

**Title 10**  
**Chapter 7.75**  
**CALIFORNIA FILM COMMISSION**

**Article 2.**  
**CALIFORNIA FILM AND TELEVISION JOB RETENTION**  
**AND PROMOTION ACT**  
**CALIFORNIA FILM AND TELEVISION TAX CREDIT PROGRAM 2.0**

**Section 5508. Definitions**

(a) “**Applicable period**” refers to production outside the Los Angeles zone, but in the state of California that commences with preproduction and ends when original photography concludes outside the Los Angeles zone. It includes the time necessary to strike a remote location and return to the Los Angeles zone.

(b) “**Applicant**” is any person, corporation, partnership, limited partnership, limited liability company (LLC) or other entity that is principally engaged in the production of a “qualified motion picture” and that controls the film or television program during preproduction, production and postproduction. The applicant is the qualified taxpayer that upon final approval will receive the tax credit certificate.

(c) “**California Film Commission**” (CFC) is a state entity established and described in Government Code section 14998 et seq. that among other functions facilitates and promotes motion picture and television production in the State of California.

(d) “**California in-state Vendor**” is a vendor or supplier which has an office or other place of business in California, and is registered or qualified with the California Secretary of State, or is required to file a return with the California Franchise Tax Board under Parts 10 or 11 of the Revenue and Taxation Code.

(e) “**Credit Allocation Letter**” (CAL) is the document issued by the California Film Commission reserving an amount of tax credits to an applicant having a qualified motion picture based on an estimate of qualified expenditures.

(f) “**Contracted Services**” means the hiring of a third party to work or perform services on behalf of the applicant, including but not limited to visual effect shot costs, makeup prosthetic packages, sound mixing, and creation of postproduction delivery items.

(g) “**Feature Film**” means a production of a film intended for commercial distribution to a motion picture theater, directly to the home video market, or via the internet that has a running time of at least seventy-five (75) minutes in length.

(h) “**Force Majeure**” means an event or series of events, which are not under the control of the qualified tax payer including death, disability, or breach by the motion picture director or principal cast member, an act of God, including, but not limited to, fire, flood, earthquake, storm, hurricane or other natural disaster, terrorist activities or government sanction.

(i) “**Hiatus**” means a break or interruption in the continuity of work.

(j) “**Independent film**” means a production of a film with a running time of at least seventy-five (75) minutes intended for commercial distribution to a motion picture theater, directly to the home video market, directly to television, or via the internet. An independent film shall have a minimum budget of one million dollars (\$1,000,000) and be produced by a company that is not publicly traded and a publicly traded company does not own, directly or indirectly, more than 25 percent of the producing company.

(k) “**Jobs Ratio**” means the amount of qualified wages paid to qualified individuals divided by the amount of tax credit as further described in Revenue and Taxation Code section 17053.95(b)(7) and 23695(b)(7).

(l) “**Miniseries**” means a motion picture based on a single theme or storyline that is resolved within the piece. A miniseries consists of two or more episodes with a total running time of at least one-hundred fifty (150) minutes in length.

(m) “**Movie of the Week**” which may also be known as “MOW” or “made for television movie” means a motion picture produced for initial exploitation on television, which contains a scripted storyline with a total running time of at least seventy-five (75) program minutes in length, exhibited in one part.

(n) “**Office or other place of business**” means real property with a physical address in California that is owned or leased by a vendor for the purpose of conducting business. For purposes of these regulations, conducting business includes maintaining a product inventory or otherwise creating, assembling or offering for sale the product purchased or leased by a motion picture production company.

(o) “**Outside Los Angeles zone vendor**” means a vendor or supplier in California which maintains an office or place of business outside the Los Angeles zone, and is registered or qualified with the California Secretary of State, or is required to file a return with the California Franchise Tax Board under Parts 10 or 11 of the Revenue and Taxation Code and employs one or more full-time employees or is a sole proprietor working at the place of business outside the

Los Angeles zone. Pass-through businesses do not qualify as an “Outside Los Angeles zone vendor.”

(p) “**Pass-through business**” means a company maintaining an office or other place of business in California that primarily fulfills orders from a production company for products or third-party services from sources other than its own inventories or employees.

(q) “**Pick-up order**” means a contractual obligation from a licensee-exhibitor that a pilot or television series has been ordered or renewed for the production of an initial episode or episodes to be delivered within a specific time frame.

(r) “**Pilot**” means the initial episode produced for a proposed television series that is longer than 40 minutes of running time, exclusive of commercials, with a minimum production budget of one million dollars (\$1,000,000).

(s) “**Principal photography days**” means the number of days shot by the principal unit with the director present; and lead actors usually present. “Principal photography days” in California does not include the filming of primarily backgrounds, visual effects, action, and/or crowd scenes by the second, stunt, or visual effects units.

(t) “**Producer**” means any individual who receives an on-screen producer credit including but not limited to any of the following titles: producer, co-producer, line producer, executive producer, co-executive producer, associate producer, supervising producer, post producer, or visual effects producer.

(u) “**Production budget**” means the budget used by the applicant and production company and shall include qualified and non-qualified expenditures. Production budget shall include wages, goods, and services performed and incurred within and outside of California. It does not include costs, which are not directly associated with the preproduction, production or postproduction of the project, such as, but not limited to, distribution prints and advertising, marketing, film festival participation, financing, or distribution costs such as DVD manufacturing.

(v) “**Production facility**” means (1) any facility used by the entertainment industry for the purpose of film, television, commercial or digital production that is in compliance with Title 24, Chapter 48 of the California Fire Code, as determined by the fire authority or (2) a building, ranch or other facility verified by the CFC prior to the start of principal photography, that the primary use is film, television, commercial or digital production.

