Review of Section 481 Film Relief

Report

Submitted to the Department of Finance

By

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Introduction and Background

This report is submitted to the Department of Finance by Indecon International Economic Consultants. The report concerns an independent review of the Section 481 tax-based incentive scheme for the Irish film sector.

The background to the study is the fact that incentives for the film industry contained in Section 481 of the Taxes Consolidation Act (as amended) are due to expire on 31 December 2008.

The terms of reference for this review, which involves the evaluation of the scheme in broad socio-economic and fiscal terms, and the determination of the extent to which the scheme has justified its introduction, entail the following specific elements:

- A rigorous review of the Irish film/TV sector with the objective of examining the performance of the sector in Ireland to date.
- A detailed examination of the costs and benefits of the existing scheme, having regard to guidelines issued by the Department of Finance on this issue taking account of deadweight/displacement impacts within a full employment economy.
- The identification of measures to support the continued development and growth of the sector in Ireland and to assess the economic impact of these measures, with particular reference to the international context within which the sector operates.
- The formulation of recommendations on changes that could be made to enhance/maximise the value of any relief to the actual (Irish spend) production budget.

The assessment of Section 481 reflects the position that the incentive represents State aid and as such is subject to the appropriate EU rules, and factors which are considered in reviewing the scheme include:

- The level and type of investment generated
- The cost to the Exchequer of the tax incentives and the gross and net impact on Exchequer revenues
- The level of private finance leveraged under the scheme
- The impact that the schemes have had on the film industry, and its interaction with other policy objectives in this regard
- The beneficiary profile - investor or film producer.

Overview of Section 481

An overview was undertaken as part of this review on the evolution of and recent developments in the Section 481 tax incentive scheme. The key points from this overview are as follows:

- Section 481 of the Taxes Consolidation Act incorporated all the amendments of Finance Acts 1996 and 1997 to Section 35, which previously covered tax relief for film production.
- A number of independent reports including two previous reports undertaken by Indecon proposed changes to the operational procedures of Section 481. On foot of these recommendations, a number of adjustments were made to the legislation in the Finance Acts of 2000, 2003, 2004, 2005, and 2006.
- Current position of Section 481 Relief:

  1. Production Companies qualifying for assistance under the relief may raise up to 80% of total cost of production, with Section 481 funds raised not allowed to exceed lower of total Irish spend or €35,000,000.
  2. Individual Investors may invest between €250 and €31,750 in any single tax year, claim tax relief on 80% of their investment and carry forward 125% of unclaimed relevant deduction to following tax year, should earnings in year of investment be insufficient to absorb the full deduction.
  3. Corporate Investors may invest up to €10,160,000 in any 12 month period, subject to a cap of €3,810,000 on investment in any single film, and subject to the requirement that if €3,810,000 has been invested in films with budgets greater than €5,080,000, that the rest of the investments are into films with budgets of €5,080,000 or less, claim tax relief on 80% of their investment, carry forward 125% of any unclaimed relevant deduction to the following year, should profits in the year of investment be insufficient to absorb the full deduction

- The decline in the corporation tax rate from 40% in 1993 to 12.5% in 2003 has led to a steady reduction in corporate investments in Section 481 productions.
- All investors in Section 481 projects in recent years have been individual taxpayers.

Overview of Performance of Irish Audiovisual Market

As part of this evaluation, a review was undertaken on the recent performance of the Irish film sector and wider audiovisual industry. This review places in context the role of Section 481 by considering the developments at sub-sectoral level, including the indigenous and foreign feature film sector, the TV productions sector, and the animation sector, in addition to the relative importance of different sources of funding for production. The sharing of the benefits of Section 481, including the returns to investors and producers versus the administrative costs of the scheme, is also considered. The key findings from the overview are set out below.

Summary of Recent Developments

- Total expenditure in the audiovisual sector declined by 52% between 2003 and 2005, but is estimated to have risen by 56% between 2005 and 2006.
- Total Irish expenditure in the Audiovisual sector declined by 36% between 2003 and 2005 but is estimated to have risen 81% between 2005 and 2006.
- Section 481 funding declined by 38% between 2003 and 2005 but increased by over 100% between 2005 and 2006.
- There were 25 Section 481 funded productions in 2003, 22 in 2004, 27 in 2005 and 39 in 2006.
- Figures from the Revenue Commissioners and DoAST[1] indicate Section 481 accounted for 31% of the overall level of funding raised for Irish film and TV production in 2005.
- On average, investors participating in Section 481-financing productions receive back 76% of their investment and their return is entirely due to the tax subsidy received. The typical subsidy to the film company is approx. 19% of the Section 481 funding raised with the balance of funds being returned to investors or accounted for by administrative costs.
- Total Irish spend from feature films fell by 85% between 2003 and 2005 then rose by over 150% between 2005 and 2006.
- Irish spend from incoming films decreased from €86m in 2003 to €3.8 in 2004 and €9.1 in 2005 but recovered to €16.5m in 2006.
- The majority of films produced in Ireland last year spent less than €2m in the country. No film spent more than €5m.

[1] DoAST refers to the Department of Arts, Sport and Tourism

- Ireland's performance in the feature film sector has been related to changes in tax and other incentives offered by competitors and in particular the very attractive incentives offered in the UK.
- Total Irish spend arising from television production increased from €22m in 2003 to €62.3m in 2006.
- Ireland is almost unique in Europe for offering a tax incentive for television production.
- Irish spend on animations was €9.4m in 2003, €6.6m in 2004, €11.1m in 2005 and €16.4m in 2006
- The number of animations being produced in Ireland has risen from 3 in 2003 to an average of 7 films in 2005 and 2006.

Summary of Findings from Indecon Survey of Producers

- All respondents have used Section 481 at some point in recent years.
- Section 481 is considered as being very important for the development of the Industry.
- For Productions that avail of Section 481 funding, it is their most important funding source.
- Producers believe that production activity would have been substantially lower in the absence of Section 481.
- Results indicate that in the absence of Section 481, lower budget films would have been produced, and more film production would have been produced outside of Ireland. Lower levels of Irish employment on films and usage of Irish facilities, goods and services would also have resulted.
- Ireland is seen to be similar to competitors in terms of its attractiveness on the basis of producers/writers, availability of experienced actors, skilled crews and access to services/facilities.
- High proportion of producers believe Ireland has fallen behind other locations in Europe in the areas of tax and other incentives for the Industry, in addition to factors such as labour costs and flexibility.
- Producers highlight the UK, Canada and the US as the main competing locations for film production and UK and EU as main competitors for TV production.
- For film production, 82% and 73% of respondents consider Ireland less attractive to UK and Germany, respectively. For TV production, Ireland is seen as more attractive to UK.

Overview of Film Incentives Internationally

A comparative overview of film and television production incentives internationally was undertaken, focussing on the main incentives and legislative positions in a number of Ireland's main industry competitors, namely the UK, Australia, New Zealand, Canada, and South Africa. A summary of the key features of the incentives operating in these jurisdictions is presented in the table below. This highlights the fact that the specific Irish scheme involving personal investors is unusual and in many countries production grants or corporate refunds are utilised.

Summary of Key Features of Incentive Schemes for Audiovisual Sector in Selected Countries

Country	Form of Incentives	Operational Features of Scheme	Scope of Incentives
UK	❒ Tax relief on Qualifying UK Expenditures	❒ Tax deduction of 100% of qualifying expenditures for UK films costing £20 m or less ❒ 80% of qualifying expenditures for UK films costing > £20 m	❒ Film only
Australia	❒ Federal: 1. Producer Rebate 2. Location Rebate ❒ State: 1. Payroll tax rebates 2. Wage rebates 3. Location grants 4. Public service resources	❒ Location Rebate of 15% of qualifying expenditures ❒ Producer Rebate: 40% refundable rebate for domestic feature films, 20% for other domestic productions	❒ Feature Films, Telemovies, Mini-series and Television series.
Canada	❒ Tax Credit on Qualifying Labour Expenditures ❒ Capital Cost Allowance ❒ Loans, investment, and grants	❒ International productions awarded Tax Credit equal to 16% of qualifying labour expenditures ❒ Indigenous productions awarded tax credit equal to 25% of qualifying labour expenditures ❒ Loans, investment, grants for Canadian productions	❒ Film/Video ❒ Indigenous Film/Video and TV programmes
New Zealand	❒ Loan and Equity Financing ❒ Large Budget Screen Production Grant	❒ 8% of annual budget of NZ Film Commission allocated for Loan and Equity Financing ❒ Grant totalling 12.5% of Qualifying New Zealand Production Expenditure	❒ Feature Films, Telemovies, Mini-series and Television series.
South Africa	❒ Tax Rebate on Qualifying South African Production Expenditures ❒ Debt Finance and Quasi-Equity/Equity Finance	❒ International Productions awarded Tax Rebate equal to 15% of qualifying expenditures ❒ Special Indigenous Productions awarded Tax Rebate equal to 25% of QSAPE ❒ Up to 49% of production costs of certain productions provided by Industrial Development Corporation	❒ Feature Films, Telemovies, Mini-series, TV series, documentaries

Source: Indecon review of incentive schemes in other countries based on data from national film boards, government departments and other agencies.

Costs and Benefits of Section 481

A summary of our analysis of the costs and benefits of Section 481 are presented below. The figures indicate that while total tax and other benefits exceed the costs, when one takes account of even relatively low levels of opportunity costs the benefits of the scheme to the Irish economy are very low and have declined over recent years.

S481 Costs and Benefits to the Exchequer, 2004, 2005 and 2006

CBA Components	2004 (€)	2005 (€)	2006 (€)	2004-2006 - Total (€)
Costs				
Total Foregone Tax Revenues (Table 5.1)	19,542,269	17,555,888	37,239,455	74,337,612
Irish Film Board financing (Net) (Table 5.2)	4,013,730	5,054,349	6,836,139	15,904,218
Cost of Scheme Administration (Table 5.3)	218,889	234,431	247,559	700,879
Total Costs	**23,774,889**	**22,844,668**	**44,323,152**	**90,942,709**
Benefits				
Direct Benefits				
Employment-related Taxation Revenues				
Direct taxation on Employment Incomes in Audiovisual Industry (Table 5.5)	9,327,325	8,951,265	15,749,671	34,028,261
Other Taxation Revenues				
Capital Duties (Table 5.8)	581,615	261,248	0	842,863
Other direct taxes* (Table 5.8)	1,330,100	1,226,373	2,319,905	4,876,377
Social Welfare Savings (Table 5.7)	487,981	567,316	940,892	1,996,189
Sub-Total - Direct Benefits	***11,727,021***	***11,006,202***	***19,010,468***	***41,743,691***
Multiplier Impacts				
Multiplier impacts on Incremental Expenditures from Section 481 Employee Incomes - Additional Taxation Revenue (Table 5.9)	6,583,994	6,318,540	11,117,415	24,019,949
Multiplier impacts on Goods & Services Expenditures of Section 481 companies - Additional Taxation Revenues (Table 5.10)	5,386,904	4,718,814	9,761,729	19,867,447
Sub-total - Multiplier Impacts	***11,970,898***	***11,037,354***	***20,879,143***	***43,887,396***
Total Economy-wide Benefits (incl. direct benefits and multiplier impacts)	**23,697,919**	**22,043,555**	**39,889,612**	**85,631,086**
Other Wider Benefits (Table 5.12)**	**5,924,480**	**5,510,889**	**9,972,403**	**21,407,772**
Total Benefits - Adjusted for Deadweight	**26,660,159**	**24,799,000**	**44,875,813**	**96,334,972**
Net Costs/Benefits				
Total Benefits - Total Costs	**+2,885,271**	**+1,954,332**	**+552,661**	**+5,392,264**

Source: Indecon analysis
Notes:
* Other taxes refer to (net) VAT on purchases of goods & services and corporation taxes on profits.
** Other wider benefits include cultural, skill retention and tourism impacts of activities in the Irish audiovisual industry.

Recommendations

A summary of our recommendations is presented below:

	Recommendations to Support Future Development of the Irish Audiovisual Industry
1.	SECTION 481 FILM INDUSTRY INCENTIVES SHOULD REMAIN FOR THE NEXT 3-5 YEAR PERIOD BUT SHOULD BE SUBJECT TO REVIEW IN ADVANCE OF THE EXPIRY DEADLINE.
2.	NO CHANGE SHOULD BE MADE TO INCENTIVES FOR TELEVISION PRODUCTION.
3.	CONSIDERATION SHOULD BE GIVEN TO SOME MARGINAL ENHANCEMENTS OF THE INCENTIVES FOR FILM PRODUCTION. SPECIFICALLY, WE PROPOSE AN INCREASE IN THE CAP ON THE LEVEL OF ELIGIBLE EXPENDITURE PER PROJECT FROM €35 MILLION TO €50 MILLION AND AN INCREASE IN THE PERCENTAGE OF ELIGIBLE EXPENDITURE ALLOWABLE FOR TAX RELIEF PURPOSES TO 90%.
4.	AN ENHANCED GRANTS SCHEME SHOULD BE PROVIDED BY THE IRISH FILM BOARD AS AN OPTIONAL ALTERNATIVE TO SECTION 481 FOR FILM AND TV PRODUCTION IN IRELAND BUT CONDITIONAL UPON SUCH PROJECTS NOT ALSO OBTAINING SECTION 481 SUPPORT.
5.	THE IRISH FILM BOARD, JOINTLY WITH THE INDUSTRY, SHOULD DEVELOP A 10-YEAR STRATEGIC PLAN TO ADDRESS THE SUSTAINABILITY OF THE INDUSTRY AND ITS VULNERABILITY TO CHANGES IN TAX INCENTIVES IN OTHER COUNTRIES AND TO ENHANCE ITS NET ECONOMIC CONTRIBUTION.

Source: Indecon

1 Introduction and Background

1.1 Introduction

This study represents an independent review of the Irish film sector commissioned by the Department of Finance. The report was prepared by Indecon International Economic Consultants.

The background to the study is the fact that incentives for the film industry operating under Section 481 of the Taxes Consolidation Act 1997 (as amended) are due to expire on 31 December 2008.

1.2 Background

In Budget 2006, following a major review of the various property and area based tax incentive schemes the Minister for Finance announced the termination, subject to certain transitional provisions, of a number of schemes which had either achieved the objectives set for them or were no longer considered to be cost effective in terms of their objectives. At that time he made it clear that any proposals for the introduction of new reliefs should, as far as appropriate, be time-limited, be subject to an assessment of costs and benefits prior to their introduction where relevant, and that full information of those availing of the scheme be made available to Revenue. In relation to Film Investment Relief, the Minister for Finance, in his Second Stage Speech for Finance Bill 2007 said that the relief is due for renewal next year and before it is renewed it will be fully reviewed, as before, to ensure that it is delivering the desired effect. It is within this framework that this review of the existing Section 481 film relief provision is being carried out. The study is to cover the Film Relief provision contained in the Taxes Consolidation Act 1997 (as amended).

1.3 Approach

Indecon's approach to this study was designed to address all aspects of the terms of reference. The review evaluates the scheme in broad socio-economic and fiscal terms, determining the extent to which the scheme has justified its introduction. To this end, the study:

- Contains a rigorous review of the Irish film/TV sector with the objective of examining the performance of the sector in Ireland to date – both assisted and non-assisted.
- Contains a detailed examination of the costs and benefits of the existing scheme, having regard to guidelines[2] issued by the Department of Finance on this issue taking account of deadweight and displacement impacts within a full employment economy.
- Identifies measures to support the continued development and growth of the sector in Ireland and to assess the economic impact of these measures, with particular reference to the international context within which the sector operates.
- Recommend any changes that could be made to enhance/maximise the value of any relief to the actual (Irish spend) production budget.

Our assessment of the scheme reflects the position that the incentive represents State aid and as such is subject to the appropriate EU rules. Factors which were considered in reviewing the scheme include:

- The level and type of investment generated;
- The cost to the Exchequer of the tax incentives and the gross and net impact on Exchequer revenues;
- The level of private finance leveraged under the scheme;
- The impact that the schemes have had on the film industry, and its interaction with other policy objectives in this regard;
- The beneficiary profile - investor or film producer.

[2] http://www.eustructuralfunds.ie/docs/press_releases/ndp_csf/wkrule.doc

1.4 Structure of Report

This report is structured as follows: Section 2 is an overview of the operation of the Section 481 scheme. Section 3 presents an overview of the recent performance of the Section 481-assisted sector. It also includes our analysis of the importance of Section 481 as a source of funding. The findings of a new Indecon survey of film producers is presented in this section. Section 4 gives an overview of the tax and other incentives available to audiovisual producers in Ireland's main competitor countries. Section 5 presents Indecon's detailed cost-benefit analysis of the operation of Section 481. Recommendations are included in Section 6. The annex contains more detailed information on the audiovisual production incentives available in other countries.

1.5 Acknowledgements and Disclaimer

We would like to acknowledge the assistance provided by the Review Steering Committee, comprised of officials from the Department of Finance, the Department of Arts, Sports and Tourism and the Revenue Commissioners. We would also like to thank all those individuals and institutions that contributed and submitted their inputs to the review including the Irish Film Board, the Audiovisual Federation, Screen Producers Ireland, the National Film School, Anglo Irish Bank, Matheson Ormsby Prentice, the Film Technicians Association of Ireland, SIPTU, the Building & Allied Trades' Union and the Screen Directors Guild of Ireland, as well as various other representative organisations. Thanks are also due to film producers, tax specialists and financers who inputted to our review. The usual disclaimer applies and the analysis and conclusions are the sole responsibility of Indecon.

2 Overview of Section 481

2.1 Introduction

This chapter presents an overview of the evolution of and recent developments in the Section 481 tax incentive scheme.

2.2 Overview of Evolution of Section 481

2.2.1 1984-1995: The Business Expansion Scheme and Section 35

Section 481 has its origins in the introduction of the Business Expansion Scheme (BES) in 1984, which allowed individuals to claim tax relief on annual investments in designated enterprise sectors, including film production. There was an upper limit of £25,000 (€31,750) on the amount an individual could invest through the scheme in one year, regardless of how many different companies were invested in. The qualifying investor would receive tax relief on money invested in eligible shares of a qualifying company, where the money raised was to be used for the carrying on of a qualifying trade. Film production qualified as a qualifying trade under Section 16 of the Act.

The BES provision for the film sector was replaced by Section 35 of the Finance Act 1987. Section 35 defined qualifying films as films that were produced on a commercial basis with a view to the realization of profits, and which were intended for exhibition in cinemas or, importantly, by way of television broadcasting. This definition excluded advertising programmes and commercials. There was an upper limit of £100,000 (€127,000) on the amount of relevant investments an investor company could make in one qualifying year, regardless of how many qualifying companies were invested in. The scheme was open to corporate investors. The qualifying company had to be incorporated and resident solely in the State, and to exist solely for the purpose of producing or distributing qualifying films. To qualify for the scheme, not less than 75% of the production work had to be carried out in the State. A maximum of 60% of the total budget of the film could be raised through Section 35 investments.

The Finance Act 1989 increased the upper limit on relevant investments by investor companies from £100,000 to £200,000 (€254,000) per year.

Finance Act 1993 included the provision that in special circumstances a film could qualify for relief even if less than 75% of the work was carried on in the State. In such cases, a specified percentage, not less 10%, of the production work had to be carried out in the State, and the maximum percentage of the total budget that could be raised by Section 481 funding was to be to equal to this specified percentage. In order for these special rules to apply, the film had to receive a certificate from the Minister for Arts, Culture and the Gaeltacht. The upper limit on relevant investments by investor companies was raised from £200,000 to £350,000 (€444,500) per year. The Finance Act 1993 also included a provision for relief to be given to individual investors. The maximum amount of annual personal investment was set at £25,000 (€31,750). If the investors' income for the year was insufficient to absorb the full deduction in taxable income to be given to him, then the amount in excess could be carried into the following period.

Finance Act 1994 made changes to the administration of Section 35, including a certificatory role for the Minister of Arts, Culture and the Gaeltacht. The Minister needed to certify each film in order for it to be treated as a qualifying film.

2.2.2 1996-1997: Section 481 replaces Section 35

Finance Act 1996 continued to allow the requirement that 75% of production work be carried out in the State to be subject to the discretion of the Minister for Arts, Culture and the Gaeltacht, albeit with a minimum requirement of 10%, and this percentage amount had to be specified in a certificate by the Minister. The percentage amount of the total cost that could be raised through Section 35 was not allowed to exceed the percentage amount specified in the certificate, and, for films with a total cost of up to £4m (€5.08m), was capped at 60%. For films with a total cost between £4m and £5m (€6.35m), the maximum percentage amount was to be calculated using the formula 60-E/£100,000, where E was the excess of the budget over £4m. For films with a total cost of greater than £5m, the maximum was 50% Section 35 funding. If the percentage amount specified in the certificate was less than 50% for any film, then the maximum amount of total cost that could be financed through Section 481 was equal to that percentage. No film could receive more than £7.5m (€9.525m) through the scheme. Finance Act 1996 also introduced an incentive, in the form a 10% increase in the amount of funding that could be raised for film producers to commence photography during the off-peak months of October through to January.

The Finance Act 1996 also included a provision allowing corporate investors, where the amount invested though Section 35 exceeded profits for the year, to carry forward ten-eights (125%) of the excess to the following year. The amount that could be carried forward by individual investors was also increased to 125% of the excess of relevant deductions for the year over taxable income for the year. The total amount that an investment company could invest in a single year was fixed at £6m (€7.62m), while the total amount that could be invested by an investment company in a single qualifying company was capped at £2m (€2.54m). Finance Act 1996 also reduced the relevant deduction from 100% to 80% of the relevant investment. Finally, the Act altered the definition of relevant investment, so that the only investments that would be relevant were those made after such time as the Minister had given notice in writing that he was satisfied that a complete application, containing all required information, had been submitted to him by the qualifying company.

