



Australian Government

Department of Infrastructure, Transport,  
Regional Development, Communications and the Arts

# Digital Games Tax Offset (DGTO) Glossary

July 2023

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# Digital Games Tax Offset (DGTO) glossary

The purpose of this glossary is to assist prospective applicants for a certificate for the DGTO to accurately claim qualifying Australian development expenditure (QADE) under Division 378 of the Income Tax Assessment Act 1997 (the ITAA97). It should be read in conjunction with the specific subsections of the ITAA97 and the Digital Games Tax Offset Guidelines (the Guidelines) as published from time to time on the website of the Australian Government Department of Infrastructure, Transport, Regional Development, Communications and the Arts (the Department). If there is an inconsistency between these Guidelines and the ITAA97 or the DGTO Rules, the provisions in the ITAA97 and the DGTO Rules prevail.

## Contact

For further information regarding the DGTO please contact the Digital Games and Business Development Section of the Department of Infrastructure, Transport, Regional Development, Communications and the Arts at:

Email: [DigitalGames@arts.gov.au](mailto:DigitalGames@arts.gov.au)

Tel: +61 2 6271 1006

Web: [www.arts.gov.au](http://www.arts.gov.au)

Screen Incentives Section

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Australia

For information about taxation and the other obligations of companies commencing business in Australia, registering for an ABN, filing business activity statements and annual income tax returns, please consult the ATO website at [www.ato.gov.au/businesses/](http://www.ato.gov.au/businesses/).

Alternatively, the ATO enquiry line for businesses is: +61 132866 (or +61 137286 for tax agents).

## Acronyms

<b>ACN</b>	Australian Company Number	<b>ITAA97</b>	Income Tax Assessment Act 1997, as amended
<b>ABN</b>	Australian Business Number	<b>ITAA36</b>	Income Tax Assessment Act 1936, as amended
<b>ASIC</b>	Australian Securities and Investments Commission	<b>NFT</b>	Non-fungible token
<b>ATO</b>	Australian Taxation Office	<b>PDV</b>	Post, Digital and Visual Effects
<b>EM</b>	Explanatory Memorandum to the Treasury Laws Amendment (2022 Measures No. 4) Act 2023, particularly to Schedule 1 to that Act and EM	<b>QADE</b>	Qualifying Australian Development Expenditure
<b>FBT</b>	Fringe Benefits Tax	<b>RBA</b>	Reserve Bank of Australia
<b>GST</b>	Goods and Services Tax	<b>SAP</b>	Substituted Accounting Period
<b>IGDC</b>	Independent Game Development Consultant	<b>SPV</b>	Special Purpose Vehicle

# A-Z of terms

## A

### Accounting, Audit and Tax Advice

Expenditure relating to accounting and audit services and tax advice is excluded from development expenditure and is not QADE.

### Accrual Basis of Expenditure

The DGTO operates on an accrual basis of accounting.

Applicants should note that:

- In the case of an application for a completion certificate or a porting certificate, QADE must be incurred in the income year for which the DGTO is claimed or an earlier year (provided it is incurred after 1 July 2022);
- In the case of an application for an ongoing development certificate, QADE must be incurred in the single income year for which the DGTO is claimed;
- As a broad guide, expenditure is incurred by a company at the time that it owes a money debt that it cannot escape (a presently existing liability to pay the money).
- Where expenditure is claimed as QADE, an applicant must be able to provide supporting documentation to demonstrate the existence and timing of the presently existing liability. Such documentation may include a fully executed and operating contract in respect of the expenditure.

Further information on the meaning of incurred is summarised in ATO Taxation Ruling TR 97/7. Applicants should obtain advice from a qualified advisor if it is unclear whether or not relevant expenditure has been incurred at the relevant time.

### Acknowledgments

See Credits.

### Administrative Employees and Contractors

Expenditure relating to general administrative employees or independent contractors is not considered to be directly related to the development of the game and is not development expenditure or QADE.

### Advances

All payments made by way of an advance on a payment in respect of deferrals, profit participation or residuals are excluded from development expenditure and are not QADE.

### Annual Leave

If a person's remuneration is QADE then the annual leave linked to that remuneration and payable by the applicant company is also development expenditure and QADE.

## Applicant Company

There can only be one applicant company in respect of QADE for a particular game or port. The applicant company in respect of a game must be the company that is primarily responsible for undertaking or having undertaken the activities necessary for the development of the game in Australia. This is the company that itself undertakes the development of the game, for example through the engagement of employees and independent contractors.

Where two companies are both carrying out development activities on the game, which company is primarily responsible for the development becomes a matter of fact and degree. Companies co-developing a game in the rare circumstances where it may be unclear which is primarily responsible for the development of the game should reach mutual agreement which company is the primary applicant for the purposes of the DGTO. Documentation of this may be required as part of the application process.

There is no requirement for the company applying for the Completion Certificate to be the same as that applying for a Porting Certificate or an Ongoing Development Certificate with respect to a particular game. Similarly, different companies can apply for an Ongoing Development Certificate with respect to a particular game across subsequent financial/income years.

An applicant for a certificate for the DGTO must be a company with an active ABN. The company must additionally be:

- an Australian resident; or
- a foreign resident but with a permanent establishment in Australia. For the avoidance of doubt, the development activities must have occurred in and through that Australian permanent establishment to be eligible.

A company is an Australian resident if:

- it is incorporated in Australia; or
- if not incorporated in Australia it carries on business in Australia and has either:
  - its central management and control in Australia; or
  - its voting power controlled by shareholders who are residents of Australia.

Further information on the meaning of 'permanent establishment' and 'central management and control' can be found on the ATO website. Potential applicants should contact the ATO if this aspect of the eligibility of the applicant company is unclear.

A company acting in the capacity of a trustee of a trust is not eligible for the DGTO. It cannot incur QADE or receive a certificate for the DGTO.

See also Trusts.

## Application Fees

Expenditure relating to applications for the DGTO or for any other assistance from state, territory or federal bodies is administrative in nature and therefore excluded from development expenditure and is not QADE.

## Apportionment of Expenditure

Where an applicant company has incurred expenditure across different activities or games, only the amount attributable to the eligible activity or to the game that is the subject of the application can be claimed as QADE.

For example:

- an applicant company incurs expenditure under a contract with an artist to create content for three different new games. The application for a completion certificate should apportion the total expenditure between the games, so that there is an amount referable to each game that is the subject of each QADE application; or
- an applicant company incurs expenditure with an employee who engages in both development activities and excluded (non-development) activities (such as marketing duties). The application for a certificate should apportion that employee's expenditure between the QADE and non-QADE activities.

The applicant must maintain records sufficient to satisfy that the apportionment is appropriate, such as work orders, schedules, or reporting from internal project management systems.

However, to reduce compliance costs, the company does not need to apportion expenditure with an employee or independent contractor if it is 'substantially attributable' (which means at least 90%) to activities that qualify as QADE (and the remaining 10% is not explicitly excluded from QADE).

For example, if a company incurs expenditure on an employee who is developing an eligible game 90% of their time but also attending unrelated meetings, internal training or team-building activities for the remainder, the company can claim 100% of the expenditure on the employee.

See also Qualifying Australian Development Expenditure (QADE).

## Arm's Length Expenditure – Integrity Measure Exclusion

Expenditure incurred in connection to a transaction where the applicant company and another party did not deal with each other at arm's length is excluded from development expenditure and is not QADE.

