black Economic Empowerment (B-BBEE)**

- Both the applicant SPCV and holding company(ies) must comply with the requirements for B-BBEE as issued in the *Government Gazette* of 11 October 2013 in terms of the Codes of Good Practice.
- Both the applicant SPCV and holding company (ies) must achieve at least level four B-BBEE status in terms of the B-BBEE Codes of Good Practice.
- At application stage, both the applicant SPCV and holding company(ies) must submit a valid B-BBEE certificate issued by an accredited verification agency.

4.4 **Shooting schedule requirements**

- At least 50% of the principal photography schedule must be filmed in South Africa; and
- A minimum of two weeks of the principal photography must be filmed in South Africa.

4. **ELIGIBLE FORMATS**

The following formats are eligible: feature films; tele-movies; television drama series; documentaries; animation; digital content; and video gaming. Each one is explained in turn hereunder.

5.1 **Feature film**

- Film, including animation, commonly screened as the main attraction in commercial cinemas;
- No less than 80 minutes or, in the case of a large format (IMAX) film, no less than 45 minutes; and
- Shot and processed to commercial theatrical release standards for cinema exhibition or television broadcast, direct-to-video or DVD.

5.2 **Tele-movies**

- Drama programme of a similar nature to a feature film capable of exhibition on television;
- No less than one commercial television hour in length;

- or in the case of “C” classification material and material specifically designed for children under six years of age, not less than one half commercial television hour in length;
- or in the case of a programme predominantly utilising cell, stop motion and/or computer animation, not less than one half commercial television hour; and
- Shot and processed to commercial release standards or for television broadcast.

5.3 **Television drama series and mini-series**

An episodic television drama, including animation, which is:

- Either an extended but self-contained drama made for television wherein the key dramatic elements of character, theme and plot are introduced, developed and concluded to form a narrative structure (similar to that of a novel), which features a major continuous plot enhanced by minor plots and contains the expectation of an ending that resolves the major plot tensions arranged consecutively for screening purposes limited to 13 hours or 13 episodes or less;
- Or an anthology of drama works for television where the key dramatic elements of character, theme and plot are introduced, developed and concluded to form a narrative structure within each episode (similar to that of a novel or a short story), but without continuity of plot between episodes (although there may be host elements common to each episode) and made to be broadcast under one generic title;
- Shot and processed to commercial release standards for telecast; and
- Each episode must have a minimum duration of a television half-hour.

5.4 **Documentary, documentary series and documentary feature**

- A non-fictional informative or educational programme or series recording real people or events that may involve some dramatisation;
- No less than 60 minutes in length or, in the case of a large format (IMAX) film, no less than 45 minutes;
- Shot and processed to commercial theatrical release standards for cinema exhibition, television broadcast, direct-to-video or DVD; and
- Series limited to 13 episodes.

5.5 **Animation**

- Animation is a sequence of frames that, when played in order at sufficient speed, presents a smoothly moving image for broadcast, projection, new media and network use in an entertaining, educational, informative or instructive manner.
- An animation can be hand-drawn images (2d animation), digitised video, computer-generated images (3D and flash animation), live action objects or a combination thereof.

5.6 Digital Content and Video Gaming

- Video game development is the process of creating a video game or, in other words, creating an interactive digital audio-visual experience during which an individual person or group of people can play or interact with the game through some kind of user interface. This process involves primarily the combination of digital art with programming.
- The resulting product of video game development is a computer program or collection of data containing all the elements necessary for the game to function as intended, including all computer programming and digital artwork. Video game development is mostly done for the commercial purposes of entertainment, but a video game can be developed for any purpose whatsoever, based on the intended goal of its progenitor.

6. QUALIFYING PRODUCTIONS

- 6.1 The total production budget (total production expenditure) must be a minimum of R 2.5 million or R500 000 for documentaries. For example, a project with the Total Production Expenditure (TPE) of R2.5 million will have a Qualifying South African Production Expenditure (QSAPE) of R1.875 million, which is at least 75% of TPE (see paragraph 8.1). It is, however, possible for a project with a TPE of R2.5 million to have a QSAPE of R2.5 million.
- 6.2 The applicant must provide **the dti** with a distribution plan and evidence of a distribution agreement.
- 6.3 The applicant must provide **the dti** with a financial plan and a letter or letters of intent from financier(s).
- 6.4 The applicant must have at least 25% of the total budget for the production fully committed at application stage.

