

CHAPTER 9

TAX REFORM AND FILM SOCIETIES

As you're probably aware, the Commonwealth Government has introduced a Goods and Services Tax (GST) from 1 July 2000. This is associated with a number of other changes to the tax system. It is important for all film societies to consider the effect these changes will have on them.

The information correct to our knowledge, but we encourage film societies to make their own enquiries (you may seek advice from the Australian Taxation Office (ATO) or professional taxation advice) before acting on this information.

AUSTRALIAN BUSINESS NUMBER (ABN)

One of the cornerstones of The New Tax System is the Australian Business Number (ABN). It is an important part of the new Pay-As-You-Go (PAYG) system for businesses.

You will need an ABN if:

- You have annual turnover of \$50,000 or more (\$100,000 for charities and non-profit organisations); or
- You have employees currently paid under the PAYE system;
or
- **You are a non-profit organisation with tax-exempt status;**
or
- You provide services to businesses.

It is likely that most film societies will need an ABN. The New Tax System - Registration for Companies and other Organisations

packages (including the application form for registration) are available from ATO and possibly banks and newsagents.

The same form is used to apply for an ABN and to register to pay the goods and services tax (GST). You may register for an ABN, but state that you do not want to register for GST, if your turnover is under \$50,000 (\$100,000 for charities and non-profit organisations)

If your film society provides services to businesses, it is important to get an ABN. Otherwise, businesses making payments to you for your services of more than \$50 will be required to withhold tax under the Pay As You Go (PAYG) system (currently at the rate of 48.5 per cent, equivalent to the highest tax rate plus the Medicare levy). "Services to businesses" include grants from government organisations such as the NSW Film and Television Office or Cinemedia, grants from local councils, and sponsorships from philanthropic local businesses.

PAYG WITHHOLDING

PAYG withholding also applies to payments by film societies. Film societies need to be aware that from 1 July 2000, in a business-to-business transaction, the purchaser is obliged to withhold tax if the supplier does not provide their ABN. To withhold, it is necessary to be registered with the ATO as a withholder. There are penalties for failing to withhold. It is to be hoped that film societies will be able to delay their payments until an ABN is supplied, but if no ABN is forthcoming, a film society that is not merely "a hobbyist conducting an activity without reasonable expectation of a profit" is required by law to withhold.

INCOME-TAX EXEMPT STATUS

Income tax exempt charities must register for an ABN before they can be endorsed. "Charity" and "charitable" have a technical legal meaning. Purposes will be charitable if they are of benefit to the community, or a section of it, through:

the relief of poverty or sickness or the needs of the aged
the advancement of education the advancement of religion, or
other purposes beneficial to the community, including promoting art and culture through means such as music and drama.

Section 23(g)(ii) of the Income Tax Assessment Act 1936 provides that the income of a non-profit society, association or club that is established for musical purposes, or for the encouragement of music, art or literature, is exempt from income tax. It is under this section of the Act that organisations such as the Sydney Film Festival claim their exemption from income tax. The Act is progressively being rewritten as The Income Tax Assessment Act 1997. However, the 1936 Act has not been repealed and both Acts remain current. The corresponding section of the Income Tax Assessment Act 1997 is section 50-45.

An organisation that is exempt from income tax by virtue of section 23(g)(ii) of the 1936 Act or section 50-45 of the 1997 Act is a "charitable institution" or "charity." If you determine that your film society is such a "charitable institution," it is important that you apply for an ABN, as it is required in order to apply for endorsement as an "income tax exempt charity." The Commissioner of Taxation has advised that income tax exempt charities will not be exempt from paying income tax after 1 July 2000 unless they are endorsed.

To ensure that your film society goes through the process of endorsement, when completing the Application to Register for The New Tax System, answer question 10 as follows:

Are you a charitable institution or a trustee of a charitable fund?

"Yes."

If you answer "yes" at question 10, you will be sent an Application for Endorsement as an Income Tax Exempt Charity, which should arrive in the post at about the same time or shortly after you receive the notification of your Australian Business Number registration.

DEDUCTIBLE GIFT RECIPIENT

The requirements for qualifying as a deductible gift recipient are quite onerous and it would be difficult for a film society to qualify. An appropriate answer to question 11 on the Application to Register for The New Tax System would therefore be as follows:

Do you intend to apply for endorsement as a deductible gift recipient?

"No."

APPLICATION TO REGISTER FOR THE NEW TAX SYSTEM

Existing businesses paying income tax have received a partly-filled Application to Register for The New Tax System. The form available from banks and newsagents assumes that businesses filling it in will be new businesses or businesses that have changed their structure. If yours is not a new film society, an appropriate answer to question 20 will be as follows:

Are you applying for registration because:

"of other circumstances"

"REGISTRATION FOR THE START OF THE NEW TAX SYSTEM"