



Creating a Sustainable Irish Film and Television Sector

A review of Section 481 film relief
IFB

Submission to Indecon
June 29th, 2007

Executive Summary

The Irish film and television sector is currently experiencing mixed fortunes. Whilst television drama and animation have experienced strong growth over the past three years, feature film (both indigenous and incoming) is experiencing major challenges as a result of the increasingly competitive market for film making and the 2006 changes to the UK tax incentive.

Section 481 as the key vehicle supporting film and television production activity is critical for the industry. It is highly regarded both in Ireland and overseas for a number of reasons:

- Established and well understood by all stakeholders
- Transparency and timeliness of decision making
- Timing of payment – upfront with no need for discounting
- Applicability to television drama
- Absence of abuse

However, the net benefit offered to producers is no longer sufficient to support the indigenous feature film sector and compete with other territories for lucrative incoming feature film productions. Enhancements to Section 481 are sought to address the challenges of the feature film sector and to provide competitive stability to the nascent but growing television drama and animation sectors. Without these changes the challenges facing the feature film sector could threaten the viability of the overall film and television sector.

The Irish Film Board recommends the following enhancements:

- Increase the individual write off to 100%
- Raise the individual investor cap to €150,000 (in line with recent BES changes)
- Expand the definition of eligible expenditure to include payments to non-EU personnel working in Ireland

The combined effect of these changes could redress the current crisis facing the feature film sector and ensure the longer term development of the overall sector.

A strong growing film sector has been recognised to be of vital strategic importance by successive Irish Governments due to the cultural and economic benefits. The sector is now however entering a new era of importance due to its position at the heart of the highly coveted digital media industry and the recognition that creativity (and the ability to communicate Ireland's creative potential internationally) is the foundation of broader enterprise success.

Background

This document outlines the Irish Film Board's perspectives on the enhancements required to Section 481 to address the recent changes in the global landscape. It has been developed in response to Indecon's request for written submissions to support their current Review of Section 481 requested by the Department of Finance.

Aileen O'Malley, an independent consultant who has been involved in a number of previous film industry reviews, authored this report on behalf of the Irish Film Board. The Irish Film Board provided extensive input including the final recommendations. These recommendations were also discussed and supported in consultations with the broader industry including members of Screen Producers Ireland.

Document scope

The Irish Film and Television Sector is a broad and varied sector involved in production, broadcast and distribution of a wide cross-section of genres including feature film, animation, television drama, documentaries, news and current affairs, sports, light entertainment, children's programming and commercial advertising. Section 481 provides direct support to the production of feature film, animation, television drama and documentary segments. However, the broader audiovisual sector is also an indirect beneficiary as a result of the significant cross-over of talent, infrastructure, facilities and management services enterprises. This document focuses specifically on Section 481 funded activity.

The Irish Film Board

Bord Scannán na hÉireann/the Irish Film Board (IFB) is under the aegis of Minister Seamus Brennan T.D. Minister for the Arts, Sport and Tourism and the Department of Arts, Sport and Tourism. The Board's budget is voted annually by Dáil Éireann and the total budget for 2007 is €19.659 million.

As defined by the Film Board Acts 1980 - 2006, it is the role of the IFB to assist and encourage the making of films in the State and the development of an industry in the State for the making of films.

As such and alongside the development and support of the indigenous film industry, the IFB is responsible for attracting inward production and this is seen not solely as an end in itself but as a strategy for building an indigenous industry. Inward production brings with it the economic benefits of employment of film technicians and local film infrastructure, the opportunities for developing specialist skills, and the international networking opportunities through Irish producers and creative talent playing increasingly prominent roles in international co-production. High profile International film and TV production in Ireland attracts enormous attention at home and abroad, particularly if there is an Irish element in the story, and the competition to attract such high profile projects is greater than ever, particularly from the UK and Eastern Europe.

Promotion of Ireland as a film location is selling more than just locations – it evokes a unique Irish artistic and cultural pedigree and associates it internationally with some of the highest profile talent in the world. It is a message that benefits the Irish film industry and supports the on-going commitment of Government policy in promoting Irish film – according to Tourism Ireland 10% of all tourists visiting Ireland for the first time do so as a result of seeing 'Ireland' on screen.

While remaining internationally competitive for inward film and television production is essential, it is the Board's objective to sustain and grow the volume of high quality indigenous television drama and film production as the ultimate goal of public policy.

The mix of TV drama and film production is the business model that supports most Irish production companies that have the ambition to make films – it is the economic model that supports nearly all independent production companies in the EU.

Financing even a low budget feature film is a difficult task requiring possibly up to 7 or 8 separate sources of finance across different jurisdictions. It is no small achievement that Irish films are financed and produced at all, which makes the international success (e.g. recent successes at Cannes, the Oscars and the Sundance Film Festival) even more remarkable. Ireland is recognised as a centre of creative excellence and this is the platform to build on into the future.

As a result of on-going Government support the Irish film industry is no longer a cottage industry – a growing number of Irish filmmakers are now capable of making an international impact and generating an increasing level of added value for Ireland both culturally and economically.

The Board is active in its work to establish, with Government and with the public, that the supports for the film industry through direct and indirect financial measures should continue on a growing and a permanent basis as part of our national cultural and economic policy. Compared with other European countries Ireland has been a very late starter in seeking to establish a film industry and to become a sustained producer of home produced television drama. The 1980 Irish Film Board Act was the first Government intervention in support of the Industry – in the UK and Europe the majority of national film industries date back to the beginning of the twentieth century. The progress of recent years is a direct result of a consistent policy approach by Government. It is essential, if this progress is to be built upon and the potential of the industry to benefit the wider economy is to be realised, that the policy is maintained through amending the terms of Section 481 with a view to restoring their international competitiveness.

IFB STRATEGIC GOALS

1. *To enable the making of film in Ireland.*
2. *To enable the growth and quality of Irish film talent.*
3. *To enable Irish filmmakers to express their vision in film and television productions.*
4. *To grow the audience for Irish film in Ireland and abroad.*
5. *To promote an integrated government policy for the audio-visual/digital content sector, with film at its centre.*
6. *To deliver value for money to Seamus Brennan T.D., Minister for the Arts, Sport and Tourism and the Department of Arts, Sport and Tourism, the Department of Finance and the Irish public.*

Table of Contents

Chapter	Page #
<i>Chapter 1: Performance of Irish Film / TV sector and future outlook</i>	7
<i>Chapter 2: Costs and benefits of current Section 481 scheme</i>	17
<i>Chapter 3: Incentives offered in other territories and other key trends affecting Irish sector</i>	23
<i>Chapter 4: Recommended changes to Section 481</i>	23
<i>Chapter 5: Brief perspective on other tax-related measures to support the development and growth of the sector</i>	28
<i>Appendix 1 – Net exchequer cost calculations</i>	31

Chapter 1: Performance of Irish Film / TV sector and future outlook

Just under 400 feature film, television drama, documentary and animation productions have been completed since the introduction of a film and television production tax incentive for individual investors, and the reconstitution of the Irish Film Board in 1993. Irish feature films have achieved international recognition winning awards at the most prominent international film festivals. Irish cast and crew are considered in the premiere league of film and television talent including actors (Colin Farrell, Cillian Murphy, Jonathan Rhys Meyers, Liam Neeson and Fionnuala Flanagan) and directors (Neil Jordan, Jim Sheridan, John Moore, Kirsten Sheridan and Damien O'Donnell).

Film and television is a highly dynamic sector with a truly global aspect. Changes in one territory can have significant influence in another owing to the highly mobile nature of individual productions and the power of the major Hollywood producers. Chapter 3 outlines some of the key changes that have occurred in this global landscape recently, and in particular, over the past 3 – 4 years. These changes have resulted in a significant change in the profile of the industry with some segments thriving whilst other segments have struggled.

Exhibit 1

Irish film and television sector performance – summary

	Feature film	Television drama	Animation
Activity	Significant challenges in past 12 months	Strong growth in indigenous and incoming	Strong activity levels particularly in 2006
Audiences / international recognition	Some examples of strong international acclaim. Box office success still a challenge	Indigenous dramas continue to win strong TV audiences	Highly regarded internationally – resulting in awards and strong international sales
Talent development	Major developments across all talent categories	→	Very strong – highly coveted talent

Feature film

Feature film activity has oscillated significantly over the past 4 years. This oscillation is highly related to announcements about expected changes in UK tax incentives and the implementation of a new tax credit scheme in 2006. The changes in UK tax incentive have resulted in UK moving from being a co-funder to a competitor. During 2005, concerns regarding the future government support and GAAP loopholes created major uncertainty. Early 2006 saw intense activity as productions sought to avail of a window of opportunity before UK's sale and leaseback expired (and in part when enhanced Section 481 incentives were introduced). Since the expiration of UK sale and leaseback,

Ireland has attracted only 2 incoming feature films¹ (incurring only €3.8m Irish spend in total) and indigenous activity has fallen significantly. The emergence of BCI as a new source of indigenous films has generated some limited low budget films (some in the Irish language area) over the past 2 years.