Finance Act 1997 introduced an incentive, in the form of a 10% increase in the amount of funding that can be raised through Section 35, for films whose post-production was wholly or mainly carried on in the State. Also, for films in respect of which at least half of the Section 35 funds raised were paid by allowable investor companies, the maximum amount of Section 35 funding that could be received was doubled, from £7.5m to £15m (€19.05m) for standard films, and from £8.25m (€10.48) to £16.5m (€20.96) for films that qualified for either the off-peak or the post-production incentive. The total amount an investment company could invest per year was raised to £8m (€10.16m), while the total amount that could be invested by an investor company in a single qualifying company was raised to £3m (€3.81). The investor company could make total investments in one year of more than £3m, but the excess could only be invested in qualifying films with budgets of £4m (€5,08m) or less.

Section 481 of the Taxes Consolidation Act incorporated all the amendments made by Finance Act 1997 and Finance Act 1996 to Section 35. It also recognized that the relevant Minister was now called the Minister the Arts, Sports, Gaeltacht and the Islands.

2.2.3 1998-2007: Amendments to Section 481

Finance Act 2000 broadened the definition of qualifying company to include companies which, though not incorporated or resident in the State, were carrying on trade in the State through a branch or agency. However, it also stipulated that the qualifying company must exist solely for the production and distribution of one qualifying film. The Act also abolished the provision of incentives for off-peak and post-production work and for raising a majority of Section 481 funding from corporate investors.

The cap on the per cent of the total production cost that could be raised through Section 481 for films with a total cost of up to £4m was increased to 66%. For films with a total cost between £4m and £5m, the maximum amount per cent was to be calculated using the formula 66 – (11*E)/£1,000,000, where E was the excess of the budget over £4m. For films with a total cost of greater than £5m, the maximum was raised to 55% Section 481 funding. In any case, the total cost which is met by Section 481 was not allowed to exceed £8.25m.

Finance Act 2003 altered the formula for the percentage amount of the total production cost that can be raised through Section 481, for films with a total production cost of between €5.08m and €6.35m. The formula to be used was 66 – (11*E)/€1,270,000.

Finance Act 2004 indicated that the certification role previously held by the Minister for Arts, Heritage, Gaeltacht and the Islands was assigned to the Revenue Commissioners. The definition of relevant investment was also amended, so that the only investments that would be relevant were those made after such time as the authorised officer (of the Revenue Commissioners) had been given notice in writing that the Revenue Commissioners were satisfied that a complete application, containing all required information, had been submitted to the Revenue Commissioners by the qualifying company. The Revenue Commissioners must receive authorization from the Minister before issuing a certificate for any film. The Minister also is responsible for deciding what percentage amount of the total production work must be carried out in the State, and the Revenue Commissioners must specify this amount when/if they issue a certificate. The amount of total cost which may be met by Section 481 was raised from €10.48m (£8.25m) to €15m. The Revenue Commissioners, when issuing a certificate, must specify therein the minimum amount of money to be expended directly on the employment of eligible individuals and on the provision of certain goods and services. The Act defines an eligible individual as an individual who is a citizen of Ireland or of another Member State of the

European Communities, or an individual domiciled, resident or ordinarily resident in the State or in another Member State of the European Communities. Also, a company cannot be considered a qualifying company if it has entered into financial arrangements in relation to the qualifying film with any person resident, registered or operating in any territory other than a Member State of the EU or a territory with which legal arrangements have been made under Section 826. The Revenue Commissioners were given the responsibility of making regulations regarding the administration of the Section 481 relief. This gave the Revenue Commissioners governance over the type of expenditure that may be accepted as expenditure on a qualifying film, and governance over the provision of goods, services and facilities on the production of the qualifying film.

Finance Act 2005 further refined the definition of expenditure on eligible individuals so that it now only includes expenditure by the qualifying company on the employment of individuals domiciled, resident or ordinarily resident in the State or in another Member State of the European Communities, in so far as those individuals exercised their employment in the State in the production of the qualifying film.

Finance Act 2006 increased the absolute maximum amount of Section 481 funding can be raised for a qualifying film from €15m to €35m. Also, it raised the percentage amount of total costs which can be funded by Section 481 from 55/66% to 80%.

2.3 Current Film Tax Relief Scheme

The essential provisions of the relief for investment in film production as it exists at the present time are the following:

Production companies qualifying for assistance under the relief may raise up to 80% of the total cost of production of a film, with Section 481 funds raised not allowed to exceed the lower of total Irish spend or €35,000,000.

Individual investors availing of the tax incentive may;

(i) invest a minimum of €250 and up to a maximum of €31,750 under the scheme in any single tax year;

(ii) claim tax relief on 80% of their investment;

(iii) carry forward 125% of any unclaimed relevant deduction to the following tax year, should earnings in the year of investment be insufficient to absorb the full deduction.

Corporate investors availing of the tax incentive may;

(i) invest up to €10,160,000 under the scheme in any 12 month period, subject to a cap of €3,810,000 on investment in any single film, and subject to the requirement that if €3,810,000 has been invested in films with budgets greater than €5,080,000, that the rest of the investments are into films with budgets of €5,080,000 or less;

(ii) claim tax relief on 80% of their investment;

(iii) carry forward 125% of any unclaimed relevant deduction to the following year, should profits in the year of investment be insufficient to absorb the full deduction.

2.4 Income and Corporate Tax Rates

The overall cost / benefit ratio to the state increases with the share of investment provided by corporate investors. However, due to the corporate tax rate declining significantly since the introduction of Section 481, this has resulted in a steady fall off in corporate investments, to the extent that all of the investors in Section 481 projects in recent years have been individual taxpayers.

Table 2.1: Effect of Declining Corporation Tax on Corporate Investments

Financial Year	Rate of Corporation Tax on Trading Profit	Corporate Investment as % of Total
1993	40%	100.0
1994	40%	21.9
1995	38-40%	34.2
1996	38%	15.9
1997	36-38%	0.0
1998	32%	0.37
1999	28%	0.0
2000	24%	0.0
2001	20%	0.0
2002	16%	0.0
2003-2007	12.5%	0.0

Source: Indecon analysis of data from irishstatutebook.com and the Revenue Commissioners

The cost to the state of incentivising individual investments to invest in films has also bee influenced by the decline in personal tax rates. The trend in individual taxes since 1997 is presented in table 2.2.

Table 2.2: Effect of Declining Income Tax on Individual Investments

Financial Year	Higher Rate of Personal Income Tax	Level of Section 481 Funding
1997	48%	82.5
1998	46%	93.8
1999	46%	61.0
2000	44%	92.6
2001	42%	75.2
2002	42%	62.2
2003	42%	84.9
2004	42%	58.2
2005	42%	52.2
2006	42%	110.8

Source: Indecon analysis of data from IrishStatuteBook.Com, the Revenue Commissioners and the DoAST

2.5 Overview of Previous Research

2.5.1 1998 Review

Indecon's 1998 report was a rigorous review of the Irish film industry commissioned by the Department of Arts, Heritage, Gaeltacht and the Islands. It identified measures to support the continued development and growth of the sector in Ireland and assessed the economic impact of those measures, many of which were incorporated in subsequent Finance Acts.

The report urged for initiatives and strategies to improve the long term sustainability of the film industry. It highlighted the urgent necessity for the sector to develop a competitive advantage based on factors other than government subsidies, warning that government subsidies are vulnerable to the introduction of competing schemes in other countries. It is likely that the recent decline in the number of incoming films in Ireland was due to the introduction in the UK of enhanced incentives.

The report recommended that incentives should be extended for a further period. Finance Act 1999 extended the incentive for one year, and then Finance Act 2000 extended it for five more years.

The report recommended the removal of the requirement that Section 481 investments should represent risk capital.

It was recommended that the tax relief for small projects should be increased to 100%.

2.5.2 2003 review

The report, "Review of Section 481 of the Taxes Consolidation Act 1997", was completed by PwC for the IFB and the Department of Arts, Sports and Tourism in September 2003. It contained a cost benefit analysis of Section 481 for the years 1999 – 2001 inclusive, which suggested that there was a net benefit of €6.6mn derived over the three years, with this trend improving in each year. It found that the larger the production spend in Ireland, the higher the economic benefit is to the State. It forecasted that there would continue to be a positive economic trend from the incentive.

The review also included an examination of the implications of discontinuing Section 481. It suggested that using certain assumptions more than 3,500 jobs would likely be displaced and that the value of Ireland's audiovisual output would be expected to decrease by 66%.

The report also found that, even at that time in 2003 before the enhancements subsequently made to the incentives offered by Canada, the UK, Australia, New Zealand and South Africa, these countries were already offering more attractive incentives than Ireland, especially for big budget productions. Based on the above, the report concluded that the continuation of state support was justified on economic and competitive grounds.

The report suggested that the most appropriate form for the incentive was not the direct subsidy model and that Section 481 or a tax credit model would be broadly similar in meeting the objectives for a successful tax incentive from the Government and industry perspective.

Five recommendations were proposed to enhance the then existing Section 481 scheme. These enhancements related to the extension of the scheme for a further five year, new measures for its administration, and raising the level of expenditures which could be raised through Section 481 by the production companies. The impact of these recommendations would increase exchequer costs.

2.5.3 Screen Producers Ireland Report 2003

A report by Screen Producers Ireland claimed that the Exchequer investment in Section 481 produces an annual 3:1 return. As such, the incentive was seen as essential to maintain and develop the film/TV industry. It estimates that 80% of industrial revenue and employment would be lost in the immediate short term if all film tax incentives were eliminated.

The report suggested a ten year extension to the film tax incentives, subject to a five year review. This was based on the need to establish a stable environment to facilitate international industry planning cycles, to provide security for infrastructure and to sustain the interest and commitment of indigenous talent.

2.5.4 Irish Film Board Report 2005

An Irish Film Report was proposed in 2005. The background to the report was that the UK Treasury had issued preliminary guidelines to a significantly new and improved tax incentive structure that was to be introduced early in 2006. At that time, the IFB estimated that the new incentive would result in raising the subsidy on UK film production expenditure from 8-15% to 20%. However, the incentive enhancement turned out to be even larger than estimated, with some productions now able to secure subsidies of up to 25%. Nevertheless, the report predicted that as a result of the changes in the UK offer, the annual level of film activity in Ireland would decrease by 67%, with a corresponding decrease in direct employment and direct economic benefits. Further, the Irish film industry would be unable to sustain itself, and its talent, crews, and ancillary service providers would emigrate or exit the industry.

To prevent this outcome, the IFB recommended that the maximum amount of total expenditure that could be raise through Section 481 should be raised from 55%/66% to 100%. Subsequently, Finance Act 2006 set this amount 80%. The report also urged raising the restriction on the maximum size of Section 481 funds that could be raised from €15m. This recommendation was particularly aimed at increasing the Irish spend of large Hollywood films. Finance Act 2006 raised the cap from €15m to €35m.

2.6 Summary of Key Findings

In this section an overview was undertaken as part of this review on the evolution of and recent developments in the Section 481 tax incentive scheme. The key points from this overview are as follows:

- Section 481 of the Taxes Consolidation Act incorporated all the amendments of Finance Acts 1996 and 1997 to Section 35, which previously covered tax relief for film production.
- A number of independent reports including two previous reports undertaken by Indecon proposed changes to the operational procedures of Section 481. On foot of these recommendations, a number of adjustments were made to the legislation in the Finance Acts of 2000, 2003, 2004, 2005, and 2006.
- Current position of Section 481 Relief:

  4. Production Companies qualifying for assistance under the relief may raise up to 80% of total cost of production, with Section 481 funds raised not allowed to exceed lower of total Irish spend or €35,000,000.
  5. Individual Investors may invest between €250 and €31,750 in any single tax year, claim tax relief on 80% of their investment and carry forward 125% of unclaimed relevant deduction to following tax year, should earnings in year of investment be insufficient to absorb the full deduction.
  6. Corporate Investors may invest up to €10,160,000 in any 12 month period, subject to a cap of €3,810,000 on investment in any single film, and subject to the requirement that if €3,810,000 has been invested in films with budgets greater than €5,080,000, that the rest of the investments are into films with budgets of €5,080,000 or less, claim tax relief on 80% of their investment, carry forward 125% of any unclaimed relevant deduction to the following year, should profits in the year of investment be insufficient to absorb the full deduction

- The decline in the corporation tax rate from 40% in 1993 to 12.5% in 2003 has led to a steady reduction in corporate investments in Section 481 productions.
- All investors in Section 481 projects in recent years have been individual taxpayers.

3 Review of Performance of Irish Audio Visual Market

3.1 Introduction

This section presents a review of the recent performance of the Irish film sector and wider audiovisual industry. The review places the role of Section 481 in context by considering the developments at sub-sectoral level, including the indigenous and foreign feature film sector, the TV productions sector, and the animation sector. The relative importance of different sources of funding for production is then considered. Finally, we examine the sharing of the benefits of Section 481, including the returns to investors and producers versus the administrative costs of the scheme.

3.2 Review of Recent Developments

3.2.1 Overall Audiovisual Sector

The purpose of this section is to examine the performance of the overall audiovisual sector, as the number and nature of the Section 481 productions have partially followed the trends of the wider sector.

The audiovisual sector is defined for the purpose of this section as the independent film and television industry. Independent film and television productions receive funding from, among others, the Irish Film Board, Eurimages, the Independent Production Unit of RTE, TG4 and Section 481 investors. Projects that were produced exclusively and in-house by RTE are not included in this analysis.

Table 3.1 presents figures on the total expenditure of the audiovisual sector from 2003 to 2006.

Table 3.1: Total Expenditure of the Audiovisual Industry 2003 - 2006

	2003	2004	2005	2006*
Total Expenditure (€m)	320.2	169.9	152.4	238.0

Source: Indecon analysis of IBEC data

**2006 figure is an IBEC estimate. 2006 data are as yet un-audited.*

Total expenditure declined by 52% between 2003 and 2005, but is estimated to have risen in 2006 by 56% of the 2005 figure. The actual amount of total expenditure does not capture the contribution to the Irish Economy. Of more consequence is the amount of Irish expenditure.

Table 3.2: Total Irish Expenditure of the Audiovisual Industry 2003 - 2006

	2003	2004	2005	2006*
Total Irish Expenditure (€m)	151.4	106.7	96.9	175.7

Source: Indecon analysis of IBEC data

**2006 figure is an IBEC estimate. 2006 data are as yet un-audited.*

An analysis of the trends in the three sectors of the Irish Industry is presented in Table 3.3. This shows that there has been a decline in feature film production in 2006 compared to 2003 but that television production has increased significantly.

Table 3.3: Irish Expenditures of the Three Sector 2003 - 2006

	2003	2004	2005	2006*
Feature Film (€m)	100.4	37.9	17.5	36.6
Independent TV (€m)	42.8	53.7	66.3	130.0
Animation (€m)	8.2	15.1	13.1	9.1

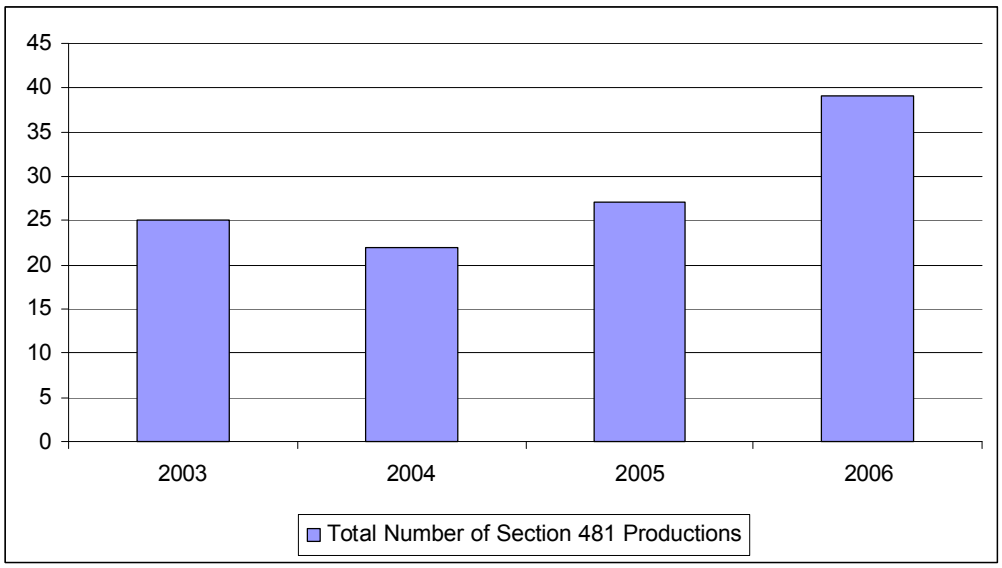
Source: Indecon analysis of IBEC data

**2006 figure is an IBEC estimate. 2006 data are as yet un-audited.*

3.2.2 The Section 481-incentivised Sector

The entire audiovisual sector is not funded via Section 481. Many productions, especially some short films and television programmes, do not avail of Section 481. The number of Section 481-incentivised productions, therefore, is usually a fraction of the all audiovisual productions, but an important one, as Section 481 projects generally have large budgets and make significant expenditures in Ireland. The trend in the number of Section 481 productions is presented in figure 3.1. This indicates that there were 25 Section 481 funded productions in 2003, 22 in 2004 and 27 in 2005 and 39 in 2006. This is shown is Figure 3.1.

Figure 3.1: Number of Section 481 Productions 2003 - 2006



Source: Indecon analysis of DoAST and Revenue Commissioners data

The numbers in Figure 3.1, hide differences in the scale of production and in 2005 Section 481 productions were mainly low to medium budget television programmes.

The amount of Section 481 funding in each year is presented in Table 3.4.

Table 3.4: Total Section 481 Funding 2003 - 2006

	2003	2004	2005	2006
Total Section 481 Funding (€m)	84.9	58.2	52.2	110.8

Source: Indecon analysis of DoAST and Revenue Commissioners' data

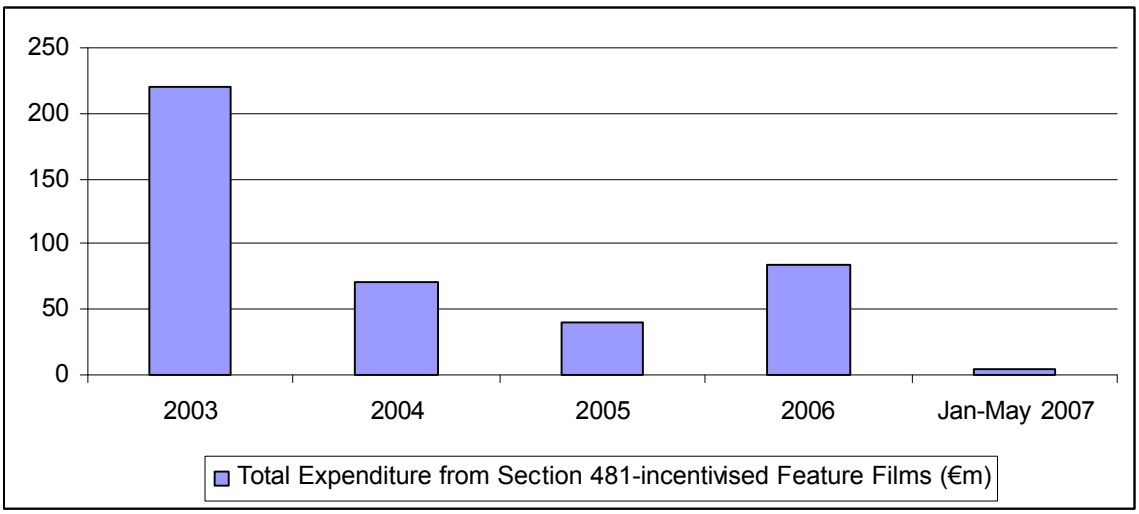
Table 3.4 shows that the amount of Section 481 funding declined by 38% between 2003 and 2005 but increased by over 100% between 2005 and 2006.

3.2.3 The Feature Film Sector

Due to the dependence of the film sector on government subsidies Ireland's performance has been significantly influenced by changes in the tax and other incentives offered by Ireland's competitors. Chapter 4 of the report presents the details of the key changes that have occurred in those other territories.

Figure 3.2 presents figures on the total expenditure arising from the production of feature films. This gives an indication of the magnitude of the feature films which are being partially or fully produced in Ireland.

Figure 3.2: Total Expenditure from Section 481-incentivised Films

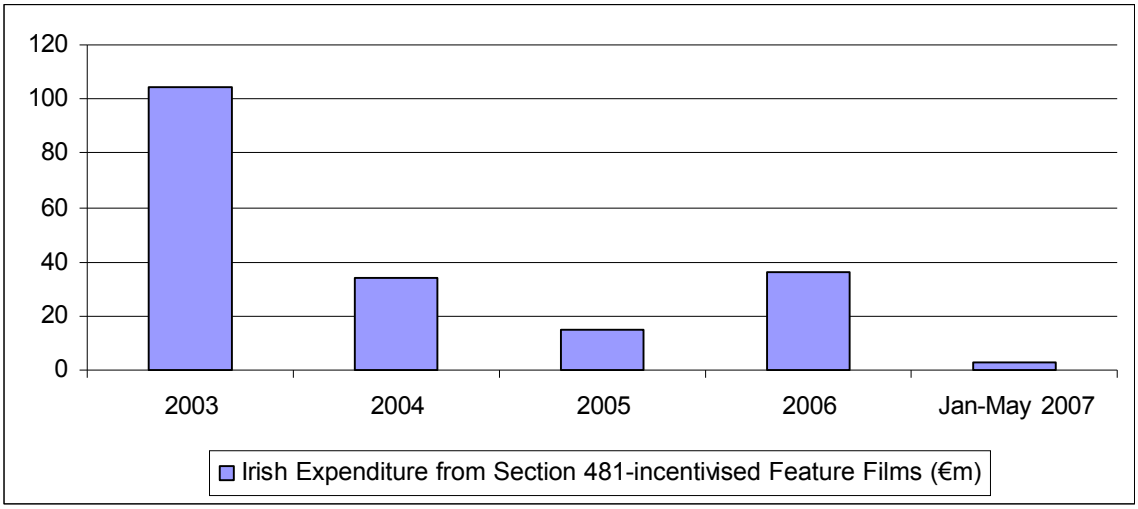


Source: Indecon analysis of DoAST and Revenue Commissioners data

Figure 3.2 shows that total spend from feature films fell between 2003 and 2005, but it then increased in 2006.