The concept of 'Arm's length' is defined in section 995-1 of the ITAA97. In determining whether parties deal with each other at arm's length, any connection between the parties and other relevant circumstance should be considered.

For the purposes of the offset, where the company incurs expenditure directly or indirectly under an arrangement and any parties to the arrangement did not deal with each other at arm's length, there is no apportionment – the whole amount is excluded.

It is important to note that the operation of the ITAA97 does not prohibit non-arm's length transactions. The applicant company can enter into such transactions for the purposes of developing the game; however, the applicant company is unable to claim such expenditure as QADE for the purposes of the DGTO.

See Qualifying Australian Development Expenditure (QADE).

## Assets

Expenditure relating to the acquisition of assets, including computer hardware, software or physical workspaces, is excluded from development expenditure and is not QADE.

See Depreciation

## Associates Test - Integrity Measure Exclusion

Subject to two limited exceptions to this rule (listed below), expenditure incurred in relation to an entity that is an associate of the company is excluded from development expenditure and is not QADE. For the purposes of calculating QADE, where the company incurs expenditure in relation to an associate, there is no apportionment – the whole amount is excluded.

It is important to note that the operation of the ITAA does not prevent a company from incurring expenditure in relation to an associated entity. The applicant company can enter into such transactions for the purposes of developing the game; however, the applicant company is unable to claim such expenditure towards the calculation of the DGTO.

An associate of a company is defined by section 318 of the ITAA36. Whether or not expenditure will be excluded from the DGTO under this test is a matter of fact and degree. The concept of an ‘associate’ is broader than the concepts of ‘connected with’ or ‘affiliate of’ (see Rebate Cap) and can extend to other relationships between parties including relatives, share ownership interests, or any other relationship that could direct, instruct, or influence the company or its directors. Still, in practice, it is likely that any entity identified through the control and affiliates test will also be an associate for the purposes of this test.

For example, where an entity has a passive, non-majority, non-controlling interest in the applicant company, the applicant company has operational independence that is not in theory or in practice revokable, and the in absence of significant voting power, board seats, or shared ownership interests (whether directly or indirectly exercised through interposed entities or other family members), then it is unlikely that the first entity is an associate of the applicant company – because that first entity could not direct, instruct or influence the applicant company or its directors.

An entity is also unlikely to be an associate of the company where the relationship purely arises from normal business transactions engaged on commercial terms.

There are two exceptions to the above associates integrity test:

1. The first exception relates to expenditure in relation to an employee or independent contractor who is a natural person, and who is an associate of the employer but does not have sufficient influence or control – an “ordinary employee”. Expenditure related to such circumstance is considered QADE to the extent it relates to eligible expenditure incurred in the development of an eligible game. For example, an employee who has a minor shareholding under an employee share scheme, but otherwise exerts no meaningful influence on company decisions, would be covered by this exception.
2. The second exception relates to ‘influential employees’, being an employee or independent contractor who is a natural person, who is an associate of the company and has sufficient influence or control – an “influential employee”. Under this exception, expenditure incurred on the remuneration of an influential employee can be claimed up to a limit of \$AUD65,000 per employee per year. Expenditure under this exception is only QADE to the extent that it relates to eligible expenditure incurred in the development of an eligible game. For example, a studio CEO who is also a lead designer working on the development of a game would be covered by this exception. For the avoidance of doubt, an influential employee who does not directly work on developing eligible games cannot claim any remuneration as eligible expenditure. Please note, nothing in the DGTO prevents a company from paying more than the prescribed amount to an influential employee, but only the amount up to the limit can be claimed as QADE.

When submitting your application, the application form requires a list of all relevant associates or potential associates with whom transactions have been undertaken relevant to qualifying Australian development expenditure

See Arm’s length arrangements.



## Augmented Reality (AR)

An AR application is eligible for the DGTO if it meets the definition of a Digital game.

## Australian Business Number

All applicants must be either Australian resident companies or foreign resident companies with a permanent establishment in Australia, and hold an active ABN. This applies when the company incurs development expenditure, lodges its income tax return and when the offset is due to be credited.

Each applicant will need to provide an ASIC company statement which includes the registered address of the applicant and the names and addresses of directors and shareholders of the company.

A company acting in the capacity of a trustee of a trust is not eligible for the DGTO and therefore can neither be certified, nor incur QADE.

See Trusts

## Australian Residents for Tax Purposes

The concept of Australian residency is outlined in the ITAA36 and explained on the ATO website: [www.ato.gov.au](http://www.ato.gov.au).

For the DGTO, the applicant company must be an Australian tax resident (including an Australian permanent establishment for a foreign tax resident), and for development expenditure to be eligible as QADE the employees need to be Australian tax residents, and payments must be on goods and services that are acquired/provided in Australia.

### Individuals

The ATO explains that generally a person is an Australian resident for tax purposes if any of the following applies:

- the person has always lived in Australia;
- the person has moved to Australia and lives here permanently;
- the person has been in Australia continuously for six months or more, and for most of the time has been in the same job and living in the same place;
- the person has been in Australia for more than half of the relevant financial year, unless:
  - their usual home is overseas; and
  - they do not intend to live in Australia.

Some examples:

- an Australian citizen who lives permanently in Los Angeles would not be considered an Australian resident for the purposes of determining QADE; and
- a United Kingdom citizen, who has lived in Australia for 12 months and intends to stay in Australia permanently, but who does not hold permanent residency, would be an Australian resident for the purposes of calculating QADE.

## Companies

A company is an Australian tax resident if:

- It is incorporated in Australia; or
- If not incorporated in Australia – it carries on a business in Australia and has either:
  - Its central management and control in Australia; or
  - Its voting power is controlled by shareholders who are residents of Australia.

## B

### Bank Fees

Expenditure relating to bank fees is considered expenditure on financing and therefore excluded from development expenditure and is not QADE.

### Blockchain Platforms

Games that use blockchain platforms and involve features such as cryptocurrencies, NFTs and smart contracts are not prohibited from eligibility for the DGTO. However, a game will not be eligible for the DGTO if it is a gambling service or substantially comprised of gambling-like practices as set out in the DGTO Guidelines.

### Bonuses

A bonus payment is QADE but only to the extent to which it is remuneration incurred in the development of an eligible game.

For example, a bonus linked to the performance of a development goal (such as a coding milestone) can be QADE. However, bonuses that are linked to the performance of the game (such as number of players) or the performance of the company (such as meeting a revenue or profit target) are excluded from development expenditure and are not QADE because they are not related to the actual development of the game.

It is important to note that for bonuses to be considered QADE, in addition to being directly linked to an eligible development activity, they also need to be legally incurred in the relevant income year to qualify.

For example, if a game is completed just prior to the company's 'June end' financial/income year and an employee is paid a bonus for their contribution to the game after the close of the income year, the bonus has been incurred in a subsequent financial/income year and cannot form part of the QADE claim in respect of that completed game.

### Budget, Final Cost Report and QADE Spreadsheet Format

When an applicant company must provide a budget, final cost report or QADE spreadsheet for an application for the DGTO, it must be in the format prescribed in the application form.

### Bug Fixes

Expenditure relating to testing and debugging the game can be claimed as QADE.

## C

### Catering

Expenditure relating to catering or hospitality is excluded from development expenditure and is not QADE.