Exhibit 2

Feature film indigenous activity levels

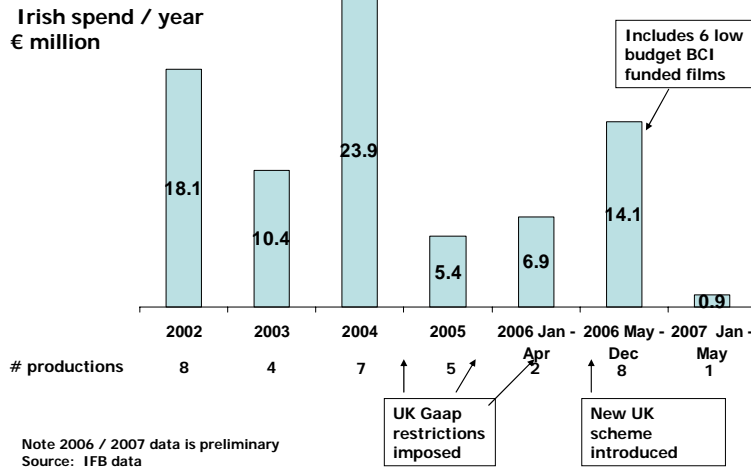
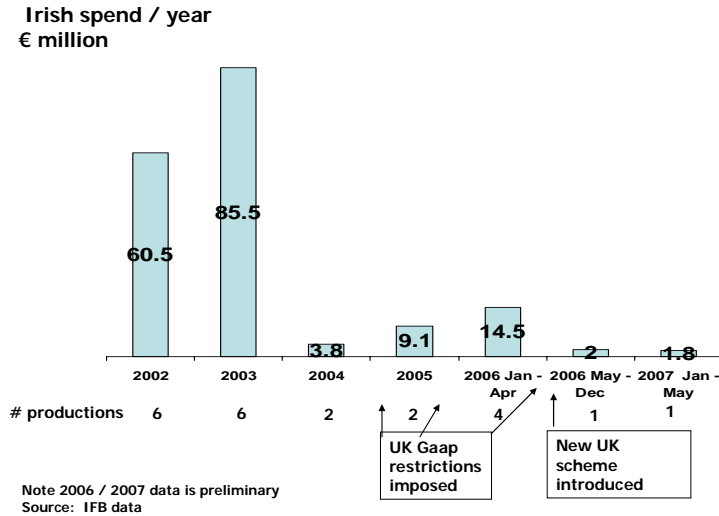


Exhibit 3

Feature film incoming activity levels



¹ 'PS I Love You' – which came to Ireland for just 2 weeks of principal photography and 'The Escapist' a low budget UK / Irish co-production

In spite of the uncertainty described above, the sector has achieved some notable successes over the past 3 years.

- Indigenous Irish films have punched significantly above their weight in gaining strong international acclaim:
 - ‘The Wind that Shakes the Barley’ received the highly prestigious ‘Palme d’Or’ in Cannes 2006, became the highest grossing independent Irish film at the domestic box office and went on to play in 46 countries.
 - ‘Garage’ a low budget indigenous Irish film was selected for the Director’s Fortnight strand at Cannes 2007 and was awarded the ‘CICAE Art and ESSAI Cinema’ Prize
 - ‘Once’ the micro budget indigenous Irish film² was awarded a major award at the Sundance Film Festival in 2007 and has recently taken the US box office by surprise, playing on 135 screens, taking in over \$3m box office revenue to date, reaching 12th in overall box office performance ahead of many major Hollywood productions.

- Talent:
 - Irish directors continue to gain international acclaim. Ciaran Donnelly directed the ‘The Tudors’, a major incoming Television drama and has since gone on to direct ‘Robin Hood’ a new BBC television drama series. Brian Kirk has also succeeded in using his director role on ‘The Tudors’ as a stepping stone to director roles in two US TV series ‘The Riches’, and ‘Brotherhood’ and is currently directing ‘My Boy Jack’ – a UK TV movie.
 - Irish actors have maintained their international appeal. Colin Farrell, Cillian Murphy and Gabriel Byrne have continued to generate significant international interest playing lead roles in a number of major Hollywood productions. Jonathan Rhys Meyers and Fionnuala Flanagan have both recently emerged as international names.
 - Irish crew are now at a par with their counterparts in US, UK, and Australia with a number of individuals achieving strong international acclaim. Consolata Boyle was nominated for an Academy Award for her costume designs in ‘The Queen’. The director of photography, Seamus McGarvey is ranked in the top tier of his profession and has shot major productions such as ‘World Trade Centre’, ‘Sahara’ and ‘The Hours’. Michele Burke has won 2 Academy Awards and multiple nominations for her make up on productions including ‘Dracula’, ‘Minority Report’, ‘Mission Impossible’.

Box office performance has improved with ‘The Wind that Shakes the Barley’ becoming the highest-grossing independent Irish film of all time, taking more than €3.5 million at the Irish box office. However, the indigenous industry has not yet succeeded in penetrating the €100 million Irish box office market. This is in spite of strong growth in Irish cinema attendances, predicted to reach 20 million admissions in 2010 (85% higher attendance / capita higher than overall EU).

This box office performance can be partially explained by two key factors:

² ‘Once’ did not avail of Section 481. The budget was too low to justify the administration costs associated with raising funds from numerous individual investors.

- Industry maturity. The indigenous Irish film industry is less than 30 years old and even during that period there has been some barren periods such as when government support waned during the '87 – '93 period. This compares to the indigenous film industries of other EU countries with over 100 years history such as UK³, France⁴ and Denmark⁵. As experienced in other countries, it takes significant time to build the talent, international profile, and industry structure to create a vibrant industry.
- Distribution challenges. Irish people do want to see their own stories on the big screens. However there is intense competition for access to a limited number of screens and the distribution and exhibition of film is controlled in ways that make it virtually impossible for Irish producers to gain access, let alone retain significant profit share or ownership of the film that they create. There is just one Irish indigenous distribution company; most films are distributed by the major Hollywood / UK distributors. Ireland is considered a territory within the UK market and indigenous films do not receive Irish-focused treatment.

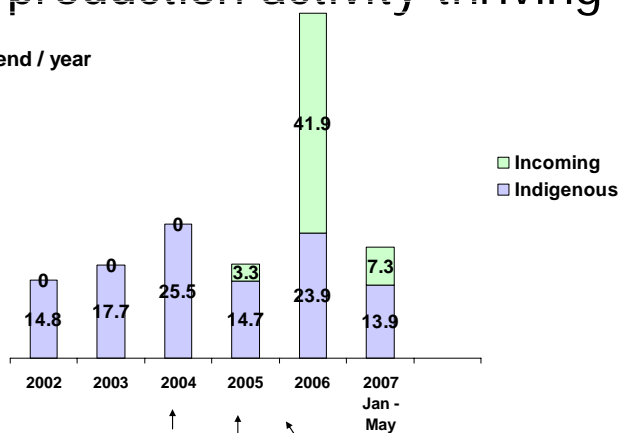
Television drama

The past 3 years has seen the emergence of television drama as a strong indigenous and incoming segment. In 2006, 10 indigenous and 8 incoming television drama productions were completed.

Exhibit 4

TV - production activity thriving

Total Irish spend / year
€million



Note 2006 / 2007 data is preliminary
Source: IFB data

↑
RTE
drama
funding
increased

↑
BCI fund
introduced

↑
IFB Int. Prodn.
Fund introduced

This strong performance can be explained by a number of key factors:

- **Incoming productions**
 - **International competition** – The Section 481 production incentive is relatively unique by European standards in covering television drama.

³ The first British film was made in 1889. As early as 1914, 25% of films shown in the UK were from the UK. Cinematograph Films Act 1927 was passed to boost UK production.

⁴ In development since 1895 when the Lumiere brothers invented the film camera/projector.

⁵ In development since 1906 when the first Danish production company started – Nordisk Films Kompagni – which is still in operation.

Therefore, the competitive issues (particularly versus the UK) in feature film are very different in television drama. Canada and Eastern Europe remain strong competitors but in the case of Canada, Irish / Canadian television co-productions have been very successful. Ireland is also a very appealing location for UK productions who can stay close to UK whilst accessing an attractive tax incentive support.

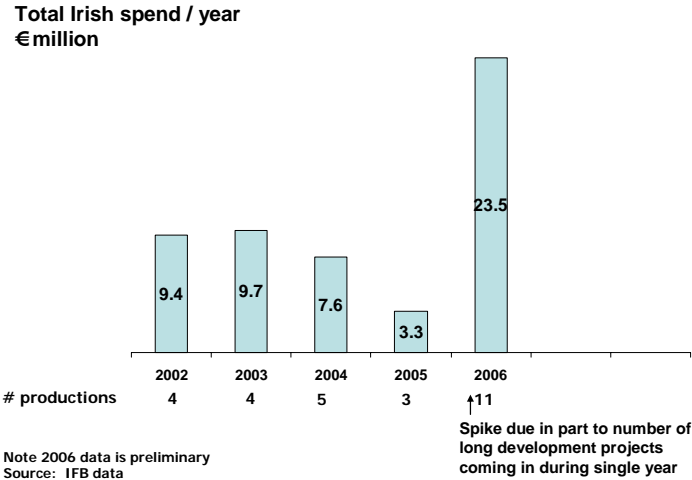
- **IFB International production fund.** The Irish Film Board established the International Production Fund in 2005 to address the major dearth in incoming productions. This fund has been used very effectively in the television drama area (in the absence of feature film activity) to complement Section 481 and influence a change in production location.
- **Emergence of period dramas as a very popular genre in UK and US.** Ireland has a particularly strong wealth of locations to support period dramas. Over the past 3 years there has been a significant interest in this genre with Ireland gaining a significant share of these productions (e.g. 'The Tudors', 'George Gently', 'The Old Curiosity Shop', 'Baker Street Irregulars').
- **Indigenous production** activity has been highly influenced by the emergence of two strong sources of funding.
 - **BCI fund.** The Broadcasting Commission of Ireland launched the BCI Sound and Vision fund in 2004. The Broadcast Act in 2003 allocated 5% of television license fee to the BCI fund annually. BCI has just launched the 4th round of funding supporting television and radio productions of cultural merit.
 - **RTE television drama investment.** Following the increase in RTE license fee funding in 2003, RTE has more than doubled its annual investment in television drama funding from €10 million in 2002 to €24 million in 2005.