Figure 3.3 presents data on the Irish expenditure of Section 481 films. The level of Irish expenditure followed a similar trend to level of total expenditure shown above, but with greater variation.

Figure 3.3: Irish Expenditure from Section 481-incentivised Films

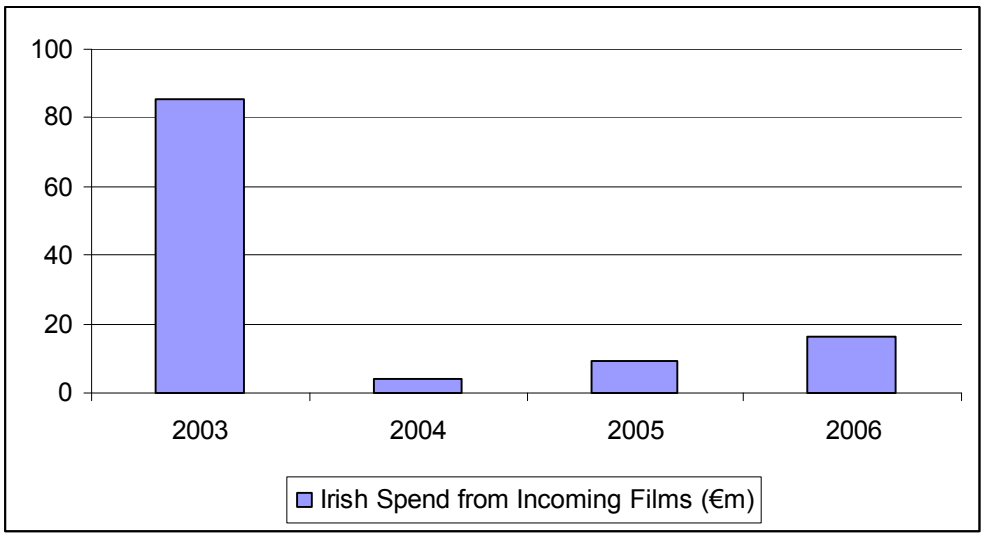


Source: Indecon analysis of DoAST and Revenue Commissioners data

From €104m in 2003, Irish expenditure from feature films fell by 86% to €15m in 2005. It then rose by 140% to €36m in 2006. The downturn between 2003 and 2005 is most dramatically illustrated by the chart.

Furthermore, the figure overleaf shows that Irish spend from incoming films decreased from €86m in 2003 to just €3.8m in 2004 and €9.1m in 2005, but increased to €16.5m in 2006.

Figure 3.4: Irish Spend from Incoming Films 2003 - 2006



Source: Indecon analysis of IFB data

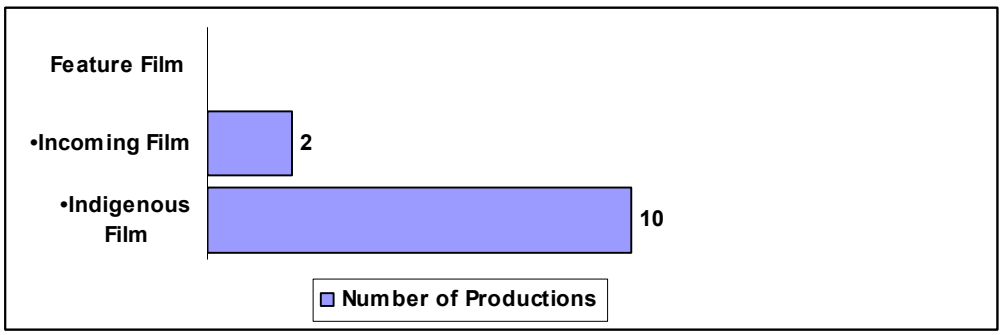
The cause of the downturn in 2005 is likely to have been influenced by the development of the UK tax incentive. Under the provisions of Section 42 of the UK Finance Act 1992 and Section 48 of the UK Finance Act 1997, it was possible to combine UK and Irish tax incentives for the portions of production spend incurred in Ireland as long as a minimum 20% UK spend was satisfied. However, the sale and leaseback mechanism in operation in the UK was believed to be particularly susceptible to tax avoidance[3]. Sections 119 to 130 of UK Finance Act 2004 and Sections 60-79 and Schedule 3 of Finance Act 2005 were introduced in order to close the loopholes that were believed to be making the tax avoidance possible. These amendments also created a large amount of uncertainty about the continuation of the UK tax incentive. Given that the majority of Irish feature films were co-produced with the UK this consideration is likely to have had a knock down effect in the Irish feature film sector.

[3] Chapter 3 of HM Treasury report, "Reform of film tax incentives : Promoting the sustainable production of culturally British films", July 2005.

In July 2005 HM Treasury announced that they were planning to make significant amendments to the UK tax incentive. We understand there was an expectation that the new incentive would make it difficult, in fact almost impossible, for producers to combine the UK and Irish incentives. This is likely to have contributed to the expansion of Section 481 productions in Ireland in 2006 as producers may have tried to avail of a window of opportunity before the UK's sale and leaseback mechanism expired.

Since productions the principal photography of which begins after the 1 April 2006 are not eligible for the old UK incentive, it is useful to examine the performance of the Irish feature film industry since then. Figure 3.5 presents data on the number and origin of feature films shooting in Ireland in the year from May '06 to May '07.

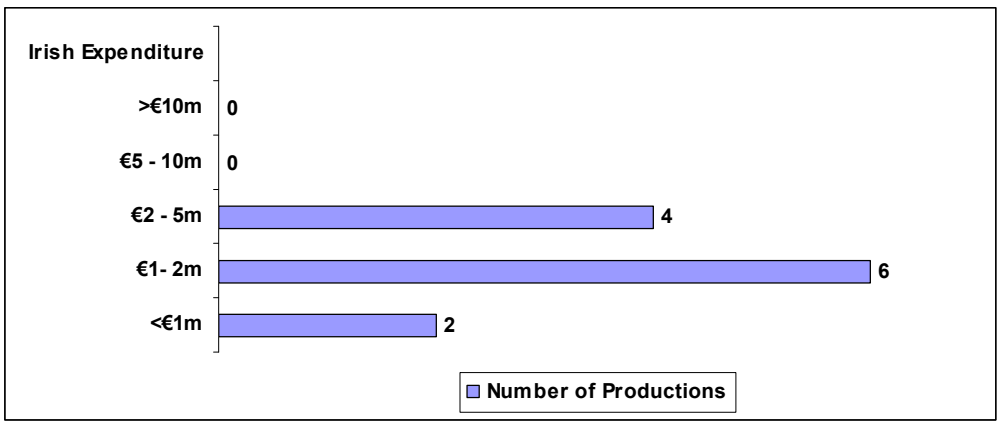
Figure 3.5: Feature Film Activity May '06 – May '07



Source: Indecon analysis of Revenue Commissioners' data

Figure 3.6 shows that the majority of films produced in Ireland in the last year spent less than €2m in the country, and no film spent more than €5m.

Figure 3.6: Irish Expenditure from Feature Films May '06 – May '07



Source: Indecon analysis of Revenue Commissioners' data

3.2.4 The Television Sector

Ireland is almost unique in Europe for offering a tax incentive for television production. In contrast to the feature film sector, Ireland is a very attractive location even for UK producers, because of its generous incentive and its proximity to the UK.

Figure 3.7 presents data on the amount of Irish expenditure directly arising from television production.

Figure 3.7: Total Irish Spend from TV Production 2003 - 2006

Source: Indecon analysis of DoAST and Revenue Commissioners' data

Figure 3.7 shows that the amount of total Irish spend arising from television production has increased from €22m in 2003 to €62.3m in 2006. There has been a parallel increase in the number of productions, from 9 in 2003 to 18 in 2006. This is presented in Table 3.5, together with an analysis of the average amount of Irish spending from each television production. There was a notable increase in the average Irish spend in 2006.

Table 3.5: Number and Average Irish Spend of TV Productions 2003 - 2006

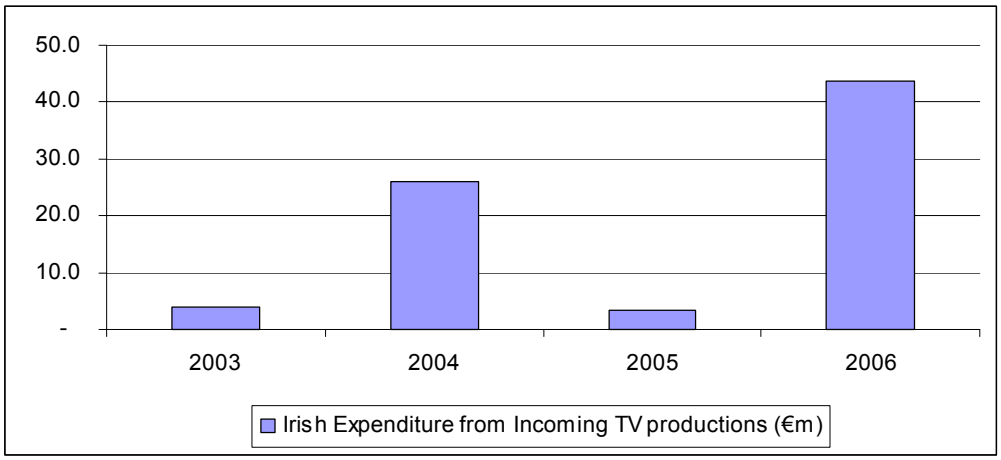
	2003	2004	2005	2006
Number of television productions	9	19	11	18
Average Irish spend of each TV production (€m)	2.4	2.6	2.6	3.5

Source: Indecon analysis of DoAST and Revenue Commissioners' data

The trend that is observable in Figure 3.7 and Table 3.5 may in part be due to improvements in the Section 481 incentive, as well as development in the level of commissioned programmes by RTE. It may also be influenced by the 2006 increase in the cap on Section 481 funding per production.

In 2006, there was a large recent increase in the amount of Irish spend arising from incoming television productions as indicated in Figure 3.8.

Figure 3.8: Irish Spend from Incoming TV Production 2003 - 2006



Source: Indecon analysis of DoAST and Revenue Commissioners' data

This increase in Irish spending is almost mirrored by the increase in the number of incoming productions, as shown in Table 3.6.

Table 3.6: Number and Average Irish Spend of Incoming TV Productions 2003 – 2006

	2003	2004	2005	2006
Number of incoming TV productions	3	10	2	10
Average Irish spend of each incoming TV production (€m)	1.4	2.8	1.6	4.4

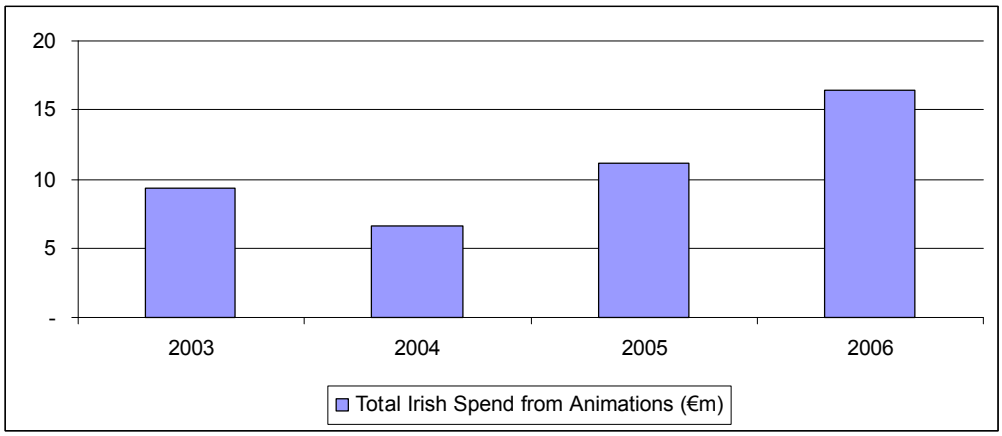
Source: Indecon analysis of DoAST and Revenue Commissioners' data

3.2.5 Animation and Post-Production Sectors

There are several key interdependencies between the animation and post-production sectors, as both sectors require similar forms of infrastructural and human capital investment, and high fixed costs. Animation and postproduction sectors are also highly competitive globally. Fortunately, Ireland has established hub of talent in these areas, particularly in animation. Since the amount of total costs that could be funded by Section 481 was raised from 55/66% to 80% in 2006, producers now have an added incentive to locate post-production activities in Ireland.

Figure 3.9 presents data on the Irish spend arising directly from animations.

Figure 3.9: Total Irish Spend from Animations 2003 - 2006



Source: Indecon analysis of DoAST and Revenue Commissioners' data

From €9.4m in 2003, Irish spend from animations fell to €6.6m in 2004 but it rose in each of the subsequent two years. From €11.1m in 2005 it rose to €16.4m in 2006. The number of animations being produced in Ireland has also risen, as presented in Table 3.7.

Table 3.7: Number of Animations Produced in Ireland 2003 - 2006

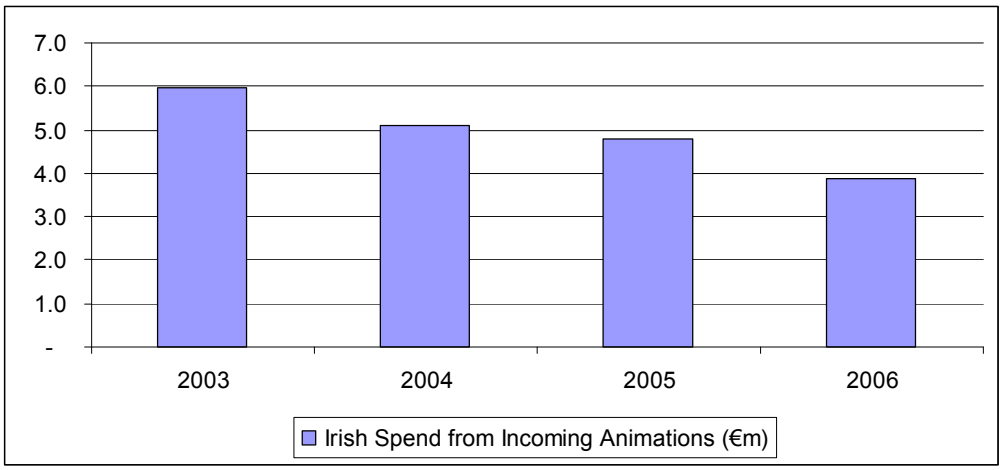
	2003	2004	2005	2006
Number of Animations Produced in Ireland	3	4	7	7

Source: Indecon analysis of DoAST and Revenue Commissioners' data

The number of animations being produced in Ireland has also risen, as presented in Table 3.7. From just three animations in 2003, production has risen to an average of seven films in 2005 and 2006.

The figure overleaf presents data on the Irish spend of animations produced in Ireland by off-shore producers. From €6m in 2003, the amount of Irish spending from incoming animation projects has gradually declined to €3.9 in 2006.

Figure 3.10: Total Irish Spend from Incoming Animations 2003 - 2006



Source: Indecon analysis of DoAST and Revenue Commissioners' data

It is of interest to note that, of the off-shore production companies that located an animation project in Ireland, they all raised Section 481 funding to the maximum amount possible (i.e. to the value of their Irish expenditure).

3.3 Importance of Section 481 and Other Funding Sources

Section 481 operates within the context of a range of funding sources for film production in Ireland. Insofar as Section 481 may play a role in leveraging other funding sources which also contribute to the overall impact of film production, it is instructive to consider the range of sources accessed by producers. The figures presented in the table below indicate the breakdown of the sources of funding for film and TV production in Ireland based on information available from the Revenues Commissioners and the Department of Arts, Sport and Tourism relating to 2005. According to the figures, Section 481 accounted for 31% of the overall level of funding raised for Irish film and TV production during 2005. This was followed by commissioning company investments (23.3%), investor equity (17.7%) and pre-sales (11.1%), while other Irish public funding (including from the Irish Film Board) represented 3.2%.

Table 3.8: Sources of Funding for Film/ TV in Ireland in 2005

Source of Funding	Amount (€m)	% of Total Budget
S. 481 Funding	52.2	31.0%
Commissioning company investments	39.3	23.3%
Equity	29.8	17.7%
Pre Sales	18.7	11.1%
Public Funding (Other)	12.0	7.1%
Gap Finance	6.7	4.0%
Public Funding (Ireland)	5.4	3.2%
Other	4.3	2.5%
Total Funding	**168.5**	**100%**

Source: Indecon analysis of data from DoAST and Revenue Commissioners

In Table 3.8 an analysis of the sources of funding for the 27 films certified by the Revenue Commissioners and the Department of Arts, Sport and Tourism in 2005. For productions that received Section 481 funding in 2005, the most important sources of funding were Section 481, commissioning company investments and equity, in that order. 2005 was not a typical year, because the amount of production was uncharacteristically low that year. Therefore, in

Table 3.9 an analysis of the sources of funding for film/TV in Ireland in 2006 is presented. Clearly, for those productions that do avail of Section 481 funding, this currently an important source of funding.

Table 3.9: Sources of Funding for Film/ TV in Ireland in 2006

Source of Funding	Amount (€m)	% of Total Budget
S. 481 Funding	111.2	39.0%
Commissioning company investments	24.1	8.4%
Public Funding (Other)	10.9	3.8%
Public Funding (Ireland)	15.4	5.4%
Pre Sales	46.3	16.3%
Equity	40.6	14.3%
Gap Finance	16.2	5.7%
Licence Fee	19.8	7.0%
Other	0.6	0.2%
Total Funding	**285.2**	**100%**

Source: Indecon analysis of data from Revenue Commissioners

Some further insights into the sources of state and private funding for the film sector were provided from the results of the Indecon survey of a sample of the leading film producers in Ireland undertaken as part of this assignment. The findings from this survey in relation to funding sources accessed by respondent producers are summarised in the next table and indicate that all respondents have utilised Section 481 at some point in recent years, while the scheme accounted for 15% of funding sources. In terms of other public sources of funding, a similar proportion of respondents indicated that they had accessed finance through the Irish Film Board, while commissions from RTE were used by 63.6% of respondents and Enterprise Ireland assistance was accessed by 36% of producers. Others agency, such as Udarás na Gaeltachta and the Broadcasting Commission of Ireland were cited by 9% of respondents.

Table 3.10: Sources of State Funding Utilised by Film Producers in Ireland

Funding Sources	*% of Respondents*	*% of Funding Sources Identified*
Section 481 Incentives	*100.0*	*15.1*
Financial assistance/loans from the Irish Film Board	*100.0*	*15.1*
Commissions from RTE	*63.6*	*9.6*
Enterprise Ireland Assistance	*36.4*	*5.5*
Udarás na Gaeltachta Assistance	*9.1*	*1.4*
Other forms of State Assistance - Broadcasting Commission of Ireland	*9.1*	*1.4*

Source: Indecon Survey of Sample of Leading Irish Film Producers

In addition to State funding, Irish film and TV producers have also accessed funding through a range of private sources. These sources have included overseas investments, pre-sales discounts commercial loans, studio advances, equity investment, overseas film funds and overseas co-production partners.

Table 3.11: Sources of Private Funding Utilised by Film Producers in Ireland

Funding Sources	*% of Respondents*	*% of Funding Sources Identified*
Private Sector Irish Investments (Other than Section 481)	*9.1*	*1.4*
Overseas Investments	*90.9*	*13.7*
Pre-Sales Discounted	*100.0*	*15.1*
Commercial Loans	*72.7*	*11.0*
US Studio advances	*18.2*	*2.7*
UK Equity Investment	*18.2*	*2.7*
Private Equity Investors	*18.2*	*2.7*
German Film Funds	*9.1*	*1.4*
Overseas Co-Production partners	*9.1*	*1.4*

Source: Indecon Survey of Sample of Leading Irish Film Producers

3.4 Views of Producers on Development of Irish Film/TV Industry

3.4.1 Role of Section 481

In considering the role of Section 481, Indecon's survey of producers asked film/TV companies to provide their views as to the importance they attach to different forms of assistance within the context of the future development of the film industry in Ireland. The survey responses, presented in the table below, indicate a consensus view with the sector that Section 481 is considered as being 'very important'. In addition, assistance from the Irish Film Board is considered by over 90% of respondents as being 'very important'. Commissions from RTE are regarded as being 'very important' by 60% and 'important' by 30% of responding producers.

