

**Title 10**  
**Chapter 7.75**  
**CALIFORNIA FILM COMMISSION**

**Article 1.**  
**California Film and Television Tax Credit Program**

**Article 2.**  
**CALIFORNIA FILM AND TELEVISION JOB RETENTION**  
**AND PROMOTION ACT**  
**CALIFORNIA FILM AND TELEVISION TAX CREDIT PROGRAM 2.0**

**Section 5508. Definitions**

(a) “**Applicable period**” refers to production outside the Los Angeles zone, but in the state of California that commences with preproduction and ends when original photography concludes outside the Los Angeles zone. It includes the time necessary to strike a remote location and return to the Los Angeles zone.

(b) “**Applicant**” is any person, corporation, partnership, limited partnership, limited liability company (LLC) or other entity that is principally engaged in the production of a “qualified motion picture” and that controls the film or television program during preproduction, production and postproduction. The applicant is the qualified taxpayer that upon final approval will receive the tax credit certificate.

(c) “**California Film Commission**” (CFC) is a state entity established and described in Government Code section 14998 et seq. that among other functions facilitates and promotes motion picture and television production in the State of California.

(d) “**California in-state Vendor**” is a vendor or supplier which has an office or other place of business in California, and is registered or qualified with the California Secretary of State, or is required to file a return with the California Franchise Tax Board under Parts 10 or 11 of the Revenue and Taxation Code.

(e) “**Credit Allocation Letter**” is the document issued by the California Film Commission reserving an amount of tax credits to an applicant having a qualified motion picture based on an estimate of qualified expenditures.

(f) “**Contracted Services**” means the hiring of a third party to work or perform services on behalf of the applicant, including but not limited to visual effect shot costs, makeup prosthetic packages, sound mixing, and creation of postproduction delivery items.

(g) “**Feature Film**” means a production of a film intended for commercial distribution to a motion picture theater, directly to the home video market, or via the internet that has a running time of at least seventy-five (75) minutes in length.

(h) “**Force Majeure**” means an event or series of events, which are not under the control of the qualified tax payer including death, disability, or breach by the motion picture director or principal cast member, an act of God, including, but not limited to, fire, flood, earthquake, storm, hurricane or other natural disaster, terrorist activities or government sanction.

(i) “**Hiatus**” means a break or interruption in the continuity of work.

(j) “**Jobs Ratio**” means the amount of qualified wages paid to qualified individuals divided by the amount of tax credit as further described in Revenue and Taxation Code section 17053.95(b)(7) and 23695(b)(7).

(k) “**Miniseries**” means a motion picture based on a single theme or storyline that is resolved within the piece. A miniseries consists of two or more episodes with a total running time of at least one-hundred fifty (150) minutes in length.

(l) “**Movie of the Week**” which may also be known as “MOW” or “made for television movie” means a motion picture produced for initial exploitation on television, which contains a scripted storyline with a total running time of at least seventy-five (75) program minutes in length, exhibited in one part.

(m) “**Office or other place of business**” means real property with a physical address in California that is owned or leased by a vendor for the purpose of conducting business. For purposes of these regulations, conducting business includes maintaining a product inventory or otherwise creating, assembling or offering for sale the product purchased or leased by a motion picture production company.

(n) “**Outside Los Angeles zone vendor**” means a vendor or supplier in the State which maintains an office or place of business outside the Los Angeles zone, and is registered or qualified with the California Secretary of State, or is required to file a return with the California Franchise Tax Board under Parts 10 or 11 of the Revenue and Taxation Code and employs one or more full-time employees or is a sole proprietor working at the place of business outside the Los Angeles zone. Pass-through businesses do not qualify as an “Outside Los Angeles zone vendor.”

(o) “**Pass-through business**” means a company maintaining an office or other place of business in California that primarily fulfills orders from a production company for products or third-party services from sources other than its own inventories or employees.

(p) **“Pick-up order”** means a contractual obligation from a licensee-exhibitor that a pilot or television series has been ordered or renewed for the production of an initial episode or episodes to be delivered within a specific time frame.

(q) **“Pilot”** means the initial episode produced for a proposed television series that is longer than 40 minutes of running time, exclusive of commercials, with a minimum production budget of one million dollars (\$1,000,000).

(r) **“Principal photography days”** means the number of days shot by the principal unit with the director present; and lead actors usually present. “Principal photography days” in California does not include the filming of primarily backgrounds, visual effects, action, and/or crowd scenes by the second, stunt, or visual effects units.

(s) **“Producer”** means any individual who receives an on-screen producer credit including but not limited to any of the following titles: producer, co-producer, line producer, executive producer, co-executive producer, associate producer, supervising producer, post producer, or visual effects producer.