Animation

The animation sector has performed strongly in recent years and has succeeded in breaking into the highly competitive global animation sector generating strong Irish exports. Unlike other production sectors, the animation industry has a strong fixed cost base which greatly increases the risk profile of the industry. Studios can only compete when they have established a strong work force of talented experienced animators. Currently Cartoon Saloon, Magma, Jam Media, Monster, Boulder Media, Kavaleer and Brown Bag are all in full production with major television series that will be broadcast to millions of children worldwide. It is now widely acknowledged in the international industry that Ireland has become a hub of talent.

Over 300 full-time and freelance animators are now estimated to be working in the Irish animation sector. An average of 7 animation projects were developed each of the last 3 years including some large scale projects originated and owned by Irish animation studios such as 'Skunk Fu', 'Ugly Duckling and Me' and 'Brendan and the Secret of Kells'.

Exhibit 5 **Animation activity - strong performance**



Irish animators have achieved strong international attention in recent years. E.g. Telegael received 2 prestigious Emmy awards and multiple Emmy nominations; Cartoon Saloon succeeded in selling ‘Skunk Fu’ to television stations worldwide, including the BBC, TG4, Super RTL Disney in Germany, ABC Australia and many other stations around Europe; Monster Animation’s ‘Fluffy Garden’ has received strong international interest and looks set to reach over 80 territories worldwide.

The recent nomination of John Rice, the CEO of indigenous animation studio Jam Media, for Ernst & Young’s Entrepreneur of the Year 2007 illustrates how the animation sector has emerged from cottage industry status to commercial enterprise status.

Cartoon Saloon Case Study - illustrating the stages of development of an indigenous animation company

The Cartoon Saloon, an animation company in Kilkenny, was formed by two graduates of Ballyfermot Senior College (Paul Young and Ross Murray) upon graduation in 1999. Over the period 2000 – 2003, the company produced 9 IFB funded short animation projects, many of which garnered international awards. At the same time, the company pursued commercial animation experience by providing Internet animation content and producing television commercials for a number of national and international advertising agencies and clients.

In 2003, Cartoon Saloon received an IFB Company Development Loan in order for the company to develop their own longer form projects and attend key international markets. By 2005, two long form IFB developed projects were ready for the international marketplace, the feature film *Brendan and the Secret of Kells* and the TV series *Skunk Fu*. Both projects were financed by the Irish Film Board together with Section 481 and with numerous local and international partners, and went into production in Kilkenny in 2006 employing up to 50 animators and production crew. The international partners in the projects include the BBC, ABC (Australia) with investors and animation partners from Belgium, the Netherlands and France.

The Cartoon Saloon is now in 2007, regarded across Europe as a high quality Irish design and animation studio of world class standard.

Post production

The Irish post production sector is experiencing strong growth currently. Digital film making is eliminating the tie with large laboratories and enabling productions to complete all aspects of post production in Ireland. The removal of the 55/ 66% limitation on eligible expenditure for Section 481 has been a critical enabler providing an incentive for productions to maximise their expenditure in Ireland. Indigenous and incoming productions conducting principle photography in Ireland are now choosing to post produce in Ireland. Irish post production companies now have the skills and digital technology to support large scale top quality productions. UK television dramas (e.g. 'Talk to Me') are already choosing to come to Ireland specifically for post production. The improvement in broadband infrastructure is also enabling Irish companies to compete for elements of post production projects in UK and US.

Like animation, post production requires significant infrastructure investment. Strong Section 481 supported activity has enabled the sector to invest significantly over the past few years improving the viability of the overall sector.

Future outlook

A strong indigenous feature film sector is the ultimate aim of the industry and expressly the Irish Film Board. Indigenous feature films are recognised as the most powerful vehicle for promoting cultural identity as they travel internationally and show case Ireland and Irish culture. However, a strong indigenous film sector will only be achieved through a balanced approach to the sector across multiple dimensions: feature film / television / animation, incoming / indigenous, large / medium / low budget productions.

Exhibit 6 **Balanced profile essential to support vital interdependencies**

Dimensions of balance	Key interdependencies
TV / Film	<ul style="list-style-type: none">• Film strongest vehicle for promoting cultural identity, international exposure• Professional development – TV vital early step on talent ladder for film professionals• Production company viability (film more lucrative)• Infrastructure (film has specific requirements)
Indigenous / incoming	<ul style="list-style-type: none">• Indigenous success ultimate aim for sector but not viable without incoming activity• Incoming – exposure to highest skill levels, investment in equipment, facilities and infrastructure international audiences, distributors
Large / mid / small budget	<ul style="list-style-type: none">• Learn skills on smaller budgets and opportunity to move up ladder into larger (and more demanding productions)• Higher budgets necessary to achieve commercial success and exposure• Lower budgets provide consistency smoothing large budget peaks.
Animation / postproduction	<ul style="list-style-type: none">• Animation and post production both share a number of similar skill sets. Strength in one supports the development of the other.

Balance is key:

- Television / feature film: Ambitious and accomplished television drama is the career stepping stone that has in the past been missing for Irish acting, writing and directing talent. The mix of television drama and film production is the business model that supports most Irish production companies that have the ambition to make film. This is the economic model that supports nearly all independent production companies in the EU and puts Irish producers on a par with their EU counterparts for entering into co-financing deals for film production.
- Incoming / indigenous: Whilst a strong indigenous production sector is the ultimate aim, it cannot be achieved without strong incoming activity. Incoming productions provide the experience and income to support and develop talented individuals and production companies. Incoming productions also provide the economic justification for infrastructure, facilities and equipment that are also required by indigenous productions. In addition, the networking connections enabled by incoming productions play a vital role in developing the indigenous sector.
- Large / medium / small budgets: Low budget productions provide a first step on the ladder for individuals and businesses learning the ropes. Large budget productions are more financially attractive and are key to industry viability. However, large budget productions also lead to peaks in activity and low / medium budgets are essential to provide consistency.
- Animation / post production: Many of the skills and techniques of animation are fundamental to feature film and television drama post production. Indeed as special effects continue to build importance in feature film the cross over between animation and feature film has grown significantly.

Case study illustrating how incoming television drama benefits overall sector

'The Tudors' Series 1 TV Series

Produced: Summer 2006

Location: Ardmore Studios, Christchurch Cathedral,
Dublin Castle, Phoenix Park, Lugala.

'The Tudors', a 10 part Canadian Irish Co-Production for Showtime the US cable channel shot in Ireland in 2006. The series stars Irish actor Jonathan Rhys Meyers and Sam Neill and depicts the life of young Henry VIII. The spend in Ireland was €21M of a total budget of €31M. Two Irish directors – Brian Kirk and Ciaran Donnelly directed 2 episodes each. 95% of Heads of Department of the crew were Irish, 222 Irish crew were engaged, 59 Irish cast members were attached and 1,500 extras days were utilised over the 20 week shoot. The series attracted a prime time US audience of over 2 million in its first week. The series will screen on the BBC in autumn 2007 and a second series has just commenced production in Ardmore Studios. Peter O'Toole has a role in Series 2 and Irish directors Dearbhla Walsh, Colm McCarthy and Ciaran Donnelly have been engaged to direct episodes.

Brian Kirk – Irish director on 'The Tudors' Series 1. "The Tudors' was an enormous opportunity for me to work as a director in Ireland on a production of scale and budget, with special effects and star actors. These kind of directing skills are only developed with experience and it is a difficult market place to enter as a director. Morgan O'Sullivan (World 2000 – Irish co-producer of 'The Tudors') is keen to sponsor Irish talent. The long term dividend for Ireland is the creation of the appropriate calibre of talent who can work on scale and budget and who can bring projects back to Ireland. Section 481 is needed to facilitate the environment that can both

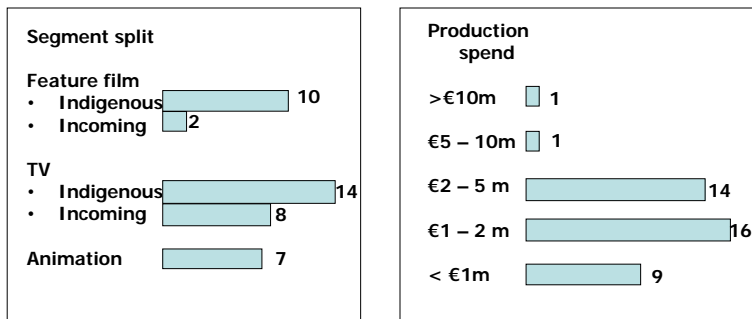
attract international productions to Ireland and create the indigenous industry”.

Following ‘The Tudors’, Brian directed: ‘The Riches’ – US TV series starring Minnie Driver and Eddie Izzard; ‘Brotherhood’ - US TV series starring Jason Isaacs and Fionnula Flanagan and is currently directing ‘My Boy Jack’ – a UK TV movie for Ecosse Films starring Daniel Radcliffe and Kim Catrall at Ardmore Studios.

