

LEGAL EYE

by Michael Bergman

Finance Minister Wilson's February 18, 1987 budget, as well as the upcoming tax reform package slated to come out in May of this year, should affect the Canadian motion picture industry in two respects, financing and film budget costs.

The impending tax reform package may affect the film industry the most. Tax reform in Canada has been inspired by worldwide, and particularly American, efforts to revise and make more equitable the taxation system. Finance Minister Wilson's remarks about tax reform indicate that the aim of the upcoming proposals is to broaden the tax base while emphasizing corporate taxation and lowering personal income tax rates.

Tax shelters primarily designed to avoid personal income tax have been widely used in Canada as a fiscal incentive to the development of certain industries. In the film industry, tax shelters were, in the late '70s, the backbone of film financing. Although film tax shelters have fallen into some disrepute in the '80s, it is still usual to see most offerings of film investments to private investors include the tax shelter incentive.

It is conceivable that tax reform will either abolish or considerably mitigate the utility of feature film tax shelters. Their usefulness as a fiscal investment incentive is primarily based on the structure of the existing taxation system. That system recognizes a capital cost allowance (CCA) for the depreciation of capital assets. This depreciation is written off in most cases over a period of years as tax laws do not permit a complete write-off in a shorter interval. The attractiveness of the feature film tax shelter is that it permits the tax-payer to write off his depreciation in one or two years. (Interestingly, and generally unrecognized, is the fact that although only certified feature films qualify for the 100 per cent CCA, all feature films including even those that do not meet the rules qualify for some CCA. Tax reform can affect tax shelters in two ways. It can so change the taxation structure that tax shelters become either obsolete or untenable from a policy point of view, or it can so change the existing general CCA system, and consequently depreciation rules, that the feature film tax shelter as presently formulated is no longer attractive or workable.

Policy directions alone may serve to eliminate the feature film tax shelter. The increase

of the Registered Retirement Savings Plan limit to \$7,500,000 per year and proposals to make it unlimited tend to devalue the attractiveness of film tax shelters with their inherent risks. Furthermore, if the aim of tax reform is to reduce personal income tax rates, the need by individuals in the highest tax brackets for such tax avoidance devices may be, if not reduced, then be somewhat offset.

Another element of tax reform may have important consequences on feature film costs. This is the value-added tax or, as more recently retitled, the Business Transfer Tax. This is a concept designed to replace the existing and widely criticized federal sales tax system as well as, to some extent, broaden the tax base. Business Transfer Tax would tax manufactured goods and services. Everyone manufacturing an item or contributing to its value by some process or providing a service will pay tax on the value of that manufacturing process or service, in addition to any income tax. This could apply to the feature film industry.

Most production companies make a feature film which they ultimately do not own; the ownership vesting either in investors or in another corporation. As such, the production house is in fact manufacturing the film for a third party and may consequently pay Business Transfer Tax on that project, thereby increasing costs. Furthermore, most above-the-line and senior cast and crew operate through their own corporations; they are not, in the taxation sense, employees. Since they essentially provide a service it is quite conceivable that under the Business Transfer Tax system, actors, directors and like personnel operating on a self-employed basis will also be hit with this Business Transfer Tax, no doubt in turn causing them to raise their fees.

Tax reform may also see the reform of the taxation status of actors and directors. The Siren report on the status of the artist recommended a new taxation category for these individuals. If tax reform implements this, the new status will alleviate much hardship and certain inequities which the artists suffer in the current system. On the other hand, the absence of this feature from tax reform would probably spell the end of the possibility of artists having a distinct taxation status and therefore expose them further to the mainstream of a taxation sys-

tem which does not acknowledge the peculiarities of their craft.

Finance Minister Wilson's February '87 budget will also have an effect on increasing costs for film production. With the application of federal sales tax to snack and junk food, presumably there will be some increase in catering costs for meal services on the set. On July 1, 1987 federal sales tax will become applicable on the importer's selling price to retailers in Canada of television sets and video recorders. To the extent that such an increase in price affects sales, the film and video industry will in turn be indirectly affected by the reduction in the number of exhibition units.

All in all, like most Canadians, the feature film industry in this country must await a reorganization of the tax system which can both close down former benefits and open up new opportunities. To an industry heavily dependent on Government incentive in one form or another, this can be a very anxious and disturbing experience.

Michael N. Bergman
Barrister & Solicitor
Member of the Bars of Quebec, Ontario and Manitoba, with offices in Montreal and Toronto.

TORONTO - The Ontario Film Institute is presenting a retrospective of 20 contemporary movies from Argentina that will include five North American premieres.

The film institute retrospective is being held March 17 to April 30 at the Ontario Science Centre in Toronto.

The package of films includes everything from comedies, political thrillers, musicals, documentaries and "politically subversive melodramas," a written release says.

The Ontario Film Institute received the package through the National Film Institute of Argentina. In Canada, the retrospective will also be shown in Montreal, Ottawa, Vancouver, Edmonton and Halifax. It is billed as the largest Latin American film package ever to tour Canada.

The program was prepared by Tim Barnard, author of a recent book on Argentine cinema.

"Since the return of democracy in Argentina in 1983, after nearly a decade of military rule, Argentine films have taken the world by storm, winning major awards at prestigious festivals," Barnard said in a written release.

"A decade of silence and repression have given way to an explosion of activity and great artistic ferment."

RESIDENT'S APPLICATIONS

The selection committee of the Canadian Centre For Advanced Film Studies is accepting Resident's applications and requests for application forms.

A limited number of Residents will participate as students in a rigorous, challenging and professional course of dramatic feature film study, particularly in the disciplines of **screenwriting, directing, producing and cinematography**. Successful candidates must be able to demonstrate the talent and initiative needed to achieve excellence in the motion picture arts.

There are no tuition fees associated with this course of study. However, Residents must be able to locate in Toronto for one to two years on a full time and self supporting basis.

Applications must be received before May 15, 1987. Address requests to:

Canadian Centre
For Advanced Film Studies
Two Bloor Street West, Suite 404
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