(t) **“Production budget”** means the budget used by the applicant and production company and shall include qualified and non-qualified expenditures. Production budget shall include wages, goods, and services performed and incurred within and outside of California. It does not include costs, which are not directly associated with the preproduction, production or postproduction of the project, such as, but not limited to, distribution prints and advertising, marketing, film festival participation, financing, or distribution costs such as DVD manufacturing.

(u) **“Production facility”** means ~~(1)~~ any facility used by the entertainment industry for the purpose of motion picture, television, and commercial production that is in compliance with Title 24, Chapter 48 of the California Fire Code, as determined by the fire authority having jurisdiction ~~if within the Los Angeles zone or as approved by the CFC prior to the start of principal photography or (2) a building or group of buildings, including, but not limited to, a sound stage or warehouse in which motion pictures are produced or are intended to be produced if outside the Los Angeles zone.~~

(v) **“Reasonable Cause”** means unforeseen circumstances beyond the control of the applicant, including, but not limited to, an event of force majeure, the cancellation of a television series prior to the completion of the scheduled number of episodes, failure by third parties to perform, a change in essential talent such as the director, principal cast and the associated costs, and/or a change in production financing exigencies resulting in a significant reduction to the production budget.

(w) “**Television Season**” means the initial exhibition of a set of interrelated new television episodes lasting no less than six (6) episodes and no more than thirty (30) episodes within a period of twelve (12) months.

(x) “**Television Series**” also known as “episodic television,” means a regularly occurring production and may include a series with multiple episodes available to the public in a single viewing and without regard to distribution transmission.

(y) “**Visual effects**” means the creation, alteration or enhancement of images that cannot be captured on a set, or location during live action photography and therefore is primarily accomplished in post-production. Visual effects research, development, creation, alteration, or enhancement of images may also occur in pre-production or principal photography. Visual effects includes, but is not limited to, matte paintings, animation, set extensions, computer generated objects, characters and environments, compositing (combining two or more elements in a final image), and wire removals. “Visual effects” does not include fully animated projects, whether created by traditional or digital means.”

Authority Cited: Sections 17053.95(e) and 23695(e), Revenue and Taxation Code, Section 11152, Government Code. Reference: Sections 6902.5, 17053.95 and 23695, Revenue and Taxation Code, Section 14998.1, Government Code.

### **Section 5509. Application Process For Tax Credit Allocation**

(a) The open allocation periods for the California Film & Television Tax Credit Program 2.0 shall be announced by the Director of the CFC prior to each new fiscal year on the CFC website. The California fiscal year is from July 1 to June 30. The announcement shall identify the application categories: Independent films, feature films, relocating television series, and new television series (which includes pilots for new television series, movies of the week, miniseries, and reoccurring television series), that may be submitted in each application period.

(b) An applicant that begins principal photography in California prior to receiving a credit allocation letter shall be disqualified from receiving such letter for that particular production.

(c) An applicant shall not submit a duplicate application for a project during any given allocation period. Submittal of duplicate applications shall be good cause to disqualify an applicant from the tax credit program.

(d) An applicant may submit an additional application for the same project during any fiscal year if the qualified production did not receive or retain a tax credit allocation from a previous allocation period in the same fiscal year.

(e) An applicant that has been issued a tax credit allocation for a particular production, that begins, but does not complete, principal photography of that production shall not be eligible to reapply for a tax credit reservation for that particular production.

(f) Any expenditures for services, wages, or goods incurred prior to application approval shall not be considered qualified expenditures.

(g) A television series, shall submit one application for a television season of that television series.

(h) The application process for tax credit allocation shall occur in two phases. Phase 1 requires applicants to complete and submit the online application as set forth on the CFC website. The applicant shall initiate the online application process by selecting a production category from the following: feature, film, independent project, television (new, recurring, pilot, Movie-of the week, or mini-series) or relocating television series. The application ~~which~~ shall include the information set forth below:

(1) Section 1: Applicant information.

(A) Production title;

(B) ~~Production company;~~

(C) ~~Contact name and title;~~

(D) ~~Applicant entity and Tax ID Number;~~

(E) ~~Address, email and phone;~~

(F) ~~Taxpayer ID;~~

(G) ~~Parent company name, if applicable:~~

1. ~~Name and title;~~

2. ~~Company name, address, including city, state, zip code, country, email address, and phone.~~

(CH) A definition of the applicant that will receive the tax credit is included in this section.

(2) Section 2: Contact information.