Exhibit 7

Current profile major gaps in incoming film, mid / large budget productions

productions during May '06 – May '07



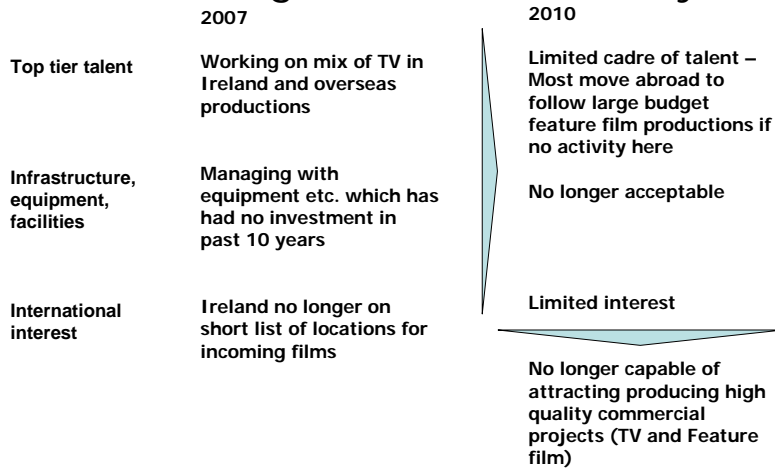
Note 2006 / 2007 data is preliminary
Source: IFB data

Over the past 3 years, a major gap in feature film, and incoming / large budget feature films in particular has emerged. This profile is already causing difficulties as talent and crew specialising in feature film are already beginning to move overseas or to other industry sectors. Many of the graduates emerging out of the various film related courses across Ireland are now choosing to emigrate. There has been no recent capital investment in equipment and infrastructure specific to film, and much of this will shortly become obsolete. In this scenario, it will not be long before Ireland ceases to be able to support commercially attractive indigenous films. This will quickly hit television drama and animation sectors which would have further consequences for other highly related sectors of television and commercial production.

Unless Ireland can quickly address the challenges of attracting incoming feature films, the overall Irish television and film sector will suffer significantly with subsequent implications for broader Irish enterprise and culture

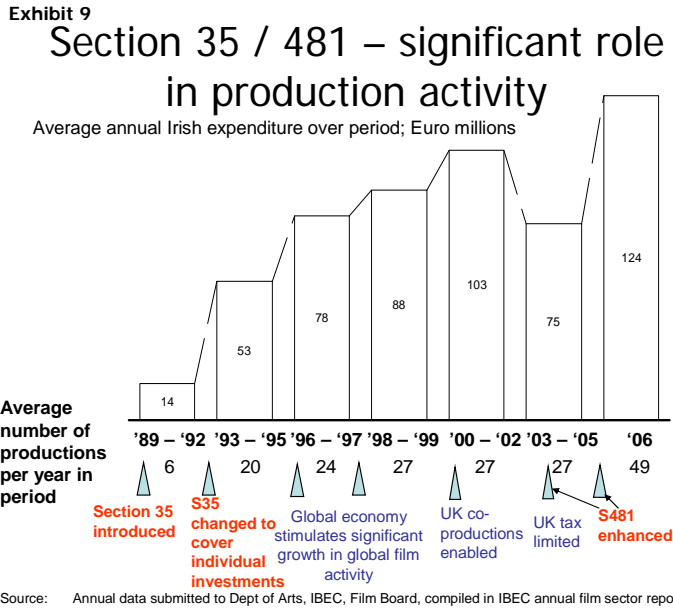
Exhibit 8

Future outlook if no changes in incoming feature film activity



Chapter 2: Costs and benefits of current Section 481 scheme

Section 481 is broadly recognised as a critical enabler of the film and television sector. The current sector performance can be traced back to the introduction of Section 35 for individual investors (the predecessor to Section 481) in 1989. Without Section 481, the feature film, television drama and animation sectors would fail to survive. Each of these sectors is notoriously challenging to finance – Section 481 provides funding to close the gap and attract the incoming productions that provide the commercial viability required to succeed.



The costs of Section 481 can be quantified reasonably accurately given the availability of tax foregone data however the total benefits of Section 481 are impossible to quantify as the impact of Section 481 extends significantly beyond the film and television sector.

Section 481 costs:

Section 481 is an activity-based incentive, therefore no cost is incurred without activity. During the period 2004 – 2006 an average of €70.5 million Section 481 funding was raised each year resulting in a €23.7 million / annum tax foregone. There are some additional costs involved in the Revenue's administration of the scheme but this is considered to be less than €200,000 per annum.⁶

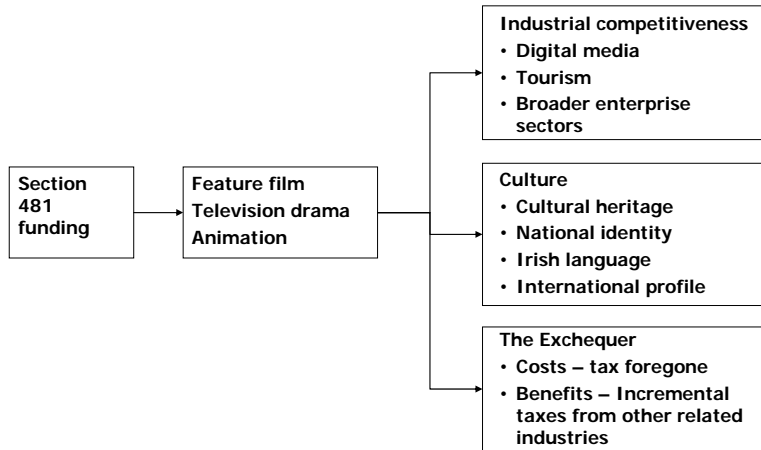
Benefits of Section 481.

The benefits of Section 481, transcend far beyond the film and television sector. For many years, the film and television sector has been valued as a sector that provides attractive economic growth potential and a strong contributor to Irish culture. The sector is now however entering a new era of importance due to its position at the heart of the highly coveted digital media industry and the recognition that creativity (and the ability to communicate Ireland's creative potential internationally) is the foundation of broader enterprise success.

⁶ PricewaterhouseCoopers Report to the Irish Film Board and the Department of Arts, Sport and Tourism, 2003

Exhibit 10

Section 481 funding impacts



Film and television sector

Section 481 provides a benefit of up to 20% of qualifying expenditure to a qualifying production. This is significantly important in a highly mobile sector where financing is hugely challenging. Indigenous sources of finance are particularly limited. Other countries such as the UK, France, US, Canada rely on significant broadcaster investment and sales advances. Competition for incoming productions is intense. Ireland's ability to compete for large scale mobile studio projects will always be heavily dependent on the competitiveness of financial incentives.

Exhibit 11

Importance of S481 – incoming films

Decision criteria	Irish competitiveness
• Location fits with script	Very strong for period settings and rural landscapes
• Cost of production	Good transparency but high labour costs compared to E. Europe
• Incentives	S481 was one of first incentives and highly valued. Significantly weakened recently due to UK, US changes
• Ease of conducting business	Very strong; English language speaking, strong government support and access to decision makers
• Talent location preference	Highly favoured location by stars

Ireland has lost its status as highly favoured location for mid-budget films with extensive landscape / period setting requirements

An analysis of production activity by Screen Producers Ireland in their report 'Sustaining the competitiveness of the Irish film industry' 2003, demonstrated that 82% of the activity funded by Section 481 would not be produced in Ireland if Section 481 funding was not available. Section 481 also has a significant impact on other segments of the film and television sector not covered by Section 481. There is significant cross over of talent, equipment and facilities. The elimination of Section 481 funded activity would have significant negative impact on the total audiovisual sector.

Digital media sector

It is widely recognised that film and television is at the heart of the emerging digital media sector.

- **Content.** 'Content is king' is the established mantra of digital media. Film and television content has proven its viability in digital media enabled channels particularly strongly and is a major driver of the industry today. Film content has already driven broadband penetration through online DVD rental and the emergence of You Tube and other sites where film content can be downloaded.
- **Skills.** The digital media sector in Ireland has a significant demand for a high quality mix of creative and technical skills as articulated by Forfas's report 'Future Skills Requirements of the International Digital Media Industry: Implications for Ireland'. The skills developed in the feature film, animation and post production segments are the foundation of all digital media segments. Riverdeep, the Irish eLearning company, sought out the art direction skills of Irish animation studio Kavaleer to enhance a major suite of products.
- **International profile.** If Ireland is to continue to attract inward investment in the digital media sector it must maintain a high profile internationally. Film is perhaps the most cost effective and influential media to achieve this profile. One single film reaches audiences of millions and creates powerful imagery illustrating Ireland's creative and technical strengths in digital media.

Tourism

Films shot in Ireland have proven to be a key factor in Ireland's attractiveness to international tourists. 10% of tourists cited films as a source that influences their choice of Ireland as a holiday destination in 2005⁷ estimated to be worth €427 million in tourist spend⁸. No amount of paid advertising could deliver such powerful images of Ireland's tourist attractions. Major productions shot in Ireland in the past 24 months have used popular tourist attractions as key locations. 'The Tudors' filmed in Christchurch Cathedral and Kilmainham Gaol with the locations featuring in the 'making of' DVD. The German television drama 'An Ocean Apart' filmed in the Cork / Kerry region was watched by 7.8 million Germans in January 2006. Tourism Ireland had over 25,000 visits on their web site the following day. The German producer has gone on to commission two follow-on productions featuring other attractive tourist locations 'Return to the Shannon River' and 'Mist over Kilrush Castle'.

