



TRANSFERABLE TAX CREDITS FOR FILM AND OTHER PRODUCTIONS

PROGRAM SUMMARY

To obtain a transferable tax credit for film and other productions, a production company must first complete an application. To qualify, a production must spend at least \$500,000 and 60% of its overall budget in Nevada. Once the application is entered into public record and approved, a certificate of eligibility is issued. After the production films in Nevada, an audit must be completed by an approved auditor. The audit will determine the exact transferable tax credit amount. The credit certificate is issued to the production company, who can then use the credit toward tax liability in the state of Nevada or sell the credit to a company that does have tax liability.

APPLICATION PROCESS

Who can apply?

- Theatrical, direct-to-video, made-for-television or other media motion picture
- Visual effects or digital animation sequences
- Television pilot program
- Television, internet or other media series, including, without limitation, a comedy, drama, miniseries, soap opera, talk show, game show, or telenovela, or an episode of such a series
- Reality show
- National or regional commercial or series of commercials
- Infomercial
- Music video
- Documentary film or series
- Other visual media productions, including, without limitation, video games and mobile applications

What productions do not qualify?

- News, weather or current events program
- Production that is primarily produced for industrial, corporate or institutional use
- Telethon or any production that solicits money, other than a production which is produced for national distribution
- Political advertisement
- Sporting event, including, without limitation, a sportscast, preshow, postshow or sports newscast related to a sporting event
- Gala, pageant or awards show
- Any other type of production that is excluded by regulations

What are the minimum spend requirements?

A qualified production must spend at least 60% of its total budget in the State, including preproduction, production, and postproduction costs. If all postproduction costs are incurred outside of the State, then at least 60% of the total preproduction and production costs must be spent in the State. A minimum of \$500,000 in qualified expenditures must be spent in the State.



When should I apply?

An application must be submitted prior to the start of principal photography. Qualified costs can be incurred up to 90 days prior to the submission date of the application. From the date the application is approved, the production has 90 days to start principal photography, with a possible 90-day extension. From the first day of principal photography, the production has 18 months to complete the project.

What is required to apply?

The application consists of a pdf that collects basic information about the production and an excel workbook that calculates the qualified incentive amount based on budgetary inputs. In addition to the application documents, the following attachments are also required:

- Script, storyboard or synopsis of the production
- Explanation of how the proposed production is in the economic interest of Nevada, including marketing and distribution plans
- Summary or top sheet budget
- Proof of adequate financing, either 70% or more of the budget has been obtained, or the production company has a corporate credit rating of "lower medium grade" or higher

What is the public hearing requirement?

Applications for the transferable tax credit program are a matter of public record. A public hearing is held to read the application into record. A representative from the production must be available in person or via videoconference or teleconference to participate in the hearing. Film Nevada will walk the production through the requirements of the hearing.

QUALIFYING COSTS

What vendors qualify?

Qualified expenditures must be for purchases, rentals or leases of tangible personal property or services from a Nevada business during the qualified production period. A Nevada business is defined as a proprietorship, corporation, partnership, company, association, trust, unincorporated organization or other enterprise that has a physical location and at least one full-time equivalent employee in this State; and is licensed to transact business in this State.

What expenditures do not qualify?

- Expenditures and costs related to the acquisition, transfer or use of transferable tax credits
- Marketing and distribution
- Financing, depreciation and amortization
- Payment of any profits
- Payment for the cost of the audit



- Payment for goods or services that are not directly attributable to the production
- Expenditures for which reimbursement is received, or for which reimbursement is reasonably expected to be received
- Expenditures which are paid to a joint venture or a parent, subsidiary or other affiliate of the production company, unless the amount paid represents the fair market value of the purchase, rental or lease of the property or services for which payment is made
- Expenditures which provide a pass-through benefit to a person who is not a Nevada resident
- Expenditures which have been previously claimed as a basis for transferable tax credits

What is considered a pass-through benefit?

If any tangible personal property is acquired by a Nevada business from a vendor outside this State for immediate resale, rental or lease to the production, expenditures incurred by the production company in this manner are qualified only if the Nevada business regularly deals in property of that kind; the expenditures are otherwise qualified direct production expenditures; and not more than 50% of the property purchased, rented or leased by the production company for the qualified production is acquired and purchased, rented or leased in this manner.

