

WISCONSIN FILM TAX CREDIT PROGRAM

Wisconsin's 25% Film Tax Credit Program provides two types of tax credits:

- **FILM PRODUCTION SERVICES CREDIT** provides tax credits for salary & wages of Wisconsin residents, production expenditures and sales tax. To qualify, the production must be pre-accredited by the department.
- **FILM PRODUCTION COMPANY INVESTMENT CREDIT** provides credits to film production companies doing business in Wisconsin of up to 15% of expenditures for tangible personal property and for the purchase, construction, rehabilitation, remodeling or repair of real property used for film production.

All credits are non-transferable.

FILM PRODUCTION SERVICES CREDIT

Eligibility Requirements:

To be eligible, a claimant must:

- be a film production company;
- operate an accredited production in the state;
- own the copyright in the accredited production or have contracted directly with the copyright owner or a person acting on the owner's behalf; and
- have a viable plan for the commercial distribution of the finished production.

An Accredited Production must:

- be a film, video, electronic game, broadcast advertisement, or television production, and
- have \$50,000 (for a production less than 30 minutes) or \$100,000 (for a production 30 minutes or longer) in salaries and wages of all of the eligible claimant's employees included in the cost of production for the period ending 12 months after the month in which the principal filming or taping of the production begins.

Accredited Productions do **not** include the following:

- news, current events, or public programming (including public programming of a civic or governmental function) or a program that includes weather or market reports.
- a talk show.
- a production with respect to a questionnaire or contest.
- a sports event or sports activity. (A travel promotion that addresses a sports event or sports activity is eligible. A sports event or sports activity that is exclusively competitive in nature is not eligible.)
- a gala presentation or awards show.
- a finished production that solicits funds.
- a production for which the production company is required under 18 U.S.C. § 2257 to maintain records with respect to a performer portrayed in a single media or multimedia program.
- a production produced primarily for industrial, corporate, or institutional purposes.

In determining whether to accredit a production, the Department of Commerce considers whether the production would:

- occur in Wisconsin without the tax credits.
- enhance economic development in Wisconsin.
- enhance the potential for increasing the film, video, or electronic game industry in Wisconsin.
- hurt the reputation of the state of Wisconsin.

Eligible Expenditures:

There are three types of expenditures eligible to earn tax credits under this program: (1) salaries or wages paid to WI residents; (2) production expenditures; and (3) Wisconsin sales tax. All credits (whether nonrefundable and refundable) are non-transferable.

- **25% of Salary and Wages Paid To WI residents (nonfundable).** Nonrefundable credit equal to 25% of the salaries or wages paid by the claimant to the claimant's employees who were residents of Wisconsin at the time they were paid for services rendered in Wisconsin to produce an accredited production. The maximum credit per employee is \$25,000, and the salary or wages of the two highest paid employees cannot be counted.

A Wisconsin resident is a person with the intent to live in Wisconsin permanently or indefinitely.

This non-refundable, nontransferable credit can be carried forward for up to 15 years to offset Wisconsin income tax liability.

- **Production Expenditures (refundable).** Refundable credit equal to 25% of eligible production expenditures paid by the claimant in the taxable year to produce an accredited production.

Production Expenditures are expenditures that are incurred in Wisconsin and directly used to produce an accredited production.

Production Expenditures Include:

Set construction and operation, wardrobes, make-up, clothing accessories, photography, sound recording, sound synchronization, sound mixing, lighting, editing, film processing, film transferring, special effects, visual effects, renting or leasing facilities or equipment, renting or leasing motor vehicles, food, lodging, and any other similar expenditure as determined by the Department of Commerce.

Music performed, composed, or recorded by a musician who is a resident of Wisconsin, or published, or distributed by an entity that has its headquarters in Wisconsin.

Air travel purchased from a travel agency or company that has its headquarters in Wisconsin.

Insurance purchased from an insurance agency or company that has its headquarters in Wisconsin.

Do Not Include:

Talent.

Marketing or distribution of an accredited production.