(A) Enter the contact type and provide the contact name, title, address, email and phone for each of the following, as applicable: Production company, parent company, Producer (name, email, and phone);<sub>1,2</sub>

(B) ~~Line producer (name, email, and phone);<sub>1,2</sub>~~

(C) ~~Production manager (name, email, and phone);<sub>1,2</sub>~~

(D) ~~Production accountant (name, email, and phone);<sub>1,2</sub>~~

(E) ~~Director (name);<sub>1,2</sub>~~

(F) ~~Executive producer(s) (name(s));<sub>1,2</sub>~~

(G) ~~Lead actors (names);<sub>1,2</sub>~~

(H) ~~Payroll service (name, paymaster, address, email, and phone);<sub>1,2</sub>~~

~~(I) Distributor —domestic or international (if known): name, contact, email and phone;~~

~~(J) Agreed-upon procedures CPA firm, information (CPA firm, CPA name, License or practice privilege permit, license expiration date, address, email, phone); or to be determined: other.~~

(C) Identify the primary contact and if they are authorized to act on behalf of the Applicant with the CFC.

(3) Section 3: Business structure.

(A) Identify if the applicant is a corporation, limited liability company, individual proprietorship, subchapter S corporation, partnership, or other.

(4) Section 4: Proposed project.

(A) Type of production. ~~Indicate if it is an independent motion picture, feature film (theatrical), film (direct to DVD/VOD), movie of the week, mini-series, pilot, returning television series, new television series~~ ( If the production category is television, indicate if it is one of the following production types: movie of the week, pilot, returning television series, or new television series. If it a new television series indicate if TV Pilot was initially accepted in the program, number of episodes, and confirm over forty (40) minutes of running time exclusive of commercials), if it is a relocating television series ~~(including indicate~~ previous location, number of episodes previously shot, and number of episodes included in this season).

(B) Production schedule. Provide start date of principal photography, end date of principal photography, estimated end date of post-production, projected, or actual release date.

(C) Synopsis. The synopsis must be a minimum of 1600 characters and include ~~the names-~~ description of the main characters, major plot points, beginning and ending, and, major scene descriptions.

(5) Section 5. Production shoot days and ~~location~~ determination of additional percentage points.

(A) Principal photography (PP) Days.

1. Enter the requested data for PP Days. The online application shall automatically calculate the totals.

a. Enter total PP days in Los Angeles (LA) zone.

b. Enter total PP days outside LA zone, but in California.

c. Total California PP days equals a. plus b.

d. Total percentage of PP days outside LA zone equals b. divided by c. x 100.

e. Enter total non-California PP days.

f. Total PP days equals c. plus e.

- g. Total percentage of California PP days equals c. divided by f. x 100
- h. Enter estimated total California 2nd unit, stunt, and VFX days.
- i. Enter total PP days at Facility.
- j. Total percentage PP facility days equals i. divided by c. x 100.

(B) Visual Effects. Enter total California qualified VFX budget.

(C)2. If shooting outside of Los Angeles zone, indicate the California counties where filming will occur.

(D)3. If shooting outside the State California, indicate state and/or country where filming will occur.

(6) Section 6: Production statistics.

(A) Provide the following information regarding labor statistics for in-state work:

- 1. Estimated total number of cast members.
- 2. Estimated total number of "base" crew members\* (\*Base crew is the average number of staff and shooting crew employed per principal photography day).
- 3. Estimated total extras/stand-in man days\*\* (\*\*The sum of the number of days, full or partial, a person is estimated to work).

(B) Budget information.

- 1. Provide total California expenditures (qualified and non-qualified expenditures).
- 2. Indicate if seventy-five percent (75%) of total production budget will be spent in California.

(7) Section 7: Additional credit calculation.

(A) Out of zone.

- 1. Total budgeted non-wages (excluding post-production, insurance, legal, bond, or contingency);
  - a. Enter non-wages.
  - b. Multiply a. times the number in Section 5A.d. and divide by 100.
  - c. Multiply subsection a. and subsection b.
  - d. Enter total out of zone wages for the applicable period.
  - e. Calculate additional credit: Multiply sum of (A)c. and (A)d. by .05.

(B) Total California Visual Effects (VFX).

- 1. Enter total dollar amount for California visual effects ~~and multiply it by .05 for the total additional credit for visual effects.~~
- 2. Indicate if the total California VFX is equal to 75% of total worldwide VFX budget or if the California VFX budget is at least \$10 million.

(C) Total music

- 1. ~~Provide wages and non-wages dollar amount for music expenditures:~~

- ~~1. a.—Enter  $\bar{T}$ total music scoring budget.~~
- ~~2. b.—Enter  $\bar{T}$ total track recording budget.~~
- ~~3. c.—The sum of subsection a. and b. shall be multiplied by 0.05 for the total additional credit for music total music amount.~~

(D) Total Additional Credit: ~~The~~ total out of zone amount and total California VFX amount and total music amount is eligible for additional credit.

- ~~1. Multiply (D) by .05 for total additional credit amount.~~

(8) Section 8: Estimated Credit Allocation.