7. EXCLUSIONS

7.1 The following formats are not eligible

- Reality TV
- Discussion programme
- Current affairs
- News
- Advertising programme or commercial
- Panel programme
- Variety programme or a programme of a like nature
- Public events, including sports events
- Soapies

- Speculative projects
 - A training or “how to” programme
 - Mobile phone video gaming
 - Other
- 7.2 Films that fall within schedules 6, 7 or 10 of the South African Films and Publications Act 1996, as amended, are specifically not eligible for the rebate.
- 7.3 Commissioned projects by any broadcaster will not be eligible for this incentive.
- 7.4 Bundling is not allowed.
- 7.5 The SPCV should not be owned and controlled by South African and foreign broadcasters.

8. ELIGIBLE PRODUCTIONS

Productions eligible for the South African Film and Television Production Incentive can either be a Qualifying South African Production or an Official Treaty Co-Production.

- 8.1 **A Qualifying South African Production means a film in respect of which:**
- At least 75% of the total budget of the film is defined as QSAPE;
 - The majority of intellectual property is owned by South African citizens;
 - The director is a South African citizen, unless the production requires the inclusion of an individual not covered by this clause, in which case approval may be given at the provisional approval stage;
 - The top writer and producer credits include South African citizens, unless the production requires the inclusion of an individual not covered by this clause, in which case approval may be given at provisional approval stage (either exclusive or shared collaboration credits);
 - The majority of the five highest-paid performers are South African citizens, unless the production requires the inclusion of an individual who is not a South African citizen, in which case approval may be given at provisional certification stage; and
 - The majority of the film’s heads of departments and key personnel are South African citizens.
- 8.2 **A Qualifying Co-Production must meet the following conditions:**
- A production must be approved by the Minister of Arts and Culture as an Official Treaty Co-Production; and
 - The applicant must submit a copy of the advance ruling at application stage for provisional certification and a copy of the final ruling when submitting the application for the final payment of the incentive.

9. CREDIT

- **the dti** must be credited in front² for its contribution to the production.
- **the dti** logo must be made visible in all production marketing material, e.g. DVD covers, banners and posters.

10. ELIGIBLE EXPENDITURE

All costs, including Total Production Expenditure (TPE), QSAPE and Non-QSAPE, must be presented with each application for purposes of clarity.

10.1 Total Production Expenditure (TPE)

A film or television production's total production expenditure is that incurred or reasonably attributable to the making of the film from pre-production to the point at which the first copy of the film is ready to be distributed, broadcast or exhibited to the general public.

10.2 Qualifying Production Expenditure

- Qualifying Production Expenditure will include all the production costs incurred by the applicant on intellectual property and goods owned or facilities and services provided by South African companies.
- Where individuals or contractors are paid via an agency, proof of the South African citizenship status of the individual and contractor will be required.
- Where the purchase of South African copyright is claimed as QSAPE, the relevant legal agreement verifying chain of title must be attached to the application form and monitoring reports.
- All expenditure in South Africa for international services that remain in South Africa will qualify as QSAPE.
- Only production costs discharged through the bank account of the SPCV will qualify as QSAPE.
- Sector Education and Training Authority (SETA).
- Loan funding from any national, provincial and local government and its entities.

10.3 Non-Qualifying Expenditure

- Financing expenditure
- General business overheads
- Other associated party fees
- Deferments, profit participation and residuals
- Advances
- Land and building

² **the dti** must receive opening credits for its contribution in the production

- Costs of services embodied in goods
- Depreciation
- Executive producer
- SPCV incorporation costs
- Publicity and marketing costs
- Consultant fees charged to prepare the application
- Grant funding from any other funding received from national, provincial and local government
- Other

11. TREATMENT OF EXPENDITURE

11.1 Value Added Tax (VAT)

All amounts set out in this document and those provided in applications must be net of VAT where it is reimbursable.