### Classification Costs

Expenditure on obtaining or maintaining a classification under the Classification (Publications, Films and Computer Games) Act 1995 is QADE.

### Completed Game

A game is considered to be completed at the earlier of:

- when the game is first released to the general public (other than for testing purposes) (see Released to the General Public and Testing); or
- if the game is developed by a company under a contract entered into at arm's length with another entity, when the company first provides a version of the game to the entity in a state where it could reasonably be regarded as ready to be released to the general public.

A game that is not completed is not an eligible game, because such a game cannot receive classification nor is it widely available to the general public over the internet. For example, a game that is cancelled partway through the development before release is not likely to meet the game eligibility requirements for the DGTO.

### Completion Certificate

A company can apply for a Completion Certificate for a single digital game that incurs QADE of at least \$AUD500,000.

For Completion Certificates, QADE may be incurred in any year before and including the year in which QADE ceased to be incurred. QADE ceases to be incurred on the earlier of:

- the day after the game is first released to the general public;
- the day on which the applicant company applies for a Completion Certificate in relation to the game; or
- the day on which the game has been available to the public for the purposes of conducting testing for one year.

The relevant income year for which the DGTO can be claimed by the applicant company for a Completion Certificate is the income year in which the game was released to the general public (other than for testing purposes). For example, if a game is released on 1 January 2023, the relevant income year for the DGTO for that game is 2022-23.

To be eligible for a Completion Certificate, a digital game must be complete.

A company that develops a part or component of a digital game is still eligible for a Completion Certificate in respect of that game, provided it is the appropriate applicant company. If the company provides the part or component of a game to the contracting entity, the company is not eligible for the completion certificate until the "whole" game is completed and the "whole" game can satisfy the requirements of a Digital game and is released to the general public.

See also Applicant Company, Ongoing Development Certificate and Porting Certificate

## Computer Hardware

Expenditure relating to computer hardware such as PCs, developer kits and motion capture/VR rigs is excluded from development expenditure and is not QADE.

## Content Rights

See Copyright and Trademarks.

## Contingency

Contingency must be incurred to be considered development expenditure. As such, no unrealised contingency elements will be accepted for the purposes of QADE. Contingency is QADE to the extent the activities on which it was incurred are QADE.

## Copy of Completed Game

Upon request, the applicant company to whom a final certificate is issued under the DGTO must make available to the National Film and Sound Archive of Australia (NFSA) a launch copy of the game in an accepted format (see [www.classification.gov.au/for-industry/apply-for-classification/classify-computer-game](http://www.classification.gov.au/for-industry/apply-for-classification/classify-computer-game)) and any materials that accompanied the game when sold to the general public. The applicant may also be requested to make available to the archive:

- At least 30 minutes of gameplay footage of the published version of the game supplied in the highest resolution format available, e.g. ProRes HQ 422 or better;
- Soundtrack delivered as uncompressed files;
- Physical game release materials if applicable, including collectors' editions, published soundtracks;
- Publicity material, e.g. trailers, dev diaries, production documentaries, high-resolution game and box art;
- Press kit;
- Game credits, and biographies of key production personnel, if not already included within the above press kit, to be supplied as PDF(s);
- Behind-the-scenes material, e.g. concept/storyboard art; and
- Additional promotional material or merchandise.

If you are required to provide a copy of the game materials, you will be contacted by the Department. No materials should be sent to the Department or the NFSA without prior discussion.

Should you have any concerns regarding providing a copy of the game to the NFSA, you should relay these concerns to the Department. The Department, acting on behalf of the Minister, will consider such concerns on a case by case basis.

## Copyright and Trademarks

Expenditure relating to acquiring or licensing copyright (including literary works, musical works, artistic works, sound recordings and films such as archive) or trademarks is excluded from development expenditure and is not QADE.

The operation of this exclusion does not apply when the acquisition or licence is part of the normal engagement of employees or contractors by the company.

For example, an employment agreement may include an assignment of copyright clause under which the employee assigns any copyright in works the person will create at any time in the course of its employment to its employer.

Alternatively, an artist may be engaged as an independent contractor to create art assets for the game. The terms of that agreement are likely to include an assignment or licence of the copyright in the assets created to the company.

Expenditure under such engagement of employees and contractors can be considered to be development expenditure and therefore QADE.

## Credit Card Interest

Expenditure relating to credit card interest is considered expenditure on financing and therefore excluded from development expenditure and is not QADE.

## Credits (Acknowledgement of Australian Government Support)

There is no requirement to credit the Australian Government in the game in order to receive the Offset.

Where the applicant chooses to include a credit or publicly acknowledge the support of the Australian Government, the Government may in turn publicise the information that the game was made with the support of the Offset.

If an applicant chooses to credit the Australian Government please contact the Digital Games Section to discuss wording and / or use of the Australian Government logo.

## Cryptocurrencies

Currently, in Australia, cryptocurrencies are not treated as money for tax purposes. Instead, they are treated as assets; there are no special rules for crypto assets and the normal application of the tax system applies (e.g. including Capital Gains Tax). See the ATO website for a range of guidance related to cryptocurrencies and crypto assets, including Non-Fungible Tokens.

For the purposes of the DGTO, an eligible game must not substantially comprise gambling elements (among other things). Where loot boxes that allow a player to directly or indirectly purchase with real currency (or assets including cryptocurrencies) unknown virtual items determined by randomisation or chance and allow, within the game, for those items to be transferred for real currency (or assets including cryptocurrencies) or cashed out for real currency (or assets including cryptocurrencies), those loot boxes may be treated as akin to a gambling element and thus affect the game's eligibility for the DGTO.

See Blockchain Platforms, NFTs and Gambling

## Cut Scenes

A cut scene (a sequence in a digital game that typically is not interactive and develops the storyline at certain stages, on completion of a level, or when a player's character dies) is considered part of the digital game, and eligible activities associated with its development are considered QADE.

## D

### Deferments/Deferrals

Deferments/deferrals refer to payments contingent on an event. Typically, they are payments linked to the receipts, earnings, profits or commercial performance of the digital game.

Contingent payments are not legally incurred and therefore are not development expenditure or QADE.

## Depreciation

The decline in value of a depreciating asset is excluded from development expenditure and is not QADE.

## Development Expenditure

Development expenditure is the expenditure incurred by the applicant company in, or in relation to, the development of the game.

The general test for development expenditure in relation to a digital game is that any expenditure a company incurs in relation to the development of the game is eligible expenditure, unless it is specifically excluded (as per the ITAA97 378-35). The purpose of this general test is to cover roles and activities that may vary in title or substance to those specifically listed, but are in line with the policy objective and inclusions of the offset.

Development expenditure explicitly includes:

- remuneration provided to employees and independent contractors engaged by the company to carry out work in connection with the development of the game. As above, it is a broad definition but specifically includes:
  - project managers and artistic, creative and design directors;
  - game designers;
  - software developers and programmers;
  - engineers (including for audio, graphics, physics and software);
  - user experience designers and testers;
  - behaviour analysts;
  - quality assurance testers;
  - writers;
  - artists, animators and performers (for music, voice and motion capture);
  - songwriters, composers, musicians and sound designers; and
  - persons performing roles that are broadly similar to these.
- expenditure on research for the game;
- expenditure on prototyping for the game;
- expenditure on underlying game infrastructure (for example, game engines and anti-cheating controls);
- expenditure on user testing, debugging and collecting user data for the game;
- expenditure on updating the game ('Live ops');
- expenditure on obtaining or maintaining a classification under the Classification (Publications, Films and Computer & Games) Act 1995; and
- expenditure on adapting the game for use on particular platforms (porting).