~~(A) Estimated credit allocation for independent productions or relocating series in the first season in California. Qualified Wages~~

- ~~1. Enter total qualified wages and contingency qualified wages component (50%).~~

~~(B) Qualified Non-wages~~

- ~~1.2. Enter total qualified non-wages and contingency qualified non-wage component (50%).~~

~~(C) Enter total contingency, which is not more than 10% of qualified expenditures.~~

~~(D) 3.—Enter total completion bond fee, which is no more than 2% of qualified expenditures.~~

~~(E) 4.—The total qualified expenditures will be calculated based on the sum of the totals provided in this section multiplied by 25% if production category is an independent project or relocating television series; totals in this section shall be multiplied by 20% for all other production categories. (Credit allocation applies only to the first ten million (\$10,000,000) of qualified expenditures for independent productions. Credit allocation applies only to the first one hundred million (\$100,000,000) of qualified expenditures for relocating TV series non-independent productions.)~~

~~(B) Estimated credit allocation for non-independent productions.~~

- ~~1. Enter total qualified wages and contingency qualified wages component (50%).~~

- ~~2. Enter total qualified non-wages and contingency qualified non-wage component (50%).~~

~~3. The total qualified expenditures will be calculated based on the sum of the totals provided in this section multiplied by 20% plus total additional credit calculation (if applicable) Credit allocation applies only to the first one hundred million (\$100,000,000) of qualified expenditures for non-independent productions.~~

(9) Section 9: Job ratio ranking.

(A) A job ratio ranking shall be assigned to the application, based on the criteria in Section 5515 and the information provided by the applicant in this application.

(10) Section 10: Financing sources.

(A) List the following information on the financing sources:

1. Names of funds, amounts, percentage of funding.
2. Indicate if the supporting documentation is readily available to confirm financing sources.

~~(B) Independent film declaration (if applicable). List names of all company owners and percentage of ownership; attestation that company is not owned by a publicly traded company or that publicly traded companies do not own directly or indirectly more than 25% of the company.~~

(11) Section 11. Certification.

(A) By typing in the applicant's name in the designated box on the application form, such action is the applicant's acknowledgement, agreement and, certification that the applicant has read and reviewed the application, including all its attachments, and that the content provided in the application by the applicant is true and accurate to the best of his or her knowledge or at least the knowledge of what would be expected of a reasonable person in the same capacity.

(B) Provide name, title, and date.

(i) Applicants shall be selected for Phase 2 of the application process based on the jobs ratio ranking of their application, pursuant to Section 5515.

(j) The CFC shall notify, by electronic mail, the top ranked projects in each category of qualified motion pictures, as provided for in sections 17053.95(i) and 23695(i) of the Revenue and Taxation Code. These projects shall provide the additional materials and supporting documentation as requested by CFC as described in subsection (k) below within the timeframe provided on the electronic notification, which shall be no less than three (3) business days and no more than seven (7) business days from the electronic notification date. (Phase 2 of the Application Process.)

(k) The applicant shall submit the following:

(1) An electronic copy of the qualified expenditure budget in an industry standard budgeting program that will be uploaded to the online application for the qualified motion picture and a copy in PDF or equivalent format. The industry standard budgeting program shall indicate the following:

(A) Qualified wage expenditures and qualified non-wage expenditures. If applicable, also indicate if incurred outside the Los Angeles zone during the Applicable Period.

(B) For non-independent productions (excluding Relocating Series in their first season in California) indicate those accounts for which an additional five percent (5%) in tax credits is allowed for the following qualified expenditures: qualified wage and expenditures purchased or rented and used outside the Los Angeles zone during preproduction through strike on location; qualified visual effects if at least ten million dollars (\$10,000,000) or seventy-five percent (75%) of visual effects will be paid or incurred in the state; and expenses related to music track recording and/or music scoring.

(C) A television series shall submit a qualified expenditure budget including all pattern and amortization costs, or separate amortization and pattern budgets. The budget shall be in an industry standard budgeting program uploaded to the online application and in PDF or equivalent format. The Production Budget shall indicate, as applicable, the information required in Section 5509(d)(1)(A) and (B).

(2) One-Line Schedule (“production board”). Applicant shall submit in PDF or equivalent format a One-Line Schedule which shall include scene descriptions, scene numbers, and cast numbers and shall indicate which days are scheduled for filming in a production facility and/or outside of the Los Angeles zone.

(A) A television series shall submit in PDF or equivalent format a production calendar, including the start and end dates of the season, the number of in-state and out-of-state principal photography days, and the total number of episodes in lieu of a one-line shooting schedule. The production calendar must indicate which days are scheduled for filming in a production facility and/or outside the Los Angeles zone.

(B) The CFC shall provide applicant with a Notice of Approval or Disapproval on whether a production facility is approved as provided in 5508(u). The Notice of Disapproval shall state the reasons for disapproval. Disapproval is final and shall not be subject to administrative appeal. Principal photography days filmed in an approved production facility shall be eligible for additional percentage points as provided for in Section 5515(b).