11.2 Currency exchange

All QSAPE will be incurred in South African Rand. All other production expenditure incurred in foreign currencies must be reported in South African Rand using the budgeted exchange rate on the audited expenditure statement.

11.3 Arm's length expenditure

The arm's length principle is to ensure that amounts charged between the applicant company and any connected parties for the provision of goods or services are commercially reasonable.

Where the applicant incurs expenditure under a non-arm's length arrangement, which inflates or deflates the cost of particular goods or services in relation to the film production, a rate no greater than the commercial rate for those goods or services will be counted towards QSAPE and TPE.

The commercial rate will be taken to be the amount that would have been incurred if the parties were dealing at arm's length, charging what they would ordinarily to an unrelated party. If a lesser rate is charged, that rate must be claimed.

The arm's length principle applies to any act or transaction that is directly or indirectly connected to any expenditure incurred by the applicant – that is, the principle still applies if a non-arm's length deal between other parties otherwise inflates the expenditure of particular goods or services purchased by the applicant.

11.4 Basis of expenditure

To be included as QSAPE, an expenditure item must have actually been incurred on the making of the specific film production for which the application is made. In addition, the applicant must have actually discharged its liability to pay at the time of application for the incentive.

11.5 Expenditure by prior companies

Eligibility for the incentive extends to an applicant who takes over the film production from another company(ies) and completes the film production. The applicant is taken to have incurred the production expenditure of the previous company(ies) for the purposes of the incentive.

Any costs incurred by the applicant in the takeover of the project are excluded from its calculation of QSAPE.

Documentary evidence of this expenditure to verify that it qualifies as QSAPE must be provided.

11.6 Purchase and sale of goods

Where an applicant buys any goods for use in a film production and sells or disposes of those goods on completion of the production, only the net cost of those items can be claimed as TPE or QSAPE.

In the event of the applicant or an associated party retaining any goods bought beyond the completion of the film, an independent valuation must be made of those goods and that valuation must be deducted from the value of QSAPE for the purpose of calculating the incentive.

11.7 Transfer pricing

It is anticipated that the applicant company will charge a production services fee if the film is being produced for an overseas producer or studio. This fee must be at an arm's length commercial rate and will be considered QSAPE if it satisfies the criteria.

If this fee is paid out of the incentive, it will not have been incurred before the completion of the film and will not qualify as QSAPE.

12. REBATE CALCULATION

- 12.1 The rebate is calculated as 35% of first R6 million of the QSAPE, thereafter 25% is calculated; and
- 12.2 No cap will apply for this rebate.

13. APPLICATION PROCESS

13.1 Application for provisional approval – Form A

The following documents must be included in the application:

- Summary and detailed budget in South African Rand;
- Financial plan, including letters of intent from investors;
- Advanced ruling from the NFVF in the case of a co-production;
- Distribution agreement;
- Provisional shooting schedule;
- Certificate of incorporation of the SPCV (CK1);
- Appointment of directors of the SPCV (CM 29);
- Written confirmation that **the dti** will be credited in the front of the production; and
- Valid B-BBEE Certificate (Level 4) of SPCV and holding company.

13.2 Confirmation of commencement of principal photography - Form B

The following documents must be included in the confirmation:

- Day one of principal photography call sheet;
- Day one of principal photography progress report;
- Current photography schedule; and
- Post-production schedule.
- This form must be completed after the first day of principal photography.
- If principal photography does not commence within the prescribed three months, the application will be cancelled. After cancellation, the applicant may submit another application.

13.3 Revised Completion Date – Form C (To be completed only if the completion date differs from the one indicated on the original application.)

The following document must be included:

- Revised post-production schedule

13.4 **Claim Form (Application for Payment) – Form D**

The following documents must be included:

- Audited summary and detailed expenditure report;
- Auditor’s statement;
- Complete general ledger in electronic format;
- Final ruling from the Department of Arts and Culture in the case of a co-production;
- Certificate of incorporation of the SPCV (CK1);
- Full final cast and crew list showing the following information:
 - Nationality/residency
 - ID or passport numbers
 - Total fee/salary paid to all South African nationals/residents
 - Contract duration
 - Role in the production
- Distribution agreement;
- A VHS or DVD of the final production;
- An original valid tax clearance certificate issued by SARS;
- Original credit order instruction form;
- Original cancelled cheque; and
- A DVD of the production to evidence its completion to a standard suitable for exhibition and verification of **the dti** credits.