There are also specific exclusions, and such items and activities do not form part of development expenditure, even if the expenditure is captured by the general test or specific listing outlined above – see ITAA 1997 368-35. These exclusions relate to expenditure that is incidental or unrelated to game development activity, or represent an integrity risk (see further subcontracting, associates test and arm's length expenditure). Expenditure that is excluded as ineligible and therefore not QADE is detailed throughout this guidance document.

If a company has incurred an item of development expenditure, that item can be claimed as QADE if it is incurred for, or reasonably attributable to, goods and services provided or acquired in Australia. See Qualifying Australian Development Expenditure (QADE).

## Development, Financing and Publishing Agreements

Applicants will be required to provide all agreements relating to the development, financing and publishing of the game at the time of making an application for a certificate for the DGTO.

### Digital Game

For the purposes of the DGTO, a digital game is a game in electronic form that is capable of generating a display on a portable electronic device, computer monitor, television screen, liquid crystal or similar medium that allows the playing of an interactive game

For the purposes of the definition of 'digital game', an interactive game is a game where the sequence of events is determined in response to the decisions, inputs and direct involvement of the player.

An eligible digital game is primarily developed to be made available to the general public for educational or entertainment purposes, and must be:

- made available for use over the internet; or
- primarily played through the internet; or
- only operates when a player is connected to the internet.

If a game has an 'offline mode', it may still be an eligible game if it meets the other eligibility criteria.

To be eligible, the game must also not:

- be a gambling service (within the meaning of the Interactive Gambling Act 2001) or substantially comprise gambling or gambling-like practices;
- contain elements that are likely to lead to being refused an Australian classification under the Classification (Publications, Films and Computer Games) Act 1995;
- be primarily developed for industrial, corporate or institutional purposes; or
- be primarily developed to advertise or promote a product, entity or service.

### Distribution Expenditure

Expenditure relating to the distribution of the game (including, for example, manufacture costs, sales rebates and commissions) is excluded from development expenditure and is not QADE.

## E

### Early Access

Early access is a funding model where the public can pay to play an early version of the game (either through an up-front purchase or in-game transactions) and the developer uses those funds to further develop the game.

Provided the early access is a commercial release available to the general public, the date of early access is likely to be the date that the game is first Released to the general public.

Accordingly, for new games applying for a Completion Certificate:

- the relevant income year in which the game was completed will be the income year of the early access;
- the applicant company will not be able to claim any expenditure incurred after the date of early access as QADE in respect of that completed game; and

- further development of the game during the early access period and after the full commercial release may be claimable as part of any application for an Ongoing Development Certificate for the DGTO.

## **Employment and Contractor Agreements**

The applicant company must establish that there is a direct link between the expenditure and the development of the game. In order to do this, applicants may be required to provide employee and contractor agreements, job descriptions, time sheets and other documentation in the application for a certificate for the DGTO.

## **Endorsements**

Expenditure relating to permissions to use an image, likeness or name or endorsements by a person or entity is excluded from development expenditure and is not QADE.

## **Engines and Middleware**

See Game Infrastructure

## **Entertainment and Hospitality Expenditure**

Expenditure relating to entertainment and hospitality (for example staff parties, the purchase of alcohol or birthday cakes) is excluded from development expenditure and is not QADE.



## Expenditure in a Foreign Currency

All development expenditure and QADE incurred in foreign currencies must be converted into Australian dollars. Conversion requires the average (daily or monthly – the applicant may choose) of the relevant exchange rates, using the start and end dates outlined below:

Certificate Type	Start date	End date – the earlier of:	
<b>Completion Certificate</b>	The date that development expenditure was first incurred in completing the game.	The date that development expenditure was last incurred in completing the game; OR	The date that the company submits an application for a Completion Certificate in relation to the game.
<b>Porting Certificate</b>	The date that development expenditure was first incurred in porting the game.	The date that development expenditure was last incurred in porting the game; OR	The date that the company submits an application for a Porting Certificate in relation to the game.
<b>Ongoing Development Certificate</b>	The date that development expenditure was first incurred on the ongoing development of the games in the income year.	The date that development expenditure was last incurred on the ongoing development of the game(s) in the income year; OR	The date that the company submits an application for an Ongoing Development Certificate in relation to the games in the income year.

Official published exchange rates are available from the Reserve Bank of Australia at [www.rba.gov.au](http://www.rba.gov.au).

## Expenditure Threshold

A game must incur QADE of at least \$AUD500,000 (as determined by the Minister) to be eligible for a Completion, Porting or Ongoing Development Certificate for the DGTO:

- Completion Certificate – minimum of \$AUD500,000 in QADE on a single title across one or more income years;
- Porting Certificate – minimum of \$AUD500,000 in QADE on a single title across one or more income years; or
- Ongoing Development Certificate – minimum of \$AUD500,000 on one or more titles across a single income year.

See also Qualifying Australian Development Expenditure (QADE).

## F

### Financing Expenditure

Expenditure relating to the financing of the game is excluded from development expenditure and is not QADE.

For example, expenditure on:

- interest on credit cards or loans, advances or other finance;
- repayments of advances, loans or equity to investors; and

- expenditure required to obtain finance such as a QADE opinion for a prospective lender, or the costs of developing materials to pitch to potential investors,

is all considered financing expenditure and is not considered to be development expenditure or QADE.

## Fines

Expenditure relating to fines (eg parking fees, late fees or penalties) is not considered to be for the development of the digital game and is not QADE.

## Foreign Currency

See Expenditure in foreign currency.

## Forum Administrators and Moderators

Expenditure relating to forum administrators and moderators in relation to game development is considered to be incidental, but not directly attributable, to the development of the game and is excluded from development expenditure and is not QADE.

## Fringe Benefits

Fringe benefits provided as part of an eligible employee's remuneration package (such as a car in lieu of salary or wages) may be considered QADE. Note that the applicant company may have to pay fringe benefits tax in relation to such items.

See also Annual leave and Superannuation

## Fringe Benefits Tax

Government fees, fines, penalties, taxation or any such payment (including Fringe Benefits Tax) is not 'remuneration' nor 'expenditure' and is therefore not development expenditure nor QADE.

In Australia, Fringe Benefits Tax is paid at the employer level. See the ATO website for further guidance.

## G

### Gambling and Gambling-Like Practices

A game that can be considered a "gambling service" under the Interactive Gambling Act 2001 (IGA2001) is ineligible for the DGTO.

The meaning of "gambling service" under IGA2001 includes a gambling service under the ordinary meaning of that expression, but also expressly includes each of the following kinds of services:

- (a) a service for the placing, making, receiving or acceptance of bets;
- (b) a service the sole or dominant purpose of which is to introduce individuals who wish to make or place bets to individuals who are willing to receive or accept those bets;
- (c) a service for the conduct of a lottery;
- (d) a service for the supply of lottery tickets;

(e) a service for the conduct of a game where:

- the game is played for money or anything else of value;
- the game is a game of chance or of mixed chance and skill; and
- a customer of the service gives or agrees to give consideration to play or enter the game.