Table 3.12: Views of Irish Film Producers on Importance or Otherwise of Different Forms of Assistance to Future Development of the Film Industry in Ireland

	% of Respondents			
Forms of Assistance	**Not Important**	**Of Minor Importance**	**Important**	**Very Important**
Section 481	0.0	0.0	0.0	100.0
Financial Assistance/Loans from Irish Film Board	0.0	0.0	9.1	90.9
Commissions from RTÉ	0.0	10.0	30.0	60.0
Marketing Assistance from Enterprise Ireland	9.1	45.5	36.4	9.1
Training Support from FÁS	0.0	27.3	36.4	36.4

Source: Indecon Survey of Sample of Leading Irish Film Producers

3.4.2 Impact of Section 481 and extent of 'Deadweight'

In assessing the net overall impact of Section 481 in terms of stimulating production activity in the sector, an important issue concerns the likely pattern of outcomes within the sector in the absence of the incentive. As an input to ascertaining the potential extent of economic 'deadweight' (i.e. the pattern of activity that would have occurred in the absence of a support or incentive), Indecon sought the views of Irish film/TV producers on this issue. The findings from our survey, summarised in the table below, suggest that the level of production activity in Ireland would have been substantially lower than the actual outcome in the absence of Section 481. In particular, 72.7% of producers responding to the survey were of the view that films would not have been produced in the absence of the scheme. Where a film was produced, 63.6% of producers were of the view that films would have been produced in their entirety outside of Ireland, while 36.4% judged that a greater percentage of films would have been produced elsewhere. It is also notable that over 9% of producers were of the view that in the absence of Section 481, lower budget films would have been produced, while 45% considered that there would have been a lower level of Irish employment on films and also a lower level of usage of Irish facilities, goods and services.

Table 3.13: Views of Irish Film Producers on Likely Outcomes for Film Production Assisted by Section 481 if Scheme Had Not Been Available in Ireland

Likely Impacts in Absence of Section 481	% of Respondents
The film would not have been produced	72.7
The film would have been delayed	0.0
The film would have been produced outside of Ireland	63.6
A greater percentage of the film would have been produced elsewhere	36.4
A lower budget film would have been produced	9.1
There would have been a lower level of Irish employment on the film	45.5
There would have been a lower use of Irish facilities, goods and services	45.5

Source: Indecon Survey of Sample of Leading Irish Film Producers.

3.4.3 Attractiveness of Ireland as a location for film and TV production

What are the main features of Ireland which impacts upon its attractiveness as a location for film and TV production compared with other locations in Europe? The findings from Indecon's survey of leading Irish film and TV producers in relation to this important issue are presented below. In general, very low proportions of producers shared the view that Ireland has significant features that make the country more attractive than competing locations. It is notable that a high proportion of producers view Ireland as being less attractive than competing European locations in relation to labour costs (67%) and labour flexibility (70%), while 90% of respondents were of the view that Ireland is *less* attractive due to its tax and other incentives. These findings raise significant issues concerning the long term sustainability of the sector unless action is taken.

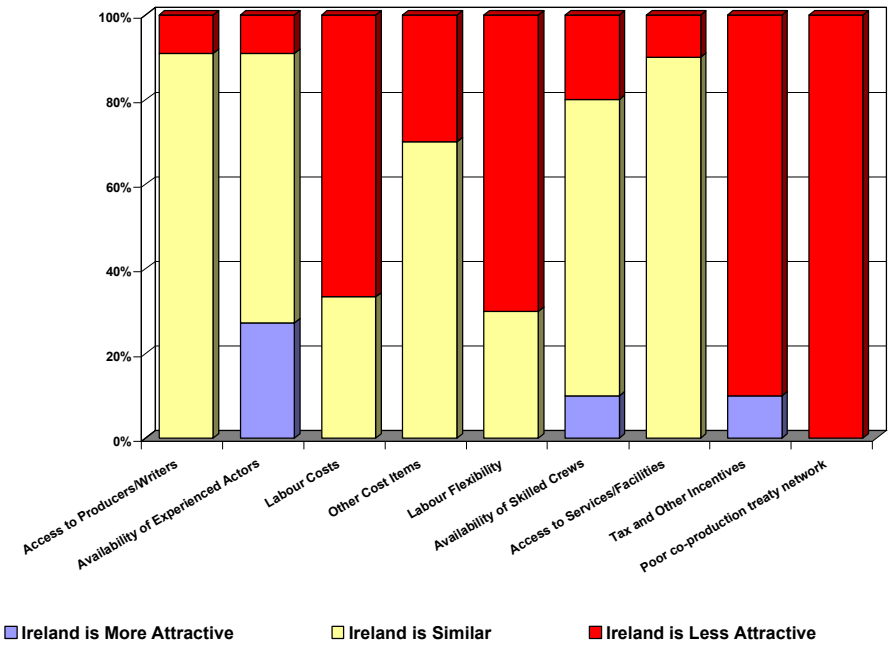
Table 3.14: Views of Irish Film Producers on Aspects of Attractiveness of Ireland for Film and TV Production Compared to Main Competing Locations in Europe

Factors	% of Respondents		
	Ireland is More Attractive	Ireland is Similar	Ireland is Less Attractive
Access to Producers/Writers	0.0	90.9	9.1
Availability of Experienced Actors	27.3	63.6	9.1
Labour Costs	0.0	33.3	66.7
Other Cost Items	0.0	70.0	30.0
Labour Flexibility	0.0	30.0	70.0
Availability of Skilled Crews	10.0	70.0	20.0
Access to Services/Facilities	0.0	90.0	10.0
Tax and Other Incentives	10.0	0.0	90.0

Source: Indecon Survey of Sample of Leading Irish Film Producers

A graphical depiction of the views of Irish film and TV producers on the relative attractiveness of Ireland as a location for production compared with other European countries is presented in the figure below. This highlights the high proportions of producers who believe that Ireland has fallen behind other locations in Europe in the areas of access to tax and other incentives for the industry, in addition to factors such as labour costs and flexibility.

Figure 3.11: Views of Irish Film Producers on Aspects of Attractiveness of Ireland for Film and TV Production Compared to Main Competing Locations in Europe



Source: Indecon Survey of Sample of Leading Irish Film Producers

In considering the future of the Irish sector it is important to consider the relative importance of other locations for film and TV production outside of Ireland. The table below summarises the responses to Indecon's survey of Irish film and TV producers in relation to their views on the main competing locations for production internationally. While there is a wide range of competing locations, it is notable that producers highlight the UK, Canada and the US as the main competing locations for film production, while Canada, the UK and other EU countries are regarded as the main competitors for TV production.

Table 3.15: Views of Irish Film Producers on Main Competing Locations for Film and TV Production

	% of Respondents	
Country	**For Film Production**	**For TV Production**
UK	81.8	36.4
Germany	27.3	27.3
France	9.1	18.2
Denmark	9.1	9.1
Other EU	45.5	36.4
Australia	45.5	18.2
New Zealand	18.2	9.1
Canada	90.9	90.9
US	63.6	18.2
South Africa	54.5	27.3
Isle of Man	27.3	9.1
India	9.1	9.1

Source: Indecon Survey of Sample of Leading Irish Film Producers

A further perspective on the relative attractiveness of Ireland as a location can be seen from the survey evidence presented in the table below which looks at how Ireland compared with a number of other countries as a location for film and TV production. It is notable that almost 82% of respondents to Indecon's survey consider that Ireland is less attractive to the UK, while 73% of respondents are of the view that Ireland is less attractive than both Germany and Canada for film production. In relation to TV production, Ireland is seen as being more attractive than the UK by a large proportion of producers. This may reflect the corresponding generous tax incentives for TV production in Ireland.

Table 3.16: Views of Irish Film Producers on Attractiveness of Section 481 Incentives Compared to Incentives on Offer in Competing Locations for Film and TV Production

Attractiveness of Ireland Compared To:	Film - % of Respondents			TV - % of Respondents		
	Ireland is More Attractive	Ireland is Similar	Ireland is Less Attractive	Ireland is More Attractive	Ireland is Similar	Ireland is Less Attractive
UK	0.0	9.1	81.8	90.9	9.1	0.0
Germany	0.0	0.0	72.7	27.3	9.1	9.1
France	0.0	0.0	45.5	0.0	9.1	36.4
Denmark	9.1	0.0	27.3	0.0	18.2	18.2
Other EU	9.1	0.0	27.3	36.4	27.3	18.2
New Zealand	0.0	9.1	27.3	18.2	0.0	0.0
Canada	0.0	9.1	72.7	0.0	9.1	72.7
US	9.1	36.4	18.2	27.3	0.0	18.2
South Africa	0.0	18.2	36.4	18.2	0.0	27.3

Source: Indecon Survey of Sample of Leading Irish Film Producers

3.4.4 Views on supports for future development of sector

Looking forward, it also instructive to consider the views of Irish film and TV producers in relation to potential future forms of support and assistance which they believe are likely to be most effective in developing the Irish industry. The findings from Indecon's survey presented in the next table indicate a broad consensus by film producers that Section 481 should play a key role in the future development of the industry.

Table 3.17: Views of Irish Film Producers on Potential Future Forms of Assistance which are Likely to be Most Effective

	% of Respondents
Changes to Section 481 Rules	100
Provision of Loan Finance	9.1
Provision of Capital Grants	9.1
Provision of Tax Credits	18.2
Other Please Specify	9.1

Source: Indecon Survey of Sample of Leading Irish Film Producers

3.5 Sharing of Benefits of Section 481 Relief

An important issue in considering the appropriate assistance for the film industry is an assessment of the incidence of the Section 481 tax relief as between benefits to the film producers and benefits to the investors and intermediaries. This is particularly important in ensuring that the most effective policy instruments are used to develop the sector. One of the difficulties in assessing this issue is that it varies significantly between project and between financing structures used and has also varied over time. Also relevant is the fact that a wide variety of fees and commissions are often paid for by different parties and are often hidden in benefits to producers or to investors (e.g. fund raising commissions, finders fees, producer fees etc.).

An indication of the typical allocation to various beneficiaries of funds raised through Section 481 is provided in the next table, based on Indecon's survey of Irish film and TV producers. According to Indecon's research with the industry, the average return on funds to investors participating in Section 481-financed productions is approximately 76%, while producers indicate that the typical extent of the subsidy going to the film production company is approximately 19%. Around 4.5% of funding covers the administrative costs of raising the finance and the management of the Section 481 process (including commissions, legal and other fees). As only 76% of funding is returned to investors it is clear that investors return is made up exclusively from the tax subsidy. The figures also show that for every €100 raised by Section 481 the exchequer cost is €34 but that only €19 goes as a subsidy to the film producers.

Table 3.18: Views of Irish Film Producers on Typical % Allocation of Funds Raised through Section 481 to Various Beneficiaries

	Mean % of Overall Production Funding
1. Return of Funds to Investors (i.e. amount repaid)	76.2
2. Subsidy to Film Production Company	19.2
3. Administrative Costs of Raising Funding and Management of Section 481 Process (including commissions, legal account and other fees)	4.5
Total of 1 - 3	**100**

Source: Indecon Survey of Sample of Leading Irish Film Producers

3.6 Summary of Key Findings

In this section a review was undertaken on the recent performance of the Irish film sector and wider audiovisual industry. This review places in context the role of Section 481 by considering the developments at sub-sectoral level, including the indigenous and foreign feature film sector, the TV productions sector, and the animation sector, in addition to the relative importance of different sources of funding for production. The sharing of the benefits of Section 481, including the returns to investors and producers versus the administrative costs of the scheme, is also considered. The key findings from the overview are set out below.

Summary of Recent Developments

- Total expenditure in the audiovisual sector declined by 52% between 2003 and 2005, but is estimated to have risen by 56% between 2005 and 2006.
- Total Irish expenditure in the Audiovisual sector declined by 36% between 2003 and 2005 but is estimated to have risen 81% between 2005 and 2006.
- Section 481 funding declined by 38% between 2003 and 2005 but increased by over 100% between 2005 and 2006.
- There were 25 Section 481 funded productions in 2003, 22 in 2004, 27 in 2005 and 39 in 2006.
- Figures from the Revenue Commissioners and DoAST[4] indicate Section 481 accounted for 31% of the overall level of funding raised for Irish film and TV production in 2005.
- On average, investors participating in Section 481-financing productions receive back 76% of their investment and their return is entirely due to the tax subsidy received. The typical subsidy to the film company is approx. 19% of the Section 481 funding raised with the balance of funds being returned to investors or accounted for by administrative costs.
- Total Irish spend from feature films fell by 85% between 2003 and 2005 then rose by over 150% between 2005 and 2006.
- Irish spend from incoming films decreased from €86m in 2003 to €3.8 in 2004 and €9.1 in 2005 but recovered to €16.5m in 2006.
- The majority of films produced in Ireland last year spent less than €2m in the country. No film spent more than €5m.

[4] DoAST refers to the Department of Arts, Sport and Tourism

- Ireland's performance in the feature film sector has been related to changes in tax and other incentives offered by competitors and in particular the very attractive incentives offered in the UK.
- Total Irish spend arising from television production increased from €22m in 2003 to €62.3m in 2006.
- Ireland is almost unique in Europe for offering a tax incentive for television production.
- Irish spend on animations was €9.4m in 2003, €6.6m in 2004, €11.1m in 2005 and €16.4m in 2006
- The number of animations being produced in Ireland has risen from 3 in 2003 to an average of 7 films in 2005 and 2006.

Summary of Findings of Indecon Producer Survey

- All respondents have used Section 481 at some point in recent years.
- Section 481 is considered as being very important for the development of the Industry.
- For Productions that avail of Section 481 funding, it is their most important funding source.
- Producers believe that production activity would have been substantially lower in the absence of Section 481.
- Results indicate that in the absence of Section 481, lower budget films would have been produced, and more film production would have been produced outside of Ireland. Lower levels of Irish employment on films and usage of Irish facilities, goods and services would also have resulted.
- Ireland is seen to be similar to competitors in terms of its attractiveness on the basis of producers/writers, availability of experienced actors, skilled crews and access to services/facilities.
- High proportion of producers believe Ireland has fallen behind other locations in Europe in the areas of tax and other incentives for the Industry, in addition to factors such as labour costs and flexibility.
- Producers highlight the UK, Canada and the US as the main competing locations for film production and UK and EU as main competitors for TV production.
- For film production, 82% and 73% of respondents consider Ireland less attractive to UK and Germany, respectively. For TV production, Ireland is seen as more attractive to UK.

4 Overview of Film and TV Incentives Internationally

4.1 Introduction

This section presents a comparative overview of film and television production incentives internationally, focussing on the main incentives and legislative positions in a number of Ireland's main competitors, namely:

- UK,
- Australia,
- New Zealand,
- Canada,
- South Africa, and
- Denmark.

The following sections provide an overview of the key features of the incentives schemes currently operating in the audiovisual sector in the above countries. A detailed description of these incentives is presented in Annex 1.

4.2 UK

4.2.1 Background and Overview

New rules for the taxation of film production, and in particular a new enhanced film tax relief for the production of British cinema films, were introduced in the Finance Act 2006. They apply to films which commenced principal photography on or after 1 January 2007 and to films starting principal photography before 1 January 2007, but uncompleted then. These new rules apply to all film production companies whether or not they are producing films intended for release in the cinema.

4.2.2 Form and Operational Features of Incentives

A key incentive used by the British government to encourage the British film industry is tax relief. British films costing £20 million or less are eligible for a tax deduction of 100% of qualifying UK expenditure and to surrender losses in exchange for a cash payment of 25%, amounting to a benefit worth at least 20% of qualifying production costs. Other British films will receive a deduction of 80% of qualifying UK expenditure and will be able to surrender losses in exchange for a cash payment of 20%, amounting to a benefit worth typically 16% of qualifying production costs. In order to qualify, a film must meet three conditions:

- It must be made to be shown commercially in cinemas.
- It must be certified as British either because it is an official co-production or because it satisfies a new cultural test administered by the Department for Culture Media and Sport.
- It must incur at least 25% of its total production expenditure on film making activities in the UK.

4.2.3 Scope of Incentives

The new legislation covers only film production and does not encompass television programmes or other audiovisual sectors. The relief is aimed directly at film production companies (FPC) and is not available to those whose only involvement in film making is confined to providing or arranging finance. The FPC is defined as the company responsible for the principal photography and post production of the film and for the completion of the finished film. The FPC responsible for the film needs to be within the UK corporation tax net.

Films attempting to attain relief under the new scheme, must also pass a cultural test, be intended for theatrical release or qualify as an official co-production. Films, including those made under official co-production treaties, must spend a minimum of 25% of costs on UK qualifying production expenditure[5].

[5] See Annex one for a detailed definition of production expenditure.

4.2.4 Other Key Features

The UK governments Budget 2007 included a proposal to allow companies, by election, to choose not to be within the new films regime. The legislation sets out rules for the taxation of companies making films both for the cinema and for other media (such as television). The new rules contained in Finance Bill 2007 enable companies (including those not making films for the cinema and therefore not entitled to the additional Schedule 5 relief) to elect not to be within the FA 2006 rules, but to be taxed instead according to general tax rules.

4.3 Australia

4.3.1 Background and Overview

The Australian Government encourages private investment in the audiovisual industry through the Australian Screen Production Incentive. Introduced in 2007, it is comprised of the Producer Rebate and the Location Rebate.

The Film Finance Company (FFC) is the Australian Government's principal agency for funding the production of film and television in Australia. The FFC will only fund projects with high levels of creative and technical contribution by Australians, or projects certified under Australia's Official Co-Production Program. To support diversity, the FFC funds the most expensive program formats: feature films, mini-series, telemovies and documentaries. The more expensive formats receive governmental assistance as in many cases production would not be undertaken without government intervention. The Government currently funds the FFC on a triennial basis and has committed to annual funding of $70.5 million to 2007/08.

4.3.2 Form and Operational Features of Incentives

In Australia, incentives are provided on both a federal level and a state level.

Federal Incentives

There are two main incentives provided on a federal level in Australia; the Location Rebate and the Producer Rebate.

Location Rebate

The Location Rebate is a tax incentive that encourages the production of large-budget film and television series in Australia, available from 1 July 2007. It replaced the Refundable Film Tax Offset.

The Location Rebate includes an increase in the previous rebate rate from 12.5 per cent to 15 per cent on Qualifying Australian Production Expenditure (QAPE) spend by offshore productions that spend more than A$15 million in Australia. This is aimed to increase Australia's competitiveness as a production destination. It also includes the introduction of a world-first complementary scheme with a 15 per cent rebate on all expenditure on post production, digital and visual effects undertaken in Australia (with a minimum threshold of $5 million) to encourage the use of Australia's post-production and digital and visual effects sector.

Producer Rebate

The Producer Rebate replaces the previous 10B and 10BA schemes. The new Producer Rebate will be a 40 per cent refundable tax rebate for eligible domestic feature films and a 20 per cent refundable tax rebate for other eligible domestic media productions, including television series and documentaries. There will be minimum levels of qualifying Australian production expenditure of A$1m for feature films, A$0.5m for documentaries, A$1m for long form television series (13 - 65 episodes, with a minimum spend of A$0.5m per hour), A$1m for mini-series and telemovies (minimum of A$0.8m per hour), and A$0.25m for short form animation (15 minutes).

State Incentives

In addition to the various Federal tax rebates and exemptions, many of the six States of Australia also offer support and financial assistance. The assistance comes in the form of payroll tax rebates or exemptions, cast and crew wage rebates, location attraction cash grants and the provision of free or subsidised public service resources

4.3.3 Scope of Incentives

The formats eligible for the federal location rebate are feature films (including direct-to-DVD), telemovies, miniseries and television series. An eligible television series may be drama or comedy, a documentary or a reality series. These formats may include animated or live-action productions or a combination of the two. The scope of the federal producer rebate covers feature films, documentaries, television series, mini-series, telemovies, and short form animation.

4.4 Canada

4.4.1 Background and Overview

Canada has a long legacy of incentives for television and film production stretching back to the establishment of Telefilm Canada in 1969. Current legislation was introduced in 1998, and amended in 2003. The main incentives existing for the Industry are outlined below.

4.4.2 Form and Operational Features of Incentives

A number of incentives are available for the audiovisual industry in Canada.

Film or Video Production Services Tax Credit

The Film or Video Production Services Tax Credit (PSTC) is a mechanism designed to encourage the employment of Canadians by a taxable Canadian corporation or foreign-owned corporation with a permanent establishment in Canada. The tax credit is available on a yearly basis for labour-related expenditures incurred in respect of an accredited production and may be claimed by the eligible production corporation when it files its corporate tax return for the year. The activities of the corporation must be primarily film or video production or production services.

Generally, the PSTC tax credit is available at a rate of 16 per cent of qualified Canadian labour expenditures. The refundable tax credit has no cap on the amount that can be claimed. The total cost incurred for the production must exceed CAN$1 million. In the case of a series, the total cost must exceed CAN$200,000 per episode—except in the case of episodes under 30 minutes, which must exceed CAN$100,000 per episode.

Canadian Production Tax Credit

The Canadian Production Tax Credit (CPTC) program is administered by CAVCO. This is an incentive scheme aimed at developing the indigenous Canadian audiovisual sector. In order to for a production to qualify, under this scheme, numerous restrictions are in place as to the content and personal involved with the production; the content must be Canadian in nature and senior personal must be Canadian citizens. The CPTC is available at a rate of 25 per cent of eligible salaries and wages. Eligible salaries and wages qualifying for the tax credit may not exceed 60 per cent of the cost of the production, net of assistance. Therefore, the tax credit could provide a refund of up to 15 per cent of the cost of production, net of assistance. The cost criteria for a Canadian content production states that not less than 75 percent of the costs paid to persons for services relating to the film or video must be paid to Canadians

Productions may access either the PSTC program or the CPTC program. Obtaining tax credits under both schemes simultaneously is forbidden.

Capital Cost Allowance

A capital cost allowance, up to the cost of the accredited production net of the credit and assistance, may also be available to some eligible production corporations to the extent that they are also the owners of the copyright in the production. Official treaty co-productions between Canada and another country are eligible.

4.4.3 Scope of Incentives

The Film or Video Production Services Tax Credit is available to film and video productions that satisfy the qualifying criterion. Television series are also covered in the scheme. The Canadian Production Tax Credit is available to productions with a significant Canadian content. These include films, videos, and animated productions. Some production genres are ineligible for the tax credit; these are outlined in Annex 1.

