



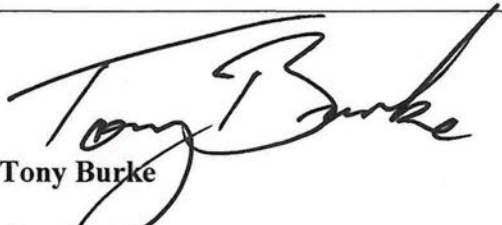
Australian Government

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

To: The Hon Tony Burke MP, Minister for the Arts (for decision)

Subject: Digital Games Tax Offset Implementation – Legislative Rules

Critical Date: 11 July 2023 – to enable the Digital Games Tax Offset to open for application promptly after commencement of the legislation on 1 July 2023.

Recommendation/s:	
1. That you approve the <i>Income Tax Assessment (Digital Games Tax Offset) Rules 2023</i> by signing the legislative instrument at Attachment A .	
	Signed / Not Signed
 Tony Burke Comments:	4. 7. 23 Date:

Key Points:

- On 21 June 2023, legislation to effect the Digital Games Tax Offset (the Offset), the *Treasury Laws Amendment (2022 Measures No. 4) Bill 2022* (the Bill), passed both Houses of Parliament, received Royal Assent, and will commence on 1 July 2023.
- The *Income Tax Assessment (Digital Games Tax Offset) Rules 2023* (the Rules) and supporting Explanatory Statement are at **Attachment A**. The Rules are a subordinate legislative instrument that sit beneath the primary legislation and establish the administrative framework for the operation of the Offset.
- On 4 May, you approved the program documentation to support the implementation of the Offset, including program guidelines and the Rules (MS23-000100). Now that the Bill has passed through both Houses of Parliament, and in accordance with section 378-105, you are authorised to make the Rules as a legally binding legislative instrument. No changes have been made to the Rules or the Explanatory Statement since you approved these documents in May 2023.
- The Rules also establish the Digital Games Tax Offset Advisory Board (the Board). The role of the Board is to provide advice as to whether you should issue certificates in relation to the Offset and advise regarding the estimated qualifying Australian development expenditure, and to issue provisional certificates for the Offset.

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The Board is composed of a Chair, who is an SES employee of the department, and two members who have industry expertise and experience. You will be briefed separately on establishing the DGTO Board and possible nominees have been provided to your Office.

5. The Offset can only open for applications once the Rules are made. Application forms and the guidance materials are prepared and ready to be launched promptly after your approval of this brief. Applications can then be assessed once the Board is operational.

Financial impacts: N/A

Legal/Legislative impacts:

The Rules are a legislative instrument and will be registered on the Federal Register of Legislative Instruments.

Stakeholder Implications:

The digital games industry universally welcomed the implementation of the Offset.

Consultation:

The Treasury; the Australian Taxation Office; and Legal Services Branch.

Media Opportunities: N/A

Attachments:

Attachment A: *Income Tax Assessment (Digital Games Tax Offset) Rules 2023* and Explanatory Statement

Cleared By: Rebecca Rush
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 Date: 27.06.2023

Contact Officer: Jason Potkins
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Instructions for MPS: Nil

PDMS Distribution List: Jim Betts, Angela French, s22(1)(a)(ii), Stephen Arnott, s22(1)(a)(ii), Greg Cox, Rebecca Rush, Jason Potkins

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Additional Information:Digital Games Tax Offset (the Offset)

On 21 June 2023, legislation to establish a Digital Games Tax Offset (the Offset) passed both Houses of Parliament. The Offset will expand Australia's digital games industry, attract international digital games development, and support investment and highly-skilled, transferrable jobs.

The Offset is an industry development incentive and provides a 30 per cent refundable tax offset for eligible businesses that spend a minimum of \$500,000 on qualifying Australian development expenditure related to the development of eligible games. This expenditure includes remuneration for employees, research and prototyping, user testing, obtaining a classification, updating the game or adapting it for a specific platform. The Offset applies retrospectively to expenditure incurred from 1 July 2022.

To be eligible for the Offset, a game must be available to the general public over the internet and must not be for advertising or commercial purposes. Games with gambling elements and games that would not be able to achieve classification will be ineligible for the Offset.

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