"Incurred in Wisconsin" does not mean that accredited productions must buy from Wisconsin vendors, except in the cases of music, air travel, and insurance. Purchased services have to be performed in Wisconsin for exclusive use on the qualified production, but do not have to be purchased from a Wisconsin provider.

Non-resident wages and salaries for services provided directly for the accredited production in Wisconsin and paid by another entity (such as a payroll company) qualify so long as those services are production expenditures (as defined above) and the persons who are providing the services are not employees of the claimant.

This is a refundable, but not transferable, credit.

- **Sales Tax Credit (nonrefundable).** Nonrefundable credit equal to the Wisconsin 5.0% sales taxes that the claimant paid in the taxable year on the purchase of tangible personal property and taxable services that were used directly in producing an accredited production in Wisconsin, including all stages of production, from the final script to the distribution of the finished production.

This non-refundable, nontransferable credit can be carried forward for up to 15 years to offset Wisconsin income tax liability.

Final Reporting and Release of Credits.

At the completion of the project and prior to the department approving the release of any tax credits, a final project report must be submitted to the Department of Commerce. The final report must verify that the estimated eligible expenditures set forth in the claimant's proposed budget and application documents and agreed to by the parties were incurred by the claimant to produce the accredited production and are eligible for release.

The final report must include verification of:

- eligible salaries and wages;
- eligible production expenditures; and
- eligible Wisconsin sales tax.

The final report must include a statement signed by the director or principal officer of the Claimant and an independent certified accountant attesting to the accuracy of the expenditures set forth in the final report.

If requested by the department, claimant agrees to make all documents (or copies) necessary to confirm the expenditures set forth in the final report available for inspection by the department.

FILM PRODUCTION COMPANY INVESTMENT CREDIT

Eligibility Requirements:

To be eligible, a claimant must be a "film production company", which is defined as an entity that creates films, videos, electronic games, broadcast advertisements, or television productions, not including the productions specifically excluded for the Film Production Services Tax Credit.

Eligible Expenditures:

For the first three taxable years that an eligible claimant is doing business in Wisconsin as a film production company, the claimant can claim an amount equal to 15% of the following that the claimant paid in the taxable year to establish a film production company in Wisconsin:

- The purchase price of depreciable, tangible personal property, such as business equipment or vehicles. At least 50% of the property's use must be for the claimant's business as a film production company.
- The amount spent to construct, rehabilitate, remodel, or repair real property, if the claimant began the physical work of construction, rehabilitation, remodeling, or repair, or any demolition or destruction in preparation for the physical work, after 12/31/07, or if the completed project is placed in service after 12/31/07. Also, the amount spent to acquire real property, if the property is not previously owned property, and if the claimant acquires the property after December 31, 2007, or if the completed project is placed in service after December 31, 2007.

"Physical work" does not include preliminary activities such as planning, designing, securing financing, researching, developing specifications, or stabilizing property to prevent deterioration.

"Previously owned property" means real property that the claimant or a related person owned during the two years prior to doing business in Wisconsin as a film production company, and for

which the claimant may not deduct a loss from the sale of the property to, or an exchange of the property with, the related person as defined under the federal Internal Revenue Code.

In determining whether to award Film Production Investment Credits to an eligible claimant, the department will consider:

- whether the film production company would not be established in Wisconsin without the tax credits.
- whether the film production company will enhance economic development in Wisconsin.
- whether the film production company will enhance the potential for increasing the film, video, or electronic game industry in Wisconsin.

Final Reporting and Release of Credits.

At the completion of the project and prior to the department approving the release of any tax credits, a final project report must be submitted to the Department of Commerce. The final report must verify that the claimant incurred the eligible expenditures set forth in the claimant's application documents.

The final report must include a statement signed by the director or principal officer of the Claimant and an independent certified accountant attesting to the accuracy of the expenditures set forth in the final report.

If requested by the department, claimant agrees to make all documents (or copies) necessary to confirm the expenditures set forth in the final report available for inspection by the department.