

## DTI FILM INCENTIVE – EXECUTIVE SUMMARY

January 2017

### 1. INTRODUCTION

The DTI film and television production incentive comprises two schemes:

- the Foreign Film and Television Production and Post-Production Incentive applies to foreign productions with qualifying spend of R12 million and above and/or post-production expenditure of R1.5 million and above.
- the South African Film and Television Production and Co-Production Incentive applies to South African productions and official treaty co-productions with total budgets of R2,5 million and above.

### 2. FOREIGN FILM AND TELEVISION PRODUCTION AND POST-PRODUCTION INCENTIVE

#### 2.1 Minimum spend

Qualifying South African Production Expenditure (QSAPE) must be at least R12 million. For the stand-alone post incentive, Qualifying South African Post-Production Expenditure (QSAPPE) must be at least R1.5 million. If filming takes place in South Africa and post-production is also carried out, additional benefits apply where QSAPPE is above R1.5 million.

#### 2.2 Rebate calculation

- If QSAPPE is less than R1.5 million, the rebate is calculated at 20% of QSAPE
- If QSAPPE is between R1.5 million and R3 million, the rebate is calculated at 22.5% of QSAPPE and QSAPE (if applicable)
- If QSAPPE is greater than R3 million, the rebate is calculated at 25% of QSAPPE and QSAPE (if applicable)
- For stand-alone post-production with a QSAPPE of R1.5 million, the incentive is calculated at 17.5% of QSAPPE
- For stand-alone post-production with a QSAPPE of R3 million, the incentive is calculated at 20% of QSAPPE
- The rebate amount is capped at R50 million.

#### 2.3. Shooting schedule requirements

- At least 50% of principal photography must be filmed in South Africa
- A minimum of 4 weeks of principal photography must be filmed in South Africa
- For productions with QSAPE of R100 million and more, the above two requirements may be waived at the discretion of the Adjudication Committee

#### 2.4. Post-production requirements

- A minimum of two weeks' post-production must be carried out in South Africa
- If 100% of the post-production is conducted in South Africa, the requirement for

a minimum number of weeks will be waived

- For productions with QSAPPE of R3 million and more, the above two requirements may be waived at the discretion of the Adjudication Committee

## **2.5 Eligible formats**

- Feature films
- Tele-movies
- Television drama series and mini-series
- Documentary, documentary series and documentary features
- Animation
- Digital Content and video gaming

## **2.6 Qualifying South African Production Expenditure (QSAPE)**

- QSAPE includes all the production costs spent by the applicant on copyright and goods owned, or facilities and services provided by South African companies and individuals
- Where individuals or contractors are paid via an agency, proof of the South African citizenship status of the individual or contractor will be required
- Goods and services may be provided outside SA as long as the shooting schedule requirements in 2.3 are met.

## **2.7 Qualifying South African Post-Production Expenditure (QSAPPE)**

- Qualifying Post-Production Expenditure includes all the post-production costs incurred by the applicant on goods owned, or facilities and services provided by South African companies
- Eligible costs include licence fees (Dolby, music), travel, accommodation and per diem of overseas crew when based in South Africa, editing suites while out of South Africa, sound studios, roto/VFX outsource work and some animation outsource services, editorial and sound post-production, facilities and personnel utilisation in the post-production process and movement of data, connectivity and couriers.

## **2.8 Non-qualifying Expenditure (non-exclusive list)**

- Financing expenditure
- General business overheads
- Producer fees to the extent they exceed the lesser of 10% of TPE or R1 million
- Other connected party fees to the extent they exceed the lesser of 10% of TPE or R1 million
- Deferments, profit participation and residuals
- Costs of services embodied in goods, where those services were predominantly performed outside of SA
- Depreciation
- Executive Producer fees
- SPV incorporation fees
- Publicity and marketing costs (excluding EPK)

- E & O insurance, gifts, entertainment and gratuities

## 2.9 Applicant status

The applicant must be a special purpose vehicle company (SPV) incorporated in SA solely for the purposes of the production.

## 2.10 Compliance with Broad-based Black Economic Empowerment (BBBEE)

The applicant SPV and holding companies must comply with the requirements for BBBEE in terms of the Codes of Good Practice for BBBEE.

### Application

- **Provisional Application:** All applicants must apply for provisional approval by supplying details of budgeted expenditure and other details. The purpose of the provisional process is to provide an applicant with certainty as to whether a film production satisfies the eligibility criteria and what portion of its expenditure is likely to qualify for the rebate. Principal photography/post production may not commence until approval has been received. A distribution agreement must be included with the application.
- **Final Application:** All applicants must submit a final rebate application to the DTI once a film production is completed and within three months of completion of the film production. The date of completion of a film is defined as the date on which the cut master negative and conforming sound track of the film are married to an answer print.