4.5 New Zealand

4.5.1 Background and Overview

The New Zealand Film Commission (NZFC) is a New Zealand government commission formed to assist with creating and promoting New Zealand films. The functions of the Commission are to encourage and participate in the making, promotion, distribution, and exhibition of films and generally to encourage the development of the New Zealand film industry. A film will not receive financial assistance unless it has significant New Zealand content.

4.5.2 Form and Operational Features of Incentives

A number of different incentives are used by policy makers in New Zealand to develop the audiovisual industry.

Loan Equity Financing

The NZFC provides financial assistance for New Zealand feature film projects and New Zealand filmmakers by way of loan or equity financing. They commit up to 8% of their annual budget to feature film development financing, and up to 60% to feature film production financing.

Large Budget Screen Production Grant Scheme

Producers filming a large budget production, feature film, telemovie or TV series in New Zealand may be eligible for assistance under the Large Budget Screen Production Grant scheme. Accepted Applicants are granted a sum totalling 12.5% of the Qualifying New Zealand Production Expenditure (QNZPE)[6]. To access the scheme the applicant's QNZPE must be at least NZ$15 million. If the QNZPE is between NZ$15 million and NZ$50 million the QNZPE must be at least 70% of the film's total production expenditure. Where the QNZPE is NZ$50 million or more it will qualify for the grant regardless of the percentage ratio of QNZPE to the screen production's total production expenditure. In the case of television series, individual episodes which have completed principal photography within any 12 month period and with a minimum average spend of NZ$500,000 per commercial hour, may be bundled to achieve the total of $15 million.

An applicant seeking the grant is not eligible for any other New Zealand Government film finance or tax incentives in relation to screen production.

[6] See Annex 1 for Definition

Film Production Fund

In the financial year 2000/2001, the New Zealand government contributed $22 million to enable the establishment of a Film Production Fund to boost the development of the New Zealand film industry. The investment was intended to boost jobs and opportunities in the industry. Overseen by the New Zealand Film Production Fund Trust funding is used to support films produced on a larger scale than those generally assisted by the Film Commission. To be eligible for funding from the Fund, the film must satisfy the several binding requirements outlined in Annex 1.

4.5.3 Scope of Incentives

The Loan Equity Financing scheme is available to feature film productions. Large budget productions, such as feature film, telemovie or TV series are eligible for assistance under the Large Budget Screen Production Grant scheme.

4.6 South Africa

4.6.1 Background and Overview

The South African feature and commercial film industry has grown rapidly in recent years. In 1995, there were 4000 full-time jobs in the industry, a figure which grew to approximately 20,000 by 2004. South Africa has seen growth in all areas of production, ranging from commercials and shorts to full-length films. The total value of the South African entertainment industry is estimated to be about 7.7 billion Rand (in 2004). South Africa, especially Cape Town, is capitalizing on a number of advantages that include good weather, a diversity of locations, English-speaking and experienced film crews and technicians, and good infrastructure to market its filmmaking capacity. South Africa has in recent years successfully attracted several Hollywood productions and numerous big-name stars. Cape Town is now home to the recent development of a of large Hollywood-style film studio.

4.6.2 Form and Operational Features of Incentives

There are a number of incentives schemes available for producers.

Large Budget and Television Production Rebate Scheme

The Large Budget Film and Television Production Rebate (LBTPRB) scheme targets the production of foreign and local large budget films made in South Africa or under co-production agreements. Eligible applicants will qualify for a 15 per cent rebate on Qualifying South African Production Expenditure (QSAPE) for foreign productions, and up to 25 per cent on QSAPE for South African companies. Film projects must have begun after April 1, 2004 and must reach a threshold level of QSAPE of 25 million Rand in order to qualify for the rebates. The maximum rebate for any project is 10 million Rand (USD 1.5 million).

Debt and Equity Financing

The government's Industrial Development Corporation (IDC) considers the film industry one of its critical sectors. The Media & Motion Pictures division serves as a financing vehicle and will provide up to 49% of production costs in the form of debt finance and quasi-equity or equity finance. The minimum the IDC will contribute to a qualifying motion picture is 1 million Rand. Overall, the IDC reportedly has 250 million Rand (35 million USD) to finance film projects. The projects must secure significant theatrical release or high profile television airing from a distributor or broadcaster acceptable to the IDC. The IDC receives a back-end profit share commensurate with its financial participation.

4.6.3 Scope of Incentives

Eligible productions under the LBTPRB include feature movies, telemovies, television series, and documentaries. Reality-TV shows, such as commercials and current affairs, news or sports programs are specifically excluded from the Rebate. The Industrial Development Corporation Debt and Equity service is open to a variety of film projects.

4.7 Denmark

The Danish Film Institute subsidises through loan finance a large number of film productions each year, and receives considerable funding from the State. Its budget in the years 2004, 2005, 2006 and 2007 was €48m, €51m, €51.5m and €49.5m, respectively. This far exceeds the state funding of the Irish Film Board: Dáil Éireann voted to give the Irish Film Board a total budget of €19.659m for 2007. Denmark and Ireland are similar in terms of population (5.4m and 4.1m respectively in 2007) and GDP per capita ($37,000 and $44,500 in PPP respectively in 2006), so one would expect them to have similar levels of funding.

4.8 Summary of Findings

A comparative overview of film and television production incentives internationally was undertaken, focussing on the main incentives and legislative positions in a number of Ireland's main industry competitors, namely the UK, Australia, New Zealand, Canada, and South Africa. A summary of the key features of the incentives operating in these jurisdictions is presented in the table below. This highlights the fact that the specific Irish scheme involving personal investors is unusual and in many countries production grants or corporate refunds are utilised

Summary of Key Features of Incentive Schemes for Audiovisual Sector in Selected Countries

Country	Form of Incentives	Operational Features of Scheme	Scope of Incentives
UK	❒ Tax relief on Qualifying UK Expenditures	❒ Tax deduction of 100% of qualifying expenditures for UK films costing £20 m or less ❒ 80% of qualifying expenditures for UK films costing > £20 m	❒ Film only
Australia	❒ Federal: 3. Producer Rebate 4. Location Rebate ❒ State: 1. Payroll tax rebates 2. Wage rebates 3. Location grants 4. Public service resources	❒ Location Rebate of 15% of qualifying expenditures ❒ Producer Rebate: 40% refundable rebate for domestic feature films, 20% for other domestic productions	❒ Feature Films, Telemovies, Mini-series and Television series.
Canada	❒ Tax Credit on Qualifying Labour Expenditures ❒ Capital Cost Allowance ❒ Loans, investment, and grants	❒ International productions awarded Tax Credit equal to 16% of qualifying labour expenditures ❒ Indigenous productions awarded tax credit equal to 25% of qualifying labour expenditures ❒ Loans, investment, grants for Canadian productions	❒ Film/Video ❒ Indigenous Film/Video and TV programmes
New Zealand	❒ Loan and Equity Financing ❒ Large Budget Screen Production Grant	❒ 8% of annual budget of NZ Film Commission allocated for Loan and Equity Financing ❒ Grant totalling 12.5% of Qualifying New Zealand Production Expenditure	❒ Feature Films, Telemovies, Mini-series and Television series.
South Africa	❒ Tax Rebate on Qualifying South African Production Expenditures ❒ Debt Finance and Quasi-Equity/Equity Finance	❒ International Productions awarded Tax Rebate equal to 15% of qualifying expenditures ❒ Special Indigenous Productions awarded Tax Rebate equal to 25% of QSAPE ❒ Up to 49% of production costs of certain productions provided by Industrial Development Corporation	❒ Feature Films, Telemovies, Mini-series, TV series, documentaries

Source: Indecon review of incentive schemes in other countries based on data from national film boards, government departments and other agencies.

5 Modelling the Costs and Benefits of Section 481

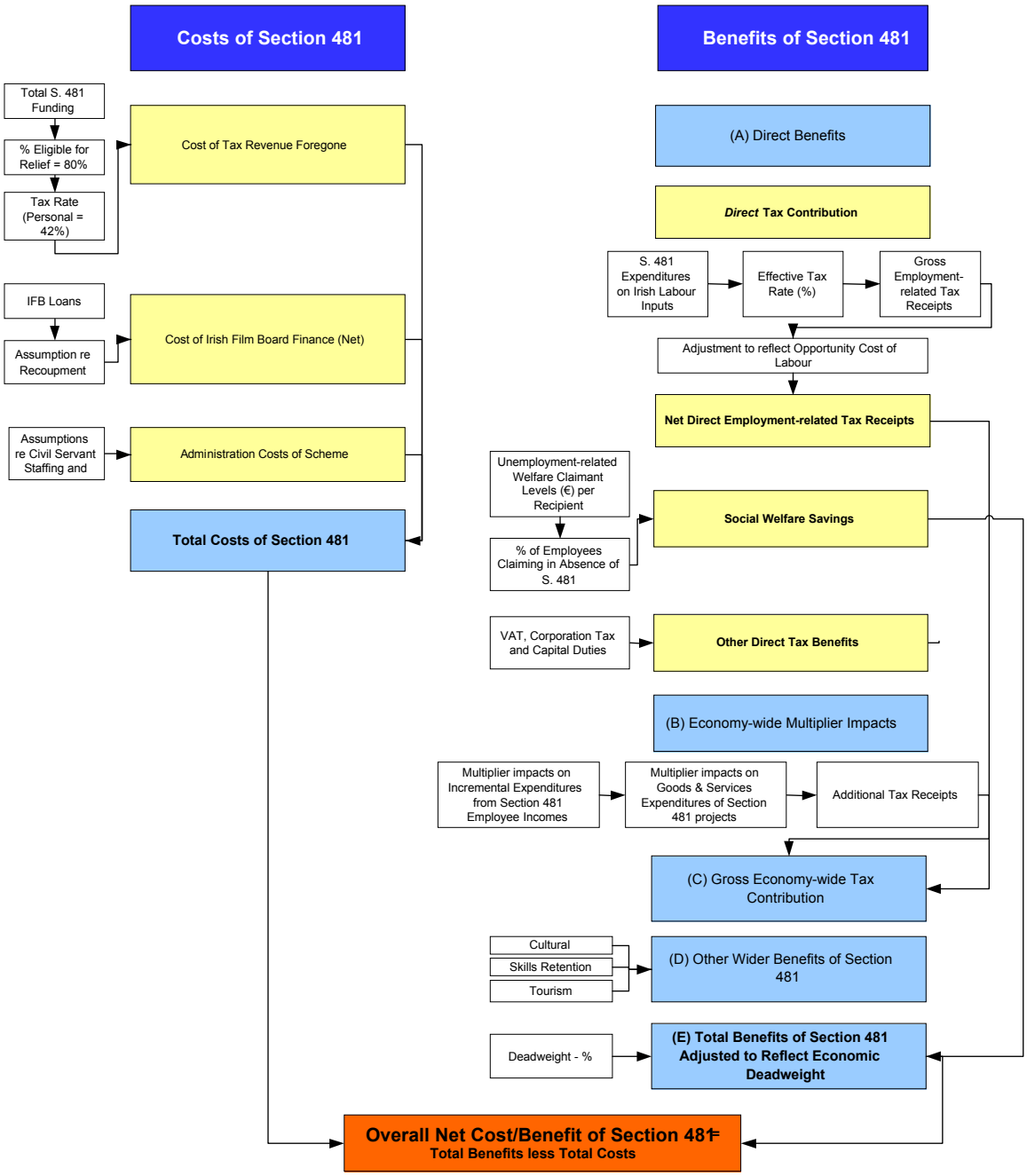
5.1 Introduction

This section presents the cost-benefit analysis of the operation of Section 481 for the years 2004 to 2006 inclusive.

5.2 Modelling the Costs and Benefits of 481

There are three main costs of the Section 481 in its current manifestation; the foregone tax revenues; the net cost of Irish Film Board financing of Section 481 projects; and the administrative cost of the scheme. There are also a number of benefits, including incremental tax revenues, social welfare savings, and also wider benefits in areas such as tourism and the development of human capital and Irish culture. The quantifiable tax revenues include the income tax on Section 481-employee earnings, the net VAT on purchases in relation to Section 481-production expenditures, the corporation taxes on Section 481-production company profits, the capital duties that are levied on Section 481-production company share issues, and the additional tax revenues arising from the multiplier impact on the Irish economy of Section 481-production company Irish expenditures. A schematic summary of the costs and benefits of Section 481 is presented in Figure 5.1.

Figure 5.1: Schematic Summary of Components of Net Overall Impact of Section 481



Source: Indecon

5.3 Cost Benefit Analysis

5.3.1 The Costs to the Exchequer of Section 481

There are three main costs to the Exchequer in relation to Section 481; the foregone tax revenues; the net cost of Irish Film Board financing of Section 481 projects; and the administrative cost of the scheme.

Foregone Tax Revenue

Indecon estimated the foregone tax revenue by applying the higher rate of personal taxation (42%) to the amount of the total section 481 funds that are eligible for relief (80% of total Section 481 funding). The findings are presented in Table 5.1.

Table 5.1: Direct Costs of Section 481 Projects - Section 481 Foregone Tax Revenue 2004 - 2006

Year	Total S481 Funds (€m) (A)	% Eligible for Relief (B)	S481 Investment Eligible for Relief (€m) (C) = (A) * (B)	Higher Rate of Personal Taxation (D)	Cost of Tax Revenue Foregone (€m) (E) = (C) * (D)
2004	58,161,516	80%	46,529,213	0.42	19,542,269
2005	52,249,667	80%	41,799,734	0.42	17,555,888
2006	110,831,710	80%	88,665,368	0.42	37,239,455

Source: Indecon analysis of DoAST and Revenue Commissioners' data

Net Irish Film Board Investments

Irish Film Board (IFB) investments in Section 481-incentivised productions are ultimately sourced from the Exchequer, and are therefore a real taxpayer-related cost of the scheme. Therefore, Indecon believes that IFB financing costs should be included in the costs of the scheme. For the purposes of our analysis, we include IFB financing in net terms, i.e. after adjusting to take account of partial recoupment of loans provided to part-finance Section 481 projects. As the extent of recoupment of IFB loans to Section 481 projects varies over time, for the purposes of this analysis it is assumed that 75% of IFB financing on such projects will not be recouped. The calculations on this basis are presented in Table 5.2 and indicate that net IFB financing related to Section 481 projects totalled €6.8 million in 2006.

Table 5.2: Direct Costs of Section 481 Projects - Computation of Net Irish Film Board Financing Costs

Years	IFB Loans to S481-incentivised Productions (€) (A)	Assumed IFB Recoupment Rate (B)	Recouped Amount (€) (C)=(A)*(B)	Non-recouped amount (€) (D)=(A)-(C)
2004	5,351,640	25%	1,337,910	4,013,730
2005	6,739,132	25%	1,684,783	5,054,349
2006	9,114,852	25%	2,278,713	6,836,139

Source: Indecon analysis of IFB data

Administrative Costs

The costs of scheme administration were estimated to be €218,889 in 2004 by inflating the 2001 costs, which had been estimated in a previous report, by the inflation rate for average administrative civil servant earnings between 2001 and 2004[7]. The administrative costs for 2005 and 2006 were also estimated using inflation indexing. This is presented in Table 5.3.

[7] www.cso.ie/statistics/public_sector_earnings.htm

Table 5.3: Direct Costs of Section 481 Projects - Estimated Costs of S481 Administration

Admin. Costs in 2001 (€)	Inflation '01-'04	Admin. Costs in 2004 (€)	Inflation '04-'05	Admin. Costs in 2005 (€)	Inflation '05-'06	Admin. Costs in 2006 (€)
180,453	21.3%	218,889	7.1%	234,431	5.6%	247,559

Source: Central Statistics Office

5.3.2 The Benefits to the Exchequer of Section 481

Employment-related Tax Revenues

The total gross amount of employment-related tax revenues was estimated using an effective income tax rate of 30%. This is presented in Table 5.4.

Table 5.4: Direct Impacts of Section 481 Projects - Estimation of Gross S481 Employment Benefits to the Exchequer

Year	Irish Labour Spend (€) (A)	Assumed Overall Income Tax Rate (D)	Total Gross Income Tax Revenues (€) (E)=(C)*(D)
2004*	36,577,745	30%	10,973,324
2005	35,102,999	30%	10,530,900
2006	61,763,415	30%	18,529,025

Source: Indecon analysis of DoAST and Revenue Commissioners' data

**Given the absence of figures on the Irish labour spend of S481 projects for 2004, the total figure was estimated using the average of the ratio of Irish labour spend to Irish goods and services spend for S481 projects in 2005 and 2006.*

The figures in Table 5.4 are gross estimates of employment related taxes and so they needed to be adjusted to reflect the fact that if the Section 481 productions had not taken place, many of their employees would have found employment elsewhere in the economy. Therefore, we have adjusted the benefits to take account of this opportunity cost of labour. This was accomplished by multiplying the gross tax payments by an assumed opportunity cost of labour of 15%, as shown in Table 5.5. We have however used this opportunity as a short term opportunity cost due to the mobility of employees in this sector and the specialised nature of the skills involved. If a film producer or director or specialised crew did not have the opportunity to work on an Irish film/TV production, we believe that they would be less likely to be used in other employment activities in Ireland. Over time, however, these opportunity costs are likely to increase.

Table 5.5: Direct Impacts of Section 481 Projects - Gross and Net Tax Payments by S481 Irish Employees

	Gross Employment Tax Revenues (€) (A)	Net Employment Tax Revenue (€) (C)=(A)*(1-B)
2004	10,973,324	9,327,325
2005	10,530,900	8,951,265
2006	18,529,025	15,749,671

Source: Indecon derived

Social Welfare Savings

The social welfare savings from Section 481 will be negligible in an economy with near full employment. We have however assumed that 10% of employees in the sector would have claimed unemployment-related social welfare in the absence of Section 481. The average annual unemployment support paid to a single claimant was calculated using data obtained from the Department of Social and Family Affairs. This is presented in Table 5.6.

Table 5.6: Average Annual Unemployment Support Paid to Single Claimant

	Expenditure on Unemployment Support (€) (A)	Number of Recipients (B)	Average Annual Unemployment Support Paid to Single Claimant (€) (C)=(A)/(B)
2004	1,069,403,000	131,539	8,130
2005	1,085,568,000	128,111	8,474
2006	1,223,459,000	138,527	8,832

Source: DOSFA, Annual Statistical Report 2005 and Annual Report 2006

The estimated total value of social welfare savings to the exchequer associated with Section 481 is calculated in Table 5.7. It is estimated that total savings on social welfare related to Section 481 projects amounted to approximately €0.94 million during 2006.

Table 5.7: Direct Impacts of Section 481 - Estimation of Social Welfare Savings due to S481

	2004	2005 (€)	2006 (€)
Irish FTEs in Section 481-incentivised Productions (A)	600	670	1,065
Percentage of Employees that would claim Social Welfare if No S481 (B)	10%	10%	10%
Number of Employees that would claim Social Welfare if No S481 (C)=(A)*(B)	60	67	107
Average Annual Unemployment Support Paid to Single Claimant (€) (D)	8,130	8,474	8,832
Total Social Welfare Savings (€) (E)=(C)*(D)	487,981	567,316	940,892

Source: Indecon derived

Other Tax Revenues

There are three further sources of potential *direct* tax revenue from the Section 481 scheme, namely:

- Value-added tax (VAT) related to the (net) purchase of goods & services by Section 481 projects;
- Corporation taxes on the profits of Section 481 production companies; and
- Capital duties payable on shares issued to Section 481 investors.

In relation to VAT and corporation taxes, VAT is levied on the net purchases of goods & services of Section 481 projects, while corporation tax is charged at 12.5% on any profits arising from the activities of production companies. Based on data available from the Revenue Commissioners on the expenditures of Section 481 projects and the VAT returns from these projects, in addition to previous reviews of the scheme, we understand that there is significant variation in net VAT receipts from Section 481 projects but that these receipts are typically of a very low order of magnitude. This also applies to corporation tax payments. For the purpose of this analysis and in the interests of prudence, we have assumed that net VAT and corporation tax receipts from Section 481 projects amount to an estimated 2% of total Irish expenditures. This implies an estimated total for receipts from VAT and Corporation Tax amounting to approximately €2.3 million during 2006.

Capital duties amounted to 1% of total Section 481 investments in 2004, to 0.5% in 2005 (as per Section 127 of Finance Act 2005), and to zero percent in 2006, as capital duties were abolished by Finance Act 2006. These adjustments to Ireland's capital duty laws were made because the EU Commission wants all its member states to phase out capital duty, which is viewed as an obstacle to the development of EU companies. Based on these rates, we estimate that Section 481 projects yielded approximately €0.6 million during 2004 followed by €0.3 million in 2005 and zero in 2006.

Table 5.8: Direct Impacts of Section 481 - Total Value of Other Tax Receipts from S481 Projects

	2004	2005	2006
Capital Duties			
Total Value of S481 Investments (€)	58,161,516	52,249,667	110,831,710
Rate of Capital Duty (%)	1	0.5	0
Implied Capital Duties Payable (€)	581,615	261,248	0
VAT and Corporation Tax			
Total Irish Expenditures of Section 481 projects (€)	66,504,991	61,318,633	115,995,241
Estimated VAT and Corporation Tax receipts @ 2% of expenditures (€)	1,330,100	1,226,373	2,319,905

Source: Indecon analysis of DoAST and Revenue Commissioners' data

Multiplier Impacts

Thus far in the cost-benefit analysis, we have considered the *direct* impacts arising from the activities and expenditures of Section 481-incentivised projects. However, in order to estimate the overall, economy-wide impacts and Exchequer contribution arising from Section 481 projects, it is necessary to consider how the incomes and related expenditures generated by Section 481 projects lead to further downstream impacts across other sectors of the economy. The overall economy-wide impacts of Section 481 projects can be defined to include the following elements:

- The *direct* contribution of Section 481 projects arising from their expenditures on labour and on goods and services.
- The indirect and induced, including *multiplier* impacts arising from the impacts of the expenditures of Section 481 projects on labour and goods and services on the demand for goods & services from other sectors of the Irish economy, which in turn generate further incomes and profits, and related expenditures.