Ballykissangel, the highly successful television series shot in Avoca during the period 1996 – 1999 had a significant impact on local Wicklow tourism. Before production took

⁷ IMS Millward Brown Visitor Attitude Survey 2005 for Fáilte Ireland

⁸ Tourism Ireland Contact publication, October 2006

place in Avoca, the town had high unemployment and little tourist appeal. Following the huge international success of the show, an average of 10 tourist coaches visit the town daily over 10 years since the first series of the show was produced. Ballykissangel also launched the careers of many Irish cast and crew including Colin Farrell.

Broader enterprise sector

A strong international profile for Ireland will also create benefits in other industries. The core proposition of the IDA's current campaign is that 'in the business world today, where innovation and creativity are pre-requisites for keeping on top – and ahead – you need to locate parts of your business in a society where these attributes flourish – Ireland'⁹. What better way is there of demonstrating this than a strong vibrant innovative domestic film industry producing films with a strong international profile? The economic impact of this can be significant.

The UK has formally recognised the link between creative industries (e.g. film, design, software) and the rest of the economy. A report recently commissioned by the Department of Culture, Media and Sport¹⁰ outlines the importance of creative industries in the overall UK economy. 'Creativity and innovation are overlapping concepts. In the main, creativity, is about the origination of new ideas – either new ways of looking at existing problems, or of seeing new opportunities, while innovation is about the successful exploitation of new ideas. It is the process that carries them through to new products and services or even new ways of doing business. Increasingly, both are important across the spectrum of economic activity. The creative industries can be conceived as a pioneer sector of the economy, trailblazing approaches, and fostering an attitude towards creativity and innovation from which the rest of the economy and society can benefit. This critically depends on whether 'effective' transmission mechanisms are in place.'

Irish culture

Film and television are an integral element of Irish culture. Section 481 funded activity benefits Irish culture across a number of facets:

- **Enhancing our understanding of our cultural heritage:** Irish films have played a key role in bringing Irish history alive and informing a new generation of Irish people and international audiences of some of the nuances and different perspectives on Irish history (e.g. 'The Wind that Shakes the Barley'). Another strand of films has revived the lives and works of famous Irish cultural icons (e.g. 'Nora' and 'Beckett on Film').
- **Promoting the Irish language.** Irish language film and television activity has grown over the past 3 – 4 years as a result of BCI funding. The combination of Section 481, BCI and TG4 funding as enabled the modern Irish language feature films (e.g. 'Cre na Cille, 'Na Boicini') for the first time.
- **Portraying our national identity and promoting cultural diversity:** Opposing views of Ireland have been presented, from the portrayals of urban Ireland (e.g. 'Tiger's Tail', 'About Adam', 'When Brendan met Trudy', 'Fergus's Wedding', 'Bachelors Walk') to the portrayals of rural Irish society (e.g.

⁹ IDA letter to SDGI November 2006

¹⁰ Report published by The Work Foundation, commissioned by DCMS 'Staying ahead: the economic performance of the UK's creative industries'

‘Breakfast on Pluto’, ‘Garage’). Films such as ‘The Front Line’ highlight the lives of marginalised groups within our society. The recent growth in indigenous Irish animation is now ensuring that Irish children are growing up seeing Irish stories with Irish plots and Irish characters. (e.g ‘Brendan and the Secret of Kells’ and ‘Fluffy Gardens’).

- **Enhancing the profile of Irish culture overseas:** Films, television programmes and video art works play a huge role in promoting Ireland and its cultural heritage overseas. Ireland is already recognised across the globe as a strong protector and promoter of the arts. However, much of this reputation relates to writing and music rather than visual arts. Increasing numbers of people rely on television, cinema and their computer as their artistic experience mediums. Therefore, it is reasonable to assume that the key cultural icons of the 21st century will come from these audiovisual mediums. If Ireland is to continue its long history of cultural notoriety (e.g. James Joyce, William Butler Yeats, Jonathan Swift), audiovisual arts will require a stronger national profile.

The Exchequer

As discussed above, Section 481 funding impacts a broad range of different sectors each resulting in Exchequer benefits. Quantifying the total impact of this is impossible.

IFB has analysed the benefits to the Exchequer from film and television activity.

Exhibit 12

The Exchequer – Section 481 costs and benefits

		Average annual (2004 – 2006)
Costs	Tax foregone	€23.7m
	Administration	Negligible
Film industry taxes	Incremental direct employment taxes	€6.8m
	Taxes from incremental employee expenditure	€5.5m
	Taxes from incremental film production spend	€8.5m
	VAT on box office receipts of S481 productions	€0.5m
	Capital duty	€0.2m
	Total returns	€21.5m
Net cost		€2.2m

Additional exchequer returns arising from other sectors directly influenced by film not quantified

Source: IFB data and analysis. See Appendix for methodology and assumptions

This analysis calculates the benefits amounting from:

- Incremental employment taxes arising from employees directly employed on Section 481 funded projects (corrected for deadweight and displacement)
- Taxes raised on incremental employee expenditure (corrected for deadweight and displacement)
- Taxes raised on incremental film production spend (corrected for deadweight)
- VAT on box office revenues of Section 481 funded productions

- Capital duty charged on Section 481 fund raising (abolished December 2005)

Based on this analysis, the average tax returns to the Exchequer during the period 2004 – 2006 was €1.5 million, resulting in a net cost to the Exchequer (against tax forgone costs) of €2.2 million.

This does not include the significant benefits accruing from the impact of film on other sectors.

For example:

- A 0.1% increase in tourist visitors equates to 6,000 additional visitors with an incremental spend of €4 million generating €1.9 million incremental tax income for the government¹¹.
- Each new company that is attracted to Ireland based on Section 481 productions promoting the creative and technical skills available in Ireland delivers valuable incremental taxes.

¹¹ 'New Horizons for Irish Tourism' Report of the Tourism Policy Review Group, 2003

Chapter 3: Incentives offered in other territories and other key trends affecting the Irish film and television sector

The international landscape has changed significantly since Section 481 was introduced and most spectacularly over the last 3 – 5 years.

When Ireland first introduced its film production tax incentive in 1984 few other territories offered incentives for film production. Today, all major film-producing countries single the film industry out for sector specific tax incentives. Even the US, the notable exception previously, has shifted its policy on this dramatically. With 47 states now offering some level of tax incentive for film production¹². Ireland’s competitiveness has been further hampered by the strengthening of the euro against the dollar and the increasing labour cost gap between Ireland and Eastern Europe.

Exhibit 13 Tax incentives – international comparisons

Country	Net contribution (% Local production budget)	Cap on benefit / production	Non resident employee costs included?	Other constraints
Ireland	20%	€35m budget	N (only EU)	
UK	20 – 25%	N	Y	UK cultural test, Min 25% on budget in UK
Australia	15%	N	Y	Min. Aus\$15m (min. 70% of total budget)
Germany	16 – 20%	€10m benefit	N (only EU)	Min 25% of total budget in Germany
Hungary	16 – 18%	N	N (only EU)	
New Zealand	3 – 12.5%	N	Y	Min. NZ\$50m budget (or if NZ\$15 – 50m min70% of production in NZ)
Canada	10 -25%	N	N	Calculated solely on local labour spend
South Africa	15%	\$1.4m rebate	Y*	Min. 50% principal photography (and min 4 weeks) in SA
Malta	20%	N	Y	
US – varies by state	Up to 25%	Varies	Mixed	

* If certified as necessary for the production by S. African DTI
Source: Screen Daily, individual national film agency web-sites

The most significant changes impacting the Irish television and film sector are as follows:

- UK – switches from being a major co-funder to a major competitor impacting incoming and indigenous Irish feature film productions in April 2006.
- US – previously as a major exporter of activity now retains US activity and emerging as a location for inward productions particularly since early 2004.
- Australia – already recognised as a strong international location improves its offer in May 2007.
- Eastern Europe continues to be location of choice for EU locations with high labour requirements.

¹² MPAA ‘State-by-state Tax Incentives’ 2007

UK

Following an extensive review of the UK film sector¹³, the UK replaced its sale and leaseback incentive with a new tax credit system in April 2006 with a profound effect on Irish industry.

During 2002 – 2004, 93% of all Irish feature films were co-produced with UK. Under the terms of the UK sale and leaseback mechanism, it was possible to combine UK and Irish tax incentives for the portions of the production spend incurred in Ireland as long as a minimum 20% UK spend was satisfied. In addition, UK private equity partnership structures based on General Agreed Accounting Principles ‘GAAP’ were also able to finance film providing further incentives for UK / Irish co-productions.

The new UK tax credit scheme came into effect May 2006 but further refined in December 2006 as a result of EU intervention. The changes created by the new scheme were significantly more challenging for Irish productions than original forecast when the IFB report to DAST was submitted in November 2005.

- The incentive has been limited to eligible expenditure incurred in UK (previously available to UK personnel working in the co-producer’s country)
- A film must qualify as a ‘British’ film passing a new cultural test
- Eligible expenditure is deemed to include amounts paid to any personnel working in the UK, including citizens of EU and other countries – tax credit payable on salaries of US stars and directors earned while working in UK
- The level of benefit available is higher than almost any other country offers and substantially higher than that available under Section 481
- The minimum expenditure required in the UK was increased from 20% to 25% of total budget

Activity levels in UK have increased significantly since this introduction. Production spending in 2006 totalled £840.1 million, up from £568.8 million in 2005, with UK involvement in 134 feature films. Inward investment rose by over 80% to £569.6 million from £312 million in 2005.¹⁴ Huge Hollywood blockbusters are now choosing the UK - Sweeney Todd, a Paramount Pictures & Warner Brothers \$160m production starring Johnny Depp is currently being filmed in UK. A number of major US studios are now setting up production entities in the UK.