14. **REBATE DISBURSEMENT**

- Rebate is disbursed on completion of the production or may be paid after reaching certain milestones.
- Applicants wishing to make use of the milestone payment method must acquire a completion bond. As this might be costly for smaller producers, where the cost of a completion bond could be as much as R300 000, the following will apply:
 - 70% of the cost of the completion bond will be subsidised for productions between R2.5 million and R6 million;
 - 50% of the cost of the completion bond will be subsidised for productions between R6 million and R10 million;
 - Productions over R10 million are required by financiers to have a completion bond in place and therefore no additional subsidy will be granted.

Disbursements according to milestones will be implemented as follows:

| | |
|-------------|---|
| 20% payment | Confirmation of completion bond |
| 20% payment | Start of principal photography |
| 20% payment | Completion of principle photography |
| 20% payment | Start of post-production “picture lock” |
| 20% payment | Submission of form D “claim form” |

- **the dti** will verify the completeness of the claim/expenditure before payment is made; and
- **the dti** will only accept completion bonds issued by the following companies:

1. **Hollard Group**

P.O. Box 676
 Halfway House
 1685
 Tel: 011 807 0087

2. **Cine Finance (HK) LLC**

Wylie Court
 23 Wylie Path
 Kowloon
 Hong Kong

3. **First Australian Completion Bond Company (Pty) Ltd**

Suite 6
 255 Military Road
 Cremorne NSW
 2090

4. **International Film Guarantors LLC**

2828 Donald Douglas Loop
 Santa Monica CA 90405
 United States
 Tel: +1 310 309 5660

19 Margaret Street
 London W1W 8RR
 United Kingdom
 Tel: +44 20 7636 8855

5. **Film Finances SA**

P.O. Box 783
 Fourways North
 2086
 Tel 0824114088

6. **ProSight International/Aon South Africa (Pty) Ltd**

London Underwriting Centre Level 7
 3 Minster Court
 Mincing Lane, London EC3R 7DD
 +44 (0) 20 7337 7777

The Place
 P.O. Box 1874
 Parklands, 2121
 +27 11 944 7290

15. INTERACTION OF THIS REBATE WITH OTHER SOURCES OF FUNDING

- Any other South African rebates, training or internship funding specific to this project may be claimed, but must be deducted from the gross QSAPE before calculation of the rebate. An exception is applicable for SETA funds, which may be received after the final application or payment of the rebate.
- A project that receives funding from any national, provincial and local government and its agencies is eligible to apply for this rebate.
- A project of private investors that is eligible for tax benefits under section 12(o) of the Income Tax Act No. 58 of 1962 is eligible for the rebate.
- An applicant must supply information on the intended and actual source of funding per the attachments required to Forms A and D in Schedule A.

16. CONTACT DETAILS FOR ENQUIRIES

For further information on film rebates, please contact:

Postal address:

Incentive Design and Administration Division

Private Bag X86

Pretoria 0001

Website: www.thedti.gov.za

Call Centre: 0861 843 384

Physical Address:

