RSM

Gaming | Entertainment | Media

Digital Games Tax Offset:

Levelling up the Australian gaming industry

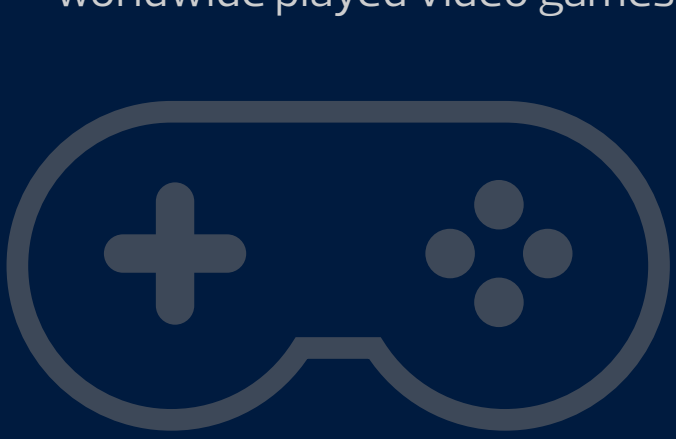


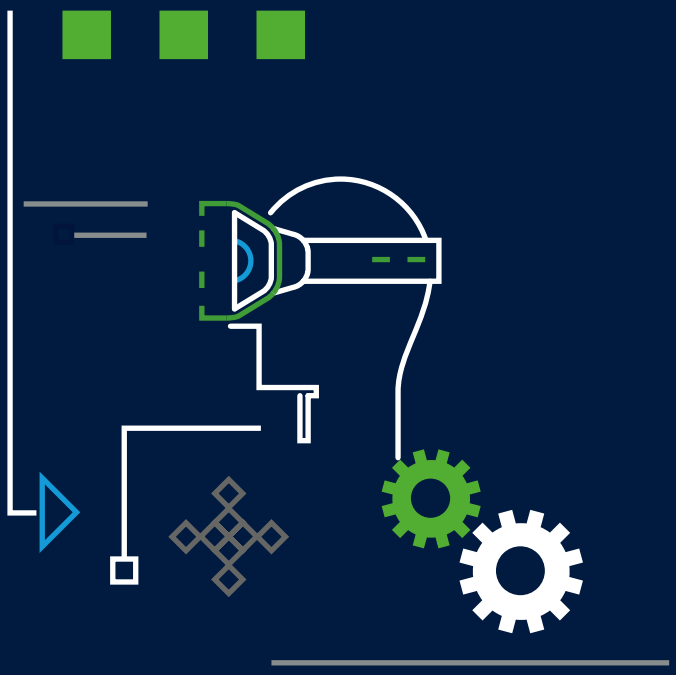
THE POWER OF BEING UNDERSTOOD
ASSURANCE | TAX | CONSULTING

In 2023, approximately

3 billion people

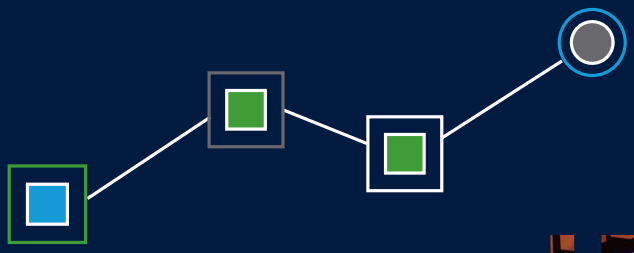
worldwide played video games





40%

of the global population are gamers



Projected revenue to top

US$550bn

by the end of 2025

Source: Department of Foreign Affairs and Trade

The Digital Games Tax Offset (DGTO) allows gaming companies to min/max growth by developing interactive games in Australia.

Having now been in operation in Australian tax law for more than 12 months, the DGTO is a generous incentive designed to boost the video gaming industry in Australia. It is a critical mechanism given New Zealand's booming gaming industry and their equivalent Games Development Sector Rebate (GDSR) which serves as direct competition for talent. But what does the DGTO entail and who qualifies to receive it?

Video game industry stats

Forget anything you think you know about video games being a niche industry. In 2023, approximately three billion people worldwide played video games. And yes, with 48% of global revenue, mobile gaming definitely counts. With eight billion people on the planet, approximately 40% of the global population are gamers.

According to the Department of Foreign Affairs and Trade, the games industry was worth $240bn globally in 2020, with some analysts projecting revenue to top $500bn US dollars by the end of 2025.

For perspective, this surpasses the estimated revenue of the entire global film industry for the same year by a remarkable $150bn.

Video game development in Australia

While still relatively small compared to our overseas counterparts, digital games are rapidly growing in both popularity and sophistication in Australia.

In 2021, the industry generated $226.5m in revenue in Australia, with 83% originating from international markets. You could probably describe the DGTO as a way for the Australian Government to up their ratio.

