CALIFORNIA
Film Commission

Program 4.0 Refundability Summary

On July 10, 2023, Governor Newsom signed Senate Bill (SB) 132 , which governs the California Film and Television Tax Credit Program 3.0, Soundstage Filming Tax Credit Program, as well as establishing the California Film and Television Tax Credit Program 4.0 for the years 2025 through 2030. This document provides a summary of the new refundability provision and examples on how to utilize tax credits for projects approved on or after July 1, 2025. Published as a helpful guide, this document is for reference only; tax credit applicants are encouraged to consult with their own legal and tax professionals. Sign-up to receive California Film Commission production alerts to keep abreast of the Program 4.0 regulatory process.

SUMMARY

Program 4.0 participants, both independents and non-independents, with insufficient tax liability to make use of the certified tax credits awarded under the Program may make a one-time election to utilize the refundability option established in the Program. The election to utilize the refundability option must be made in the first taxable year in which the tax credit certificate is issued to the applicant. Refundability is not an option for an applicant allocated credits under any previous iteration of the Program, such as Program 2.0 or Program 3.0, or under the Soundstage Filming Program.

If the taxpayer does not make the one-time irrevocable election to potentially get a refund, then the film tax credit will be administered similarly to prior versions of the program. The taxpayer will be able to use the credit against tax liability and to carry the credit forward in the following nine years following the first year.

Once the election has been made, tax credits will be refunded over five years (refundable period), including the year of election.

The total amount of tax credits an applicant may elect to make refundable is 90% of the certified tax credit amount that exceeds the applicants tax liability in the first taxable year. The permitted maximum annual amount is 20% of the total refundable amount which effectively results in a maximum annual amount of 18% of the certified tax credit amount that exceeds the applicants tax liability in the first taxable year.

Tax credits must be applied to any tax liability, annually, and only the excess is subject to refundability. If an applicant elects to utilize the refundability option, no amount of tax credits will be allowed after the maximum refundable period of five years, meaning the applicant cannot elect to hold on to tax credits for use against future liability.

The election to utilize the refundability option is irreversible and must be made on the entity’s tax return filed with the California Franchise Tax Board (FTB) in accordance with FTB requirements.

The refundability is not transferrable, meaning if an independent production elects to sell its tax credits, the entity that purchases the tax credits may not elect refundability.

If electing refundability, the taxpayer receives the 18-percent maximum refund amount in the first taxable year that the credit certificate is issued. In years 2 through 5:

a. The 18-percent credit amount will first be applied against tax liability, if any, and any remaining amount will be refunded to the taxpayer.

b. Regardless of how much liability a taxpayer has, the taxpayer is limited to only offsetting up to the 18-percent credit amount.

c. If liability exceeds the 18-percent credit amount, then the entire 18-percent credit amount is applied against liability and the taxpayer owes any remaining tax liability amount.

REFUNDABILITY EXAMPLES

Example #1

- A project has an allocation of $11 million in tax credits certified in year 1. The project entity's tax liability in year 1 is $1 million; $10 million in tax credits remain. The project elects to apply the refundability option to their project; the total refundable amount is $9 million (90% of credits remaining after tax liability has been applied in year 1). The project receives an annual refundable amount of $1,800,000 (20% of the total refundable amount of $9 million) in year 1.
- In year 2, the annual refundable amount ($1,800,000) is first applied against the project entity's tax liability, which for year 2 is $750,000. The remaining $1,050,000 is refunded to the applicant.
- In year 3, the annual refundable amount ($1,800,000) is first applied against the project entity's tax liability, which for year 3 is $2 million. The entity receives no refund and has a remaining tax liability of $200,000.
- In year 4, the annual refundable amount ($1,800,000) is first applied against the project entity's tax liability, which for year 4 is $500,000. The remaining $1,300,000 is refunded to the applicant.
- In year 5, the annual refundable amount ($1,800,000) is first applied against the project entity's tax liability, which for year 5 is zero. $1.8 million is refunded to the applicant.
- The applicant received a credit allocation of $11 million, of which $4,050,000 was applied against tax liability and $5,950,000 was refunded, for a total of $10 million; the cost of electing refundability is 10%.
- If the same entity had zero California tax liability in any taxable year following certification of credits, their total refundable amount would be $9.9 million (90% of the $11 million), and the annual refundable amount would be $1,980,000 for five years (20% of the $9.9 million, annually).

Example #2:

- Certified Program 4.0 credit amount = $100
- Liability after using all other credits:
- Year 1 = $50, Year 2 = $20, Year 3 = $0, Year 4 = $100, Year 5 = $5
- Credit usage and refund schedule:

- **Year 1:** Offset $50 liability and taxpayer receives 18 percent of remaining credit amount, or $9, as a refund.
- **Year 2:** Offset $9 against liability and taxpayer owes the remaining $11 in tax liability.
- **Year 3:** Receive $9 as a refund.
- **Year 4:** Offset $9 against liability and taxpayer owes the remaining $91 in tax liability.
- **Year 5:** Offset $5 against liability, taxpayer receives $4 as a refund.