(w) “**Reasonable Cause**” means unforeseen circumstances beyond the control of the applicant, including, but not limited to, an event of force majeure, the cancellation of a television series prior to the completion of the scheduled

number of episodes, failure by third parties to perform, a change in essential talent such as the director, principal cast and the associated costs, and/or a change in production financing exigencies resulting in a significant reduction to the production budget.

(x) **“Television Project”** means pilots for new television series, new television series, movies of the week, miniseries, and recurring television series.

(y) **“Television Season”** means the initial exhibition of a set of interrelated new television episodes lasting no less than six (6) episodes and no more than thirty (30) episodes within a period of twelve (12) months.

(z) **“Television Series”** also known as “episodic television,” means a regularly occurring production and may include a series with multiple episodes available to the public in a single viewing and without regard to distribution transmission.

(aa) **“Visual effects”** (VFX) means the creation, alteration or enhancement of images that cannot be captured on a set, or location during live action photography and therefore is primarily accomplished in post-production. Visual effects research, development, creation, alteration, or enhancement of images may also occur in pre-production or principal photography. Visual effects includes, but is not limited to, matte paintings, animation, set extensions, computer generated objects, characters and environments, compositing (combining two or more elements in a final image), and wire removals. “Visual effects” does not include fully animated projects, whether created by traditional or digital means.

Authority Cited: Sections 17053.95(e) and 23695(e), Revenue and Taxation Code, Section 11152, Government Code. Reference: Sections 6902.5, 17053.95 and 23695, Revenue and Taxation Code, Section 14998.1, Government Code.

## **Section 5509. Application Process For Tax Credit Allocation**

(a) The open allocation periods for the California Film & Television Tax Credit Program 2.0 shall be announced by the Director of the CFC prior to each new fiscal year on the CFC website. The California fiscal year is from July 1 to June 30. The announcement shall identify the application categories: Independent films, feature films, relocating television series, and television projects that may be submitted in each application period.

(b) An applicant that begins principal photography in California prior to receiving a credit allocation letter shall be disqualified from receiving such letter for that particular production.

(c) An applicant shall not submit a duplicate application for a project during any given allocation period. Submittal of duplicate applications shall be good cause to disqualify an applicant from the tax credit program.

(d) An applicant may submit an additional application for the same project during any fiscal year if the qualified production did not receive or retain a tax credit allocation from a previous allocation period in the same fiscal year.

(e) An applicant that has been issued a tax credit allocation for a particular production, that begins, but does not complete, principal photography of that production shall not be eligible to reapply for a tax credit reservation for that particular production.

(f) Any expenditures for services, wages, or goods incurred prior to application approval shall not be considered qualified expenditures.

(g) An applicant of a television series, shall submit one application for a television season of that television series.

(h) The application process for tax credit allocation shall occur in two phases. Phase 1 requires applicants to complete and submit the online application as set forth on the CFC website. The applicant shall initiate the online application process by selecting a production category from the following: feature film, independent film, television project. The application shall include the information set forth below:

(1) Section 1: Applicant information.

(A) Production title;

(B) Applicant entity and Tax ID Number;

(C) A definition of the applicant that will receive the tax credit is included in this section.

(2) Section 2: Contact information.

(A) Enter the contact type and provide the contact name, title, address, email and phone for each of the following, as applicable: Production company, parent company, Producer, Line producer, Production manager, Production accountant, Director, Executive producer(s), Lead actors, Payroll service, Distributor, CPA firm, other.

(B) Identify the primary contact and if they are authorized to act on behalf of the Applicant with the CFC.

(3) Section 3: Business structure.

(A) Identify if the applicant is a corporation, limited liability company, individual proprietorship, subchapter S corporation, partnership, or other.

(4) Section 4: Financing sources.

(A) List the following information for financing sources:

1. Names of funds, amounts, percentage of funding.
2. Indicate if the supporting documentation is readily available to confirm financing sources.

(5) Section 5: Proposed project.

(A) Type of production. If the production category is television, indicate if it is one of the following production types: movie of the week, pilot, recurring television series, or new television series. If it is a new television series indicate if TV Pilot was initially accepted in the program, number of episodes, and confirm over forty (40) minutes of running time exclusive of commercials. If it is a relocating television series indicate previous location, number of episodes previously shot, and number of episodes included in this season.

(B) Production schedule. Provide start date of principal photography, end date of principal photography, estimated end date of post-production, projected, or actual release date.

(C) Synopsis. The synopsis must be a minimum of 1600 and a maximum of 6000 characters and include a description of the main characters, plotline, beginning and ending, and major scene descriptions.

(6) Section 6. Production shoot days and determination of additional percentage points.

(A) Principal photography (PP) Days.

1. Enter the requested data for PP Days. The online application shall automatically calculate the totals.
  - a. Enter total PP days in Los Angeles (LA) zone.
  - b. Enter total PP days outside LA zone, but in California.
  - c. Total California PP days equals a. plus b.
  - d. Total percentage of PP days outside LA zone equals b. divided by c. x 100.
  - e. Enter total non-California PP days.
  - f. Total PP days equals c. plus e.
  - g. Total percentage of California PP days equals c. divided by f. x 100
  - h. Enter estimated total California 2nd unit, stunt, and VFX days.
  - i. Enter total PP days at Facility.
  - j. Total percentage PP facility days equals i. divided by c. x 100.

(B) Visual Effects. Enter total California qualified VFX expenditures eligible for additional percentage points. A list of eligible expenditures and wages are provided as stated in section 5511(a)(1).

(C) If shooting outside of Los Angeles zone, indicate the California counties where filming will occur.

(D) If shooting outside California, indicate state and/or country where filming will occur.

(7) Section 7: Production statistics.

(A) Provide the following information regarding labor statistics for in-state work:

1. Estimated total number of cast members.
2. Estimated total number of base crew members (Base crew is the average number of staff and shooting crew employed per principal photography day).
3. Estimated total extras/stand-in man days. (The sum of the number of days, full or partial, a person is estimated to work).