¹³ The UK review examined the role of the UK film sector, the requirement for government intervention and alternative schemes for supporting the industry. The HMRC document analysing the impact of proposed changes provides a good summary : HMRC Regulatory Impact Assessment March 2006 ‘[Reform of Film Tax Incentives - promoting the sustainable production of culturally British Films](#)’

¹⁴ UK Film Council

Exhibit 14

Tax incentives – US states

Country	Net contribution (% Local production budget)	Cap on benefit / production	Non resident employee costs included?	Other constraints
Louisiana	25% local spend (+10% local payroll)	N	Y for base 25%	
New York	10% in state (+5% in NY city)	N	Y	Min 75% of production in NY
Illinois	25% IL resident payroll costs	N	N	
Mississippi	10% local spend (+10% local payroll)	N	Y for 10% base	
New Mexico	15%	N	N	
Oklahoma	15%	\$2m payments	Y	Below line crew min 50% OK residents
Pennsylvania	20%		Y	Min 60% production cost in state

Source: MPAA, individual state film agency web-sites

US

During the 1990's and the early part of this decade, there was major concern in US about 'runaway' productions where US studios were choosing to produce in Canada, Mexico and Europe in order to avail of attractive financial incentives and lower labour costs. This has changed dramatically over the past 3 – 5 years as a result of two key factors:

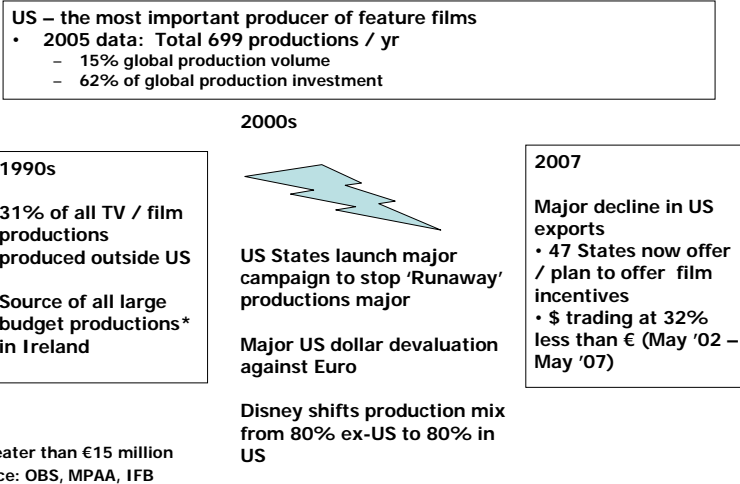
- Exchange rates: over the last 5 years the dollar has weakened dramatically against the euro – 32% change in exchange rate from May 2002 to May 2007. This effectively increases euro zone costs by 32%.
- Individual states have introduced their own tax breaks to compete with international trends
 - At least 47 states now offer some kind of break
 - Examples: 2006 / 2007 changes
 - Michigan – introduced 2007; productions get a straight refund of between 12% and 20% of their Michigan expenditures, with a maximum refund per production of \$2million and an annual limit across all productions of \$7million¹⁵
 - Washington – introduced 2007 funding assistance of up to 20% of in-state expenditures, with a \$1million per-production cap¹⁶
 - Vermont introduced 2006 offering grants reimburses 10% of local expenditures of productions spending at least \$1million in the state with a \$1million cap

¹⁵ Screen 9th May 2007

¹⁶ Screen 9th May 2007

Exhibit 15

US – significant reduction in production export activity



Australia

Australia introduced a film tax offset in 2002 which provided a benefit of 12.5% of qualifying spend to incoming productions (greater than Aus\$15 million). This helped Australia to attract 20 major productions over the following 5 years. However, recognising the changing international landscape the Australian government announced an improved scheme in 2007 offering 15% rebate on local production and post production expenditure. The scheme also differentiates between incoming and indigenous productions offering a 40% rebate for indigenous productions.

Eastern Europe

Eastern Europe has become a major competitor for inward productions over the past decade. The low labour costs and existence of a mature indigenous sector make it a highly attractive location for productions with high labour cost element. A number of countries have invested further in improving attractiveness by introducing incentives and investing in infrastructure. Romania has experienced a 100% increase in activity over the period 2000 – 2005. Bulgaria has become a leading location for television movies availing of low labour rates and a world class studio facility. Hungary has introduced a tax incentive and invested in a major studio both of which have led the blockbuster 'Hellboy 2' with a budget of US\$72million to shoot there in 2007. Eastern Europe is a major competitor for television incoming productions and this is likely to increase as they build their profile and expertise in this segment.

Whilst the above changes have some serious negative implications for the sector, there are a number of other changes that could have some positive benefits for the sector in Ireland.

Increased value of film content resulting from the emergence of new digital media opportunities

As discussed in Chapter 2, film and television content is at the heart of digital media. Internet, mobile and other portable media are creating significant new opportunities for film and television content.

- Increased distribution: Online DVD rental, video-on-demand and digital cinema are creating new distribution opportunities for film and with the potential for 'long tail' distribution enabling productions with smaller audience appeal to be distributed globally.
- Leveraging of content to other formats: The huge growth in digital gaming and elearning creates significantly new and valuable opportunities to leverage the content of film and television. The characters and visual effects created for one media can quickly be translated to others.

Potential for digital production and distribution to enhance Irish self sufficiency

Traditional 35mm print distribution for cinemas is a costly activity and one which Ireland has relied on overseas suppliers to produce and reproduce physical film prints. Digital distribution is set to change the business model and patterns of distribution whereby digital 'prints' cost a fraction of 35mm prints to produce and distribute and this will offer more flexibility and choice to distributors and cinema operators. In the very near future, for the first time, it will be possible to develop, produce, post produce and distribute films from start to finish on the island. The process of rolling out digital distribution and overcoming the current capital expense and operability challenges in Ireland may take up to 2 – 4 years.

Once a cinema has converted to digital systems it creates completely new opportunities for the operator. It opens up the possibility of exhibiting a far greater number of films in one week and even on a single day as the cinema can store a greater number of films and schedule according to audience demand. This allows more opportunity to match audiences with films and crucially could create big screen space for locally produced films that find the entry cost today too prohibitive.

Chapter 4: Recommended changes to Section 481

Section 481 has been a critical enabler of the Irish film and television sector. It is a highly regarded scheme for a number of critical reasons:

- Established and well understood by all stakeholders
- Transparency and timeliness of decision making
- Timing of payment – upfront with no need for discounting
- Applicability to television drama
- Absence of abuse

Section 481 was enhanced in 2006 in anticipation of UK film tax incentives. However, the UK tax changes were significantly more detrimental than anticipated. In addition, the reduction in income tax rates from 42% - 41% (with an additional 1% reduction anticipated) has also reduced the Section 481 benefit to productions and impacted on competitiveness. As evidenced in Chapter 1, the industry is struggling to compete in the ever changing global landscape, particularly in the feature film sector where two key gaps exist:

- Increasing financing challenges for indigenous films as a result of the loss of UK co-production funding
- Reduced competitiveness of tax incentive for incoming productions to compete with UK, US and other incentives

The stability afforded by the recent announcement that Section 481 funding will be renewed is crucial for industry planning and development however it is essential that the above gaps are addressed in order to re-establish Ireland as a competitive film making location and provide further protection to the nascent incoming television drama and animation sectors in Ireland.

IFB did consider whether an alternative tax mechanism regime should be pursued. However, it was quickly established that a move away from Section 481 could be detrimental for the industry. The benefits of Section 481 as outlined above are considered a major competitive advantage. The uncertainty surrounding the UK tax incentive created major issues over the past 2 years. The Irish feature film industry is unlikely to be able to survive through a period of further uncertainty.

The combination of the following changes to Section 481 can both deliver the industry requirements for stronger benefits and address Exchequer interests in improving the efficiency of the scheme and minimising dead weight.

- Increase the individual write off to 100%
- Raise the individual investor cap to €150,000 in line with recent BES changes
- Expand definition of eligible expenditure to include payments to non-EU personnel working in Ireland

Proposed changes could address major challenges

Proposed change	Potential impact
Amendments to Section 481 <ul style="list-style-type: none"> • Increase the individual write off to 100% 	+ 4 – 5% benefit to indigenous and incoming productions
<ul style="list-style-type: none"> • Raise the individual investor cap to €150,000 in line with recent BES changes 	Reduced leakages Additional benefit to incoming and indigenous productions
<ul style="list-style-type: none"> • Include payments to non-EU personnel working in Ireland as qualifying expenditure 	Increase eligible expenditure by 15 – 20% for incoming productions
Overall industry impact <ul style="list-style-type: none"> • Restore Irish competitiveness in feature films • Improve the competitive stability of television drama and animation • Create a more balanced profile of activity • Restore the viability of the overall sector 	

Increase the individual write off to 100%

Section 35 was originally based on a 100% write off. It was reduced to 80% in 1997 when the investment period was reduced from 3 years to 1 year. This was at a stage when personal taxation rates were 17% higher than current rates. The experience of the industry with recent changes in personal taxation rates has demonstrated that market forces have established a minimum return that is necessary to entice individual investors and that any increase in overall net benefit will flow to producers rather than any other party. By restoring the relief to 100%, the net benefit to productions would increase to 24 – 25%.