the dti Campus

77 Meintjies Street

Sunnyside

Pretoria 0002

Appendix A: Glossary of terms and definitions

| | |
|-----------------------------------|--|
| Financing expenditure | Financing expenditure includes returns payable on amounts invested in the film production and expenditure connected with raising and servicing finance for the production, such as executive producer fees and interest payments. |
| General business overheads | South African business overheads, being general business overheads, are excluded from QSAPE to the extent that they exceed the lesser of: <ul style="list-style-type: none"> o 2% of the total of the company's TPE on the film production; or o R200 000. |
| Producer fees | South African producer fees, limited to two working producers and inclusive of all their travel accommodation and living expenses, are excluded from QSAPE to the extent that they exceed the lesser of: <ul style="list-style-type: none"> o 10% of the total of the company's TPE on the film production; or o R1 million in total. |
| Other connected party fees | <p>The fees of any other connected parties that appear above the line (that is, writer, director or cast member inclusive of all their travel, accommodation and living expenses) are excluded from QSAPE to the extent that they exceed the lesser of:</p> <ul style="list-style-type: none"> o 10% of the total of the company's TPE on the film production; or o R1 million in total. <p>Section 31 of the Income Tax Act, 1962, defines a connected party as:</p> <ul style="list-style-type: none"> (a) In relation to a natural person: <ul style="list-style-type: none"> (i) any relative; and (ii) any trust of which such natural person or such relative is a beneficiary. (b) In relation to a trust: <ul style="list-style-type: none"> (i) any beneficiary of such trust; and (ii) any connected person in relation to such beneficiary. (c) In relation to a member of any partnership: <ul style="list-style-type: none"> (i) any other member; and (ii) any connected person in relation to any member of such partnership. (d) In relation to a company: <ul style="list-style-type: none"> (i) its holding company as defined in section 1 of the Companies Act, 1973 (Act No. 61 of 1973); (ii) its subsidiary as so defined; (iii) Any other company where both such companies are subsidiaries (as so defined) of the same holding company; (iv) Any person, other than a company as defined in section 1 of the Companies Act 1973 (Act No. 61 of 1973), who individually or jointly with any connected person in relation to himself, holds, directly or indirectly, at least 20% of the company's equity share capital or voting rights; (v) Any other company if at least 20% of the equity share capital of such company is held by such other company, and no shareholders hold the majority voting rights of such company; (vi) Any other company if such other company is managed or controlled by <ul style="list-style-type: none"> (aa) any person who is a connected person in relation to such company; or (bb) any person who is a connected person in relation to a person contemplated in item (aa). (vii) Where such company is a closed corporation: <ul style="list-style-type: none"> i. any member; |

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| | <ul style="list-style-type: none"> ii. any relative of such member or any trust that is a connected person in relation to such member; iii. any other close corporation or company that is a connected person in relation to: <ul style="list-style-type: none"> 1. any member contemplated in item (aa); 2. any relative or trust contemplated in item (bb). |
| Deferments, profit participation, residuals | <p>QSAPE does not include expenditure that is dependent on the film production's commercial performance and its earnings, as expenditure directly linked to the production's commercial performance cannot be quantified until after the production has been exhibited. Therefore, expenditure items specifically excluded from QSAPE include:</p> <ul style="list-style-type: none"> o Payments deferred until the film production provides financial returns through box office receipts, earnings or profits (for example, bonuses paid to directors); o Payments dependent on eventual profits made on the production; and o Amounts payable in relation to the residual rights of cast members concerning the commercial exploitation of the production through future exhibition and distribution. |
| Advances | All payments made by way of an advance on a payment in respect of deferments, profit participation or residuals are excluded from QSAPE unless they are non-recoverable. |
| Land and buildings | Any acquisition of land or buildings or the erection of buildings of a substantial nature is excluded from QSAPE as this expenditure would not be considered reasonably attributable to the making of the film. Sets and props will not be classified as substantial in nature, however, any proceeds on the sale of sets and props or the deemed value of such, if retained by the applicant or related party after completion of the film, must be deducted from the value of QSAPE for the purpose of calculating the rebate. |
| Costs of services embodied in goods | If the cost of certain services are embodied in the cost of goods delivered to the applicant company and those services were predominantly (namely, greater than 50% of the cost) performed outside South Africa, then those services are not provided in South Africa for the purposes of determining QSAPE. This does not apply to imported goods, where the supplier has an established business with a history of supplying those particular goods, for example, Kodak stock. |
| Other exclusions | The following sundry items do not qualify as QSAPE: <ul style="list-style-type: none"> o Errors and Omission Insurance, which protects the copyright holders from litigation once the film is exhibited; and o Any gifts, entertainment and gratuities. |
| Completion date | A film production is regarded as having been completed per the definition in section 24F of the Income Tax Act, 1962 (Act No. 58 of 1962) – in relation to a film, the date on which the cut master negative and conforming sound track of the film are married to an answer print or, where such film is not a cinematographic film, the date on which the film is completed to an equivalent production stage. |
| Audited expenditure statement | All costs claimed as QSAPE must be presented in an audited expenditure statement. The audit must be prepared by a person who is: <ul style="list-style-type: none"> o An auditor registered with SAICA or PAAB; o If the auditor has any connection to the applicant that connection should be declared; o the dti reserves the right to appoint any other registered auditor to perform further checks at the dti's own expense; o The statement should be in the format provided in Annexure A; o The auditor's statement is provided at the applicant's expense, with the name of the auditor and auditor's company or firm, qualifications and contact details to be provided in the relevant section of the application form; and o Both the auditor and the applicant are to sign "the Declaration by the Auditor" form. |
| Complete DVD | A complete DVD of the film production, together with a full final credit listing and proof of distribution or |