In estimating the multiplier impacts arising from Section 481 projects, reference was made to the most recent input-output tables assembled by the Central Statistic Office[8]. Specifically, as the input-output tables do not contain a value added multiplier for the audiovisual production, the value-added multiplier for the 'Other Services' sector was utilised, which indicates the impact across the domestic economy of an extra unit of final demand for the home production in this sector. Application of this multiplier to the expenditures of Section 481 projects on labour yields the estimated additional, economy-wide expenditures and related additional tax receipts shown in the table below. We estimate that the economy-wide multiplier impacts of expenditures of Section 481 projects on labour inputs generated additional tax receipts to the tune of approximately €11.1 million during 2006, after €6.3 million in 2005 and €6.6 million in 2004. This is based on the application of an assumed effective tax rate of 30%, as shown in Table 5.9.

Table 5.9: Multiplier Impacts of Section 481 Projects – Estimated Additional Tax Revenues from Economy-wide Impacts of S481 Expenditures on Labour

	Irish Labour Expenditure of Section 481 Projects (€) (A)	Multiplier (B)	Additional Irish Economy Final Demand (€) (C)=(A)*(B-1)	Effective Tax Rate (D)	Additional Tax Revenues on Labour Incomes (€) (E)=(C)*(D)
2004	36,577,745	1.6	21,946,647	30%	6,583,994
2005	35,102,999	1.6	21,061,799	30%	6,318,540
2006	61,763,415	1.6	37,058,049	30%	11,117,415

Source: Indecon analysis based on data from DAST and Revenue Commissions, and CSO Input-Output Tables.

The estimated additional tax revenues arising from the economy-wide multiplier impacts of the expenditures of Section 481 projects on goods and services are indicated in the Table 5.10. Based on the application of a similar multiplier factor and economy-wide effective tax rate of 30%, it is estimated that the economy-wide impacts of Section 481-related expenditures on goods & services generated approximately €9.8 million in additional tax receipts during 2006, after €4.7 million in 2005 and €5.4 million during 2004.

[8] "2000 Supply and Use and Input-Output Tables", CSO publication, 2006

Table 5.10: Multiplier Impacts of Section 481 Projects – Estimated Additional Tax Revenues from Economy-wide Impacts of S481 Expenditures on Goods & Services

	Irish Goods & Services Expenditures of Section 481 Projects (€m) (A)	Multiplier (B)	Additional Irish Economy Final Demand (C)=(A)*(B-1)	Effective Tax Rate (D)	Additional Tax Revenues (E)=(C)*(D)
2004	29,927,246	1.6	17,956,348	30%	5,386,904
2005	26,215,634	1.6	15,729,381	30%	4,718,814
2006	54,231,826	1.6	32,539,095	30%	9,761,729

Source: Indecon analysis based on data from DAST and Revenue Commissions, and CSO Input-Output Tables.

Deadweight Adjustment

An important issue in assessing the overall *net* impact and *net* cost to the Exchequer relating to the operation of an incentive scheme such as Section 481 concerns the extent of economic deadweight that may arise through the operation of the incentive. Deadweight refers to the level of activity that would have occurred in the absence of the incentive scheme. In this context, the concept refers to the likelihood the some or all of the productions assisted through Section 481 would have been produced without the incentive, or that some of the activity on specific productions would have occurred. Reflecting the highly attractive incentives offered by Ireland's competitor countries, our view is that the extent of deadweight related to Section 481-assisted productions in Ireland is likely to be low and we have assumed for the purposes of this review that the level of deadweight averages approximately 10% over the period 2004-2006, as indicated in Table 5.11.

Table 5.11: Estimated Incidence of S481 Investment Deadweight

	% of Projects that Would Have Taken Place in Absence of S481
2004	10%
2005	10%
2006	10%

Source: Indecon estimate

Other Wider Benefits

In addition to the above-estimated benefits arising from Section 481 projects, Indecon accepts that there is a range of wider, including benefits arising from the film and audiovisual industry. These include the cultural benefits of certain indigenous film production activities, the development and retention of skilled creative talents, and also the potential tourism benefits arising through increased awareness of Ireland through film and other productions distributed internationally. The overall tourism benefits from the film and audiovisual industry are likely to be related to the number of tourists which were influenced by seeing Ireland on screen as the reason for the choice of their visit to Ireland. This will be particularly impacted by productions which attract international audiences and which feature views of Ireland which increase people's awareness in a positive fashion. We have increased the overall economy-wide benefits of Section 481 projects by 25% to take account of these other wider benefits and our estimates are set out in the next table.

Table 5.12: Estimated Wider Benefits of Section 481 Projects for Irish Economy

	Estimated Increase in Economy-wide Benefits	Estimated Increase in Economy-wide Benefits (€)
2004	25%	5,924,480
2005	25%	5,510,889
2006	25%	9,972,403

Source: Indecon estimate

The above estimates represent a long-term impact of Section 481-assisted film and audiovisual productions evident through tourism, human capital development and cultural impacts. It is important, however, to emphasise that there is considerable uncertainty surrounding the magnitude of these impacts and the actual size of wider impacts may be lower than projected.

5.3.3 Summary of Cost-Benefit Analysis

A summary of our analysis of the costs and benefits of Section 481 is presented in the Table 5.13.

Table 5.13: S481 Costs and Benefits to the Exchequer, 2004, 2005 and 2006

CBA Components	2004 (€)	2005 (€)	2006 (€)	2004-2006 - Total (€)
Costs				
Total Foregone Tax Revenues (Table 5.1)	19,542,269	17,555,888	37,239,455	74,337,612
Irish Film Board financing (Net) (Table 5.2)	4,013,730	5,054,349	6,836,139	15,904,218
Cost of Scheme Administration (Table 5.3)	218,889	234,431	247,559	700,879
Total Costs	**23,774,889**	**22,844,668**	**44,323,152**	**90,942,709**
Benefits				
Direct Benefits				
Employment-related Taxation Revenues				
Direct taxation on Employment Incomes in Audiovisual Industry (Table 5.5)	9,327,325	8,951,265	15,749,671	34,028,261
Other Taxation Revenues				
Capital Duties (Table 5.8)	581,615	261,248	0	842,863
Other direct taxes* (Table 5.8)	1,330,100	1,226,373	2,319,905	4,876,377
Social Welfare Savings (Table 5.7)	487,981	567,316	940,892	1,996,189
Sub-Total - Direct Benefits	***11,727,021***	***11,006,202***	***19,010,468***	***41,743,691***
Multiplier Impacts				
Multiplier impacts on Incremental Expenditures from Section 481 Employee Incomes - Additional Taxation Revenue (Table 5.9)	6,583,994	6,318,540	11,117,415	24,019,949
Multiplier impacts on Goods & Services Expenditures of Section 481 companies - Additional Taxation Revenues (Table 5.10)	5,386,904	4,718,814	9,761,729	19,867,447
Sub-total - Multiplier Impacts	***11,970,898***	***11,037,354***	***20,879,143***	***43,887,396***
Total Economy-wide Benefits (incl. direct benefits and multiplier impacts)	**23,697,919**	**22,043,555**	**39,889,612**	**85,631,086**
Other Wider Benefits (Table 5.12)**	**5,924,480**	**5,510,889**	**9,972,403**	**21,407,772**
Total Benefits - Adjusted for Deadweight	**26,660,159**	**24,799,000**	**44,875,813**	**96,334,972**
Net Costs/Benefits				
Total Benefits - Total Costs	**+2,885,271**	**+1,954,332**	**+552,661**	**+5,392,264**

Source: Indecon analysis
Notes:
* Other taxes refer to (net) VAT on purchases of goods & services and corporation taxes on profits.
** Other wider benefits include cultural, skill retention and tourism impacts of activities in the Irish audiovisual industry.

Our analysis estimates a net gain to the Exchequer of €2.9 million in 2004, followed by net gains of €2 million in 2005 and €0.6 million in 2006. These figures indicate that while total tax and other benefits exceed the costs, when one takes account of even relatively low levels of opportunity costs the benefits of the scheme to the Irish economy are very low and have declined over recent years. As shown in Table 5.13, there is only a net benefit to the Exchequer in each of the years from 2004 to 2006 inclusive and this net benefit declined in 2006. This highlights the need to find ways to enhance the net return from the sector and to enhance the sustainability of the industry.

One of the ways in which the net returns from the sector could be increased is to find ways to reduce the cost to the Exchequer while maintaining (or even in some cases increasing) the level of effective subsidy provided to film companies. A very significant cost to the Exchequer relates to the return provided to investors. While there would be some longer term benefit of involving investors if they were engaged in providing longer term equity and in evaluating and supporting the commercial viability of films these are not features of the Section 481 incentives.

If a more direct funding mechanism (for example via a public expenditure grant scheme) was utilised the net costs could be reduced significantly. This would be a similar mechanism to either the corporate tax credit approach or the grant scheme/refundable payment type incentives used in other countries. In Irish circumstances Indecon believes there are significant merits in a grant scheme which would reduce the net costs to the Exchequer but which would not reduce the levels of support for the sector.

There are, however, some potential disadvantages of abolishing Section 481 and replacing this with a grant scheme. One issue relates to confidence among the international film and TV sector in Ireland as a location for film production. There is a potential risk to Ireland's image if existing incentives are abolished without assurance that a replacement scheme would be effective and this is particularly the case given the long lead times for planning of certain projects. This disadvantage could be removed by keeping the existing Section 481 incentives in place but providing an optional alternative forms of support.

The second potential disadvantage of a grant scheme is if it had different qualifying criteria to the existing Section 481 incentives then some projects which would have received support might be rejected and this could impact on uncertainty and on Ireland's reputation. This potential disadvantage, however, could be removed by ensuring the design of any grant scheme was identical in its approval criteria to the current tax incentives.

These issues are addressed in our recommendations but it is essential that ways are found to reduce the net economic costs of Ireland's Section 481 incentives.

6 Recommendations

6.1 Introduction

This section presents Indecon's recommendations.

6.2 Policy Recommendations

Recommendations to Support Future Development of the Irish Audiovisual Industry

1. SECTION 481 FILM INDUSTRY INCENTIVES SHOULD REMAIN FOR THE NEXT 3-5 YEAR PERIOD BUT SHOULD BE SUBJECT TO REVIEW IN ADVANCE OF THE EXPIRY DEADLINE.

2. NO CHANGE SHOULD BE MADE TO INCENTIVES FOR TELEVISION PRODUCTION.

3. CONSIDERATION SHOULD BE GIVEN TO SOME MARGINAL ENHANCEMENTS OF THE INCENTIVES FOR FILM PRODUCTION. SPECIFICALLY, WE PROPOSE AN INCREASE IN THE CAP ON THE LEVEL OF ELIGIBLE EXPENDITURE PER PROJECT FROM €35 MILLION TO €50 MILLION AND AN INCREASE IN THE PERCENTAGE OF ELIGIBLE EXPENDITURE ALLOWABLE FOR TAX RELIEF PURPOSES TO 90%.

4. AN ENHANCED GRANTS SCHEME SHOULD BE PROVIDED BY THE IRISH FILM BOARD AS AN OPTIONAL ALTERNATIVE TO SECTION 481 FOR FILM AND TV PRODUCTION IN IRELAND BUT CONDITIONAL UPON SUCH PROJECTS NOT ALSO OBTAINING SECTION 481 SUPPORT.

5. THE IRISH FILM BOARD, JOINTLY WITH THE INDUSTRY, SHOULD DEVELOP A 10-YEAR STRATEGIC PLAN TO ADDRESS THE SUSTAINABILITY OF THE INDUSTRY AND ITS VULNERABILITY TO CHANGES IN TAX INCENTIVES IN OTHER COUNTRIES AND TO ENHANCE ITS NET ECONOMIC CONTRIBUTION.

Source: Indecon

Each of these recommendations are discussed overleaf.

RECOMMENDATION 1: SECTION 481 FILM INCENTIVES SHOULD REMAIN FOR NEXT 3-5 YEARS, BUT SHOULD BE SUBJECT TO REVIEW IN ADVANCE OF THE EXPIRY DEADLINE

Indecon recommends that Section 481 film incentives should remain for the next 3-5 years. This is despite the very small net economic benefit of the scheme. The reason why Indecon recommends the continuation of Section 481 is to give this important sector the breathing space to address the longer-term sustainability of the sector and to introduce measures to improve its economic contribution.

The audiovisual sector is a potentially important sector for Ireland and is appropriate to a skilled creative economy and could make a significant contribution to the country. Our recommendation to continue with tax incentives is to provide the sector and the state with the opportunity to realise this potential.

RECOMMENDATION 2: NO CHANGE SHOULD BE MADE TO INCENTIVES FOR TELEVISION PRODUCTION

In a longer term context, the levels of subsidies for the TV production sector in Ireland implicit in Section 481 are probably not justified. However, we do not recommend any reductions in these incentives despite the fact that some of the TV productions may continue without the incentives if they are based on RTE commissioned programmes and despite the incentives being more attractive than in other countries.

The TV production sector is currently the most important sub-sector of the film and TV industry in Ireland and any reduction in incentives could damage the sector at this challenging time.

RECOMMENDATION 3: CONSIDERATION SHOULD BE GIVEN TO SOME MARGINAL ENHANCEMENTS OF THE INCENTIVES FOR FILM PRODUCTION

It is clear that the film production sector in Ireland is facing a challenging competitive position particularly arising from the changes in UK incentives. It is important to point out that the cost-benefit ratio for the UK economy of their incentives may be higher than the cost-benefit contribution to Ireland of Section 481, because of how they are structured (with the benefits going directly to the film companies). However, we would be supportive of some marginal enhancements of the incentives for film production in Ireland for a period to give some time for other measures to be put in place. Specifically, we propose an increase in the cap on the level of eligible spend to €50 million and also an increase in the percentage of eligible expenditure for tax relief purposes for film production to 90%.

RECOMMENDATION 4: AN ENHANCED GRANTS SCHEME SHOULD BE PROVIDED BY THE IRISH FILM BOARD AS AN OPTIONAL ALTERNATIVE TO SECTION 481

This proposal is essential to increasing the cost-benefit ratio of the audio visual sector in Ireland. The criteria for aid should be similar to Section 481 and would provide enhanced incentives to the sector but at much lower Exchequer costs.

RECOMMENDATION 5: THE IRISH FILM BOARD, JOINTLY WITH THE INDUSTRY, SHOULD DEVELOP A 10-YEAR STRATEGY PLAN TO ADDRESS SUSTAINABILITY OF THE SECTOR

The film sector in Ireland is primarily dependent on competing on the basis of tax incentives which can easily be replicated in other counties. This vulnerability was highlighted by Indecon as far back as 1998. Any sector which is dependent on a competitive advantage which can be removed by a simple change in tax legislation in other countries is not sustainable.

The sector and the IFB need to design more sustainable tax and other incentive mechanisms that have a lower cost but greater benefit, and should also focus on developing skills / talents, infrastructure and a competitive cost base, in order to provide long-term sustainability for the sector. The plan should also consider the capital structure of Irish film and TV companies.

Annex 1

Annex 1 Review of International Approaches to Film Incentives

Introduction

This annex presents a more detailed review of film incentives internationally than what is presented in Section 4 above.

UK

Background and Overview

New rules for the taxation of film production, and in particular a new enhanced film tax relief for the production of British cinema films, were introduced by Finance Act 2006. Relief for British film production was previously provided by Sections 40A to 43 Finance (No.2) Act 1992, Section 48 of Finance (No.2) Act 1997 and Sections 130 to 144 of the Income Tax (Trading and Other Income) Act 2005 (ITTOIA 2005). A review of these reliefs concluded that they were no longer an effective means of delivering the Government's objectives for the British film industry[9]. The details of the new legislation were announced in the following Budget 2006.

Form and Operational Features of Incentives

The main form of incentive for the film industry instituted by the British government is tax relief.

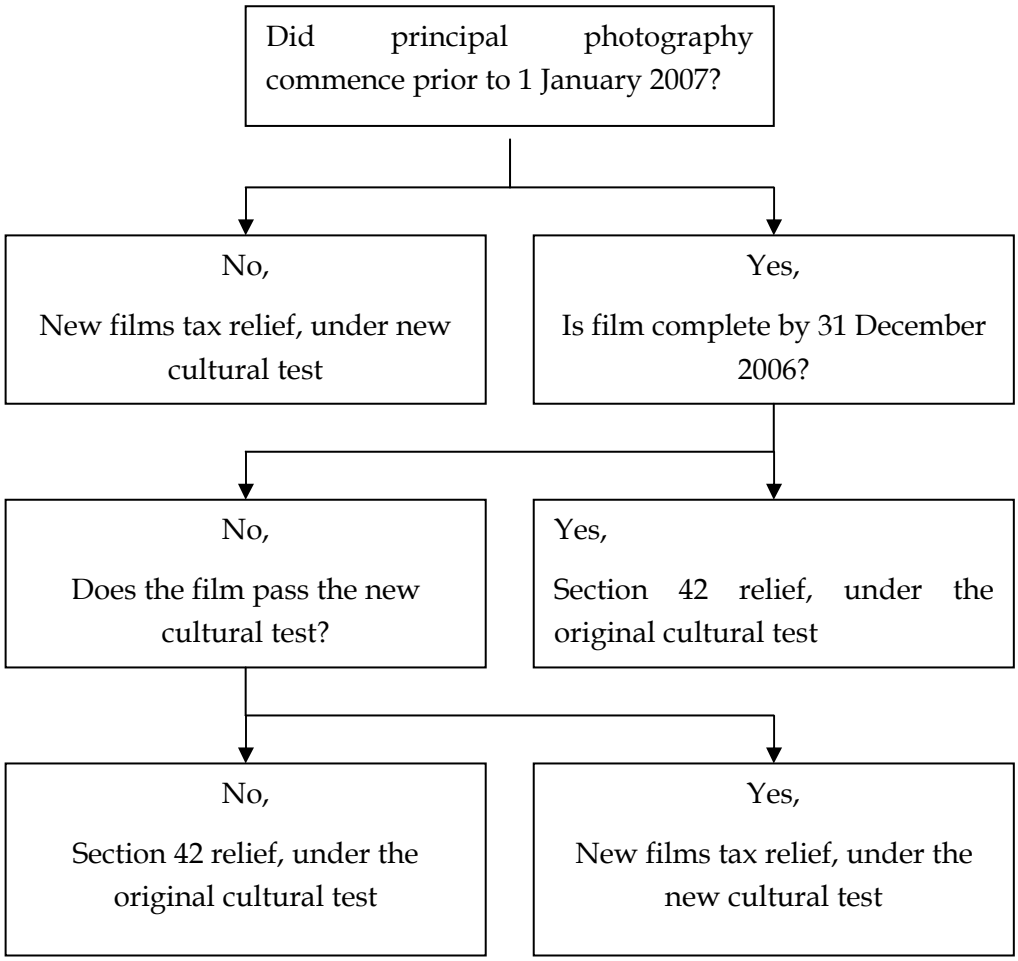
[9] HM Treasury, "Reform of Film Tax Incentives", consultation document, July 2005

British films costing £20 million or less are eligible for a tax deduction of 100% of qualifying UK expenditure and to surrender losses in exchange for a cash payment of 25%, amounting to a benefit worth at least 20% of qualifying production costs. British films, costing more than £20 million, will receive an additional deduction of 80% of qualifying UK expenditure and will be able to surrender losses in exchange for a cash payment of 20%, amounting to a benefit worth typically 16% of qualifying production costs. There is no cap on the amount which can be claimed.

In order to qualify, a film must meet three conditions: It must be made to be shown commercially in cinemas. It must be certified as British either because it is an official co-production or because it satisfies a new cultural test administered by the Department for Culture Media and Sport. It must incur at least 25% of its total production expenditure on film making activities in the UK. UK qualifying production expenditure is defined as expenditure incurred on filming activities (pre-production, principal photography and post production) which take place within the UK, irrespective of the nationality of the persons carrying out the activity. HM Revenue & Customs' (HMRC) definition of UK spend introduces the concept of whether a good or service is "used or consumed" in the UK. If they are used or consumed in the UK, the expenditure is treated as UK expenditure (under the rules set out in the clauses of the Finance Bill). If they are used or consumed outside the UK, they do not count as UK expenditure.

The new rules apply to films which commenced principal photography on or after 1 January 2007 and to films starting principal photography before 1 January 2007, but uncompleted then. These new rules apply to all film production companies whether or not they are producing films intended for release in the cinema. The relief is aimed directly at film production companies and is not available to those whose only involvement in film making is confined to providing or arranging finance. Films completed before 1 January 2007 are not covered by the new rules, and not entitled to film tax relief. They continue to be able to claim relief under s42 F(No.2)A 1992, provided they satisfy the relevant conditions (in particular, that to qualify for relief, any acquisition must be made by 1 October 2007

To ensure that there is no gap in the provision of film tax incentives, HM Treasury set in place the following transitional arrangements for films which commenced principal photography before 1 January 2007 and are uncompleted by that date; If they are qualifying co-productions, they will be within the new rules and (provided they meet the other relevant conditions) will be able to benefit from film tax relief. If they are not qualifying co-productions, they will be within the new rules, provided they satisfy the new Cultural Test and (if they meet the other relevant conditions) will then be able to benefit from film tax relief, and they will continue to be within Section 42 F(No 2)A if they do not satisfy the new Cultural Test (provided, again, they meet the relevant conditions for that section).