Raising individual investor cap to €150,000

When Section 35 was opened up to individual investors in 1993, the scheme adopted the BES investor cap of £25,000 (€31,750). This cap has not changed since then for film. Budget 2007 increased the BES cap to €150,000. This change is equally important for Section 481.

- **Reduce administration costs, opening up Section 481 to low budget films:** Low budget indigenous films currently struggle to avail of Section 481 given the administration costs. By increasing the cap to €150,000, a low budget film could raise Section 481 funds from just 2 – 4 individuals with minimal administration costs.
- **Address the current industry constraint of limited number of Section 481 investors:** Section 481 investors currently realise net benefits of approximately €2,000, representing a return of 6%. The absolute value of this is negligible compared to other investment options for investors, including the recently refined BES option. Over the past 2 years, Section 481 fund raising has become an industry constraint. By raising the cap, less investors are required / production and it is likely that more investors would be attracted to the incentive - all at no additional cost to the exchequer. A single large production such as 'The Tudors' requires raising funds from over 600 individual investors. Increasing the cap to €150,000 would reduce this number to 140.
- **Reduce leakages / increase the benefit to the production.** A reduction in the number of individual investors / production would reduce administration costs. In addition, the

return required by individual investors may decrease. The current return is partially based on the fact that individual investors are unlikely to invest for a return below the €2,000 threshold. By increasing the cap it is likely that investors experienced in investing in film would consider lowering the percent return required. As discussed above the benefits accrued from both of these changes would flow directly to the production. It is estimated that this change would result in additional benefit to productions.

Expand definition of eligible expenditure to include payments to non-EU personnel working in Ireland

The original Section 35 legislation referred only 75% of the production work to take place in Ireland to qualify and did not specify eligible spend. The current restrictions on eligible spend were introduced over time beginning with the 1995 certification guidelines and defined in legislation in 2005 when the Revenue became responsible for certification.

When the UK finally agreed the details of the new UK tax credits with the EU at the end of 2006, one of the unexpected changes was the inclusion of payments to non-EU personnel as eligible expenditure. This change has been detrimental to Irish competitiveness. For a typical mid-budget US film, with a US director and 1 – 2 A-list cast members, this enhances the eligible expenditure by 15 – 20%. ‘Mary Queen of Scots’, a \$30 million budget film, is an example of a film that was considering shooting in Ireland until the UK incentives were changed. With Scarlett Johansson playing Mary Queen of Scots, with a US director and other lead actor-the combined non-eligible spend for those three individuals will be approximately \$5m. The combination of a higher net benefit in the UK and the inclusion of this \$5m as eligible spend in the UK means that the production will pick up \$6m in the UK as opposed to \$3.8 m in Ireland.

Expanding the definition would enable Ireland to compete on a more equal footing with the UK and other jurisdictions such as Australia, New Zealand and Malta. There are now established industry practices to manage the treatment of non resident personnel expenditure. For example in Australia, personnel other than cast must work a minimum of 2 weeks in Australia to qualify as spend. The tax authorities go through the script and production information and break down the percentage of work carried out in Australia and apportion the salary pro rata as eligible spend.

This measure would also address the anomaly whereby we are signatories to two International bilateral treaties (with Australia and Canada) which convey a benefit to the Irish producer but none to the Australian and Canadian producers as nationals from either of those countries will not qualify for any S481 benefit for the time that they are working in the State. This is an important consideration as the Department for Arts, Sports and Tourism plans to enter into a number of other bilateral treaties with New Zealand, South Africa and other countries in the near future.

In other jurisdictions this change has not resulted in a cost to the exchequer as the increase in tax foregone is offset by the additional income tax generated through with-holding tax. Ireland does not impose with-holding tax on non EU residents currently. However, it may be possible to introduce with-holding tax for personnel on Section 481 qualifying productions.

Alternative enhancements were considered such as the removal of the cap on overall spend (currently €35 million). However, it was determined that this was not a major industry constraint

at this stage and that it would be better assessed when the industry competitiveness for mid-budget films had first been redressed.

Whilst the incremental benefit arising out of any single one of these changes is unlikely to result in a significant change in competitiveness, the combined effect would be sufficient to strengthen the offering for indigenous and incoming productions. This change could have significant direct positive implications for the film sector and indirect benefits for other sectors.

Film sector implications

Each element of the film sector is expected to benefit from this change.

Exhibit 17

Impact on film sector activity

	Last 12 months		Estimated incremental activity	
	# productions	Total Irish spend	# productions / yr	Irish spend
1. Feature film				
• Incoming	2	€3.9m	+2	+€2.4m
• Indigenous	10	€15.1m	+2	+€4.6m
2. TV				
• Incoming	8	€40.0m	0*	+0m
• Indigenous	15	€37.8m	No change	0
3. Animation	7	€15.8m	+2	+€4.5m
Overall	42	€112.7m	+7	+€71.5m

Recommended S481 changes

* Improves Ireland's ability to defend current activity levels

Source: IFB estimates

Estimated sectoral impact

- Feature film:
 - Incoming feature film: A total benefit of 24 - 25% of approved eligible spend is competitive with UK and other jurisdictions. It is likely that Ireland could again be considered a strong contender for films with budgets of €10 – 50 million, where period locations are required. These films tend not to be made in the US and are generally shot in UK, Ireland or Eastern Europe. The accessibility to great period locations enabled by strong government support is a distinct competitive advantage offered by Ireland. If Ireland could offer a competitive tax benefit, then Ireland will become a location of choice and should be able to attract 2 – 4 films / year.

Over the past 12 months, a number of productions considered Ireland, found the right locations, but either made a decision or are considering making a decision in favour of the UK or Eastern Europe for financial reasons. These include 'Mary Queen of Scots', 'City Of Embers', 'Brideshead Revisited', 'The Other Boleyn Girl', 'Wuthering Heights' and 'Frankenstein'. 'Brideshead Revisited', a \$25

million feature film agreed to locate 80% of their production budget in Ireland (including a largely Irish crew and a potential Irish lead actor) if Ireland could offer a 25% incentive (which was not possible). They have instead chosen to locate in the UK. 'The Other Boleyn Girl' a \$35 million budget feature film also seriously considered locations in Ireland but opted for the UK owing to the combination of the 25% benefit and eligible expenditure definition that would enable their leading cast members: Nathalie Portman, Scarlett Johansson and Eric Bana to be considered eligible expenditure.

- Indigenous feature films: Financing remains a true challenge for indigenous films. An increase in benefit of 4 - 5% however, could have two effects: a). result in additional activity (estimated 1 – 3 additional films / yr) b). increase the production budget enabling more productions to reach a commercial level.
- Television drama:
 - Incoming television drama: Ireland's recent success in this segment is based on Section 481's competitiveness to a large extent. Whilst an increase in the benefit may not result in significant incremental activity it is likely to create greater sustainability as Eastern Europe's strength in the sector also grows. It also would eliminate the need for the IFB International Production Fund for television drama and enable IFB to focus fund investments on feature film as originally intended. Whilst this improved benefit could potentially enable Ireland to attract more incoming television drama productions, it is likely that the industry will choose to devote attention to the more attractive feature film segment than investing resources in increased television drama.
 - Indigenous television drama: Unlike all other segments of Section 481 funded activity, indigenous television drama has developed strong domestic sources of funding through RTE and BCI. It is not clear that changes in Section 481 funding will result in any change in activity.
- Animation:

The Irish animation sector has recently established itself as a credible international player. Finance remains a major criteria in the viability of productions and Ireland's ability to stake a claim in the highly competitive multilateral co-production market. Animation attracts significant government funding in other countries. Canada offers incentives of up to 40% in some provinces.

 - The proposed changes could benefit the animation sector in a number of ways:
 - Increase the number of productions originated in Ireland (estimated potential 1 – 3 animation productions / year)
 - Provide sufficient indigenous funding to enable Irish studios to retain rights increasing the commercial viability of the sector
 - Increase the ability of Irish studios to compete for elements of multilateral productions. Currently, these tranches are typically in the region of €500 – 800 thousand Irish spend which is too low to justify the transaction costs of current Section 481 structure. With a higher individual investor limit, requiring less investors, Section 481 may be feasible.
 - Enable Irish animation to become a strong sustainable Irish industry. Animation studios will build sustainable, profitable business of scale that

maintain full time employment, while producing great programmes for children that are enjoyed across the globe. There lies great potential to build a real "industry" in Irish animation.

- Broader audiovisual sector
 - An increase in activity and production expenditure across feature film, television drama and animation will strengthen the talent pool and infrastructure benefiting all other segments of the audiovisual sector.

Capacity to sustain industry growth

The increase in activity outlined above could occur within the next 2 – 3 years. This increased activity should in turn generate further industry activity as the talent and infrastructure benefits from a balanced profile of productions. Concerns about the capacity to support increased activity levels are unlikely to be well grounded. Ireland already has established the strong foundations to support industry growth. Chapter 1 highlighted the strong base of talented directors, actors and film crew. Strong activity levels over a number of years will provide the experience necessary to grow this base. Today film studies courses are offered in 7 different colleges with almost 1000 students currently enrolled. A significant number of these students currently find themselves looking to move into other sectors or move internationally as the current indigenous industry cannot support this. This student base could provide strong input of talent to a vastly increased sector. Additional investment will be required in infrastructure and equipment, all of which will be enabled by a strong base of sustained film and television activity as evidenced by previous experience.

Implications for other industry sectors

As discussed in Chapter 2, the film and television sector has a significant impact on the digital media, tourism and broader enterprise sectors. An increase in film activity will enhance Ireland's profile abroad and increase the pool of talent that can generate additional value in other sectors.