(B) Provide the following information regarding Budget information.

1. Provide total California expenditures (qualified and non-qualified).
2. Indicate if seventy-five percent (75%) or more of total production budget will be spent in California.

(C) Indicate if the total California qualified VFX is equal to 75% of total worldwide VFX budget or if the California qualified VFX is at least \$10 million.

(8) Section 8: Uplift: The additional tax credit calculation.

A list of eligible expenditures and wages are provided as stated in section 5511(a)(1).

(A) Out of zone.

1. Enter total budgeted non-wages (applicable period) excluding the total consumables;
2. Total percentage of principal photography outside Los Angeles Zone (number is the same as subsection (h)(6)(A)1.d. above and entered automatically.)
3. Total non-wage non-consumable expenditures (equals 1. multiplied by 2.)
4. Enter total non-wage expenditures totally consumed outside Los Angeles Zone.

5. Multiply subsection a. and subsection b.

6. Enter total out of zone wages for the applicable period.

7. Total eligible out of zone amount for additional 5% tax credit.

(B) Total California Qualified Visual Effects (VFX).

1. Indicate if the total California qualified VFX is a minimum of 75% of total worldwide VFX budget or if the California qualified VFX is at least \$10 million.
2. If answer to subsection (b)(8)(B)1. above is yes, then enter total dollar amount for California VFX visual effects eligible for additional 5% tax credit [same as subsection (h)(6)(B)].

(C) Total music

Enter total qualified music budgeted expenditures.

(D) Total Additional Tax Credit: The total out of zone amount and total California VFX amount and total music amount which is eligible for an additional 5% tax credit.

(E) Multiply (D) by .05 for total additional credit amount.

(9) Section 9: Estimated Credit Allocation.

(A) Qualified Wages

1. Enter total qualified wages.

(B) Qualified Non-wages

1. Enter total qualified non-wages.

(C) If, applicable, enter total contingency, which can be no more than 10% of qualified expenditures.

(D) If applicable, enter total completion bond fee, which can be no more than 2% of qualified expenditures.

(E) The total qualified expenditures shall be calculated based on the sum of the totals provided in this section multiplied by 25%. If production category is an independent project or relocating television series; totals in this section shall be multiplied by 20% for all other production categories. (Credit allocation applies only to the first ten million (\$10,000,000) of qualified expenditures for independent productions. Credit allocation applies only to the first one hundred million (\$100,000,000) of qualified expenditures non-independent productions.)

(10) Section 10: Jobs ratio ranking.

(A) A jobs ratio ranking shall be assigned to the application, based on the criteria in Section 5515 and the information provided by the applicant in this application. The jobs ratio number for the production will be indicated once the application is complete.

(11) Section 11. Certification.

(A) By clicking submit on the Application Summary such action is the applicant's acknowledgement, agreement and, certification that the applicant has read and reviewed the application, including all its attachments, and that the content provided in the application by the applicant is true and accurate to the best of his or her knowledge or at least the knowledge of what would be expected of a reasonable person in the same capacity.

(B) Provide name, title, and date.

(i) Applicants shall be selected for Phase 2 of the application process based on the jobs ratio ranking of their application, pursuant to Section 5515.



(j) The CFC shall notify, by electronic mail, the top ranked projects in each category of qualified motion pictures, as provided for in sections 17053.95(i) and 23695(i) of the Revenue and Taxation Code. These projects shall provide the additional materials and supporting documentation as requested by CFC as described in subsection (k) below within the timeframe provided on the electronic notification, which shall be no less than three (3) business days and no more than seven (7) business days from the electronic notification date. (Phase 2 of the Application Process.)

(k) The applicant shall submit the following:

(1) An electronic copy of the qualified expenditure budget in an industry standard budgeting program. The electronic copy shall be uploaded to the online application for the qualified motion picture. The industry standard budgeting program shall provide the following:

(A) Qualified wage expenditures and qualified non-wage expenditures. If applicable, also indicate if incurred outside the Los Angeles zone during the applicable period.

(B) For non-independent productions (excluding relocating series in their first season in California) indicate those accounts for which an additional five percent (5%) in tax credits is allowed for the following qualified expenditures: qualified wage and expenditures purchased or rented and used outside the Los Angeles zone during preproduction through strike on location; qualified visual effects if at least ten million dollars (\$10,000,000) or seventy-five percent (75%) of worldwide visual effects will be paid or incurred in the state; and expenses related to music track recording and/or music scoring.

(C) A television series shall submit a qualified expenditure budget including all pattern and amortization costs, or separate amortization and pattern budgets. The budget shall be in an industry standard budgeting program uploaded to the online application. The Production Budget shall indicate, as applicable, the information required in Section 5509(k)(1)(A) and (B).

(2) One-Line Schedule ("production board"). Applicant shall submit in PDF or equivalent format a One-Line Schedule which shall include scene descriptions, scene numbers, and cast numbers and shall indicate which days are scheduled for filming in a production facility and/or outside of the Los Angeles zone.

(A) A television series shall submit in PDF or equivalent format a production calendar, including the start and end dates of the season, the number of in-state and out-of-state principal photography days, and the total number of episodes in lieu of a one-line shooting schedule. The production calendar must indicate

which days are scheduled for filming in a production facility and/or outside the Los Angeles zone.

(3) Screenplay for the production. If the application is for a pilot that does not have a script, this requirement shall be waived. Applicant shall submit in PDF or equivalent format the screenplay for the production.

(4) Supporting documentation that confirms at least 60% of production financing. Applicant shall include documentation for each financing source including, but not limited to, commitment letters, financing agreements, term sheets, and/or bank statements in PDF or equivalent format. Applications submitted without the sufficient documentation described above, which shall be determined in the sole discretion of CFC, shall be considered incomplete and good cause to disqualify the application.