The transitional rules above mean that, like cinema films, TV (and other not-for-cinema) productions completed before the end of 2006 are not within the new rules - instead they will be covered by s40A and 40B F (No. 2) A 1992. The transitional rules further provide that such non cinema productions, even if not completed by 1 January 2007, continue to be governed by the old rules in F (No. 2) A 1992.

The following provides an example of a film claiming Tax Relief under the new British scheme.

For films that cost over £20 million, the FPC can claim an enhanced deduction of 80% with a payable cash element of 20% of UK qualifying film production expenditure. In this example, the core expenditure of a film is £100m. All are qualifying UK costs. Tax relief is available on qualifying UK production expenditure up to a maximum of 80% of total qualifying costs. Therefore, tax relief is based on 80% x £100m (qualifying UK costs) = £80m. In order to maximize the payable element, the producer would surrender all of the qualifying expenditure to HM Revenue & Customs. The payable cash element is worth of 20% x 80m = £16m. The enhanced deduction is worth 80% of qualifying costs: 80% x £80m = £64m. This is a shield to paying corporation tax and not a payable cash amount. So, with the £64m, plus £16m payable cash element tax free, plus £20m losses still on books, the FPC has £100m (the cost of making the film) before it has to pay corporation tax. Without the enhanced deduction the FPC would pay 28% corporation tax when it has an income of £36m (£16m payable cash element, plus £20m losses). Therefore the enhanced deduction protects the FPC from corporation tax of 28% on the amount between £36m and £100m.

Scope of the Incentive

The new legislation provides tax relief for film production only. The benefiting entity is the Film Production Company (FPC). The FPC is defined as the company responsible for the principal photography and post production of the film and for the completion of the finished film. (There is no requirement for the film rights to be owned by the FPC at the time the film is completed). The FPC must be within the UK corporation tax net.

Other Key Features

Budget 2007 (note 11) included a proposal to allow companies, by election, to choose not to be within the new films regime. Legislation providing for this is included at clause 57 of the Finance Bill. FA 2006 sets out rules for the taxation of companies making films both for the cinema and for other media (such as television). It sets out a set of basic tax rules for films in Schedule 4 to the Act, treating each "film" as a separate trade, and brings into account the costs and income of the film. Schedule 5 then provides additional tax relief (film tax relief) to production companies making British cinema films. The new rules contained in Finance Bill 2007 enable companies (including those not making films for the cinema and therefore not entitled to the additional Schedule 5 relief) to elect not to be within the FA 2006 rules, but to be taxed instead according to general tax rules. A company will be able to do this by making an election in its tax return. Once made, such an election will apply to films starting principal photography in the period to which the return relates, as well as any later films. It will not be possible to reverse an election after the time limit for amending the return has passed.

Statutory Instrument 2007 No. 1050, entitled "The Corporation Tax (Taxation of Films) (Transitional Provisions) Regulations 2007", made some minor changes to the provisions of the Finance Act 2006, but these were mainly in relation to the UK Cultural Test.

Australia

Background and Overview

Australian Government encourages private investment in the film industry through the Australian Screen Production Incentive. The Australian Screen Production Incentive was introduced in the May 2007 Budget. It is comprised of the Producer Rebate and the Location Rebate. Until 2007, there were other tax incentive schemes such as the Refundable Film Tax Offset, the tax incentives provided by Division 10B and Division 10BA of the Income Tax Assessment Act (ITAA), and the Film Licensed Investment Company. These schemes provided an income tax deduction for investors in certified Australian productions.

Under Division 10B of the ITAA, investors were allowed to write off the cost of industrial property over its effective life. In 1981 the Australian Government created Division 10BA of the ITAA, allowing capital expenditure on qualifying Australian films to be tax deductible in the year of investment. The level of deduction has varied over time, with the 100 per cent deduction introduced in 1988, coinciding with the establishment of the Film Finance Corporation Australia (FFC).

Divisions 10B and 10BA of the ITAA enabled income tax deductions for funds invested in films certified as 'Australian films' and 'qualifying Australian films' respectively. Division 10B of the ITAA allowed investors to claim a 100 percent deduction over two years on investment, made in the course of obtaining copyright in certified films, from when the project first earns an income. Division 10BA of the ITAA allowed investors to claim a 100 per cent deduction on investment in films that have a provisional or final certificate, in the year the investment is made. Division 10BA was available to films and many television productions, including tele-movies, documentaries and television drama series.

10B worked as follows: For example, Investor A invested $50 000 in a 10BA certified project in January 2000. Investor A could have reduced their taxable income by $50000 in the 1999-2000 financial year. To be eligible to claim a deduction under 10BA, projects had to be assessed and certified as a 'qualifying Australian film', which meant having 'significant Australian content'. Projects that were certified under 10BA were also eligible to apply to the Australian Film Finance Corporation for direct investment.

10B was a broader-based concession relating to the first ownership of copyright in a production. It allowed a 100 per cent tax deduction to initial investors over two financial years, starting when the film was first used to derive income (i.e. when the project is completed). For example, Investor B invested $50000 in a CD-ROM project eligible under 10B in January 2000. The project was completed in March 2001. Investor B was able reduce their taxable income by $25000 in the 2000-2001 financial year, and by $25000 in the 2001-2002 financial year.

The 2005 Review of the 10B and 10BA schemes found that they had limited effectiveness.

In 2002 the Australian Government introduced the Refundable Film Tax Offset (RFTO) for screen production in Australia that provides an additional financial incentive for the producers of large budget films to locate in Australia. In 2005 the Government extended the offset to television series, including documentary series and reality TV. The RFTO was contained in legislation through amendments which were made to Division 376 of the Income Tax Assessment Act 1997. The offset was applied at a fixed rate of 12.5 per cent of a production's Qualifying Australian Production Expenditure (QAPE).

A review of the RFTO completed in November 2006 by the Department for Communications, Information Technology and the Arts (DCITA) found that the level of offshore production in Australia had increased considerably after the introduction of the offset. Since 2002, eighteen productions had been certified for the offset, and had collectively spent over $940 million of production expenditure in Australia. Offshore production expenditure had benefited urban, rural and regional areas and, according to the report, was estimated to have led to the creation of up to 690 additional full-time equivalent jobs a year in the Australian film industry. However, the level of overseas film production in Australia had fallen since 2004-05. The Executive Summary stated that: "industry stakeholders have reported that in recent years there has been a substantial downturn in offshore production". It indicated that the offset's effectiveness may have been diluted, notably by other countries, such as New Zealand and South Africa, introducing more generous incentives of their own.

Australian Government's 2007-2008 Budget announced a $282.9 million film package, including the new Location Rebate, which is part of the Australian Government's new Australian Screen Production Incentive and will replace the existing RFTO scheme. The new rebate is intended to reverse the decline in the certified productions which have fallen from seven in 2004-05, to two in the period 2006-2007.

Form and Operational Features of Incentives

In Australia, incentives are provided on both a federal level and a state level.

Federal Incentives

Location Rebate

The Location Rebate is a tax incentive that encourages the production of large-budget film and television series in Australia, which is available from 1 July 2007. It was formerly known, in a previous version, as the Refundable Film Tax Offset. There are several significant differences between the Location Rebate and its predecessor.

The Location Rebate includes an increase in the rebate from 12.5 per cent to 15 per cent to increase Australia's competitiveness as a production destination and attract offshore producers to Australia. It also includes the introduction of a world-first complementary scheme with a 15 per cent rebate on all expenditure on post production, digital and visual effects undertaken in Australia (with a minimum threshold of $5 million) to encourage the use of Australia's post-production and digital and visual effects sector. These enhancements will ensure that Australia's visual effects sector can compete internationally for work on large-budget film productions that do not shoot in Australia. The enhanced incentives are available to production companies which commenced principal photography on eligible productions on or after 1 July 2007. The enhancements will be given effect through amendments to Division 376 of the Income Tax Assessment Act 1997.

The key criterion to access the rebate is a minimum level of Qualifying Australian Production Expenditure (QAPE) of A$15 million on the production of the film. Once this criterion is satisfied there are a further two categories of eligibility. Where the film's QAPE is at least A$15 million and less than A$50 million, the producers must spend a minimum of 70 per cent of the film's total production expenditure on film production activity in Australia (i.e. QAPE must be at least 70 per cent of total production expenditure) and the applicant must be the company responsible for all the activities undertaken to make the film world-wide. Eligible film productions that spend A$50 million or more in Australia will qualify for the rebate regardless of the percentage ratio of QAPE to the film's total production expenditure but the applicant must be the company that is responsible for all the activities involved in making the film in Australia.

Where several production companies are involved in producing a film, the company that is eligible to claim the rebate is the one that can be defined as above. Eligibility for the rebate extends to the production company that completes an eligible film having taken over the making of it from another company or companies. In these cases, the production company is also taken to have incurred the production expenditure of the previous companies for the purposes of the rebate. In addition, an eligible television series must have an average of at least $1 million of QAPE per hour of the series in order to qualify for the rebate. This is an aggregate calculation made across the series, irrespective of the number or length of episodes.

Where a producer has chosen to access the rebate in relation to an eligible film, no other Australian Government film finance or tax incentive will be available for the project. This refers to deductions under the new Producer Rebate of the Income Tax Assessment Act 1936. For an eligible television series, principal photography for a live action series must be completed within 12 months. For a series that in predominantly an animation, production of the visual image must be completed within 36 months. Both of these timeframes exclude the production of any pilot. There is no timeframe restriction for productions other than television series.

A company is eligible to apply for the rebate if it is an Australian resident company or a foreign corporation with an Australian Business Number that is operating with a permanent establishment in Australia—both when it lodges the income tax return and when the tax rebate is due to be credited.

A film's production expenditure is defined as the expenditure incurred or reasonably attributable to actually making the film from pre-production up to the point that it is ready to be distributed, broadcast or exhibited to the general public. Some costs have been excluded in order to focus the benefit of the rebate explicitly on expenditure that occurs in the activity of making a film. The following costs are excluded from total production expenditure: financing and development, copyright acquisition, general business overheads that are not incurred in relation to making the film, distribution, publicity and promotion, deferments, profit participation, residuals and advances, and depreciating asset acquisition. To encourage producers to undertake these activities in Australia, some of these exclusions—such as copyright acquisition, business overheads, development and certain publicity costs—can be factored back in where they are also QAPE.

Qualifying Australian Production Expenditure defines those costs that are eligible for the 15 per cent rebate. QAPE is the production expenditure for the film incurred or reasonably attributable to: goods and services provided in Australia, the use of land located in Australia, or the use of goods located in Australia at the time they are used in making the film. There are a number of specific inclusions to this definition, which include the following; Australian development expenditure; copyright expenditure, where copyright is held by an Australian citizen or a person resident in Australia; appropriate share of general business overheads, which are Australian business overheads; publicity material, for use in publicising or otherwise promoting the film, where the copyright in the material is held by an Australian citizen or a person resident in Australia; and a person's travel to Australia to undertake activities in relation to making a film if their remuneration is QAPE.

Producer Rebate

The 2007 Australian government budget contained a new scheme to provide support to domestic film producers. The new Producer Rebate will be a 40 per cent refundable tax rebate for eligible domestic feature films and a 20 per cent refundable tax rebate for other eligible domestic media productions, including television series and documentaries. The Rebate will replace the 10B and 10BA schemes. The 10B and 10BA schemes have been closed to new applications since 30 June 2007. The Producer Rebate will be administered by the Film Finance Corporation from 1 July 2007 and then by the newly established Australian Screen Authority, from 1 July 2008. There will be minimum levels of qualifying Australian production expenditure of A$1m for feature films, A$0.5m for documentaries, A$1m for long form television series (13 - 65 episodes, with a minimum spend of A$0.5m per hour), A$1m for mini-series and telemovies (minimum of A$0.8m per hour), and A$0.25m for short form animation (15 mins).

The Rebate will apply to expenditure on eligible projects incurred on or after 1 July 2007 - it is possible that projects in production before that date may qualify for the Rebate on qualifying expenditure from 1 July 2007 but projects will not be eligible if they have received 10B or 10BA investment or Government funding prior to that date.

State Incentives

In addition to the various Federal tax rebates and exemptions, many of the six States of Australia also offer support and financial assistance. The assistance comes in the form of payroll tax rebates or exemptions, cast and crew wage rebates, location attraction cash grants and the provision of free or subsidised public service resources.

Scope of the Incentives

The formats, eligible for the Location Rebate, are feature films (including direct-to-DVD), telemovies, miniseries and television series. An eligible television series may be drama or comedy, a documentary or a reality series. These formats may include animated or live-action productions or a combination of the two.

The scope of the federal producer rebate covers feature films, documentaries, television series, mini-series, telemovies, and short-form animation.

Other Key Features

Productions seeking an authorized certificate of eligibility for qualifying productions must obtain such a certificate signed by the Minister for the Arts and Sport of the Department of Communications, Information Technology and the Arts. Final certification guarantees the film producer's eligibility for the rebate. A producer should apply for final certification following the completion of the film. Film producers also have the option of applying for a provisional certificate during the film's production. While a provisional certificate will not provide a guarantee of getting a final certificate, it may assist in identifying those costs which can be counted towards QAPE. Applications received are considered by the Film Certification Advisory Board, an advisory board of industry representatives and Australian Government officials. The Board advises the Minister as to the eligibility of the applicant's production for the rebate. The Board may seek the assistance of an independent film production consultant, who examines the production's expenditure statements, ensuring that all claimed expenditure is appropriate and correctly categorised. If a production is certified, the certificate is to be provided to the Australian Taxation Office (ATO), along with the applicant company's tax return for the income year in which the film was completed. The ATO pays out the rebate amount, less any existing tax liability.

Other Forms of State Aid

The Film Licensed Investment Company

The Film Licensed Investment Company (FLIC) scheme 2005 followed a pilot scheme introduced in 1999 to test new methods for the Australian Government and the Australian film and television industry to work together to raise investment for local film production.

The Australian Government confirmed an extension to the FLIC scheme in the 2005–06 Federal Budget and the Licensed Investment Company Scheme Act was passed in June 2005. Applications for the FLIC licence closed on September 2005. An expert selection advisory panel assessed the applications and made a recommendation to the Minister for the Arts and Sport on who should be granted the FLIC licence. The FLIC Company was granted the licence in December 2005 to raise capital of up to $10 million in each of 2005-06 and 2006-07, for investment in Australian film and television productions. Capital raised during that period will attract a concession—that is, first purchasers of shares in the FLIC will be eligible for a 100 per cent up-front tax concession during the concessional capital raising period. If those shares are on-sold, a concession cannot be claimed.

After 30 June 2007, the FLIC will be able to raise non-concessional capital. All FLIC productions must be completed by 30 June 2009. No further FLIC licences will be issued due to the introduction of a new Producer Rebate.

The Film Finance Company

The Film Finance Company (FFC) is the Australian Government's principal agency for funding the production of film and television in Australia. It is a wholly owned government company. The government supports film and television production to ensure that Australians have the opportunity to make and watch their own screen stories. The FFC will only fund projects with high levels of creative and technical contribution by Australians, or projects certified under Australia's Official Co-Production Program. To support diversity, the FFC funds the most expensive program formats: feature films, mini-series, telemovies and documentaries. Cheaper formats such as current affairs, serial drama and 'infotainment' are fully financed by the market, whereas the more expensive formats would in many cases not be made without government assistance.

The Government currently funds the FFC on a triennial basis and has committed to annual funding of $70.5 million to 2007/08. Supplementing its appropriation from Government are the revenues the FFC recoups from projects active in the marketplace. These funds are used each year to support the production of new film and television programs.

The total slate of projects backed by the FFC each year is financed by a combination of FFC funds and finance from private investors and other marketplace participants (e.g. distributors, broadcasters, sales agents and state government agencies). Not only are the FFC's market partners critical in gearing up its funds, they also provide opportunities for programs to find audiences. By co-financing with theatrical distributors, broadcasters, international sales agents and other such companies, the FFC is tapping into valuable distribution and exhibition networks that can maximise the audience reach of its programs. All Australian film and television producers/production companies can apply to the FFC for funding. To be successful they must meet the criteria set out in the FFC's Investment Guidelines, which are the major tool for communicating FFC policies and are revised each year in consultation with the industry.

The FFC does not produce or distribute the programs in which it invests, nor does it develop projects or select which projects should be developed. These roles are performed by the Australian Film Commission, the state film bodies and the private sector.

As of 1 July 2008, the Australian Film Commission, the Film Finance Corporation and Film Australia will merge into one new body, the Australian Screen Authority.

Canada

Background and Overview

Canada has a long legacy of incentives for Television and Film production stretching back to the establishment of Telefilm Canada in 1969. Current legislation was introduced in 1998, and amended in 2003. The main incentives existing for the Industry are outlined below.

Form and Operational Features of Incentives

Production Services Tax Credit

The Film or Video Production Services Tax Credit (PSTC) is co-administered by the Canadian Audiovisual Certification Office (CAVCO) and the Canada Customs and Revenue Agency. The PSTC is a mechanism designed to encourage the employment of Canadians by a taxable Canadian corporation or foreign-owned corporation with a permanent establishment in Canada. The activities of the corporation must be primarily film or video production or production services.

The tax credit is equal to 16 percent of salary and wages incurred after October 1997, paid to Canadian residents—or taxable Canadian corporations for amounts paid to employees who are Canadian residents—for services provided to the production in Canada. The refundable tax credit has no cap on the amount that can be claimed. The total cost incurred for the production must exceed CAN$1 million. In the case of a series, the total cost must exceed CAN$200,000 per episode—except in the case of episodes under 30 minutes, which must exceed CAN$100,000 per episode.

The qualified Canadian labour expenditure for a production refers to all amounts which are Canadian labour expenditures less assistance received for those Canadian labour expenditures, such as other provincial tax credits. The PSTC may be calculated by multiplying the qualified Canadian labour expenditure by 16 per cent.

The legislation which governs the Film or Video Production Services Tax Credit (PSTC) is set out in section 125.5 of the Income Tax Act (ITA) of Canada and section 9300 of the ITA Regulations. In order to receive a PSTC pursuant to section 125.5 of the ITA, an eligible applicant must first obtain an Accredited Film or Video Production Certificate from CAVCO. The Accreditation Certificate will be issued where a production initially meets all the requirements of draft Regulation 9300 of the ITA. That certificate, along with a prescribed form and any prescribed documentation, must be filed with the corporate tax return for the year of an eligible production corporation. The Canada Revenue Agency will then review the claim by the corporation, ensure that it continues to meet all of the eligibility requirements of the program and determine the amount of the PSTC which the corporation is entitled to receive.

The tax credit amount will be in respect of eligible amounts paid in that year or within 60 days after the end of that year for labour incurred in that year. Where a corporation has no taxes payable in the particular taxation year in question, the amount deemed as a credit under the PSTC is refundable to the corporation. In such a case, a cheque will be issued to the corporation after an assessment by the Canada Revenue Agency.

Canadian Production Tax Credit

The Canadian Production Tax Credit is available at a rate of 25 per cent of eligible salaries and wages incurred after 1994. Eligible salaries and wages qualifying for the tax credit may not exceed 60 per cent of the cost of the production, net of assistance. Therefore, the tax credit could provide a refund of up to 15 per cent of the cost of production, net of assistance. The previous cap, which applied to productions which commenced before 14 November 2003, was 48 per cent of the cost of the production, net of assistance. The Canadian Production Tax Credit (CPTC) program is administered by CAVCO who perform two distinct functions in this regard: Canadian content certification, and estimation of the eligible expenses of production. In order for a production to qualify as Canadian content for tax credit purposes through CAVCO, the production must meet specific criteria for key creative personnel and production costs.

The rules that apply for the purpose of computing the Canadian Film or Video Production Tax Credit are set out in section 125.4 of the Income Tax Act (ITA). A Canadian film or video production is a production which meets the requirements of section 1106 of the ITA Regulations. Co-productions between Canada and another country are eligible for the tax credit program only when co-produced under an official treaty. They are, however, exempted from certain requirements of the Regulations.

The total cost of production will be reduced by any assistance received or to be received. Production costs and labour expenditures are also limited to those amounts which have been incurred in respect of the property owned by the corporation. Ownership may be shared only in cases where there is a Canadian co-production or a treaty co-production. For Canadian co-productions, however, CAVCO will issue a single certificate with respect to the production. It is therefore incumbent on each co-producer to claim the relative portion of the tax credit in computing its income. Labour expenditures must be directly attributable to the corporation's Canadian film or video production, incurred for the production of the property from the production commencement time to the end of the post-production stage, reasonable in the circumstances and included in the cost to the corporation.

However, those productions may access either the PSTC program or the Canadian Film or Video Production Tax Credit (CPTC) program, not both.

Capital Cost Allowance

A capital cost allowance, up to the cost of the accredited production net of the credit and assistance, may also be available to some eligible production corporations to the extent that they are also the owners of the copyright in the production. Official treaty co-productions between Canada and another country are eligible.

Scope of the Incentives

The Production Services Tax Credit is available to all productions of Videos and Films that satisfy the conditions outlined above. The Canadian Production Tax Credit is obtainable for productions that satisfy strict conditions on Canadian content and personal. Either the position of screenwriter or director must be filled by a Canadian. It is also mandatory that either the lead or second lead performer be Canadian. The cost criteria for a Canadian content production states that not less than 75 percent of the costs paid to persons for services relating to the film or video must be paid to Canadians. The guidelines for animated productions are very similar to the criteria for live-action productions with some changes made to conform to the practices of animation production. Some production genres are ineligible for the tax credit, including news programs, talk and game shows, sporting and awards events, reality television, productions that solicit funds, pornography, advertising, industrial or corporate productions, productions, other than documentaries, all or substantially all of which consists of stock footage, and productions for which public financial support would, in the opinion of the Minister of Canadian Heritage, be contrary to public policy.