(3) Screenplay for the production. If the application is for a pilot that does not have a script, this requirement shall be waived. Applicant shall submit in PDF or equivalent format the screenplay for the production.

(4) Supporting documentation that confirms at least 60% of production financing. Applicant shall include documentation for each financing source including, but not limited to, commitment letters, financing agreements, term sheets, and/or

bank statements in PDF or equivalent format. Applications submitted without the sufficient documentation described above, which shall be determined in the sole discretion of CFC, shall be considered incomplete and good cause to disqualify the application.

(5) Pick-up order. A pilot new television series ~~and~~ or relocating television series shall submit evidence, in PDF or equivalent format, that the pilot or series is scheduled for photography, e.g. a pick-up order, when applying for a credit allocation. Recurring Television Series may submit an application without a pick-up order, but shall not receive a credit allocation until proof of a pick-up order has been submitted.

(6) Relocating statement. Applicant certifies that the credit provided is the primary reason for relocation to California (if applicable). If submitting Relocating Statement, the detailed narrative statement is not required. The certification shall be submitted in PDF or equivalent format.

(7) An applicant that is a partnership or single member limited liability company that is disregarded for federal tax purposes pursuant to section 23038 of the Revenue and Tax Code and is not more than twenty-five percent (25%) owned by a publicly traded company shall provide the following:

(A) Financial information, if available, including, but not limited to, the most recently produced balance sheets, annual statements of profits and losses, audited or unaudited financial statements, summary budget projections or results. This information shall be submitted in PDF or equivalent format. This information is not subject to public disclosure pursuant to sections 17053.95(g)(6) and 23695(g)(6) of the Revenue and Taxation Code.

(B) The names of all partners in a partnership or names of all members of a limited liability company (classified as a partnership not publicly traded for California income tax purposes). This information shall be submitted in PDF or equivalent format. This information is not subject to public disclosure pursuant to sections 17053.95(g)(6) and 23695(g)(6) of the Revenue and Taxation Code.

(8) An applicant that is a publicly traded company or affiliate of publicly traded companies shall provide the following:

(A) A listing of all members of the applicant's most recently filed California combined reporting group and any members to which the credit may be assigned.

(B) If readily available, a listing of all states, provinces, or other jurisdictions in which any of those members finance motion picture productions.

(l) Within thirty (30) business days of receipt of the completed application and all requested supporting documents, the Director of the CFC, or his or her designee, will notify the applicant whether the application is accepted or disqualified. An approved application shall meet the Eligibility Requirements in Section 5510. Upon approval, a Credit Allocation Letter, CFC Form DD (Feb. 1, 2015) hereby incorporated by reference, shall be issued to the applicant indicating the amount of tax credits allocated, as provided in Section 5514. Failure to submit all requested documents above, as applicable, shall be good cause to disqualify the applicant.

(m) As soon as feasible, but not less than four (4) weeks prior to the start of principal photography, the production accountant is required to attend an orientation meeting with the Director of the CFC or his or her designee, along with any or all of the following staff members: a primary producer, unit production manager, or other appropriate personnel as determined by the applicant. Applicants and staff members shall not be required to attend more than one (1) orientation meeting for a motion picture in the program.

(n) Any television series, relocated television series and any television series based on a pilot that has been approved and issued a Credit Allocation Letter, shall be given first priority for a credit allocation during an open allocation period in each subsequent year in the life of that series whenever credits are allocated within a fiscal year.

(1) Each recurring television series shall submit a new application and pick-up order, if available, for each season prior to any open application period as specified by the CFC in its written notification.

(2) Recurring television series will be prioritized in subsequent years based upon the date of original application, with oldest television series applications entitled to first priority. In the event that further prioritization is necessary, the current job ratio for the series shall be used.

(o) Principal photography shall commence no later than one hundred eighty (180) calendar days after the credit allocation letter is issued. If the production does not begin principal photography prior to the 180-day deadline, the tax credit allocation shall be revoked, unless a Force Majeure event has occurred which directly prevented the production from commencing within the 180-day deadline. With submission of documentation verifying such event, the CFC may grant an extension. If a production implements a hiatus during the principal photography period, any and all hiatus period(s) may be no longer than one hundred twenty (120) calendar days in aggregate for the entire duration of the production.

Authority Cited: Sections 17053.95(e) and 23695(e), Revenue and Taxation Code, Section 11152, Government Code. Reference: Sections 6902.5,

17053.95(g) and 23695(g), Revenue and Taxation Code, Section 14998.1, Government Code.

### **Section 5510. Eligibility Determination**

(a) If applicant is planning to produce a “qualified motion picture,” then applicant shall ensure that the "qualified motion picture" complies with the provisions of sections 17053.95(b)(18) and 23695(b)(18) of the Revenue and Taxation Code and applicant must plan to film at least seventy-five percent (75%) of principal photography days wholly in California or seventy-five percent (75%) of the production budget shall be incurred in California.