(5) Pick-up order. A pilot, new television series or relocating television series shall submit evidence, in PDF or equivalent format, that the pilot or series is scheduled for photography, e.g. a pick-up order, when applying for a credit allocation. Recurring Television Series may submit an application without a pick-up order, but shall not receive a credit allocation until proof of a pick-up order has been submitted.

(6) Relocating statement. Applicant certifies that the credit provided is the primary reason for relocation to California (if applicable). If submitting Relocating Statement, the detailed narrative statement is not required. The certification shall be submitted in PDF or equivalent format.

(l) Within thirty (30) business days of receipt of the completed application and all requested supporting documents, the Director of the CFC, or his or her designee, will notify the applicant whether the application is accepted or disqualified. An approved application shall meet the Eligibility Requirements in Section 5510. Upon approval, a Credit Allocation Letter, CFC Form DD (Rev. 11/27/15) hereby incorporated by reference, shall be issued to the applicant indicating the amount of tax credits allocated, as provided in Section 5514. Failure to submit all requested documents above, as applicable, shall be good cause to disqualify the applicant.

(m) As soon as feasible, but not less than four (4) weeks prior to the start of principal photography, the production accountant is required to attend an orientation meeting with the Director of the CFC or his or her designee, along with any or all of the following staff members: a primary producer, unit production manager, or other appropriate personnel as determined by the applicant. Applicants and staff members shall not be required to attend more than one (1) orientation meeting for a motion picture in the program.

(n) Any television series, relocated television series and any television series based on a pilot that has been approved and issued a Credit Allocation Letter, shall be given first priority for a credit allocation during an open allocation period in each subsequent year in the life of that series whenever credits are allocated within a fiscal year.

(1) Each recurring television series shall submit a new application and pick-up order, if available, for each season prior to any open application period as specified by the CFC in its written notification.

(2) Recurring television series will be prioritized in subsequent years based upon the fiscal year of original credit allocation, with oldest television series applications entitled to first priority. In the event that further prioritization is necessary, the jobs ratio from the most current application for the series shall be used.

(o) Principal photography in California shall commence no later than one hundred eighty (180) calendar days after the credit allocation letter is issued. If the production does not begin principal photography prior to the 180-day deadline, the tax credit allocation shall be revoked, unless a Force Majeure event has occurred which directly prevented the production from commencing within the 180-day deadline. With submission of documentation verifying such event, the CFC may grant an extension. If a production implements a hiatus during the principal photography period, any and all hiatus period(s) may be no longer than one hundred twenty (120) calendar days in aggregate for the entire duration of the production.

Authority Cited: Sections 17053.95(e) and 23695(e), Revenue and Taxation Code, Section 11152, Government Code. Reference: Sections 6902.5, 17053.95(g) and 23695(g), Revenue and Taxation Code, Section 14998.1, Government Code.

### **Section 5510. Eligibility Determination**

(a) If applicant is planning to produce a "qualified motion picture," then applicant shall ensure that the "qualified motion picture" complies with the provisions of sections 17053.95(b)(18) and 23695(b)(18) of the Revenue and Taxation Code and applicant must plan to film at least seventy-five percent (75%) of principal photography days wholly in California or seventy-five percent (75%) of the production budget shall be incurred in California.

(b) To qualify as a new television series, the television series, shall produce episodes with a running time longer than forty (40) minutes, exclusive of commercials, and with a minimum production budget of one million dollars (\$1,000,000.00) per episode.

(c) To qualify as a television series that relocated to California, the television series shall meet the following criteria:

(1) Provide a certification from the applicant that the tax credit provided pursuant to this section is the primary reason for relocating to California.

(2) Produce episodes of any length, filmed its most recent season outside of California, and have a minimum production budget of one million dollars (\$1,000,000.00) per episode.

(d) A new television series from a television pilot shall produce episodes with a running time longer than forty (40) minutes, exclusive of commercials, and with a minimum production budget of one million dollars (\$1,000,000.00) per episode.

(e) To qualify as a pilot for a new television series, the pilot episode shall have a running time longer than forty (40) minutes, exclusive of commercials, shall be produced in California with a minimum budget of one million dollars (\$1,000,000), and shall be the initial episode in a proposed television series.

(f) An animated production is not considered a qualified motion picture and shall not be eligible for a tax credit. Animated production means content created that does not utilize or incorporate live action footage, but creates a motion picture consisting principally of computer generated or hand painted images. An animated production does not engage in principal photography and therefore does not meet the conditions for eligibility set forth in sections 17053.95 (b) (13) and 23695(b)(13) of the Revenue and Taxation Code.

(g) Tax credits for a "feature film" shall be applied to a maximum of one hundred million dollars (\$100,000,000.00) of the qualified expenditure budget. There shall be no maximum on the production budget.

(h) Tax credits for an independent film shall be applied to a maximum of ten million dollars (\$10,000,000.00) of the qualified expenditure budget. There shall be no maximum on the production budget.

(i) Revocation of the tax credit allocation is final and shall not be subject to administrative appeal or review.

Authority Cited: Sections 17053.95(e) and 23695(e), Revenue and Taxation Code, Section 11152, Government Code. Reference: Sections 17053.95 and 23695, Revenue and Taxation Code, Section 14998.1, Government Code.

## **Section 5511. Qualified Expenditures**

(a) The qualified expenditures shall be allowed as provided in sections 17053.95(b)(16) and 23695(b)(16) of the Revenue and Taxation Code.

(1) Qualified Wages shall also include payments to a qualified entity to the extent its services are performed in California, including, but not limited to, Qualified Expenditures as defined in sections 17053.95(b)(15) and 23695(b)(15) of the Revenue and Taxation Code. Examples of Qualified Expenditures are set forth on the Qualified Expenditure Charts as identified on the CFC website which may be updated periodically. These charts are only provided as a reference for the applicant and should not be considered conclusive or limiting.