Other Key Features

There are a number of other institutions that offer assistance to the Audiovisual industry in Canada.

Canadian Television Fund

The Canadian Television Fund (CTF) was created in 1996 to increase the quality and quantity of distinctly Canadian programming available to Canadian viewers, and to enhance the broadcast system's capacity to produce and distribute such programming. The Fund operates as an independent, non-profit corporation governed by a board of directors composed of members from the television, cable, production, and film and video distribution industries, as well as from Canadian Heritage and Telefilm Canada.

As a basis for entry to the Fund, a project must meet the CTF's essential requirements. The project must speak to Canadians about, and reflect, Canadian themes and subject matter. The project must have 10 out of 10 points on the CAVCO scale, or the maximum number of points applicable to the project. This means that all of the key creative roles in the film must be filled by Canadians. The underlying rights must be owned, and significantly and meaningfully developed by Canadians. The project must be shot and set primarily in Canada. All eligible productions must be under Canadian ownership and Canadian executive and creative control, and have received a commitment from a licensed Canadian television broadcaster to be broadcast during prime time within two years of their completion.

The CTF has two complementary funding programs: the Licence Fee Program (LFP), which is administered by the CTF, and the Equity Investment Program, which is administered by Telefilm Canada. Eligible projects may apply to and receive funding from either program, or both. The CTF's LFP is a market-driven funding initiative that contributes to distinctly Canadian television productions using objective and transparent criteria to determine production eligibility. The program is a "top-up" fund that supplements the cash licence fees paid by Canadian broadcasters for eligible programs. As such, the LFP's contribution forms a part of the total licence fees used in the financing of Canadian television productions. This licence fee top-up may be supplemented by one or more of the bonuses for regional productions and French-language productions.

Telefilm Canada

Telefilm Canada, created in 1967, administers the Equity Investment Program (EIP) of the Canadian Television Fund (CTF), a public-private partnership; the Canada Feature Film Fund (CFFF); the Canada New Media Fund; and a number of other funds and programs. Each year the corporation contributes to the development and production of feature films, made-for-TV movies, drama series, documentaries, children's programs, variety shows and new media products. Telefilm Canada's financial support is varied. Most often provided as an investment, it also comes in the form of advances, loans, loan guarantees and grants. Telefilm Canada shares product risks and revenues with the industry. Recouped amounts are reinvested in production and distribution activities.

The Equity Investment Program's (EIP) assistance is provided through direct cash investments, which result in undivided copyright ownership in eligible production, including treaty co-productions. The EIP may take an equity participation of up to 49 percent of an eligible production, though its average investment in recent years has not exceeded 25 percent. In certain cases, the EIP may also participate in productions through loans, advances and contributions. However, the combination of equity and non-equity participation will not exceed 70 percent of the production costs. The EIP's participation in eligible series and made-for-TV film production is subject to caps. The EIP also assists the development of Canadian television programs through non-interest bearing advances of up to 50 percent of eligible costs, to a maximum of $100,000. A financial contribution of at least 20 percent (drama) or 15 percent (other genres) is required from the broadcaster.

Telefilm Canada also administers the Canadian Feature Film Fund (CFFF) which includes several components. Among its various programs are Development, Production and Marketing Programs, a Screenwriting Assistance Program, Low Budget Independent Feature Film Assistance Program, a Mini-Treaty Program, and Programs for Complementary Activities including, Canadian film festivals, international film festivals, versioning, alternative distribution and awards. One of the key goals of the CFFF is to increase Canadian audiences in theatres for Canadian feature films.

The Loan Guarantee Program is designed to provide Canadian financial institutions with loan guarantees and expert appraisal of loan applications submitted by Canadian production, distribution and foreign sales companies. Telefilm Canada will use its industrial expertise to complement the financial expertise of banking institutions by supplying an evaluation of the risks associated with each project and of the borrower's ability to repay the loan. The Loan Guarantee Program is intended primarily for companies or projects that otherwise would be unable to obtain loans in the private sector. Telefilm Canada can guarantee up to 85 percent of the maximum amount of the loan, to a maximum of $1 million per project or per application. Any loan guaranteed by Telefilm Canada must be fully secured by firm receivables owed to the borrower. The total amount of Telefilm Canada's outstanding guarantees at any one time will not exceed $25 million.

Other Funds

The Canadian Independent Film and Video Fund (CIFVF) is a national private-sector non-profit organization that is funded by the federal government and the private sector. The mandate of the CIFVF is to support the development of the films and video production that is not intended for release in commercial cinemas by providing assistance for the creation of films, videos and new media projects that promote lifelong learning. To ensure that production in both official languages is promoted through the Fund, no less than one-third of the Fund's money is to assist original French-language productions. Likewise, in an effort to acknowledge that non-theatrical activity is carried on in all parts of Canada, the Fund endeavours to ensure that one-fifth of its monies is devoted to each of the following regions: Atlantic and Northern Canada, British Columbia, the Prairies, Ontario and Quebec.

An eligible film, videotape or series must be destined primarily for one or more of the following markets: specialty television, business, education, health, libraries, community groups, and cultural or social services. A project must achieve Canadian content status, with no less than 8 points out of 10, according to the guidelines of the CAVCO. The applicant to the CIFVF must be the producer of the project. This individual must be a Canadian citizen or permanent resident. As well, the production company or the non-profit production organization must be Canadian-owned and -controlled. The entry requirements for this fund mean that it is not relevant to an assessment of the attractiveness of Canada for offshore producers.

The Canada Council for the Arts is an independent agency created by the Parliament of Canada in 1957 to foster and promote the arts. The Council provides financial assistance to media artists under various programs. The Media Arts Section of the Canada Council supports emerging, mid-career and established artists working in film, video, new media, and audio. These grants are intended to assist independent artists working with media arts as a form of creative expression, and to support experimentation with form, content or technology in a variety of genres. Applicants must be Canadian citizens or permanent residents of Canada.

New Zealand

Background and Overview

The Audiovisual industry in New Zealand receives a number of legislative benefits administered by different institutions. The direct incentives provided are outlined below.

The main institution supporting the industry is The New Zealand Film Commission (NZFC), established under the New Zealand Film Commission Act. It was formed to assist with creating and promoting New Zealand films. The functions of the Commission are to encourage and participate in the making, promotion, distribution, and exhibition of films and generally to encourage the development of the New Zealand film industry. A special direction to the Commission is that it shall not make financial assistance available for any film project unless the Commission is satisfied that the film has or is to have significant New Zealand content. It handles a range of feature and short films.

Section 18 of the New Zealand Film Commission Act provides the criterion by which the NZFC is to determine whether or not a film has or is to have a significant New Zealand content. The relevant matters are "(a) the subject of the film; (b) the locations at which the film was or is to be made; (c) the nationalities and places of residence of; (i) the authors, scriptwriters, composers, producers, directors, actors, technicians, editors and other persons who took part or are to take part in the making of the film; and (ii) the persons who own or are to own the shares or capital of any company, partnership, or joint venture that is concerned with the making of the film; and (iii) the persons who have or are to have the copyright in the film; (d) the sources from which the money that was used or is to be used to make the film was or is to be derived; (e) the ownership and whereabouts of the equipment and technical facilities that were or are to be used to make the film, (f) any other matters that in the opinion of the Commission are relevant to the purposes of the Act."

Form and Operational Features of Incentives

Loan Equity Finance

The NZFC provides financial assistance for New Zealand feature film projects and New Zealand filmmakers, by way of loan or equity financing. They commit up to 8% of their annual budget to feature film development financing, and up to 60% to feature film production financing. There were 65 feature-length films or telemovies made in New Zealand from 1990-1999 inclusive, 47 of which received NZFC investment. There were 61 such productions in New Zealand from 2000-2005 inclusive, of which 25 received NZFC investment.

Large Budget Screen Production Grant Scheme

Anyone filming a large budget production (whether a feature film, a telemovie or a television series) in New Zealand may be eligible for assistance under the Large Budget Screen Production Grant (LBSPG) scheme. Applicants who are eligible are granted a sum totalling 12.5% of the Qualifying New Zealand Production Expenditure (QNZPE). QNZPE is generally defined as the production expenditure incurred for, or attributable to goods and services provided in New Zealand, the use of land located in New Zealand, and the use of a good that is located in New Zealand at the time that good is used in the making of the screen production. QNZPE does include costs of all cast and crew while in New Zealand. To access the scheme the applicant's QNZPE must be at least NZ$15 million. Where the QNZPE is between NZ$15 million and NZ$50 million the QNZPE must be at least 70% of the film's total production expenditure. Where the QNZPE is NZ$50 million or more it will qualify for the grant regardless of the percentage ratio of QNZPE to the screen production's total production expenditure. In the case of television series, individual episodes which have completed principal photography within any 12 month period and with a minimum average spend of NZ$500,000 per commercial hour, may be bundled to achieve the total of $15 million.

Applicants must be either a New Zealand resident company, or a foreign corporation operating with a fixed establishment in New Zealand for the purposes of lodging an income tax return (both when it lodges the grant application and when the grant is paid). An applicant seeking the grant is not eligible for any other New Zealand Government film finance or tax incentives in relation to screen production. Payment of the grant is dependent on the Inland Revenue Department verification of the audited information provided to the New Zealand Film Commission (NZFC). Provided that the application for expenditure is complete and verified, the NZFC endeavours to approve payment within 3 months of application. The Ministry of Economic Development makes payment of the grant upon advice from the NZFC.

Film Production Fund

In the financial year 2000/2001, the New Zealand government contributed $22 million to enable the establishment of a Film Production Fund to boost the development of the New Zealand film industry. The investment was intended to boost jobs and opportunities in the industry. The government established the New Zealand Film Production Fund Trust to oversee the Film Production Fund. The Trust is an independent charitable trust, and it works closely with the New Zealand Film Commission. The Trust attracts further funding from other sources - including off-shore capital - and uses it to support films produced on a larger scale than those generally assisted by the Film Commission. Funding for these 'second tier' feature films provides a bridge for film makers between the highly subsidised, low budget first films that the Film Commission has traditionally backed and fully commercial productions. Films on this intermediate scale allow filmmakers to develop and display their talent to the point that international commercial investors become willing to finance future productions.

To be eligible for funding from the Fund, the film must satisfy the several binding requirements. Finance may be made available only to New Zealand filmmakers. Finance is to be directed only towards the production of feature films. Finance is to be directed only towards films having a significant New Zealand content. Others who invest in or give financial support for a film, which the Film Fund is also supporting, must receive no tax advantage, in New Zealand, other than the deduction available on the net amount of their own, direct investment or financial contribution. Simply, there must be no additional levering off the New Zealand tax base.

Scope of Incentives

The Loan Equity Financing scheme is available to feature film productions. Large budget productions, such as feature film, telemovie or TV series are eligible for assistance under the Large Budget Screen Production Grant scheme.

Other Key Features

There are a number of other factors that make New Zealand an attractive destination for film production.

Implicit Incentives

Labour Costs

Production labour costs in New Zealand are estimated to be 20% less expensive than Australia, UK and Ireland, 25% less than Canada and up to 33% less than the USA due to the absence of fringes and other on-costs. (PWC 2006) New Zealand also offers a 'fringe-free' labour zone for several reasons. Firstly, no payroll taxes are charged on New Zealand labour. Secondly, no-fault insurance is administered by the Accident Compensation Corporation (ACC). All New Zealand resident workers are covered by the ACC regulations. Overseas residents will have a different status according to the length of their stay in New Zealand and their status as employees of, or contractors to, the production company. Thirdly, New Zealand crew members are generally considered to be self-employed independent contractors. As a result, there are no compulsory fringe benefit tax obligations, personal benefits (such as holiday pay and health), government levies or union dues payable by the production. Fourthly, New Zealand is currently a non-SAG/DGA (Screen Actors Guild/ Directors Guild of America) country thereby relieving producers of overseas industry union issues. Union membership is voluntary in New Zealand.

New Zealand's Fiscal Situation

New Zealand government policy has created implicit incentives through an open, deregulated economy. This provides overseas investors with a stable, competitive, transparent, low cost business environment in which to invest for the long term. It has been estimated that New Zealand production costs are 20% cheaper than Australia and 32% cheaper than Canada, after any tax incentives or rebate schemes in those territories are taken into account and prior to the effect of New Zealand's tax exemption for large budget screen production grants (PWC 2006). The exchange rate effectively extends a project's budget. One New Zealand dollar has the same purchasing power as one US dollar. One New Zealand dollar is worth between USD$0.60 and USD$0.75 (the exchange rate was USD$0.75 on 15th June 2007).

New Zealand has a broad-based tax regime, designed to be comprehensive with few exemptions and incentives, with no sales, regional or state taxes, and no explicit capital gains tax. New Zealand operates under a self-assessment tax regime, whereby taxpayers are responsible for calculating their own tax obligations, paying the tax to the Inland Revenue and filing their tax returns. The self-assessment regime is buttressed by audit activity, and a stringent penalties regime (including penalties for late payment of tax, not taking sufficient care and having technically incorrect tax positions).

The corporation tax rate is 33% of world-wide taxable income, net of allowable deductions for company's tax resident in New Zealand, or if non-resident where income is sourced from New Zealand. This is lower than that of Japan, United States and Canada. A company is deemed to be tax resident in New Zealand if it is either incorporated in New Zealand, has its head office or centre of management in New Zealand, or if control of the company by its directors is exercised in New Zealand. Double Taxation Agreements (DTA's) may provide relief in some circumstances. New Zealand has DTA's with most developed countries, including the USA, Canada, Australia, the United Kingdom, and Ireland. As most New Zealand crews are self-employed and take care of their own taxes, there are no compulsory fringe benefit tax obligations.

New Zealand's year for income tax purposes is 1 April to 31 March. In certain circumstances approval may be obtained from the Inland Revenue to use a different balance date, such as to align with that used in a foreign jurisdiction. Income tax is charged on the world-wide taxable income, net of allowable deductions, for entities and individuals tax resident in New Zealand (immigration residency is not relevant). The income tax rate for individuals is 39% to the extent taxable income, net of allowable deductions, is over NZ$60,000 for New Zealand tax residents or if non-resident where income is sourced from New Zealand. Progressive tax rates (19.5% to 33%) apply for taxable income under this amount. There are no tax free thresholds. Non-residents will be subject to income tax on income sourced from New Zealand, or if there is a permanent place of business in New Zealand. These rules may be modified by Double Taxation Agreements New Zealand has entered into. New Zealand has DTA's with most developed countries, including the USA, Canada, Australia, the United Kingdom and Ireland.

New Zealand treats individuals as being tax resident in New Zealand if they have a permanent place of abode in New Zealand, or they are physically present in New Zealand for 183 days or more in any 12 month period. However, individuals who are also tax resident in countries which have a DTA with New Zealand are unlikely to be deemed to be tax resident in New Zealand if they spend less than two years in New Zealand and maintain a permanent home and personal and economic ties in their country of origin.

Overseas operations in New Zealand may be subject to New Zealand's comprehensive transfer pricing rules. These rules require goods and services passing between cross-border related parties to be made at arm's length prices. (An arm's length price is a price determined between a willing buyer and a willing seller where neither is under pressure to buy or sell). New Zealand also has certain debt to equity ratio requirements (thin capitalisation) that may restrict the interest deductions of overseas owned entities.

Goods and Services Tax

Goods and Services Tax (GST) is a value added tax levied at 12.5% on the supply of goods and services in New Zealand. Financial services (primarily debt and equity instruments) and domestic accommodation are exempt from GST. GST is charged at 0% on the export of goods and services. GST is intended to be a tax on the end user of goods and services. Therefore businesses that incur GST in the course of making their taxable supplies can claim back that GST from the Inland Revenue. All productions will incur GST on supplies received. Productions will be required to register for GST in order to claim back this GST cost, thereby effectively neutralising the effect of GST on the cost of production.

Registration for GST is compulsory where the value of supplies made in new Zealand in the prior 12 month period exceeds $NZ40,000 or there are reasonable grounds for believing that it will exceed $NZ40,000 within the following 12 month period. Special rules apply to non-residents making supplies in New Zealand. Any registered person must charge GST at 12.5% on taxable supplies made in New Zealand. If goods or services produced within New Zealand (such as the image) are exported to an overseas client then GST may be "zero-rated" i.e. GST is 0%, provided certain requirements are met. GST will be charged by GST registered suppliers on all production costs incurred in New Zealand, except financial services and domestic accommodation. Provided these production costs are incurred in making taxable supplies (either at 12.5% or 0%) the GST can be claimed back from the Inland Revenue. A GST invoice referred to as a "Tax Invoice" is required to be held for any claims above NZ$50 (including GST). Provided the production is effectively structured and registered, GST should not be a final cost to a production.

GST registered persons are required to account for the net GST paid and collected when filing GST returns. The options for filing GST returns are monthly, bi-monthly or six monthly, calculated on an invoice (accruals), payments (cash) or hybrid (mixed accruals/ cash) basis. The GST return is to be filed with the Inland Revenue by the last business day of the month following the end of the GST period. Film productions that export their goods or services usually elect to file their GST returns monthly, on an invoice basis in order to claim the GST cost on expenses regularly and improve cash flow.

South Africa

Background and Overview

The South African feature and commercial film industry has grown rapidly since the African National Congress came to power in 1994. In 1995, there were 4000 full-time jobs in the industry, a figure which grew to approximately 20,000 by 2004. The feature and commercial film industry in South Africa continues to grow vigorously. South Africa has seen growth in all areas of production, ranging from commercials and shorts to full-length films. The total value of the South African entertainment industry is estimated to be about 7.7 billion Rand (in 2004). South Africa, especially Cape Town, is capitalizing on a number of advantages that include good weather, a diversity of locations, English-speaking and experienced film crews and technicians, and good infrastructure to market its filmmaking capacity. South Africa has in recent years successfully attracted several Hollywood productions with big-name stars such as Samuel L. Jackson, Sean Penn, Colin Farrell and Nicholas Cage.

The South African film industry is clustered primarily in two locations, Cape Town and Johannesburg. There are approximately 150 registered producers currently active in South Africa, 15 of which command over 90 per cent of feature films and television production. In 2002-2003, 35 feature films and television series were shot in Cape Town. Cape Town is currently developing a major, Hollywood-style film studio. Dreamworld Film City will be a big, "one-stop shop" film production studio complex in Cape Town. When completed, Dreamworld Film City could generate employment for as many as 8,000 individuals. The estimated cost of the developing the studio is 400 million Rand, and it is due to receive approximately 60 million Rand in funding from the City of Cape Town. Construction began in early 2007 and the first phase of the studios is expected to be operational during 2008.

Form and Operational Features

Large Budget Film and Television Production Rebate Scheme

The Large Budget Film and Television Production Rebate scheme, established by the Department of Trade and Industry (DTI) in 2004, targets the production of foreign and local large budget films made in South Africa or under co-production agreements. Eligible companies must either be a South African resident company or a non-South African company with a South African business registration. Eligible applicants will qualify for a 15 per cent rebate on Qualifying South African Production Expenditure (QSAPE) for foreign productions, and up to 25 per cent on QSAPE for South African companies. Film projects must have begun after April 1, 2004 and must reach a threshold level of QSAPE of 25 million Rand in order to qualify for the rebates. Other requirements include 50 per cent completion of the principal photography in South Africa and a minimum of four weeks photography time. The maximum rebate for any project is 10 million Rand (USD 1.5 million). One attractive feature of the rebate system is that it allows for a company to bundle more than one production in order to achieve the 25 million Rand threshold. QSAPE is defined as the production expenditure spent by the applicant on copyright and goods owned by or facilities and services provided by South African entities or individuals.

All applicants are required to apply firstly for a provisional certificate from the DTI. They must supply the details of budgeted expenditure and other information. The provisional certification process provides the applicant with certainty that their film satisfies the eligibility criterion, and gives them an estimate of what portion of their expenditure will qualify for the Rebate. All applicants must submit a final rebate application to the DTI within three months of completion of the film production.

Debt and Equity Financing

The government's Industrial Development Corporation (IDC) considers the film industry one of its critical sectors. The Media & Motion Pictures division serves as a financing vehicle and will provide up to 49% of production costs in the form of debt finance and quasi-equity or equity finance. The minimum the IDC will contribute to a qualifying motion picture is 1 million Rand. Overall, the IDC reportedly has 250 million Rand (35 million USD) to finance film projects. The projects must secure significant theatrical release or high profile television airing from a distributor or broadcaster acceptable to the IDC. The IDC receives a back-end profit share commensurate with its financial participation. The IDC's recoupment must be on a pari passu basis with other investors. The IDC shares in the copyrights and ancillary rights of the project on a pro rata basis. The IDC's investment can only be expended in South Africa or the Southern Africa Development Community (SADC) countries.

Scope of the Incentives

Productions eligible for the large budget and television production rebate scheme include feature movies, telemovies, television series, and documentaries. Reality-TV shows, such as commercials and current affairs, news or sports programs are specifically excluded from the Rebate.

Other Key Features

The National Film and Video Foundation (NFVF) in Johannesburg was established in order to increase the local content quotas for television, which had a positive impact on the growth of the local film industry. During the year 2003, 24 films were produced in South Africa of which NFVF invested in 16, according to the DTI. Its capital stock for feature films is reportedly 35 million Rand.

Denmark

The Danish Film Institute subsidises a large number of film productions each year, and receives considerable funding from the State. Its budget in the years 2004, 2005, 2006 and 2007 was €48m, €51m, €51.5m and €49.5m, respectively. This far exceeds the state funding of the Irish Film Board: Dail Eireann voted to give the Irish Film Board a total budget of €19.659m for 2007. Denmark and Ireland are similar in terms of population (5.4m and 4.1m respectively in 2007) and GDP per capita ($37,000 and $44,500 in PPP respectively in 2006), so one would have expected them to have similar levels of funding.