Some of the terms above are further defined in the IGA2001. Advice on whether your game is a gambling service under IGA2001 is best sought from your legal advisers. The Department cannot provide advice on the interpretation of the IGA2001. However, as part of assessment of a DGTO application, the decision-maker may make further inquiries and seek further advice if there are concerns about whether a game is likely considered a gambling service under the IGA2001.

A game that is not a gambling service but otherwise substantially comprises gambling or gambling like practices is also an ineligible game under the DGTO. Whether or not a game substantially comprises gambling will depend on the composition of each game.

For example, a slot machine simulator would likely be considered to substantially comprise gambling-like practices, regardless of whether the game involves any real money or money equivalent. However, an adventure game in which gambling-like activities are limited, such as a player participating in a game of poker as an incidental part of the narrative, would be unlikely to be deemed ineligible under this condition.

A game that has reliance on, or gives prominence to, “loot box” mechanics that allow a player the ability:

- to directly or indirectly purchase with real currency (or assets) unknown virtual items determined by chance; and
- to transfer or cash out, within the game, those items for real currency (or assets),

will be considered for the purposes of the DGTO to be substantially comprising gambling or gambling-like practices and be an ineligible game.

See also Blockchain platforms, cryptocurrencies, NFTs and Digital game.

## Game Engines

See Game infrastructure

## Game Infrastructure

Expenditure on underlying game infrastructure – being technology and coding necessary for the digital game to function – is QADE. Common examples of eligible technologies include: game engines, physics engines, dynamic lighting, user interfaces, game-specific payment systems, and anti-cheating controls.

Expenditure by the company on the development of game infrastructure can form QADE only to the extent to which it relates to the development of the specific digital game that is the subject of the application. For example, if the applicant company incurs expenditure:

- creating a new games engine needed for the development of the game; or
- creating a tool for an existing games engine needed for the development of the game,

then that expenditure is likely to be QADE.

Please note, if the expenditure incurred in developing such technology is used across multiple games, it can only be claimed as QADE once. Where the ‘base’ technology is modified for a particular game, only the additional expenditure can be claimed as QADE for that game.

## General Business Overheads

Expenditure relating to the company's general business overheads – including expenditure that is administrative in nature – is excluded from development expenditure and is not QADE.

## Goods and Services Tax (GST)

For the purposes of determining the amount of the DGTO, expenditure is taken to exclude GST. As a result, applicant companies are required to provide expenditure statements which are GST exclusive with their application for a certificate for the DGTO.

Expenditure related to government fees, fines, penalties, taxation or any such payment (including GST) is not 'remuneration' nor 'expenditure' and is therefore not development expenditure nor QADE.

## Gratuities (Gifts)

Gratuities or gifts are not considered development expenditure and is not QADE.

## H

### Human Resources

Expenditure relating to human resources (including recruitment services and expenditure on visas or work permits) is excluded from development expenditure and is not QADE.

## I

### Image Rights

Expenditure relating to permissions to use an image, likeness or name of a person or entity (or obtaining an endorsement by a person or entity) is excluded from development expenditure and is not QADE.

### Income Year (Financial Year)

The ITAA97 uses the term 'income year' instead of financial year, as an applicant company may have an accounting period ending on a day other than 30 June for tax purposes.

See Substituted Accounting Period.

### Industry Body Levies

A levy paid by the applicant company to an industry body is not considered to be for the development of the digital game and is not QADE.

### Insurance

Expenditure relating to insurance whether for the game or company is excluded from development expenditure and is not QADE.

## Interest

Interest is considered expenditure relating to the financing of the game or company and is not development expenditure or QADE.

## L

### Land or Premises

Expenditure relating to land or premises (such as Rent or direct purchase of land or buildings) is excluded from development expenditure and is not QADE.

### Legal Services

Expenditure relating to legal services is excluded from development expenditure and is not QADE.

### Localisation

Expenditure on localisation (changing the content of a digital game for the purposes of a specific region) can be claimed as development expenditure. To be considered QADE, the localisation services must have been performed in Australia.

## M

### Marketing Expenditure

Expenditure related to the marketing of the digital game or the company is excluded from development expenditure and is not QADE.

For example:

- advertising expenditure;
- publicity expenditure;
- promotional expenditure include attendance at conferences and festivals to promote the company or digital game,

are not development expenditure or QADE.

Expenditure related to sales and marketing professionals (including remuneration) is considered to be incidental and not directly attributable to the development of the game and is excluded from development expenditure and is not QADE.

### Mixed Reality (MR)

An MR application is eligible for the DGTO if it meets the definition of a Digital game.

### Mods

A mod is the altering of one or more aspects of an existing video game.

Expenditure on developing a mod for a game can be development expenditure and QADE; however, to apply for a certificate for the DGTO, the applicant company must have the right to develop the game. A company that makes an unauthorised mod of a game is not eligible to receive a certificate for the DGTO.

## Motion Capture and Green Screen

Expenditure on motion capture and green screen performers can be development expenditure and QADE.

Expenditure on hardware or software required to motion capture, or expenditure to access studios or other facilities is excluded from development expenditure and is not QADE.

## Music

Expenditure on developing music for the game can be development expenditure and QADE.

Expenditure on remuneration for composers, songwriters, musicians, performers, and sound designers can be development expenditure and QADE.

Expenditure on purchasing or licensing copyrighted material is excluded from development expenditure and is not QADE.

See Copyright, Sound

## N

### Non-Fungible Tokens (NFTs)

See Blockchain platforms, Cryptocurrencies.

### Non-Resident (Foreign) Service Providers

Expenditure relating to employees and contractors who were not Australian residents for tax purposes at the time the expenditure was incurred is excluded from development expenditure and is not QADE.

See Australian Resident for Tax Purposes.

## O

### Ongoing Development Certificate

A company can apply for an Ongoing Development Certificate for further development of one or more digital games that have already been released and that, in aggregate, incur QADE of at least \$AUD500,000 in a single income year.

Ongoing development means activities undertaken to maintain, update, expand or improve a digital game which has already been completed. This could include, for example, the addition of new content – such as levels, maps, characters, vehicles, storylines and cosmetic items; addressing bugs and issues; work required to ensure that the game can continue to operate; and porting costs.

In respect of an Ongoing Development Certificate, an applicant company may claim QADE on multiple eligible games, incurred only in the income year for which the certificate is being claimed.

See Completion Certificate and Porting Certificate

### Open Beta Testing

Beta testing is external user testing where versions of the game are released to 'beta testers' for the purpose of assessing playability and readiness for release. Sometimes beta testing can be available to the general

public (an open beta) to increase the number of users from whom feedback can be received. Open beta testing differs from an early access release in that the latter typically involves a commercial transaction used to fund the continued development of the game.

While it will depend on the particular circumstances of each game, an open beta release is unlikely to be considered to be the date the game is first released to the general public (or in the case of ports, first made available to the general public). The game or port will be considered to have been first released or made available to the general public when it has been first released for sale or otherwise commercially available, not when it has been released for testing purposes.

Regardless, an applicant company cannot claim as QADE any expenditure incurred after the game has been in open beta testing for one year.

See Released to the General Public.

## Other Government Tax Offsets

Expenditure for which the applicant company will receive or has received another tax offset such as the Research and Development Tax Incentive, the Producer Offset, the Post Digital and Visual Effects Offset, the Location Offset or another stream of the DGTO is excluded from development expenditure and is not QADE.