(b) To qualify as a new television series, the television series, shall produce episodes with a running time longer than forty (40) minutes, exclusive of commercials, and with a minimum production budget of one million dollars (\$1,000,000.00) per episode.

(c) To qualify as a television series that relocated to California, the television series shall meet the following criteria:

(1) Provide a certification from the applicant that the tax credit provided pursuant to this section is the primary reason for relocating to California.

(2) Produce episodes of any program length, filmed its most recent season outside of California, and have a minimum production budget of one million dollars (\$1,000,000.00) per episode.

(d) A new television series from a television pilot shall produce episodes with a running time longer than forty (40) minutes, exclusive of commercials, and with a minimum production budget of one million dollars (\$1,000,000.00) per episode.

(e) To qualify as a pilot for a new television series, the pilot episode shall have a running time longer than forty (40) minutes, exclusive of commercials, shall be produced in California with a minimum budget of one million dollars (\$1,000,000), and shall be the initial episode in a proposed television series.

(f) An animated production is not considered a qualified motion picture and shall not be eligible for a tax credit. Animated production means content created that does not utilize or incorporate live action footage, but creates a motion picture consisting principally of computer generated or hand painted images. An animated production does not engage in principal photography and therefore does not meet the conditions for eligibility set forth in sections 17053.95 (b) (13) and 23695(b)(13) of the Revenue and Taxation Code.

(g) Tax credits for a “feature film” shall be applied to a maximum of one hundred million dollars (\$100,000,000.00) of the qualified expenditure budget. There shall be no maximum on the production budget.

(h) Tax credits for an independent film shall be applied to a maximum of ten million dollars (\$10,000,000.00) of the qualified expenditure budget. There shall be no maximum on the production budget.

(i) Pilots, television series, movies of the week, and mini-series may be considered an independent film provided they comply with the provision in sections 17053.95(b)(6) and 23695(b)(6) of the Revenue and Taxation Code.

(j) Revocation of the tax credit allocation is final and shall not be subject to administrative appeal or review.

Authority Cited: Sections 17053.95(e) and 23695(e), Revenue and Taxation Code, Section 11152, Government Code. Reference: Sections 17053.95 and 23695, Revenue and Taxation Code, Section 14998.1, Government Code.

### **Section 5511. Qualified Expenditures**

(a) The qualified expenditures shall be allowed as provided in sections 17053.95(b)(16) and 23695(b)(16) of the Revenue and Taxation Code.

(1) Qualified Wages shall also include payments to a qualified entity to the extent its services are performed in California, including, but not limited to, Qualified Expenditures as defined in sections 17053.95(b)(15) and 23695(b)(15) of the Revenue and Taxation Code.

(b) The non-qualifying expenditures are as provided in sections 17053.95(b)(21)(B) and 23695(b)(21)(B) of the Revenue and Taxation Code. The following expenses shall not be allowed as qualified expenditures:

(1) State and federal income taxes.

(2) Certified public accountant expenses for the report required in Section 5514(a)(5).

(3) Expenditures for rentals or purchases outside the state regardless if used in the state, and services performed outside the state are not considered qualified expenditures such as, but not limited to, digital visual effects work which is physically performed out-of-state.

(4) Expenditures for the exhibition of the qualified motion picture, including, but not limited to, digital cinema distribution copies and release prints.

(5) Expenditures incurred thirty (30) days after the creation of the final elements, such as, but not limited to, composite answer print, air master, and digital cinema files.

Authority Cited: Sections 17053.95(e) and 23695(e), Revenue and Taxation Code, Section 11152, Government Code. Reference: Sections 17053.95 and 23695, Revenue and Taxation Code, Section 14998.1, Government Code.

### **Section 5512. Tax Credit Allocation**

(a) The amount of tax credit allocated shall be based on the percentage of the qualified expenditures as provided in sections 17053.95(a) and 23695(a) of the Revenue and Taxation Code.

(b) If all tax credits have been allocated for any application period, qualified motion pictures shall be placed in a prioritized waiting list according to their project type and in the order of their job ratio ranking until one of the following occurs: credits become available that allocation period, the production elects to be removed from the queue, the credit is revoked, or until the allocation period ends.

(c) If the applicant is producing a series of feature films that will be filmed concurrently and the series of films continues the narrative of the original work and financing is confirmed, then the CFC shall have the authority to divide the allocation over multiple fiscal years if it is determined that the production schedule occurs over more than one fiscal year.

