

Form FP Instructions

What is the film payroll/production credit?

For taxable years beginning on or after January 1, 2006 and before January 1, 2023, Massachusetts allows two credits for motion picture production companies who meet certain qualifications requirements.

Who Is eligible for the credit?

Production companies who expend over \$50,000 in Massachusetts production costs during a consecutive twelve-month period are eligible if they meet certain requirements. A motion picture production company is a company including its subsidiaries engaged in the business of producing motion pictures, videos, television series, or commercials intended for a theatrical release or for television viewing. The term "motion picture production company" shall not mean or include any company which is more than 25 per cent owned, affiliated, or controlled, by any company or person which is in default on a loan made by the Commonwealth or a loan guaranteed by the Commonwealth.

Agreed upon procedures

Applications that are submitted with at least \$250,000 of qualified film credit expenses must contain an Independent Accountant's Report on applying Agreed Upon Procedures (AUPs) or an audit (see Technical Information Release (TIR) 07-15, footnote 14). The AUPs must be performed by a Massachusetts CPA. Productions with less than \$250,000 of qualified film credit expenses may choose to include the AUPs or an audit with their film credit applications, but it is not required. The Department will not assert transferee liability if the original film credit application is submitted with the AUPs or an audit.

Amount of credit

Production companies who incur at least \$50,000 of production costs in the Commonwealth are eligible for income and corporate excise tax credits equal to 25 percent of the total Massachusetts payroll for the production, excluding salaries of \$1 million and higher. In addition, production companies whose Massachusetts production expenses exceed 50 percent of the total production cost receive an income and corporate excise tax credit of 25 percent of the total Massachusetts production expense.

What Is a qualifying period?

The \$50,000 qualification period serves as the "determination" period in that the taxpayer must incur in the Commonwealth at least \$50,000 of total production expenses during the consecutive twelve month period to be eligible for the payroll and production credit. Also, this same period serves as the "qualification" period in that only qualified aggregate payroll expenses paid during this determination period qualify for the payroll credit. In some cases, the taxpayer may be able to choose between one or more possible \$50,000 qualification periods. However, only one \$50,000 qualification period is allowed for each motion picture. A taxpayer may choose to have a \$50,000 qualification period that is less than 12 months, but may not subsequently reopen or extend this qualification period in order to claim more qualifying expenses. In addition, the \$50,000 qualification period is the same for the payroll credit, the production expense credit and the sales tax exemption. Consequently, the choice of the \$50,000 qualification period (including

choosing a period shorter than 12 months) may have a bearing on the application of the production expense credit and the sales tax exemption.

Line 1. Enter the type of entity and the production company's fiscal or calendar year end.

Line 2. Did the production company previously contact the Department and receive approval for a sales tax exemption in conjunction with this production? If "Yes," the qualifying period on this application must be the same as the sales tax exemption qualifying period.

Line 3. A taxpayer or its payroll company must be registered for withholding of Massachusetts personal income tax and must withhold from its payroll expenses in order for the payments to qualify as an aggregate payroll expense for purposes of the payroll credit or to qualify as a Massachusetts production expense for purposes of the production expense credit. The Commissioner will require withholding whether or not the amounts paid are to "employees" or constitute "wages" as defined in MGL ch 62B, § 1. See regulation 830 CMR 62B.2.3, Motion Picture Production Company Withholding, for further details and requirements.

Line 3a. Motion picture production company registration and withholding is required on payments to individual contractors (Forms 1099) and loan-outs made on or after February 18, 2010. See regulation 830 CMR 62B.2.3, Motion Picture Production Company Withholding for further details and requirements.

Line 4. A taxpayer (including an owner, parent or affiliate of the taxpayer) is not eligible for the payroll or production expense credit or the sales tax exemption if it is in default on a loan made by the Commonwealth or a loan guaranteed by the Commonwealth.

Line 5. A production company can claim expenses incurred by another company in conjunction with a production, but the company must certify by signing that the other entity has allowed the company to include such expenses. Only one production company can claim the credit per production.

Line 6. If you filled in the oval on line 5, an authorized representative must sign and date to certify that the production company has authorization to claim the expenses.