## 3. SOUTH AFRICAN FILM AND TELEVISION PRODUCTION AND CO-PRODUCTION INCENTIVE

### 3.1 Qualification requirements

- The incentive is available to qualifying South African productions and official treaty co-productions with total production budgets of at least R2.5 million
- Applicant must supply a distribution plan and provide proof prove that they have secured a distribution agreement
- Applicant must commit a minimum of 25% of the budget and supply a financial plan and letters of intent from financiers

### 3.2 Rebate calculation

- The rebate is calculated at 35% of the first R6 million of QSAPE and 25% of the balance
- There is no cap on the rebate amount

### 3.3 Shooting schedule requirements

- At least 50% of principal photography must be filmed in South Africa.
- A minimum of 2 weeks of principal photography must be filmed in South Africa.

### 3.4 Eligible formats

- Feature films

- Tele-movies
- Television drama series and mini-series
- Documentary, documentary series and documentary features
- Animation
- Digital content and video gaming

### **3.5 Eligible productions: Qualifying South African production or official treaty co-production**

#### **3.5.1 Qualifying South African production means a film in respect of which:**

- At least 75% of the total budget of the film is defined as Qualifying South African Production Expenditure (QSAPE)
- The majority of intellectual property is owned by South African citizens
- The director is a South African citizen, unless the production requires the participation of a foreign individual, in which case approval may be given at provisional approval stage
- The top writer and producer credits include South African citizens unless the film requires the participation 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 participation of an individual who is not South African citizen, in which case approval may be given at provisional approval stage
- The majority of the film's heads of departments and key personnel are South African citizens

#### **3.5.2 Qualifying Co-production**

- Must be approved by the South African authorities as an official treaty co-production.
- Applicant must submit a copy of the advance ruling at application stage for provisional approval and a copy of the final ruling when submitting the application for the final payment of the incentive.

### **3.6 Qualifying South African Production Expenditure (QSAPE)**

- QSAPE includes all the production costs spent by the applicant on copyright and goods owned, or facilities and services provided by South African companies
- Where individuals or contractors are paid via an agency, proof of the SA citizenship status of the individual or contractor is required
- Goods and services may be provided outside SA as long as the shooting schedule requirements in 3.3 are met

### **3.7 Non-qualifying Expenditure (non-exclusive list)**

- Financing expenditure
- General business overheads
- Producer fees to the extent they exceed the lesser of 10% of TPE or R1 million
- Other connected party fees to the extent they exceed the lesser of 10% of TPE or R1 million
- Deferrals, profit participation and residuals
- Costs of services embodied in goods, where those services were predominantly performed outside of SA

- Depreciation
- Executive Producer fees
- SPV incorporation fees
- Publicity and marketing costs (excluding EPK)
- E & O insurance, gifts, entertainment and gratuities

### 3.8 Applicant status

The applicant must be a special purpose vehicle company (SPV) incorporated in SA solely for the purposes of the production. The SPV must have at least one South African company director who plays an active role in the production and is credited in that role. The SPV and parent company must have a majority of South African shareholders.

### 3.9 Milestone payments

The DTI will pay the rebate amount in milestones at the request of the applicant (South African productions and treaty co-productions only). A completion bond (from an approved completion bonder) is required to be in place to use this facility. Where the production budget is between R2.5 and R6 million, 70% of the cost of the completion bond will be subsidised by the DTI. For productions with budgets of between R6 million and R10 million, the subsidy will be 50%. Disbursements according to milestones are made as follows:

- 20% upon confirmation of completion bond
- 20% upon start of principal photography
- 20% upon completion of principal photography
- 20% upon completion of post-production picture lock
- 20% upon submission of final application

### 3.10 Compliance with Broad-based Black Economic Empowerment (BBBEE)

The applicant SPV and holding companies must comply with the requirements for BBBEE in terms of the Codes of Good Practice for BBBEE.

### 3.11 Application

- **Provisional Application:** All applicants must apply for provisional approval by supplying details of budgeted expenditure and other details. The purpose of the provisional process is to provide an applicant with certainty as to whether a film production satisfies the eligibility criteria and what portion of its expenditure is likely to qualify for the rebate. Principal photography may not commence until approval has been received. A distribution agreement must be included with the application.
- **Final Application:** All applicants must submit a final rebate application to the DTI once a film production is completed and within three months of completion of the film production. The date of completion of a film is defined as the date on which the cut master negative and conforming sound track of the film are married to an answer print.

FOR ANY FURTHER INFORMATION PLEASE CONTACT:

**Kim Williams**  
[kimwilliams.sa@gmail.com](mailto:kimwilliams.sa@gmail.com)  
 +27 82 851 7749

**BOONDOGLE**  
 — FILMS —