(b) The non-qualifying expenditures are as provided in sections 17053.95(b)(21)(B) and 23695(b)(21)(B) of the Revenue and Taxation Code. The following expenses shall not be allowed as qualified expenditures:

(1) State and federal income taxes.

(2) Certified public accountant expenses for the report required in Section 5514(a)(5).

(3) Expenditures for rentals or purchases outside the state regardless if used in the state, and services performed outside the state are not considered qualified expenditures such as, but not limited to, digital visual effects work which is physically performed out-of-state.

(4) Expenditures for the exhibition of the qualified motion picture, including, but not limited to, digital cinema distribution copies and release prints.

(5) Expenditures incurred thirty (30) days after the creation of the final elements, such as, but not limited to, composite answer print, air master, and digital cinema files. Creation of additional versions for foreign distribution and/or archival purposes are not considered final elements.

Authority Cited: Sections 17053.95(e) and 23695(e), Revenue and Taxation Code, Section 11152, Government Code. Reference: Sections 17053.95 and 23695, Revenue and Taxation Code, Section 14998.1, Government Code.

## **Section 5512. Tax Credit Allocation**

(a) The amount of tax credit allocated shall be based on the percentage of the qualified expenditures as provided in sections 17053.95(a) and 23695(a) of the Revenue and Taxation Code.

(b) If all tax credits have been allocated for any application period, qualified motion pictures shall be placed in a prioritized waiting list according to their

project type and in the order of their job ratio ranking until one of the following occurs: credits become available that allocation period, the production elects to be removed from the queue, the credit is revoked, or until the allocation period ends.

(c) If the applicant is producing a series of feature films that will be filmed concurrently and the series of films continues the narrative of the original work and financing is confirmed, then the CFC shall have the authority to divide the allocation over multiple fiscal years if it is determined that the production schedule occurs over more than one fiscal year.

(d) For the purposes of this section, a five percent (5%) augmentation to the tax credit allocation shall be made by the CFC when any of the following conditions have been met:

(1) The production company pays or incurs qualified expenditures relating to music track recording and/or music scoring in California;

(2) The production company pays or incurs qualified expenditures relating to qualified visual effects work totaling a minimum of ten million dollars (\$10,000,000) or at least seventy-five percent (75%) of total worldwide visual effects expenditures is incurred in California;

(3) The production company pays or incurs qualified wages for services performed outside the Los Angeles zone during the applicable period relating to original photography outside the Los Angeles zone. The foregoing amounts shall be substantiated by documentation including but not limited to timesheets and payroll records as requested by the CFC;

(4) The production company purchases or leases tangible personal property outside the Los Angeles zone during the applicable period and the personal property is used or consumed outside the Los Angeles zone. Tangible personal property must be purchased, rented or leased from an outside of Los Angeles vendor through an office or other place of business outside the Los Angeles zone. Rentals or purchases from a pass-through business do not qualify for the five percent (5%) augmentation.

(A) If the tangible personal property purchased or leased outside the Los Angeles zone was not completely used or consumed solely outside the Los Angeles zone, the production company shall apportion amounts paid or incurred for tangible personal property outside the Los Angeles zone during the applicable period by multiplying these non-wage outside the Los Angeles zone expenditures by the ratio of days of principal photography outside the Los Angeles zone to the total number of days of principal photography.

(B) If the tangible personal property purchased or leased outside the Los Angeles zone was completely used or consumed solely outside the Los Angeles zone, the production company may elect to substantiate that with its records. Tangible personal property purchased or leased outside the Los Angeles zone shall be deemed to be completely used or consumed provided the property was of a type or nature such that it would have no residual material value remaining after its use or consumption outside the Los Angeles zone. Examples of such property include, but are not limited to, food and catering items, rented hotel or corporate housing usage, construction supplies and materials for sets, automotive or other fuels, security services, location and stage services, government permit fees, personnel services, printing, equipment rentals for the applicable period outside the Los Angeles Zone, transportation services, dry cleaning, and shipping and travel costs from within the state to and from the out of zone location.

(e) The maximum amount of tax credits allowed for independent films and/or relocating television series for their initial season in California is twenty-five percent (25%) and therefore the five percent (5%) augmentation is not applicable to such productions.

Authority Cited: Sections 17053.95(e) and 23695(e), Revenue and Taxation Code, Section 11152, Government Code. Reference: Sections 17053.95 and 23695, Revenue and Taxation Code, Section 14998.1, Government Code.

### **Section 5513. Approved Applicant Responsibility**

(a) An applicant issued a credit allocation letter shall be required to comply with the following during the production period:

(1) On the first day of principal photography, submit by email to the CFC in PDF or equivalent format, the daily call sheet, signed by the production manager.

(2) Each week, submit by email to the CFC in PDF or equivalent format the final production reports for each day of principal photography signed by the Unit Production Manager.

(3) If applicable, submit an email notification to the CFC indicating any significant changes to the project including anticipated changes in the estimated qualified expenditures, change of start date, shooting location, number of television episodes ordered, title change of project, or any other factors that have significantly changed since issuance of the credit allocation letter.

(4) Participation in career based learning and training programs and public service opportunities approved by the CFC in consultation with the California Department of Education (CDE) and/or California Community College Chancellor's Office (CCCCO) aimed at exposing high school and community

college students to jobs in the entertainment industry. To meet the requirements of this section, the applicant may do any of the following:

(A) Provide to students enrolled in an accredited high school or post high school educational institution three (3) paid internship positions for a minimum of 75 hours each or a combination of internships or internship with a minimum of 75 hours per student and a total 225 hours. Internship experience should include working with professionals in film industry and hands-on work assignments; or

(B) Provide to students enrolled in an accredited high school or post high school educational institution a minimum of eight (8) hours of classroom workshops or demonstrations on aspects of the film industry, including set operations, post-production, and specific technical crafts conducted by entertainment industry professionals; or

(C) Provide to students enrolled in an accredited high school or post high school educational institution a minimum of eight (8) hours of professional skills tours, which may include visits to observe set operations, set construction, wardrobe department, art department and editorial department; or

(D) Provide a minimum of eight (8) hours of continuing education for educators and/or faculty to observe the set operations, post-production and other specialized departments in the film industry; or

(E) Make a financial contribution to a specific local or state educational agency or higher education institution specializing in arts, media, and entertainment career oriented programs. The contribution shall be based on 0.25 percent of the estimated tax credit reservation with a minimum financial contribution of \$5,000 and a maximum required financial contribution of 12,000. (Note: An applicant may contribute an amount in excess of the maximum); or

(F) Provide a learning opportunity or financial contribution of equal time or value through other arts, media, and entertainment programs, workforce programs, etc. which are not affiliated with CCCCO or CDE and is approved by the CFC.