Implications for Irish culture

In addition, increased film and television activity benefits the broader Irish cultural interests; enhancing our understanding of our cultural heritage, portraying our national identity and promoting cultural diversity, and enhancing the profile of Irish culture overseas.

Implications for the Exchequer

The proposed changes to Section 481 will result in an increase in the tax foregone / production. These changes will partially be offset by increased taxes arising out of increased film activity. Estimates regarding the cost / benefit are dependent on activity level assumptions. IFB's calculations suggest a cost of €16.0 million¹⁷ which would be offset by increased taxation arising out of increased activities in tourism, digital media and broader enterprise sectors.

¹⁷ See Appendix for details on methodology and assumptions

Chapter 5: Brief perspective on other tax-related measures to support the development and growth of the sector

Improvements to Section 481 as outlined in Chapter 4 could have a significant impact on addressing the major issues facing the sector currently. No other single measure has such a profound impact on the sector. Section 481 improvements will ensure the viability and stability of the industry.

Once the industry viability and stability has been secured other measures to address residual industry issues may be worth exploring in consultation with industry and government. These could include the following:

- **Introduction of alternative financing option for low / mid budget indigenous feature film activity.** Section 481 is effectively a single one-size fits all incentive for all segments of the sector. IFB funding top ups attempt to address the different needs of different segments. Other jurisdictions address these differences through a number of parallel schemes. For example Australia just introduced a twin-track approach offering a 15% tax rebate for incoming productions and 40% tax rebate for indigenous productions. Alternative schemes that address the unique challenges of indigenous activity may be valuable but should only be considered once Section 481 stability is restored and the impact of twin-track approaches such as the Australian scheme can be evaluated cognisant of EU rules.
- **Extension of BES scheme to production and distribution businesses.** Section 481 provides an incentive to individual productions that have been developed sufficiently to attract market funding. This promotes activity but does not address a major challenge that the industry faces in creating a sufficiently strong cadre of commercial enterprises capable of investing in the infrastructure and development needed to support production and distribution. In other sectors, the importance of incenting R&D is well recognised and supported by Government funding. As discussed in previous chapters, distribution is a major challenge in Ireland. By expanding the BES scheme to businesses engaged in production and / or distribution, the government could effectively address these two industry constraints.
- **Extension of Artists Exemption to audiovisual directors.** Directing talent is a limiting factor for the development of the Irish film industry. The role of the director as the ‘creator’ of the final work is accepted across the industry and by governments internationally. The formal recognition of the director as artist through the Artist Exemption scheme would increase the profile of film directing as a profession and encourage successful Irish and international directors to reside in Ireland.

Appendix 1 – Net exchequer cost calculations

The estimated cost to the exchequer for Section 481 has been based on methodologies used in film industry reports in 2003¹⁸.

Estimated cost to the Exchequer 2004 - 2006

The net exchequer costs are based on data for productions completed during each year in the 2004 – 2006 period.

Estimated exchequer costs

The exchequer bears two costs to service Section 481 – tax foregone and administrative costs.

- Tax foregone on Section 481 funds raised: IFB tracks the section 481 funds raised for each production. Data for 2006 is preliminary data. An individual investor can currently write off 80% of these funds at their top rate of tax (=42% for the period 2004 – 2006).
- The overall administrative costs for Section 481 were estimated in 2003 as less than €200,000¹⁹ by the PWC report. This cost is considered minimal relative to other costs and benefits and has been omitted.

Estimated exchequer returns

The exchequer will benefit from film production activity as a result of direct and indirect tax flows.

Incremental tax on direct employment: Tax on direct employment is based on the product of the following inputs:

- **Irish labour spend corrected for non-recouped IFB investment:** Each production accessing Section 481 must report the Irish labour spend. IFB has this data for 2004 and 2005 but has not yet completed 2006 analysis. The Irish labour spend for 2006 was calculated using the percent of total Irish spend ratio of previous 3 periods. IFB recoupment data for 2005 and 2006 was assumed using historical levels of recoupment.
- **Average tax paid on marginal income** The analysis applied the current accepted economic practice rate of 30% for average tax paid on marginal incomes
- **Deadweight.** An analysis of production activity by Screen Producers Ireland in their report ‘Sustaining the competitiveness of the Irish film industry’ 2003, demonstrated that 82% of the activity funded by Section 481 would not be produced in Ireland if Section 481 funding was not available. The 18% that would have occurred has therefore been deducted as it can not be considered in incremental tax returns.
- **Displacement** Not all incremental labour spend can be considered incremental to Irish economy. A correction for displacement is required. The 36% displacement figure calculated in 2003 reports was used for this purpose.

¹⁸ ‘Realising the potential of the Irish Film and Television Industry – a unique national asset’ Screen Producers Ireland 2003; ‘Review of Section 481 of the Taxes Consolidation Act 1997’ PWC 2003

¹⁹ PWC report.

Social welfare savings: The 2003 PWC report apportioned some savings to the exchequer to social welfare savings. The incremental social welfare savings of the increased activity levels arising from proposed Section 481 changes have however been considered to be negligible. In this relatively full employment economy it is difficult to forecast any significant impact on social welfare drawings.

Taxes raised on incremental employee expenditure: The incremental earnings of employees from Section 481 activity results in increased expenditure resulting in additional tax income through VAT. The incremental taxes were estimated using the following inputs:

- **Irish labour spend corrected for non-recouped IFB investment less deadweight, displacement and taxes** – as calculated above
- **Assumed savings rate** - Use the PWC assumed rate of 15%
- **Tax multiplier** - PWC adjusted the E Henry tax multiplier to reflect the unique attributes of the film industry. This report adopted this adjusted multiplier of 41%

Taxes raised on incremental film production spend: The incremental spend on Irish goods and services results in increased expenditure taxes. These were calculated using the following inputs:

- **Irish goods and services corrected for non-recouped IFB investment and deadweight**– as discussed above the additional spend enabled from IFB investment cannot be considered as incremental to the exchequer. Using the deadweight factor discussed above and the '02 – '04 recoupment date from IFB this has been corrected
- **Tax multiplier** – This report adopted the PWC adjusted multiplier for company expenditure of 32%

VAT on box office receipts from Section 481 produced films. A number of Section 481 films have delivered box office revenue that accrues a VAT payment at 13.5%. IFB tracks box office data for Irish films. Data relating to non Section 481 films was excluded.

Capital duty: Until December 2005, all funds raised for Section 481 are subject to a 0.5% capital duty which flows directly to the exchequer. Capital Duty was abolished in 2006.

Estimated incremental cost to the exchequer from proposed changes to Section 481

The net exchequer costs are based on assessment of forecasted cash flows related to changes proposed in Section 481 which will be impacted by three key factors:

1. Impact of changes in activity levels as a result of proposed changes. The analysis analyses the impact of the incremental activity levels outlined in Exhibit 17.
2. Impact of changes in eligible expenditure as a result of proposed definition – this will impact Section 481 funds raised, tax foregone and tax returns (providing with-holding tax introduced)
3. Impact of individual write off from 80% - 100% on tax foregone

The overall methodology is similar to the Exchequer cost analysis for period of 2002 – 2004 but given the changes outlined above there are some changes in the assumptions. Given that the proposed changes will impact activity that may have happened without proposed changes, the incremental cost was based on the difference between the cost accrued from a future without changes (assumes current activity levels) and a cost accrued from total new activity using new section 481 criteria. The assumptions are outlined below.

Estimated exchequer costs

- **Estimated tax foregone on Section 481 funds raised.** Section 481 funds raised for future scenario where changes have been adopted were calculated on the basis of increased activity levels and proposed changes in eligible expenditure. Tax foregone is calculated on the basis of 41% personal taxation rate at 80% level for future without changes and 100% individual investor write-off for future with changes.

Estimated exchequer returns

The exchequer will benefit from film production activity as a result of direct and indirect tax flows.

Incremental tax on direct employment: Tax on direct employment is based on the product of the following inputs:

- **Irish labour spend corrected for non-recouped IFB investment:** Labour spend and IFB recoupment were calculated using the historical ratio of Irish spend to labour and recoupment. The incremental labour resulting from change in eligible expenditure has been excluded and dealt with through the withholding tax calculation described below
- **Average tax paid on marginal income** The analysis applied the current accepted economic practice rate of 30% for average tax paid on marginal incomes
- **Deadweight.** The future scenario without changes assumes current 82% deadweight factor. Given all the incremental spend is considered as a direct result of proposed changes deadweight for the future scenario will be a lower and can be calculated as the same absolute deadweight as the baseline.
- **Displacement** As 2004 – 2006 approach

Taxes raised on incremental employee expenditure:

- **Irish labour spend corrected for non-recouped IFB investment less deadweight, displacement and taxes** – as calculated above. (Note there will be incremental taxes resulting from the incremental income to non EU personnel resulting from change in eligible expenditure definition. This has not been included).
- **Assumed savings rate** - As above
- **Tax multiplier** - As above

Taxes raised on incremental film production spend:

- **Irish goods and services corrected for non-recouped IFB investment and deadweight**– As above using similar ratios as during historical period. (Incremental expenditure related to change in eligible expenditure excluded.
- **Tax multiplier** – As above

VAT on box office receipts from Section 481 produced films The proposed Section 481 changes should improve the indigenous sector's ability to produce commercially attractive films. It is conservatively estimated that the proposed changes could result in just one additional hit (estimated as similar box office receipts as 'Wind that Shakes the Barley' in 2006).

Capital duty: Zero since abolition of tax