Expenditure related to a grant or subsidy provided by the Australian Government or a state or territory government that is specifically designed for the digital games industry can be development expenditure and can be QADE provided that the expenditure is eligible.

However, expenditure related to a grant or subsidy provided by the Australian Government or a State or Territory government that is generally available to business – such as an apprentice program or an emergency stimulus payment – is excluded from development expenditure and is not QADE as the amount is set with the broader economy in mind rather than the additionality provided through the DGTO.

QADE must only include expenditure that has been ‘incurred’, so if a state government incentive results in a company not incurring development expenditure, or reduces development expenditure, it affects the amount of QADE. For example, if the state provides a payroll tax exemption then there is no incurred expenditure for state payroll tax, and it cannot be claimed as QADE.

Expenditure incurred in securing government incentives and support is administrative in nature and therefore excluded from the definition of development expenditure and is not QADE.

Nothing in the DGTO prevents the claiming of expenditure relating to a grant or subsidy provided by a foreign government.

## Overheads

See General Business Overheads.

## Overseas Expenditure

QADE refers to expenditure incurred on the making of the game in Australia. Any expenditure for goods acquired or services performed outside Australia is not QADE.

If the applicant has incurred an amount for services which have taken place both in Australia and overseas, the applicant must reasonably apportion the amount for services carried out in Australia. Applicants are required to substantiate the apportionment with supporting documentation.

There can be expenditure on services where the results of those services are provided to the company embodied in a good. If those services are carried out partially or wholly overseas, the expenditure is not considered expenditure on a good in Australia merely because the goods are delivered to the company in

Australia. For example, a cut scene created overseas is not considered to be expenditure on a good in Australia merely because a file was delivered to the company in Australia.

The rules for overseas expenditure apply equally for the company and in respect of any companies or individual independent contractors it has sub-contracted to develop the game. In practice, at the time of making an application for a certificate for the DGTO, letters of representation will be required from contractor companies and individuals saying that they have performed all the services in Australia (or identify and apportion which services were performed outside of Australia).

## P

### Packaging and Posters

Expenditure relating to the design and manufacture of packaging and promotional posters is considered marketing expenditure and is not QADE.

### Payroll Tax

Government fees, fines, penalties, taxation or any such payment (including at sub national levels, including payroll tax) is not 'remuneration' or development expenditure and is therefore not QADE.

### Per Diems

As per diems are intended to cover meals, accommodation and travel incidentals, they are excluded from development expenditure and QADE.

See Travel.

### Petty Cash

Petty cash is QADE to the extent to which the activities on which it was spent are QADE.

### Porting Certificate

A company can apply for a Porting Certificate for a single digital game that incurs QADE of at least \$AUD500,000.

For Porting Certificates, QADE may be incurred in any year before and including the year in which QADE ceased to be incurred. QADE ceases to be incurred on the earlier of:

- the day after the game is first made available to the general public; or
- the day on which the applicant company applies for a Porting Certificate in relation to the game.

The relevant income year for which the DGTO can be claimed by the applicant company for a Porting Certificate is the income year in which the port was released to the general public (other than for testing purposes).

Note that porting expenditure is still eligible expenditure for the purposes of the Completion Certificate and the Ongoing Development Certificate. The Porting Certificate is intended for the scenario where a completed game is ported onto a new platform and does not have any other development work undertaken that would be eligible under another certificate.

See Porting Expenditure, Ongoing Development Certificate and Completion Certificate



## Porting Expenditure

Expenditure on porting a game is development expenditure and QADE. Porting expenditure may be claimed under any of the three DGTO certificates, at the discretion of the applicant.

There are situations where the porting of a game and the associated expenditure is eligible for either the Completion Certificate (a game being simultaneously developed for multiple platforms), Porting Certificate (a one-off discrete port from an existing platform to another platform), or the Ongoing Development Certificate (porting an existing game to one or more platforms over time, in conjunction with other work).

## Pre-Order

A game is not considered released to the general public merely because it is available for pre-order.

## Prior Company Expenditure

Where the applicant company takes over the making of the game from another (prior) company, the applicant company can rely on a provision in the ITAA that deems the development expenditure incurred by the prior company to be considered to be expenditure incurred by the applicant company. Acquired development expenditure is only considered QADE if the development expenditure originally satisfied the definition and eligibility requirements. Documentation to substantiate claims will still be required.

Costs associated with taking over the development of the game are not QADE.

See Applicant Company, Trusts

## Prototyping

Development expenditure incurred on eligible activities during a prototyping phase of the digital game can be claimed as QADE.

This can include expenditure on development elements that were prototyped but ultimately not included in the final version of the game, provided there is a nexus between the activities and the final game.

Furthermore, prototyping expenditure can include expenditure previously incurred – but not claimed – in the development of an otherwise eligible game that may not have ultimately been completed. For example, expenditure incurred in creating a working mock-up of a payments system developed for a cancelled project, that forms the clear basis for the payments system used in an eligible game (that is actually released to the general public) could be eligible prototyping expenditure.

The applicant company will need to substantiate all claimed prototyping expenditure in the application for a certificate for the DGTO.

## Provisional Certificate

A provisional certificate has no legal status under the DGTO and is intended to be a guide as to whether, based on the information and assurances provided by the applicant, the digital game is likely to meet the legislative requirements for certification for the DGTO. Applying for a provisional certificate is optional. An applicant for a certificate for the DGTO does not first have to obtain a provisional certificate. Businesses that lend against the offset or co-financiers of the game may request a provisional certificate before they agree to finance the game.

Because a provisional certificate is optional, there is no requirement that a provisional certificate and a final certificate be issued to the same company. For example, a company may apply for a provisional certificate before it commences work on a game but ultimately another company may be set up to actually carry out (and have responsibility for) the development of the game.

Being issued with a provisional certificate does not guarantee or entitle the applicant to a certificate for the DGTO. The provisional certificate expressly provides that an application for a final certificate for the DGTO can still be refused. Further, a provisional certificate cannot be issued for a game after the development of a digital game has been completed.

## Publicity

See Marketing Expenditure.

## Q

### Qualifying Australian Development Expenditure (QADE)

A company's QADE on a digital game is the company's Development Expenditure to the extent that it is incurred for, or reasonably attributable to, goods and services provided or acquired in Australia.

A game must incur QADE of at least \$AUD500,000 (as determined by the Minister) to be eligible for a Completion, Porting or Ongoing Development Certificate for the DGTO:

- Completion Certificate – minimum of \$AUD500,000 in QADE on a single title across one or more income years;
- Porting Certificate – minimum of \$AUD500,000 in QADE on a single title across one or more income years; or
- Ongoing Development Certificate – minimum of \$AUD500,000 on one or more titles across a single income year.

The legislation defines when QADE ceases to be incurred in relation to Completion, Porting and Ongoing Development Certificates. Please refer to the specifics of each type of certificate detailed in this document for further information.

To assist applicants with understanding the process for determining QADE, the following workflow details the steps:

Step	Method	Legislative Reference
<b>Step 1</b> <b>General Test</b>	Has the company incurred development expenditure in relation to the development of a game?	378-35(1) of the ITAA97
<b>Step 2</b> <b>Specific Inclusions</b>	Is the expenditure specifically included?	378-35(2) of the ITAA97
<b>Step 3</b> <b>Specific Exclusions</b>	Is the expenditure specifically excluded? If expenditure is specifically excluded, it is not eligible Development Expenditure regardless of whether it satisfies the general test or is specifically included.	378-35(3) and (6) of the ITAA97 or the practical operation of other sections.