Authority Cited: Sections 17053.95(e) and 23695(e), Revenue and Taxation Code, Section 11152, Government Code. Reference: Sections 17053.95 and 23695, Revenue and Taxation Code, Section 14998.1, Government Code.

#### **Section 5514. Credit Certificate Issuance Process**

(a) The applicant shall be required to submit the following documents upon completion of the qualified motion picture, in an electronic format and /or hard copy, as directed by the CFC.



- (1) Proof of copyright registration of the screenplay, teleplay, motion picture, television series or television movie.
- (2) Documentation indicating the date of completion of postproduction. Documentation may include, but not be limited to, the facility invoice evidencing the date the final element was completed or other reasonable documentation as determined by the CFC.
- (3) List of all Cast, Crew, and Vendors for the project.
- (4) Copy of Script Supervisor's Lined Script of the project. TV series must submit episodes 1 and 5 of the series.
- (5) Expenditure Summary Report as set forth on the CFC website, CFC Form FF-1 (Non-Independent Production) (Rev. 1/25/2016), CFC Form FF-2 (Independent Films) (Rev. 1/25/2016), hereby incorporated by reference.
- (6) An agreed upon procedures report in compliance with the Agreed Upon Procedures (Rev. 1/25/2016) hereby incorporated by reference. The agreed upon procedures report shall be prepared and certified by a certified public accountant (CPA) who meets the following criteria:
  - (A) Maintains an active license or has proof of a valid out-of-state accounting firm registration for the firm practicing attest services in California.
  - (B) The accounting firm performing the attest services shall provide documentation from the California Society of Certified Public Accountants or other organization administering said review, indicating that a Peer Review Report was completed within the last three years and the rating was a Pass. If the firm performing attest services is newly formed, the firm must provide evidence it is registered for review by an organization administering the review in the state in which the firm resides.
  - (C) Successful completion of a California Film Commission Orientation Meeting for CPAs performing Agreed Upon Procedures for the California Film and Television Tax Credit Program 2.0. The frequency of training shall be offered on an as needed basis as determined by the CFC.
- (7) The actual layout of the main and end titles produced by a title house or other postproduction facility.
- (8) Documentation from each visual effects, title digital effects and/or post sound company contracted by the production company, indicating the total dollar amount of work performed within the State of California shall be certified by managerial level personnel with knowledge of the project.

(9) Documentation from the designated representative of the California Community Colleges Chancellor's office and/or the California Department of Education or the CFC, verifying participation in a career-based learning and training program as required in Section 5513(a)(4).

(10) A movie of the week shall submit documentation verifying its initial distribution on television or via internet transmission with a minimum of seventy-five (75) minutes exhibited in one part, excluding commercials.

(11) A miniseries shall submit documentation verifying that its initial distribution on television or via internet transmission consists of two or more episodes with a total running time of at least one hundred fifty (150) minutes.

(12) Revised and/or updated information, as applicable, to the documentation requested in sections 17053.95(g)(2)(A)(v)-(x) and 23695(g)(2)(A)(v)-(x) of the Revenue and Taxation Code in an electronic format as specified by the CFC.

(b) The production shall be completed in a timely manner as required in sections 17053.95(b)(18)(B)(ii) and 23695(b)(18)(B)(ii) of the Revenue and Taxation Code.

(c) The Qualified Motion Picture shall be considered complete when the process of postproduction has been finished and a final composite answer print, delivery air master, or digital cinema files of the qualified motion picture is completed.

(d) The CFC shall review all the required materials submitted by the applicant to determine the sufficiency of the required documentation and that the applicant meets all the criteria for the program. During the review, the CFC may reject insufficient documentation not in compliance with the requirements found in this section or may request additional documentation to determine if the production is a qualified motion picture and to verify the qualified expenditures. The CFC shall approve or disapprove the request for the tax credit certificate.

(e) Upon rejection of insufficient documentation or disapproval of the request for a tax credit certificate, the CFC shall provide the applicant with a notice of disapproval stating the reasons for the disapproval. Disapproval is final and shall not be subject to administrative appeal or review.

(f) Upon approval, the tax credit certificate, CFC Form MM, (Rev. 11/17/15), hereby incorporated by reference, shall be issued to the applicant beginning on July 1, 2016. If the entity that incurs the qualified expenditures is a partnership, limited liability company or subchapter S corporation (pass-through entity), that entity is the applicant for purposes of filing the tax credit application and receiving the final tax credit certificate.

Authority Cited: Section 17053.95(e) and 23695(e), Revenue and Taxation Code, Section 11152, Government Code. Reference: Sections 17053.95 and 23695, Revenue and Taxation Code, Section 14998.1, Government Code.

### **5515. Jobs Ratio Ranking Process**

(a) For the purposes of the jobs ratio calculation, qualified wages shall include:

(1) Qualified wages which are directly paid by the applicant or its payroll service; plus (2) thirty-five percent (35%) of all qualified non-wage expenditures, including contracted services in which the qualified wages are not directly paid by the applicant, but by the vendor.