(d) For the purposes of this section, a five percent (5%) augmentation to the tax credit allocation shall be made by the CFC when any of the following conditions have been met:

(1) The production company pays or incurs qualified expenditures relating to music track recording and/or music scoring in California;

(2) The production company pays or incurs qualified expenditures relating to qualified visual effects work totaling a minimum of ten million dollars (\$10,000,000) or at least seventy-five percent (75%) of the qualified expenditures for visual effects incurred in California;

(3) The production company pays or incurs qualified wages for services performed outside the Los Angeles zone during the applicable period relating to original photography outside the Los Angeles zone. The foregoing amounts shall

be substantiated by documentation including but not limited to timesheets and payroll records as requested by the CFC;

(4) The production company purchases or leases tangible personal property outside the Los Angeles zone during the applicable period and the personal property is used or consumed outside the Los Angeles zone. Tangible personal property must be purchased, rented or leased from an outside of Los Angeles vendor through an office or other place of business outside the Los Angeles zone. Rentals or purchases from a pass-through business do not qualify for the five percent (5%) augmentation.

(A) If the tangible personal property purchased or leased outside the Los Angeles zone was not completely used or consumed solely outside the Los Angeles zone, the production company shall apportion amounts paid or incurred for tangible personal property outside the Los Angeles zone during the applicable period by multiplying total non-wage expenditures excluding post-production by the ratio of days of principal photography outside the Los Angeles zone to the total number of days of principal photography.

(B) If the tangible personal property purchased or leased outside the Los Angeles zone was completely used or consumed solely outside the Los Angeles zone, the production company may elect to substantiate that with its records.

Tangible personal property purchased or leased outside the Los Angeles zone shall be deemed to be completely used or consumed provided the property was of a type or nature such that it would have no residual material value remaining after its use or consumption outside the Los Angeles zone. Examples of such property include, but are not limited to, food and catering items, rented hotel or corporate housing usage, construction supplies and materials for sets, automotive or other fuels, security services, location and stage services, government permit fees, personnel services, printing, equipment rentals for the applicable period outside the Los Angeles Zone, transportation services, dry cleaning, and shipping costs from within the state to the out of zone location.

(e) The maximum amount of tax credits allowed for independent films and/or relocating television series for their initial season in California is twenty-five percent (25%) and therefore the five percent (5%) augmentation is not applicable to such productions.

Authority Cited: Sections 17053.95(e) and 23695(e), Revenue and Taxation Code, Section 11152, Government Code. Reference: Sections 17053.95 and 23695, Revenue and Taxation Code, Section 14998.1, Government Code.

### **Section 5513. Approved Applicant Responsibility**

(a) An applicant issued a credit allocation letter shall be required to comply with the following during the production period:

(1) On the first day of principal photography, submit by email to the CFC in PDF or equivalent format, the daily call sheet, signed by the production manager.

(2) Each week, submit by email to the CFC in PDF or equivalent format the final production reports for each day of principal photography signed by the Unit Production Manager.

(3) If applicable, submit in PDF or equivalent format by email to the CFC any significant changes to the project including anticipated changes in the estimated qualified expenditures, change of start date, shooting location, number of television episodes ordered, title change of project, or any other factors that have significantly changed since issuance of the credit allocation letter.

(4) Participation in career based learning and training programs and public service opportunities approved by the CFC in consultation with the California Department of Education (CDE) and/or California Community College Chancellor's Office (CCCCO) aimed at exposing high school and community college students to jobs in the entertainment industry. To meet the requirements of this section, the applicant may do any of the following:

(A) Provide to students enrolled in an accredited high school or post high school educational institution three (3) paid internship positions for a minimum of 75 hours each or a combination of internships or internship with a minimum of 75 hours per student and a total 225 hours. Internship experience should include working with professionals in film industry and hands-on work assignments; or

(B) Provide to students enrolled in an accredited high school or post high school educational institution a minimum of eight (8) hours of classroom workshops or demonstrations on aspects of the film industry, including set operations, post-production, and specific technical crafts conducted by entertainment industry professionals; or

(C) Provide to students enrolled in an accredited high school or post high school educational institution a minimum of eight (8) hours of studio or production company tours, which may include set visit and/or set construction, wardrobe department, art department and editorial department; or

(D) Provide a minimum of eight (8) hours of continuing education for educators and/or faculty to observe the set operations, post-production and other specialized departments in the film industry; or

(E) Make a financial contribution to a specific local educational agency or higher education institution specializing in arts, media, and entertainment career

oriented programs. An applicant of an independent production shall make a minimum financial contribution of \$3,000 and an applicant of a non-independent project shall make a minimum financial contribution of \$5,000; or

(F) Provide a learning opportunity or financial contribution of equal time or value through other arts, media, and entertainment programs, workforce programs, etc. which are not affiliated with CCCCCO or CDE and is approved by the CFC.

Authority Cited: Sections 17053.95(e) and 23695(e), Revenue and Taxation Code, Section 11152, Government Code. Reference: Sections 17053.95 and 23695, Revenue and Taxation Code, Section 14998.1, Government Code.