It should come as no surprise that Australia is making a big play in the global gaming market. Alone, the e-sports gaming industry is worth $1.72bn and is projected to reach $7bn by 2030. As this is only one segment of the market, we can safely say there is a huge economic opportunity for Australia moving forward.

Currently, Australia has over 400 companies working on digital games nationally.

Australia has already produced some breakout gaming success stories, including:

- ***Unpacking*** by developer Witch Beam
- ***The Forgotten City*** by Modern Storyteller
- ***Hollow Knight*** by Team Cherry
- ***Untitled Goose Game*** by House House

The gaming industry is thriving, attracting budgets and releases that rival (or surpass) film and television. However, the Australian game industry is largely an untapped market, offering limitless potential ripe for development.

Many hope that the DGTO will entice major studios in the US, Europe and Asia to invest in Australia. Already there has been some interest from international players, particularly for collaborative opportunities with our indie studios. They may be keen but also want to better understand the practical aspects of the offset. After all, Australia isn't the only country offering such an incentive.

What is the DGTO?

The DGTO aims to support growth in the Australian video game industry. It is a 30% refundable tax offset that came into law on June 23 2023 and can be used to offset Qualifying Australian Development Expenditure (QADE) incurred from 1 July 2022.

Ideally, it will attract foreign investment, fuel job creation, and nurture local talent.

Why is the DGTO an S-tier incentive?

This is one of the most generous tax offsets we've ever seen in Australia. It stacks with normal tax deductions, including other grants. This means game developers can claim their usual tax deductions on the dollar spent, plus certain grants (e.g.,, state-based grants), plus the DGTO.

Unlike other incentives such as the Research and Development Tax Incentive (RDTI), where the entity forgoes other benefits (i.e., grant clawback, forgo tax deductions, etc.), the DGTO specifically allows you to:

1. **Keep your tax deductions** (worth 25% - 30% notional benefit).
2. **Keep the benefit of specific grants*** (for example, the NSW Digital Games Rebate or the Vic Screen Incentive both offer an additional 10% benefit, whilst the Qld Digital Games Incentive adds an additional 15% benefit).

In total, in certain circumstances, the benefit on some qualifying expenditures could reach 75% per dollar of spend.

**Some grants require adjustments where they are broad-based (e.g., when regimes such as JobKeeper were available).*

The DGTO also has some... quirks in terms of overlap with R&D tax and general tax principles. Whether these are glitches, bugs or working as intended remains to be seen.

A few notable points include:

- The ongoing development certificate appears to be broad and can relate to items such as ongoing bug fixing on released games.
- Eligible costs and application timelines may be different (e.g., NSW rebate only counts expenditure after application, whilst the DGTO applies to historical spending); therefore, planning is key.
- Any expenditure that has been excluded from the DGTO may be eligible for RDTI. Modelling should be done to optimise immediate and medium-term benefit.
- Whilst calculation and documentation requirements may look similar to the RDTI from the cover, there are levels and skills to maximising the DGTO and applying historical methods from other regimes is not recommended.
- There are certain traps that can catch applications out along the way. For example, some games could potentially fall foul of the 'gambling' exclusion even if it doesn't seem that way initially.
- There are hidden levels that are not immediately visible and could provide opportunities, including work-for-hire studios being able to potentially access the DGTO even if they're not the owner or initiator of the game.

DGTO TOOLTIP – KEY FACTS

- The baseline benefit of the DGTO is a 30% refundable tax offset available for qualifying expenditures over $500k (across the lifetime of the game for completion or portion) or $500k in an income year across all games for ongoing development (which includes bug fixes and maintenance).
- It allows businesses of all sizes, regardless of aggregated turnover or taxable position, to claim at least 30% of eligible expenditures.
- This expenditure must be for 'Qualifying Australian Development Expenditure' (QADE).
- The DGTO applies from 1 July 2022 onwards.
- The application process will undergo a detailed audit process by the administrators and external auditors. Therefore, it isn't 'self-assessment,' like many other tax incentive regimes.

Who can apply for the DGTO?

The offset is available to Australian companies with an Australian Business Number (ABN). It is also available for foreign companies with an ABN and an Australian permanent establishment.

DGTO eligibility criteria

Eligibility for the DGTO depends on meeting certain criteria. We have broken these down into sections to explain the context and requirements for each criterion.
Whilst seemingly simple, the DGTO sits in the new Div 378 of the ITAA 1997 and contains detailed guidance on eligibility. Some highlights include:

- Only companies are eligible.
- Certain threshold criteria and exclusions on types of games apply.
- Detailed inclusions and exclusions on eligible expenditure as set out in the legislation, with some categories not straightforward or easily defined.



Minister of Arts Certificates

To apply for the DGTO, a company will need to obtain a certificate from the Minister of Arts. These certificates are:

Completion certificate

Although the QADE can be across multiple income years, you can only apply for one certificate per game.