(b) The jobs ratio as defined in Section 5508(k) may be increased by up to twenty-five percent (25%), if the qualified motion picture demonstrates an increase in economic activity in the state. This activity is based on the following:

(1) Percentage points are based on the visual effects expenditures per project category, e.g., independent film, non-independent feature, television project. One to fifteen percentage points.

(2) Principal photography in production facility. Percentage points are based on the percentage of principal photography days that occur in production facilities in the state in relation to the qualified motion picture's total principal photography days in the state. One to seven percentage points.

(A) The production facility shall meet the provisions in section 5508(v) and applicant shall utilize the production facility for six hours or more for the day to be considered a production facility day.

(B) The CFC shall provide applicant with a Notice of Approval or Disapproval on whether a production facility is approved as required in 5508(v). The Notice of Disapproval shall state the reasons for disapproval. Disapproval is final and shall not be subject to administrative appeal. Principal photography days filmed in an approved production facility shall be eligible for additional percentage points as provided for in Section 5515(b).

(3) Principal photography outside the LA Zone. Percentage points are based on the percentage of principal photography days outside the Los Angeles Zone in relation to the qualified motion picture's total principal photography days in the state. One to ten percentage points.

(c) The CFC shall establish the percentage ranges as follows:

(1) Percentage points for principal photography in a production facility as provided in subsection (b)(2) and principal photography days out of the Los

Angeles zone as provided in subsection (b)(3) shall be determined by applying percentage points on a linear proportionate scale. Starting with 10% of principal photography days, the applicants will receive one point for every 10 percent increase of out of zone principal photography days and/or facility principal photography days (10% or more of the above days = 1 point, 20% or more of the above days = 2 points, etc.) until the maximum cap of points is received. The percentages for each is determined by dividing either the out of zone principal photography days or the facility principal photography days by the total principal photography days.

(A) If the maximum number of points is not achieved by any project in a given year's applicant pool, the CFC may decrease the step size (for example from 10% to 5% incremental steps) needed to gain an additional point in subsequent allocations, but maintain the linear proportionate structure.

(2) Percentage points for visual effects as provided in subsection (b)(1) shall be determined utilizing the following method: The CFC shall then use the National Institute of Standards and Technology formula to create cut-off values that sort an equal number of projects into each point range as further described below.

Following the *National Institute of Standards and Technology (NIST)* "Engineering Statistics Handbook: Percentile" formula, the applicant pool is first ranked from lowest to highest value in each of the three categories, where 1 corresponds to the first lowest rank. The formula then finds the rank  $n$  associated with each percentile cut-off as follows:

$$n = P/100 \times (N + 1)$$

P is the percentile of interest. If there are ten possible point ranges for example, then P = 10 would correspond to the 10th percentile, P = 20th to the 20th percentile, and so forth, until the 100th percentile has been calculated. N is the total number of applicants in the current applicant pool.

The formula then uses a standard rounding and conversion procedure to turn the rank  $n$  into a monetary cut-off value. The Excel function *PERCENTILE* automatically does this calculation according to the same NIST formula (see citation: <http://www.itl.nist.gov/div898/handbook/prc/section2/prc262.htm>) The CFC shall use this Excel function to determine initial cut-offs, and then choose final cut-offs within +/- 10 percent of what the formula produces, such that the ranges can be rounded. Ranges may be adjusted for future application periods based on the data collected from previous application periods.

(d) Ranges to establish the points for the above criteria shall be posted on the CFC website prior to any application period.

(e) The jobs ratio calculation shall not include any increase to the tax credit from work outside the Los Angeles zone, qualified visual effects or qualified expenditures related to music scoring or music track recording incurred in California as set forth in Section 5512(d). It also shall not include any increase to the tax credit from expenditures relating to a contingency or completion bond.

(f) The jobs ratio multiplied by (total points [acquired in (b)(1)-(4)] x 1/100) + 1 shall be the adjusted jobs ratio which shall be utilized to rank qualified motion pictures within each category during the application process, pursuant to Section 5509(i).

(g) This process shall be automatically calculated on the online application, based on the information provided by the applicant.

(h) If information submitted by an applicant is overstated on the application, the applicant will be penalized as provided in Revenue and Taxation Code Sections 17053.95(d)(2) and 23695(d)(2).

Authority Cited: Sections 17053.95(e) and 23695(e), Revenue and Taxation Code, Section 11152, Government Code. Reference: Sections 17053.95 and 23695, Revenue and Taxation Code, Section 14998.1, Government Code

#### **Section 5516. On Screen Credit and Promotional Requirements**

(a) All productions that are issued a tax credit certificate shall be required to comply with the following provisions:

(1) Provide an on-screen acknowledgement to: THE STATE OF CALIFORNIA AND THE CALIFORNIA FILM COMMISSION and include the California Film Commission Logo, to be provided by the CFC to the applicant, except where that acknowledgement may be prohibited by the Children's Television Act or any other local, state, or federal government policy. Such acknowledgement and logo shall appear on every episode of a television series except where prohibited as above.

(2) Provide five (5) production stills in digital file format cleared by the production company and with cast approvals for promotional use by the CFC.

Authority Cited: Sections 17053.95(e) and 23695(e), Revenue and Taxation Code, Section 11152, Government Code. Reference: Sections 17053.95 and 23695, Revenue and Taxation Code, Section 14998.1, Government Code.

**State of California  
Office of Administrative Law**

**In re:**  
**California Film Commission**

**Regulatory Action:**

**Title 10, California Code of Regulations**

**Adopt sections:** 5508, 5509, 5510, 5511,  
5512, 5513, 5514, 5515,  
5516

**Amend sections:**

**Repeal sections:**

**NOTICE OF APPROVAL OF EMERGENCY  
REGULATORY ACTION**

**Government Code Sections 11346.1 and  
11349.6**

**OAL Matter Number: 2015-1228-04**

**OAL Matter Type: Emergency Readopt (EE)**

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This emergency action is the second re-adoption of implementation of the California Film & Tax Credit Program, including the definitions, application process, eligibility determination, qualified expenditures, tax credit allocation, approved applicant responsibility, credit certificate issuance, applicant ranking, and promotional requirements.

