

# Form FP Instructions

## What is the film payroll/production credit?

For taxable years beginning on or after January 1, 2006, 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 75 percent of the total production cost or whose Massachusetts shoot days are at least 75 percent of the total shoot days, 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.

**Note:** Line 8 must be at least 75 percent of line 7 to qualify for the exemption. If line 8 is not 75 percent of line 7, the production may still qualify if line 20 is 75 percent of line 19.

## 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 19.** Enter the total number of principal photography days on this production.

**Line 20.** Enter the total number of principal photography days reported in Line 19 taking place in Massachusetts.