What labor qualifies?

All labor performed by Nevada residents within the State qualifies at a rate of 15%. Labor performed by Nevada residents outside of the State does not qualify. Labor performed by above the line cast and crew (producers, directors, principal actors) within the State who are not Nevada residents qualifies at a rate of 12%. Labor performed by below the line crew who are not Nevada residents do not qualify.

Do fringes qualify?

Fringes, such employer taxes, union dues, health insurance premiums, pension payments, and workers' compensation insurance, qualify as labor. Payroll handling fees qualify only if the payroll company qualifies as a Nevada business.

Do travel costs qualify?

Commercial airfare to and from Nevada qualifies only if purchased through a Nevada travel agency or agent. Reimbursement for mileage qualifies only for miles driven in Nevada. Per diem qualifies for days worked in Nevada.



PROGRAM DETAILS

How is the incentive calculated?

The base rate of the incentive is 15% of all qualified Nevada costs, including Nevada vendors and resident cast and crew who perform work in the state. Labor performed by above the line crew within the State who are not Nevada residents qualifies at a rate of 12%. The Nevada resident bonus and rural county bonuses are an additional 5% each, bringing the potential incentive rate to 25% if a production qualifies for both. The bonuses are applied to all qualified costs.

How are the bonuses calculated?

The Nevada resident bonus of 5% is available to productions who hire greater than 50% of below-the-line crew (not including extras) that are Nevada residents. The percentage of Nevada residents is determined by dividing the number of workdays worked by Nevada residents by the number of workdays worked by all below-the-line personnel. A Nevada resident is defined as a person who has established a residence in the State of Nevada and has actually resided in this State for at least 6 months; or has a valid Nevada driver's license. The rural county bonus of 5% is available to productions who film more than 50% of their filming days outside of Clark County.

What caps are applied to qualifying costs?

The maximum tax credit a single production can receive is \$6,000,000. The qualified compensation payable to any single employee, independent contractor or loan-out performing labor services is capped at \$750,000. The qualified compensation payable to all producers is capped at 10% of the total qualifying expenses for Nevada resident producers and capped at 5% of the total qualifying expenses for non-Nevada resident producers.

How does a transferrable tax credit work?

The transferrable tax credit can be used only towards certain tax types in Nevada: any tax imposed by chapters 363A and 363B of NRS (business tax on financial institutions and mining, and modified business tax); the gaming license fees imposed by the provisions of NRS 463.370; any tax imposed pursuant to chapter 680B of NRS (taxes imposed on insurance companies); or any combination thereof. The production company applying for the credit will likely not have any of these tax liabilities, so they can sell their credit to a Nevada company that does.

What is the certificate of eligibility?

A certificate of eligibility is issued after the application is approved. The certificate is issued to the production company and states the maximum amount of tax credit the production company can receive. This amount is calculated as part of the application, by breaking down the budget



into Nevada and non-qualified costs. A production cannot receive a tax credit higher than what is applied for. When an application is approved, those funds are dedicated to the production. Therefore, the production is at no risk of the program running out of funding while filming, as the certificate of eligibility has encumbered those funds for the production. In the event the production does not qualify for the full certificate of eligibility amount, any remaining funds are returned to the program.

Is an application guaranteed to be approved?

No. Due to the limited amount of funds per fiscal year, the Governor's Office of Economic Development has the ability to prioritize certain applications that emphasize the number of high-quality jobs for Nevada residents and promote tourism to Nevada.

Is the production company or any loan outs required to register with the State of Nevada?

No. Neither the production company receiving the credit, nor loan outs paid as part of the production, are required to register with the Secretary of State. However, the production company must register the production with Film Nevada.

Is the production required to include the Film Nevada logo in the end screen credits?

Yes. The law requires productions receiving the tax incentive to include a logo provided by Film Nevada in the end screen credits. If the final version of the production does not have end screen credits (such as a commercial), then another acknowledgement that indicates the production filmed in Nevada can be made.