

THE FILM TAX REBATE

What is the benefit called?

The Film Tax Rebate – Part IV of the 6th Schedule of the Income Tax Act.

How much is the benefit?

The Film Tax Rebate is available for fully-funded productions whereby a production entity is eligible for a 35% tax rebate or cash subsidy (calculated on its qualifying production expenditure in Fiji) when it lodges its income tax return at the end of the production.

If the benefit is based on “location spend”, what exactly does “location spend” mean?

The benefit is based on what is called “Qualifying Fiji Production Expenditure” or QFPE. This is otherwise known as “local spend”. This is covered in Division 3 of Part IV of the 6th Schedule of the Income Tax Act.

Does local spend include the following:

- Foreigners working in Fiji?

Yes, but only if they are paid from a Fiji Bank Account.

- Finance Fees?

No

- Bond Fees?

No

- Per diems?

Yes

Please note that all expenditure has to be worked out in Fiji Dollars.

Eligibility – who can access the relief?

Paragraph 65-15 states that an entity which wishes to apply for the Film Tax

Rebate must satisfy the following requirements:-

(1)

(c) the film was produced for –

- (i) exhibition to the public in cinemas; or
- (ii) exhibition to the public by way of television broadcasting or pay television; or
- (iii) distribution to the public as a video recording (whether on video tapes, digital video disks or otherwise); or
- (iv) distribution to the public via the internet; and

(d) the film is –

- (i) a large format film or feature film or a short film; or
- (ii) a broadcast television programme including miniseries, drama series, situation comedy series, documentaries and documentary series, educational programmes and series, animation series and current affairs series; [or]
- (iii) a film for exhibition as an advertising programme or a commercial.

Basically, all motion picture products would qualify under this provision.

How does the mechanism work and what is the process?

The requirements for this incentive are provided in Paragraph 65-5, Division 2 of Part IV of the 6th Schedule.

The Applicant has to complete the prescribed application form and lodge this with the FAVC together with all relevant information required by Rule 8 and Schedule 1 of the Film tax Rebate Rules 2004.

Some of the information required include:

- Full name and address of film company;
- The Company will have to indicate whether it is a Fiji Resident or not. This is because regardless of whether it is a resident or

- non-resident company, it will still have to lodge an income tax return for the purpose of claiming the rebate;
- Full name, address, nationality, country of usual residence of non-resident employees and the salary that the non-resident employees will be paid for the work done on that production;
 - Total sum of emoluments that will be paid to the local employees;
 - Total amount the film company proposes to spend on local goods and services and a brief description of the goods and services;
 - The length of time which will be spent on making the Fiji portion of the film;
 - Title of the film and brief particulars of the script;
 - Location(s) that the Film Company will use in Fiji and schedule for filming.

Once the film is completed, the Film Company will finalise the application process by submitting to the FAVC a set of the Audited Accounts for the production.

Upon Receiving the Application and Audited Accounts, the FAVC may engage an independent Line Producer to provide a report to the FAVC in relation to the requirements under Paragraph 65-15 and more specifically:-

- whether the items claimed are reasonably attributable to production expenditure and QFPE;
- whether costs charged for specific items are made on an arm's length basis;
- whether costs between subsidiary companies and parent/associate companies are commercially reasonable.

Once the Tax Department (FIRCA) has completed their own verification of the Audited Accounts, the FAVC will arrange for the release of the rebate payment from the Ministry of Finance.

Barring any setbacks in the audit process, the processing of payment of rebate by Government should take approximately 6 – 8 weeks.