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| including the dti credit | <p>exhibition arrangements for the production must be included in the application to verify that the production is ready for distribution or exhibition to the general public.</p> <p>the dti reserves the right to be supplied with a DVD of the entire film production or alternatively to be invited to a filming of the production in its entirety following the production's release. The final copy of the production will be kept only for the purposes of the application process.</p> |
| Speculative project | Work done with no defined goal for broadcast or distribution and is not commissioned. |
| Attested declaration | The information provided in an application must be certified in an attested declaration by an authorised person from the applicant company, normally a director of the applicant company or the chief executive officer. |
| Further information as requested | the dti reserves the right to require any further information deemed necessary to complete the rebate process. This information must be provided at the applicant's expense within 28 days of the dti's request, although the applicant may write to the dti requesting an extension of time. |
| Total production expenditure | <p>A film or television production's total production expenditure is that which is incurred or reasonably attributable to the making of the film from pre-production to the point at which the first copy of the film is ready to be distributed, broadcast or exhibited to the general public.</p> <p>Section 12(O) of the Income Tax Act No. 58 of 1962 (the Act) defines production expenditure as follows:</p> <ul style="list-style-type: none"> • "production cost", in relation to a film, means the total expenditure incurred by a film owner in respect of the acquisition or production of such film, excluding expenditure incurred in the erection, construction or acquisition of any buildings or other structures or works of a permanent nature, but including, without in any way limiting the scope of this definition: <ul style="list-style-type: none"> ○ any remuneration, salary, legal, accounting or other fee, commission or other amount paid or payable to any person for the purposes of or in connection with the production of the film; ○ the cost of acquiring the story rights, script, screenplay, copyright or other rights in relation to the film; ○ insurance premiums in respect of insurance against injury to or death of persons, or loss of or damage to property employed or used, as the case may be, in the production of the film; ○ premiums or commission payable in order to secure a guarantee that the cost of the film will not exceed a specified amount; ○ interest, finance charges and raising fees incurred for the purposes of or in connection with the production of the film; ○ the cost of acquiring or creating music, sound and other effects which will form part of the film; ○ any allowance that, but for the provisions of this section, would be allowed under section 11 (e) or (o) or 12(O) in respect of any machinery, implements, utensils or articles used in the production of a film: Provided that- any such allowance shall be deemed to be an amount of expenditure incurred; and ○ an amount equal to the total amount of any such allowance that may be granted in respect of any year of assessment divided by the number of days in that year. |
| Compliance with Broad-Based Black Economic Empowerment | Compliance with Broad-Based Black Economic Empowerment in terms of the Black Economic Empowerment Act, 2003 (Act No. 53 of 2003) and the Codes of Good Practice for Broad-Based Black Economic Empowerment, as issued in the <i>Government Gazette</i> of 9 February 2007. |

Compliance to Broad-Based Black Economic Empowerment

| Level | BEE Score | BEE Recognition Level |
|---------------|--------------|-------------------------|
| 1 | ≥100 | 135 % (e.g. R1 = R1.35) |
| 2 | ≥95 but <100 | 125% |
| 3 | ≥90 but <95 | 110% |
| 4 | ≥80 but <90 | 100% (e.g. R1 = R1) |
| 5 | ≥75 but <80 | 80% |
| 6 | ≥70 but <75 | 60% |
| 7 | ≥55but <70 | 50% |
| 8 | ≥40 but <55 | 10% |
| Not Compliant | <30 | 0% (e.g. R1 = R0) |