

2007 Credit for Motion Picture Production Costs

CONTACTS FOR MOTION PICTURE PRODUCTION TAX INCENTIVES PROGRAM

Department of Commerce

•Application forms •Motion Picture Production Tax Incentives program guidelines

Internet home page: www.azcommerce.com

Motion Picture Program Administrator (602) 771-1100

Department of Revenue

•tax forms and instructions •information and assistance

Internet home page: www.azdor.gov

Taxpayer assistance (602) 255-3381

From area codes 520 and 928, toll-free (800) 352-4090

Form Orders (602) 542-4260

Recorded Tax Information

Phoenix (602) 542-1991

From area codes 520 and 928, toll-free (800) 845-8192

Hearing impaired TDD user

Phoenix (602) 542-4021

From area codes 520 and 928, toll-free (800) 397-0256

General Instructions

ARS §§ 43-1075 and 43-1163 each provide a transferable tax credit against corporate and individual income tax liabilities for motion picture production companies that produce motion pictures completely or partially in Arizona. The credit is effective from and after December 31, 2005 through December 31, 2010. The credit is based on a percentage of motion picture production costs that a motion picture production company has in Arizona that are directly attributable to the production of the motion picture in Arizona. No credit will be allowed to any taxpayer who has a delinquent tax balance owed to the Department of Revenue.

In order to obtain the credit for motion picture production costs, a motion picture production company must apply for and receive pre-approval from the Department of Commerce. Once pre-approval is received, the motion picture production company must incur at least \$250,000 in production costs in Arizona for each motion picture. Expenses incurred prior to the notice of pre-approval do not qualify as production costs. Finally, the motion picture production company must obtain post-approval from the Department of Commerce prior to claiming the credit. The credit may be claimed on the first tax return due after the post-approval has been received from the Department of Commerce, but not before the tax year of the pre-approval ("allocation year").

The first four digits of the pre-approval from the Department of Commerce represent the allocation year (pre-approval 2008-987 would be from the 2008 allocation year).

NOTE: *The credit for motion picture production costs must be claimed on a timely filed original income tax return, including extensions. Therefore, the credit may not be initially claimed on an amended return.*

When the motion picture production company first applies for qualification with the Department of Commerce, it must provide details about the production and its Arizona activities. The Department of Commerce will review the information and issue a pre-approval to the motion picture production company if it appears that it may qualify for the tax incentives. The pre-approval will include the potential amount of credit that the company may claim if it continues to meet all eligibility criteria and obtains Department of Commerce post-approval after the motion picture is complete. The credit a taxpayer may claim can never exceed the amount that the Department of Commerce pre-approved.

Only a motion picture production company that demonstrates that it has the lawful right to produce a particular production may apply for pre-approval for the credit.

The production company must submit copies of both the pre-approval and post-approval forms from the Department of Commerce with Form 334 when claiming the credit.

The motion picture production company must employ Arizona residents in its Arizona production activities. The percentages of full-time production employees working in Arizona that must be Arizona residents are as follows:

2006	25% of full-time employees
2007	35% of full-time employees
2008 through 2010	50% of full-time employees

To obtain more information about how to qualify for the credit, contact the Department of Commerce using the contact information shown in the box at left.

Credit Transfer

Form 334-1 Schedule of Credit Transfers

Arizona law allows you to obtain the credit for motion picture production costs from other taxpayers, and to transfer your credit for motion picture production costs to other taxpayers. Use Form 334-1 to record transfers you made to, and received from, other taxpayers.

Complete Part I to record the credits you have received as transfers from other taxpayers. If you received a credit as a transfer directly from the motion picture production company that originated the credit, record the motion picture production company name and TIN in column (a). In column (b), write "same as transferor." If you received the credit from an entity other than the original motion picture production company, record that company information in column (a), and the motion picture production company information in column (b).

Complete Part II to record the credits you transferred to others this tax year. In column (h), enter any credit balance you have remaining on a credit you transferred to someone else. If you have no balance remaining, write zero in column (h).

Carryover of Credit Transfers

This credit may be carried forward and used against five consecutive taxable years' income tax liabilities. The carryover period is determined by the allocation year of the motion picture production company that originated the credit.

Example 1: if a motion picture production company is on a calendar year basis, the credit is allocated in 2006, and the credit is established on its 2006 income tax return, then the 2007 year is the first year of the carryover period. If the motion picture production company transfers the credit to another taxpayer during the other taxpayer's 2007 tax year (year one of the carryover period), that taxpayer may use the credit to apply against its 2007 tax liability. If that transferee subsequently transfers the credit to another entity, that entity would be using the credit in the second carryover year. There would be three more consecutive taxable years remaining in the carryover period.

Example 2: if a motion picture production company is on a calendar year basis, the credit is allocated in 2007, the post-approval is received in June 2009, and the credit is established on its 2008 income tax return, then the 2008 year is the first year of the carryover period. If the motion picture production company transfers the credit to another taxpayer during the other taxpayer's 2008 tax year (year one of the carryover period), that taxpayer may use the credit to apply against its 2008 tax liability. If that transferee subsequently transfers the credit to another entity, that entity would be using the credit in the second carryover year. There would be three more consecutive taxable years remaining in the carryover period.