Step	Method	Legislative Reference
<b>Step 4</b> <b>Integrity Provisions</b>	Is the expenditure otherwise eligible expenditure but excluded by an integrity provision?  If expenditure is excluded by an integrity provision, and there is no exception (Step 5), it is not Development Expenditure.	378-35(4) of the ITAA97 or the practical operation of other sections.
<b>Step 5</b> <b>Exceptions to the Integrity Provisions</b>	Does an exception apply to an integrity provision?  There are very limited exceptions to the integrity provisions, however if one applies to the expenditure captured in Step 4, it can be included as Development Expenditure.	378-35(5) of the ITAA 1997.
<b>These steps determine a company's DEVELOPMENT EXPENDITURE on a game for the purposes of the DGTO.</b>		
<b>Step 6</b> <b>QADE Test</b>	Of the determined Development Expenditure, only expenditure incurred for, or reasonably attributable to, goods and services provided or acquired in Australia is considered QADE.  Any Development Expenditure that does not satisfy this requirement should be excluded from QADE.	378-40(1) of the ITAA 1997.
<b>Step 7</b> <b>QADE Relevance Test</b>	Do any expenditure items need to be apportioned?  An item of expenditure is fully claimable as QADE if it is wholly or 'substantially attributable' to the development of the game (being more than 90% of the expenditure is relevant).  If an item of expenditure is directly but in part, and not substantially, attributable to the development the game, a portion of the item may be claimed.	378-40(2) of the ITAA 1997.
<b>This gives the company's QADE on a game for the purposes of the DGTO.</b>		
QADE is a subset of Development Expenditure, and determines the rebate amount a company receives under the DGTO.		

## R

### Rebate Cap

The DGTO is capped at \$AUD20 million per company (or group of companies) per income year (requiring about \$AUD66.7 million in QADE).

If an applicant company receives one or more certificates for the DGTO such that 30 per cent of the company's total rebate amount for an income year exceeds \$AUD20 million, then the company's rebate amount for the income year is reduced to \$AUD20 million.

The cap also applies to any amount of cumulative offset to which a group of related companies or consolidated groups would be entitled. Where the total rebate amount across all related companies exceeds \$AUD20 million, then the companies must coordinate their claims to ensure that they – collectively – do not exceed the \$AUD20 million cap (see section 378-15 of ITAA97).

For the purposes of the cap, a related company is a company that is ‘connected with’ as defined by section 328 125 of the ITAA97 or is an ‘affiliate of’ a company as defined by section 328 130 of the ITAA97. Generally, a company is ‘connected with’ another company if it controls that other company, or if both companies are controlled by the same third entity. The relevant control percentage is 40% of the voting power of the company. An ‘affiliate of’ a company is an entity which acts, or could reasonably be expected to act, in accordance with another entity’s direction or wishes in relation to the affairs of the business of the entity.

This ‘connected’ or ‘affiliated’ test will be applied to all companies applying for the DGTO, and will require companies to actively assess who is a related party. Advice on entities connected with or affiliates of your company is best sought from your professional services (e.g. tax) advisers. The Office for the Arts cannot provide advice on the application of the ITAA97 to your particular circumstances.

## Recruiting Costs and Visas

Expenditure related to recruiting, visas and work permits is excluded from development expenditure and is not QADE.

## Re-Investments

An entity engaged by the applicant company to provide goods or services for the game may choose to reinvest a portion of its fee into the financing of the game or the company.

Under such an arrangement, the transaction between the company and the entity becomes financing for the game or company, and as a result all the expenditure incurred by the company in the transaction cannot be claimed for the purposes of the DGTO. Depending on the nature of the arrangement, the transaction may also not be at arm’s length and therefore expenditure incurred by the company is excluded from development expenditure and not QADE.

The operation of the ITAA does not prohibit re-investments. The applicant company and service providers can enter into such transactions for the purposes of developing the game. The application of the ITAA just prevents the applicant company being able to claim the expenditure with that service provider towards the calculation of the DGTO.

## Related Parties

The DGTO uses two concepts of related parties:

- The ‘connected’ and ‘affiliated’ test used for the basis of determining the \$AUD20 million cap between companies (see Rebate Cap); and
- The ‘associates’ test used for determining QADE (see Associates Test – Integrity Measure Exclusion).

Under both tests, with relevance to transactions related to an application, applicant companies will be required to identify related parties, as well as entities that could potentially be related parties with an explanation as to why the applicant has determined that the entity is not a related party under the relevant test.

## Released to The General Public

The date on which a digital game is first released to the general public is a matter of fact and degree.

A game is likely to be released to the general public when the public can pay to play a version of the game (for example, through an up-front purchase, in-game transaction or as part of a subscription) or access it for free online or through a storefront. This includes where the game is released through early access (see Early access).

For the purposes of the DGTO, a game is only considered to have been made available to the general public if it is: made available for use over the internet; or primarily played through the internet; or only operates when a player is connected to the internet. (See Completed Game)

A game is not released to the general public if it is only available for testing purposes. However, an applicant cannot claim expenditure incurred after the game has been in open beta (general public) testing for one year as QADE. In the case of games that have long public testing periods, this means that QADE may stop being incurred before the game has been officially released to the general public (see Open beta testing).

A port is made available to the general public under the same circumstances that a new completed game is released to the general public.

## Remuneration

Remuneration is not defined in the DGTO but takes its ordinary meaning.

Remuneration relates to payments between the employer and the employee for the purposes of employment, including salary and wages, bonuses, allowances, reimbursements and other employment income, lump sum payments (e.g. for unused annual leave), fringe benefits (noting they may also be subject to Fringe Benefits Tax), and superannuation contributions. It is important to note that not all aspects of remuneration may be development expenditure or QADE due to the operation of relevant sections of the tax law, particularly 378-35(3).

Remuneration does not include payments that were non-employment in nature between the employer and the employee, such as dividends paid through an Employee share scheme, nor payments between the employer and other entities such as state government revenue authorities for payroll tax liabilities.

Where an applicant has engaged an independent contractor who is a natural person akin to an employee, the concept of remuneration relates to payments for services provided by that independent contractor to the applicant.

For final certification, the applicant company must supply contractual documentation for all people who are remunerated other than by wages.

Note that remuneration other than by wages may attract Fringe Benefit Tax (FBT) liabilities.

See Fringe benefits, Superannuation

## Rent

Expenditure relating to land or premises is excluded from development expenditure and is not QADE.

## Research

Development expenditure incurred on eligible activities during the research phase of the digital game can be claimed as QADE. The applicant company will need to substantiate all claimed research expenditure in the application for a certificate for the DGTO.

## Research and Development Tax Incentive (R&D Incentive)

Expenditure claimed in relation to the Australian Government's Research and Development Tax Incentive (R&DTI) is excluded from development expenditure and is not QADE.

Any expenditure that gives rise to notional deductions for the R&DTI is also excluded from development expenditure and is not QADE.

## S

### Servers

Expenditure relating to servers or access to servers is excluded from development expenditure and is not QADE.