OAL approves this emergency regulatory action pursuant to sections 11346.1 and 11349.6 of the Government Code.

This emergency regulatory action is effective on 1/7/2016 and will expire on 4/7/2016. The Certificate of Compliance for this action is due no later than 4/6/2016.

**Date:** January 7, 2016



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**Mark Storm**  
**Senior Attorney**

**For: DEBRA M. CORNEZ**  
**Director**

**Original: Amy Lemisch**  
**Copy: Terri Toohey**

## NOTICE PUBLICATION/REGULATIONS SUBMISSION

(See instructions on reverse)

STD. 400 (REV. 01-2013)

|  |                                 |                          |   |
|--|---------------------------------|--------------------------|---|
| OAL FILE NUMBERS   | NOTICE FILE NUMBER<br><b>Z-</b> | REGULATORY ACTION NUMBER | EMERGENCY NUMBER<br><b>2015-1228-04EE</b> |
| For use by Office of Administrative Law (OAL) only             |                                 |                          |   |
| NOTICE   |                                 | REGULATIONS              |   |
| <p>2015 DEC 28 P 2:11</p> <p>OFFICE OF ADMINISTRATIVE LAW</p>  |                                 |                          |   |
| AGENCY WITH RULEMAKING AUTHORITY<br>California Film Commission |                                 |                          | AGENCY FILE NUMBER (if any)               |

For use by Secretary of State only

ENDORSED - FILED

In the office of the Secretary of State of the State of California

JAN -7 2016

1:52 PM

## A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

|   |  |                          |  |                        |  |                               |  |
|---|--|--------------------------|--|------------------------|--|-------------------------------|--|
| 1. SUBJECT OF NOTICE<br><b>AMF FILM &amp; TELEVISION TAX CREDIT PROGRAM</b>   |  | TITLE(S)                 |  | FIRST SECTION AFFECTED |  | 2. REQUESTED PUBLICATION DATE |  |
| 3. NOTICE TYPE<br><input type="checkbox"/> Notice re Proposed Regulatory Action <input type="checkbox"/> Other  |  | 4. AGENCY CONTACT PERSON |  | TELEPHONE NUMBER       |  | FAX NUMBER (Optional)         |  |
| OAL USE ONLY<br><input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn |  | NOTICE REGISTER NUMBER   |  | PUBLICATION DATE       |  |                               |  |

## B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

|   |  |  |                       |
|---|--|--|-----------------------|
| 1a. SUBJECT OF REGULATION(S)<br><b>AMF FILM &amp; TELEVISION TAX CREDIT PROGRAM 2.0</b>   |  | 1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S)<br><b>2015-0401-01E; 2015-1008-01</b> |                       |
| 2. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (including title 26, if toxics related)   |  |  |                       |
| SECTION(S) AFFECTED<br>(List all section number(s) individually. Attach additional sheet if needed.)  |  | ADOPT<br><b>5508,5509,5510,5511,5512,5513,5514,5515,5516</b>                                   |                       |
|   |  | AMEND  |                       |
| TITLE(S)<br><b>10</b>   |  | REPEAL   |                       |
| 3. TYPE OF FILING   |  |  |                       |
| <input type="checkbox"/> Regular Rulemaking (Gov. Code §11346)<br><input type="checkbox"/> Resubmittal of disapproved or withdrawn nonemergency filing (Gov. Code §511349.3, 11349.4)<br><input type="checkbox"/> Emergency (Gov. Code, §11346.1(b))<br><input type="checkbox"/> Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Gov. Code §§11346.2-11347.3 either before the emergency regulation was adopted or within the time period required by statute.<br><input type="checkbox"/> Resubmittal of disapproved or withdrawn emergency filing (Gov. Code, §11346.1)<br><input checked="" type="checkbox"/> Emergency Readopt (Gov. Code, §11346.1(h))<br><input type="checkbox"/> File & Print<br><input type="checkbox"/> Other (Specify) _____<br><input type="checkbox"/> Changes Without Regulatory Effect (Cal. Code Regs., title 1, §100)<br><input type="checkbox"/> Print Only |  |  |                       |
| 4. ALL BEGINNING AND ENDING DATES OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §44 and Gov. Code §11347.1)  |  |  |                       |
| EFFECTIVE DATE OF CHANGES (Gov. Code, §§ 11343.4, 11346.1(d); Cal. Code Regs., title 1, §100)   |  |  |                       |
| <input type="checkbox"/> Effective January 1, April 1, July 1, or October 1 (Gov. Code §11343.4(a))<br><input checked="" type="checkbox"/> Effective on filing with Secretary of State<br><input type="checkbox"/> §100 Changes Without Regulatory Effect<br><input type="checkbox"/> Effective other (Specify) _____   |  |  |                       |
| CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY   |  |  |                       |
| <input type="checkbox"/> Department of Finance (Form STD. 399) (SAM §6660)<br><input type="checkbox"/> Fair Political Practices Commission<br><input type="checkbox"/> State Fire Marshal<br><input type="checkbox"/> Other (Specify) _____   |  |  |                       |
| CONTACT PERSON<br><b>erri Toohey</b>  |  | TELEPHONE NUMBER<br><b>916-768-5638</b>  | FAX NUMBER (Optional) |
|   |  | E-MAIL ADDRESS (Optional)<br><b>ttoohey@att.net</b>  |                       |

I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE

DATE

12/28/2015

PRINTED NAME AND TITLE OF SIGNATORY

my Lemisch, Executive Director

For use by Office of Administrative Law (OAL) only

ENDORSED APPROVED

JAN 07 2016

Office of Administrative Law