NOTE: *The credit for motion picture production costs must be claimed on a timely filed original income tax return, including extensions. Therefore, it may not be initially claimed on an amended return.*

Credit Recapture

If a motion picture production company or other transferor was not qualified or was disqualified from using the credit at the time of transfer, the department is required to either disallow the credit claimed by the transferee, or recapture the credit from the transferee. The transferee's recourse is against the transferor. The transferor of a disqualified credit should advise the transferees of the disqualification. A pass-through entity that has passed a disqualified credit through to its partners or shareholders should advise each partner or shareholder of their recapture amount.

The motion picture production company may enter into a limited managed audit agreement with the department to confirm the credit amount. Contact the department's audit section for details.

Specific Instructions

Complete the name and taxpayer identification number section at the top of the form. Indicate the period covered by the taxable year. Attach the completed form to the tax return.

If you did not generate the credit for motion picture production costs, but received the credit as a transfer, skip Parts I and II, and complete the remainder of the Form 334. Also complete Form 334-1.

Part I - Individual who will Maintain Records of Expenditures in Arizona

In this area, write the name, address, and telephone number of the person who will keep the records of the expenditures the motion picture production company has in Arizona.

Your tax information on file with the department is confidential. The department cannot discuss your tax information with anyone else, unless you have authorized the department to release confidential information to that person. You may use Form 285 to authorize the department to release confidential information to the individual you have named in Part I, or any appointee you choose. See Form 285 for details.

Part II - Listing of Post-Approved Productions

In Part II, list all of your productions that the Department of Commerce post-approved that are eligible to be claimed on this year's tax return. Credits are eligible to be claimed on the first tax return due after the post-approval date, including extensions, but not before the allocation year tax return. Write the dates that the Department of Commerce pre-approved your productions, and the date that it post-approved your productions. The Department of Commerce has assigned each of your productions a number, which should be the same on both pre-approval and post-approval documents. List this number in column (a)3. Add the approved credit amounts together, and write the total on line 6, column (b). This is the total credit you originated this year.

If you do not have enough lines on the form to enter all of your productions, attach a schedule that shows all of the information Part II requires. Enter the total approved credit amount from all attached schedules on line 7. Add lines 6 and 7, and enter the total on line 8.

Part III - Calculation of Available Credit

On line 9, enter the total credit you originated this year from Part II, line 8. Use Form 334-1 to compute the numbers you will need for lines 10 and 12. Enter the total amount of credits you received from transferors on line 10. Add lines 9 and 10, and write the result on line 11. Enter the total amount of credits you transferred to others on line 12. Subtract line 12 from line 11, and enter the result. If the result is zero or less, enter zero. This is your total current year's credit for motion picture production costs.

Part IV - S Corporation Credit Election and Shareholder's Share of Credit

S corporations must complete this portion of Form 334 in order for the S corporation or its shareholders to claim this credit. The S corporation must make an irrevocable election either to claim the credit or to pass the credit through to its shareholders. The election statement must be signed by one of the officers of the S corporation who is also a signatory to the Arizona Form 120S.

If the S corporation elects to pass the credit through to its shareholders, it must first complete Form 334, Parts I through III, then complete Part IV, lines 15 through 17, separately for each shareholder. The S corporation may determine the amount of pass-through credit on any basis, without regard to ownership interest. The total of the credit allowed to all shareholders may not exceed the amount that would have been allowed for a sole owner.

The S corporation must furnish each shareholder with a copy of the completed Form 334. Each shareholder would then complete Parts VI and VII.

Part V - Partner's Share of Credit

A partnership must complete Form 334, Parts I through III, then complete Part V, lines 18 through 20, separately for each partner. The partnership may determine the amount of pass-through credit on any basis, without regard to ownership interest. The total of the credit allowed to all partners may not exceed the amount that would have been allowed for a sole owner.

The partnership must furnish each partner with a copy of the completed Form 334. Each partner would then complete Parts VI through VII.

Part VI - Available Credit Carryover

Use Part VI to figure your total available credit carryover. Complete lines 21 through 29, columns (a) through (f), if

you claimed the credit on a prior year's return and the credit was more than your tax.

Enter the allocation year(s) from which you are carrying over the credit on line 21. On line 22, enter the credit originally computed for that allocation year. On line 23, enter the total of any credit transfers you received during that allocation year. Add lines 22 and 23 together and enter the result on line 24. On line 25, enter the amount of the credit from that allocation year which you have already used. Enter the amount of credit you transferred to other taxpayers on line 26. On line 27, enter the total amount of credit that you can no longer use because it was disallowed, recaptured, or has expired. Subtract the amounts in lines 25 through 27 from line 24, and enter the difference on line 28. Add the amounts entered on line 28, columns (a) through (e) and enter the result on line 29, column (f).

Part VII - Total Available Credit

Add lines 30 and 31. This is the total available credit for motion picture production costs that may be applied to the current taxable year's tax liability.

Corporations and S corporations - enter the total here and on Form 300, Part I, line 14.

Individuals - enter the total here and on, Form 301, Part I, line 20.