### Shares (Equity in the Company)

See Remuneration.

### Social Media

Expenditure relating to the creation and distribution of social media is considered expenditure on marketing and is not QADE.

Expenditure relating to social media managers is considered to be incidental, but not directly attributable, to the development of the game and is excluded from development expenditure and is not QADE.

### Software

Expenditure relating to acquiring or licensing software is excluded from development expenditure and is not QADE.

### Sound

Expenditure on developing sound can be development expenditure and QADE.

Expenditure on remuneration for composers, songwriters, musicians, singers or voice performers, and sound designers can be development expenditure and QADE.

Expenditure on purchasing or licensing copyrighted material is excluded from development expenditure and is not QADE.

See Music

### Special Purpose Vehicle (SPV)

SPV is an expression used to describe a company formed specifically to undertake the making of a game.

Provided all eligibility criteria are met, an SPV can be the applicant company for the purposes of the DGTO if it is the company which is primarily responsible for undertaking the activities necessary for the development of the game in Australia.

### Further Subcontracting – Integrity Measure Exclusion

The ‘further subcontracting’ rule is an important integrity measure to prevent complex structuring arrangements that might defeat other eligibility or integrity rules.

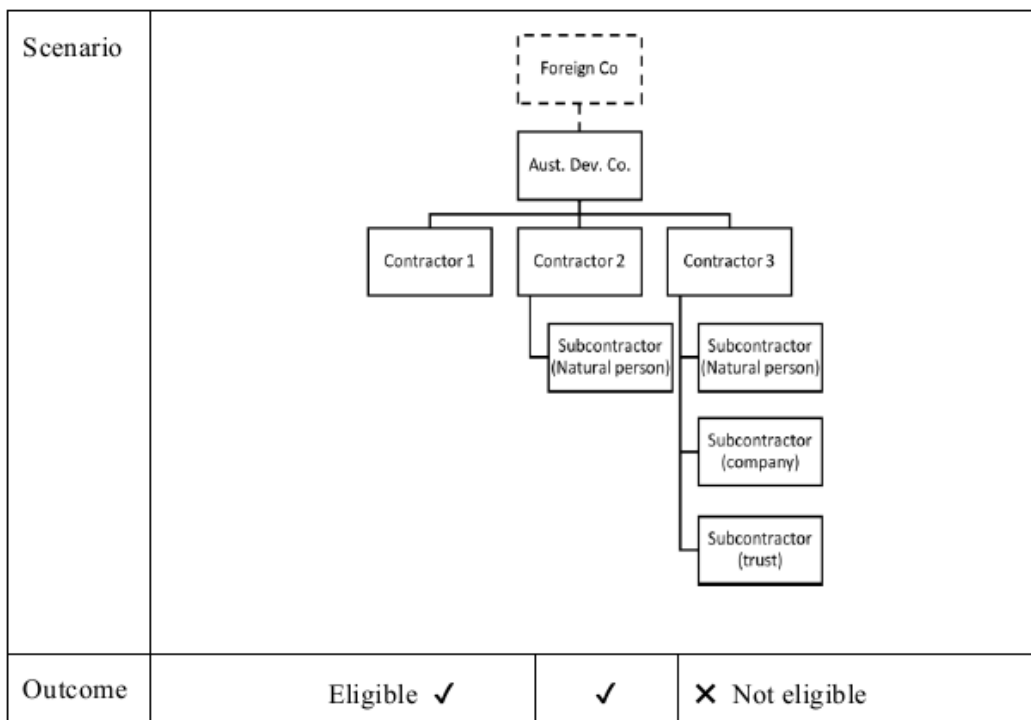
An applicant company can claim expenditure for amounts paid under contracts with other entities (including without limitation, companies and individual independent contractors) to perform services on behalf of the applicant company directly related to the development of the game as QADE (to the extent that the services

performed qualify as QADE). However, if the contracted entity ‘further subcontracts’ game development work or services, then any expenditure incurred by the applicant company on the contract is not eligible as QADE.

There is one exception to this further subcontracting rule. Where a subcontracted company has engaged independent contractors, who are natural persons, to perform work or services on the digital game, the expenditure incurred on the subcontracted company remains eligible as QADE. This means that Australian development companies are able to access labour hire companies or contract to other companies that engage independent contractors who are akin to employees.

Please note, where a contractor further subcontracts work or services that are not directly related to the development of the game, such as cleaning services, then such ‘further contracting’ does not affect the eligibility of the expenditure.

The following diagram depicts how this subcontracting integrity provision works in practice:



## Substituted Accounting Period (SAP)

Some companies have approval from the ATO to use an income year which differs from the 1 July to 30 June income year. This is known as a Substituted Accounting Period (SAP). Applicants are required to provide details of their income year at the time of making an application for a certificate for the DGTO. Once an application for a certificate for the DGTO is lodged, an applicant cannot change the relevant income year for that application.

## Superannuation

Superannuation paid by the employer to the employee is included in the definition of remuneration and is development expenditure and can be claimed as QADE.

In Australia, superannuation is a key part of the retirement income system, alongside the public aged pension system and voluntary private savings. It is similar – in purpose – to many countries’ compulsory social security payments, but it differs in many key details. See the ATO’s website for guidance on the superannuation system, including in relation to employers’ obligations.

See Remuneration

## T

### Testing

Development expenditure incurred on eligible activities during the testing phase of the digital game can be claimed as QADE.

However, in the case of a new digital game (that is, a game applying for a Completion Certificate), QADE ceases to be incurred on the earlier of:

- the day the game is completed;
- the day the company applies for a completion certificate; or
- the day the game has been available to the general public for the purposes of conducting testing for one year.

See Open beta testing.

### Title Clearances

Expenditure on title clearances is considered legal services expenditure and is not QADE.

### Trailers

Expenditure on trailers is considered marketing expenditure and is not QADE.

### Travel

Expenditure relating to accommodation and travel is excluded from development expenditure and is not QADE.

### Trusts

Section 960-100 of the ITAA effectively provides that unless a reference to a company includes a company in its capacity as a trustee, then the reference does not cover a trustee company. Division 378 of the ITAA refers to a company in its own capacity, not in its capacity as a trustee company.

Accordingly, a trustee company cannot apply for a certificate for the DGTO.

Furthermore, a company taking over the development of the game from a trustee company cannot rely on section 378-40 that deems expenditure incurred by an outgoing company to be expenditure by the incoming company.

## U

### Usability Testing / User Experience (UX)

Expenditure on usability testing can be development expenditure and QADE.



## User Acquisition (UA)

Expenditure relating to the acquisition of users for the game is excluded from development expenditure and is not QADE.

## V

### Virtual Reality (VR)

VR applications are eligible for the DGTO if it meets the definition of a Digital game.

### Visas

See Recruiting costs and visas.

### Voice Recording

Expenditure on voice recording can be development expenditure and QADE.

See Music, Sound

## W

### Website

Expenditure on website design which is part of the game itself (for example, it is a browser-based game) can be development expenditure and QADE.

Expenditure such as domain name registration and hosting is considered as expenditure on the rights to access computer hardware or servers and is excluded from QADE.

Expenditure on website design promoting the game is considered marketing, advertising, publicity or promotion expenditure and is not QADE.

### Worker's Compensation

If a person's remuneration is QADE then any compulsory worker's compensation linked to that remuneration and payable by the applicant company is also QADE.