Line 7. Enter the total overall production costs for the production. This should include both Massachusetts and non-Massachusetts costs.

Line 8. Enter the total actual qualifying production costs incurred in Massachusetts during the qualifying period.

Payroll credit

Line 9. Enter the total qualifying payroll amount. Only actual payments to employees may be used to determine the qualifying aggregate payroll, and only in the instance in which the payment constitutes Massachusetts source income to the recipient. Qualifying aggregate payroll may also include fringe benefits to employees to the extent such benefits constitute Massachusetts source income. Any amounts included in line 9 must have met all Performer withholding requirements.

Line 10. Enter the wages and salaries of “high salary employees”, where the employee’s salary is \$1,000,000 or more.

Line 11. Subtract line 10 from line 9 and enter the total. The qualifying aggregate payroll shall not include any payments made to an employee when the total payments made to, or to be made to, such employee in connection with the motion picture are equal to or greater than \$1,000,000 (“High Salary Employee”). Such High Salary Employee’s entire salary, not merely the amount of his or her salary equal to or greater than \$1,000,000, is excluded from the payroll credit. These wages should be entered in line 13 of the production credit below.

Line 12. Multiply line 11 by .25 and enter the total payroll credit.

Production credit

Line 13. Enter the wages and salaries of the “High Salary Employees”. These are individuals whose total compensation is \$1,000,000 or more. This amount can be less than \$1,000,000 if a portion of the compensation was earned outside of Massachusetts. All amounts entered on Line 13 must have met all Performer Withholding requirements.

Line 14. Enter the cost of set construction in Massachusetts.

Line 15. Enter Massachusetts location fees and cost rental or purchased facilities and equipment used in Massachusetts.

Line 16. Enter other qualified Massachusetts production expenses.

Line 17. Enter the total Massachusetts Production expenses by adding lines 13 through 16.

Line 18. Multiply line 17 by .25 and enter the total production credit.

Line 19. Enter the total number of principal photography days for the production.

Line 20. Enter the total number of principal photography days in Massachusetts.

Line 21. Add lines 12 and 18 and enter the total credit for this production.

Additional requirements

Please submit the following along with this application.

A detailed identification of the production. This should include the title of the production and a general description of what it is about. It should also include where it will be shown or available for viewing. If the production company was hired by someone, please include the name or names of the companies or individuals that hired the production company.

A detailed list of all sources of funds used to finance the production as well as identification of any parent or affiliated companies. This should include names, addresses and contact information.

A list of all Massachusetts principal photography days. The list should include dates and locations. Include copies of all daily call sheets.

A list of names and address of entities included in lines 5 and 6 of the application. This list should include a detailed breakdown of costs for each entity.

A list of any tangible personal property for which costs were included that was not transferred or otherwise disposed of at the end of the production. The list should include the original acquisition cost as well as the amount claimed on the application.

All required Film Production Loan-Out Affidavits. These forms must be signed with original signatures by an authorized representative of the production company, an authorized representative of the loan-out company and the artist/performer. Forms received without all three original signatures will disallow all wages on the form from being eligible for film credit.

The following requirements should be submitted in electronic format.

Note: This must be in a standard database spreadsheet format.

A detailed budget and cost report breaking down overall and Massachusetts expenses.

A detailed list of all personnel and cast working in Massachusetts. This list should include name, address, Social Security number, position or title, start and end date as well as all information relating to hours worked and payroll. The list must also include the total amount of withholding tax for each employee.

A complete list of all vendors used on this production. The list should include the names and full address of all vendors. The date range of all payments made to each vendor and the total qualifying expenditure (along with a brief description of the qualifying expenditure) to each vendor.

A list of all location fees paid in connection with the production. This list should include all locations used and the amount paid for each location. The list should also include all contact information for the location. Location fees paid to governmental agencies should also be listed and noted.

Note: If an independent auditing company produced an audit report of expenses included in this application, please provide a copy of the report along with the name and address of the firm preparing the report.

Questions or concerns relating to the Film Credit Application should be directed to the Film Credit Unit at 617-887-6974.

Mail completed application to **Massachusetts Department of Revenue, Audit Division 200 Arlington Street, Room 4300, Chelsea, MA 02150, attn. Film Credit Unit.**