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Film and TV in Malaysia: The Opportunity for Productions

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The “Film in Malaysia Incentive” (FIMI) is the Malaysian Government’s incentive for film, television and other screen production activity conducted in Malaysia and is intended to encourage support for the Malaysian content production industry.

The FIMI offers film and television producers a cash rebate of 30% on all Qualifying Malaysian Production Expenditure (QMPE). The incentive is available to both domestic and foreign productions and for either Production Activity (including production and post production work) or Post Production Activity (where only post production work is carried out in Malaysia). This note provides an overview of the opportunity for foreign productions.

Introduction to Filming in Malaysia

Who are the relevant authorities?

The FIMI is administered by the Film in Malaysia Office (FIMO), which is a department in the National Film Development Corporation Malaysia (FINAS). FINAS is the lead government agency responsible for the Malaysian film industry’s development which includes activities to promote, nurture and facilitate the development of the film industry in Malaysia. PUSPAL is “The Central Agency Committee for Application for Filming and Foreign Artists Presentations” under the aegis of the Ministry of Information Communication and Culture. PUSPAL was established to assist and facilitate applications from foreign film producers planning to shoot in Malaysia.

What are the requirements to film in Malaysia?

In order to film in Malaysia, foreign producers should:

- communicate with FINAS for advice on the required procedures;
- appoint a Local Sponsor (also known as a Location Support Services Company) registered with FINAS to facilitate filming application and approval from PUSPAL; and
- obtain approval from PUSPAL to film in Malaysia. All foreign film producers need to obtain this approval prior to filming in Malaysia.

Eligibility Criteria for the FIMI

What are the eligibility criteria?

To qualify for the FIMI, a project must:

- meet the minimum QMPE requirement;
- be an eligible format;
- be produced by an eligible applicant producer;
- have approval from PUSPAL for filming in Malaysia; and
- meet certain other requirements with regard to timeframes and Malaysian crew and interns.

What is the minimum QMPE requirement?

The FIMI is an amount equal to 30% of the QMPE incurred by the eligible applicant producer, who must spend:

- For Production Activity – QMPE of at least Ringgit Malaysia Five Million (MYR 5,000,000.00) in aggregate for production work only or for both production and post-production work. Additionally, for a television series, the eligible applicant producer must spend an average of at least Ringgit Malaysia Three Hundred Eighty Five Thousand (MYR 385,000.00) of QMPE per hour (actual length).
- For Post Production Activity – QMPE of at least Ringgit Malaysia One Million Five Hundred Thousand (MYR 1,500,000.00) must be spent on post-production work. Only QMPE that is incurred on or in relation to post-production counts towards either the expenditure threshold or the FIMI.

What formats are eligible?

The following formats are eligible for the FIMI:

- feature films, including theatrical documentary features, animated features and IMAX;
- a single episode programme;
- a single episode documentary;
- commercials;
- a series or season;
- short form animation;
- game shows and reality shows; and
- television series (i.e. a series such as a drama or comedy, a documentary, a game show or a reality series). For the purposes of FIMI, a television series must be made up of two or more episodes that (i) are produced wholly or principally for public exhibition on television under a single title; (ii) have common theme or themes; and (iii) are intended for exhibition together in a national market or markets.

Who is eligible?

The eligible applicant producer must be either:

- a foreign production company who has appointed and commissioned a Malaysian production services company that: (1) is a private limited company duly incorporated under the Malaysian Companies Act 1965 and registered with Companies Commission or Malaysia (CCM); and (2) has a valid and subsisting FINAS production license. The appointment must be evidenced by a stamped production services agreement or co-production agreement; or
- a private limited production services company incorporated by a foreign production company under the Malaysian Companies Act 1965 and registered with CCM (1) with foreign shareholding and (2) has a valid and subsisting FINAS production license.