Porting certificate

For porting to another platform (e.g., Steam to Xbox). A minimum $500k spend is also required but can be tracked across multiple years.

Ongoing development certificate

Can contain multiple games within a single certificate to meet the $500,000 minimum QADE, but expenditure can only be incurred in the current income year..

Video games eligible for the DGTO

The game must be fully completed and available to the public online, or it should be playable via the internet.

Certain types of games are ineligible for the DGTO. For example, these include:

- Games with significant gambling or gambling-like practices (such as loot boxes). This can be a grey area, for example, whether the game 'gives prominence' to these features.
- Games developed for industry, corporate, or advertisement purposes. These are excluded as they are not usually available for sale to the public.
- Games that are refused classification in Australia. This includes games featuring illegal substances.

What expenditure counts as QADE?

A minimum of $500k must be spent on QADE. However, it may be tricky to determine what counts as QADE for the 30% refundable tax offset.

To broadly summarise, QADE will encompass Australian sourced expenditure which the company incurs on or in relation to the development of the game.

For example, expenses incurred by prototyping and researching the game count. So do all wages to staff directly involved in the game development process. That can include programmers, coders, writers, artists, musicians and QA testers.

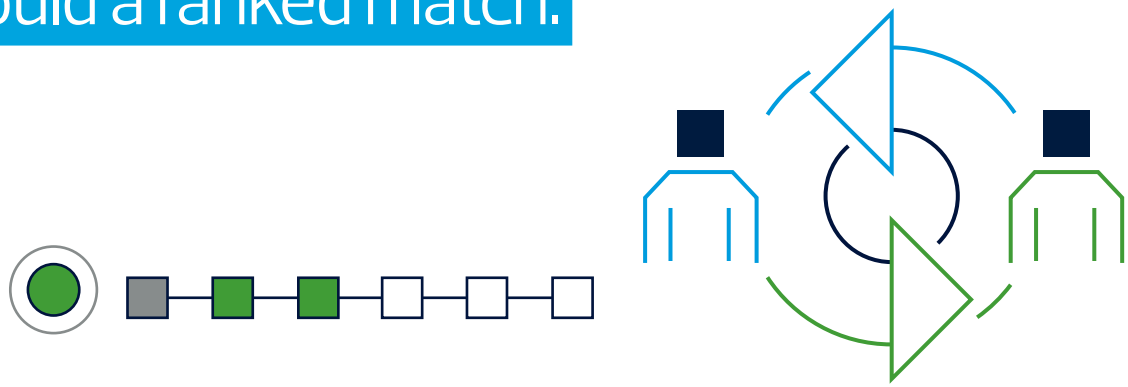
Non QADE expenditure

Expenditure that does not qualify can be potentially grey, but the legislation sets out explicit categories of costs that are excluded. It is worth remembering that costs which do not qualify for the DGTO may still qualify for the RDTI. A strategic approach should be adopted to identify the optimal model for DGTO and the RDTI.

This includes marketing, travel and accommodation, and wages for personnel not directly involved in the game development process, such as social media managers, admin employees, and community managers. Acquiring software and hardware, since they typically occur prior to game development starting, is also not considered QADE.

Level up!

Take your tax strategy at least as seriously as you would a ranked match.



We are frequently astounded by the number of companies that are eligible for tax incentives yet leave them on the table – usually because they have small internal finance teams that aren't equipped to understand them or if they've been given the wrong advice.

Tax law can be quite complex. There are certain steps companies need to take to ensure eligibility and be able to claim everything they're entitled to.

It is absolutely worth the time and money to engage a professional who can simplify offsets like the RDTI and the DGTO. The end result could be a solid cash injection which then allows the company to build bigger teams and spend more on development – in turn driving eligibility for other incentives.

We understand that game developers just want to focus on developing their games, but paying more attention to the operational and financial aspects of the business can really pay off. This includes assessing how the company is structured and whether it's conducive to capital raising, asset and IP protection, and growth. It all counts towards creating a successful business that is genuinely positioned to capitalise on the enormous potential of this skyrocketing market.



Understanding creativity and innovation in business

THE POWER OF BEING UNDERSTOOD
ASSURANCE | TAX | CONSULTING

RSM

rsm.com.au

RSM Australia Pty Ltd is a member of the RSM network and trades as RSM. RSM is the trading name used by the members of the RSM network.

Each member of the RSM network is an independent accounting and consulting firm, each of which practices in its own right. The RSM network is not itself a separate legal entity of any description in any jurisdiction. The network is administered by RSM International Limited, a company registered in England and Wales (company number 4040598) whose registered office is at 50 Cannon Street, London EC4N 6JJ. The brand and trademark RSM and other intellectual property rights used by members of the network are owned by RSM International Association, an association governed by article 60 et seq of the Civil Code of Switzerland whose seat is in Zug.

© RSM International Association

Liability limited by a scheme approved under professional standards legislation