For Post Production Activity, in addition to (a) and (b) above, the eligible applicant producer can also be the sole company that is responsible for carrying-out, or making the arrangements for the carrying-out of, all the activities that are necessary for post-production in Malaysia. For example:

- a Malaysian company set up to manage or commission one or more Malaysian companies to provide post- production work for the production;
- the 'lead' Malaysian post-production company which either undertakes all the post-production work in Malaysia or subcontracts any Malaysian post-production that it does not undertake to other companies; or
- a Malaysian production company or production services company.

As FIMI is awarded in respect of the QMPE incurred by the eligible applicant producer, then, to maximise the FIMI, all transactions need to be channelled through the eligible applicant producer.



What are the commencement and completion timeframes?

- For Production Activity – Upon completion of the project, the eligible applicant producer must provide an offline DVD copy of the raw production footage or other proof/evidence acceptable to FIMO within 30 days or such time period which has been approved by FINAS. The Final Certificate will not be issued if the applicant producer fails to comply. Qualifying television series must be completed within a given timeframe, as stated in the Provisional Certificate. The length of this timeframe depends on whether the series is predominantly an animation or a live action series.
- For Post Production Activity – The FIMI will only be available for post-production work which commences in Malaysia on approval from PUSPAL. The commencement date for a project seeking to qualify for FIMI is the date on which qualifying post-production expenditure is incurred on, or in relation to, post-production.

What are the requirements for Malaysian crew and interns?

The eligible applicant producer is required to fulfil two requirements regarding crew and interns:

- Crew - At least 30% of the production crew must be either Malaysian citizens or persons having Malaysian permanent residency status. All Malaysian crew employed in the production should be registered with an authorized association for production crews.
- Interns (an additional requirement and separate from the 30% local crew requirement above) – the minimum number of interns required is based on production size:
 - USD 5 to 15 million: 3 interns
 - USD 15 to 45 million: 5 interns
 - USD 45 million and above: 7 interns

Project and Content Guidelines

The eligible applicant producer shall ensure that the project/contents:

- Does NOT contain issues deemed insulting, offensive and/or portraying Malaysia in a negative light.
- Does NOT insult, offend and affect the sensitivity of Islam and other religions in Malaysia.
- Does NOT threaten the security and harmony of Malaysia.

Qualifying Malaysian Production Expenditure (QMPE)

QMPE

- The FIMI provides for a 30% cash rebate on all QMPE.
- QMPE is defined as the eligible applicant producer's production expenditure on the project that is incurred for, or is reasonable attributable to:
 - goods and services provided in Malaysia; and/or
 - the use of land located in Malaysia.

The following expenditures may be regarded as QMPE:

- Malaysian development expenditure;
 - Malaysian-held copyright acquisition/licensing arrangements with Malaysian residents;
 - insurance (other than forms of insurance which constitute financing);
 - publicity and promotion expenditure (other than those expenditures specifically excluded in this note);
 - additional audio visual content;
 - audit and legal expenses incurred in Malaysia;
 - travel to Malaysia;
 - freighting an item to Malaysia which is the transport of filming/project equipment only;
 - travel freight within Malaysia; and
 - remuneration other than by salary.
- The following expenditures are specifically excluded from QMPE:
 - expenditure while the eligible applicant producer company is a foreign resident;
 - costs of services embodied in goods;
 - gratuities and entertainment expenses; and
 - non-cast members' stay in Malaysia for less than the minimum work week (i.e. at least two cumulative calendar weeks (seven cumulative days for documentaries or commercial).

Timeframe

The QMPE must be incurred after the date of PUSPAL's approval.

Salary for services rendered in Malaysia

Please note that the rebate is only claimable on the first Ringgit Malaysia Seven Million Five Hundred Thousand (MYR 7.5 million) of any one person's salary (cast and/or crew) for services rendered in Malaysia.

Overall Process for the FIMI Application



What notable projects have shot in Malaysia?

Malaysia is increasingly being chosen for international productions. Notable recent projects include:

- Netflix/Weinstein Co. series “Marco Polo.”; and
- Legendary Pictures’ “Blackhat,” helmed by Michael Mann and starring Chris Hemsworth, which was released in 2015.



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