### **Section 5514. Credit Certificate Issuance Process**

(a) The applicant shall be required to submit the following documents upon completion of the qualified motion picture, in an electronic format and /or hard copy, as directed by the CFC.

(1) Proof of copyright registration of the screenplay, teleplay, motion picture, television series or television movie.

(2) Documentation indicating the date of completion of postproduction. Documentation may include, but not be limited to, the facility invoice evidencing the date the final element was completed or other reasonable documentation as determined by the CFC.

(3) List of all Cast, Crew, and Vendors for the project.

(4) Expenditure Summary Report as set forth on the CFC website, CFC Form FF-1 (Non-Independent Production), FF-2 (Independent Films), or FF-3 (Relocating TV Series) (New 2/1/2015), hereby incorporated by reference.

(5) An agreed upon procedures report in compliance with the Agreed Upon Procedures (New 2/1/2015) hereby incorporated by reference. The agreed upon procedures report shall be prepared and certified by a certified public accountant (CPA) who meets the following criteria:

(A) Maintains an active license or has a practice privilege permit to perform attest services in California.

(B) Successful completion of a California Film Commission Orientation Meeting for CPAs performing Agreed Upon Procedures for the California Film and Television Tax Credit Program 2.0. The frequency of training shall be offered on an as needed basis as determined by the CFC.

(6) The actual layout of the main and end titles produced by a title house or other postproduction facility.

(7) Documentation from each visual effects, title digital effects and/or post sound company contracted by the production company, indicating the total dollar amount of work performed within the State of California shall be certified by the chief executive officer (CEO), chief financial officer (CFO) or the equivalent of the contracted company.

(8) Documentation from the designated representative of the California Community Colleges Chancellor's office and/or the California Department of Education or the CFC, verifying participation in a career-based learning and training program as required in Section 5513(a)(4).

(9) A movie of the week shall submit documentation verifying its initial distribution on television or via internet transmission with a minimum of seventy-five (75) program minutes exhibited in one part.

(10) A miniseries shall submit documentation verifying that its initial distribution on television or via internet transmission consists of two or more episodes with a total running time of at least one hundred fifty (150) minutes.

(11) Revised and/or updated information, as applicable, to the documentation requested in Section 5509(k)(7)(A) and (B) or (k)(8)(A) and (B) in an electronic format as specified by the CFC.

(b) The production shall be completed in a timely manner as required in sections 17053.95(b)(18)(B)(ii) and 23695(b)(18)(B)(ii) of the Revenue and Taxation Code.

(c) The Qualified Motion Picture shall be considered complete when the process of postproduction has been finished and a final composite answer print, delivery air master, or digital cinema files of the qualified motion picture is completed.

(d) The CFC shall review all the required materials submitted by the applicant to determine the sufficiency of the required documentation and that the applicant meets all the criteria for the program. During the review, the CFC may reject insufficient documentation not in compliance with the requirements found in this section or may request additional documentation to determine if the production is a qualified motion picture and to verify the qualified expenditures. The CFC shall approve or disapprove the request for the tax credit certificate.

(e) Upon rejection of insufficient documentation or disapproval of the request for a tax credit certificate, the CFC shall provide the applicant with a notice of disapproval stating the reasons for the disapproval. Disapproval is final and shall not be subject to administrative appeal or review.

(f) Upon approval, the tax credit certificate, CFC Form MM, (New 2/1/2015), hereby incorporated by reference, shall be issued to the applicant beginning on July 1, 2016. If the entity that incurs the qualified expenditures is a partnership, limited liability company or subchapter S corporation (pass-through entity), that entity is the applicant for purposes of filing the tax credit application and receiving the final tax credit certificate.

Authority Cited: Section 17053.95(e) and 23695(e), Revenue and Taxation Code, Section 11152, Government Code. Reference: Sections 17053.95 and 23695, Revenue and Taxation Code, Section 14998.1, Government Code.

### **5515. Job Ratio Ranking Process**

(a) For the purposes of the jobs ratio calculation, qualified wages may include:  
(1) Qualified wages which are directly paid by the applicant or its payroll service; plus (2) thirty-five percent (35%) of all qualified non-wage expenditures, including contracted services in which the qualified wages are not directly paid by the applicant, but by the vendor.

(b) The jobs ratio as defined in Section 5508(j) may be increased by up to twenty-five percent (25%), if the qualified motion picture demonstrates an increase in economic activity in the state. This activity is based on the following:

(1) One to ten percentage points for dollars spent on visual effects performed in the state based on a visual effects expenditure range per project category, e.g., independent film, feature film, television series, MOW, miniseries.

(2) One to seven percentage points for the percentage of principal photography days that occur in production facilities in the state in relation to the qualified motion picture's total principal photography days in the state. The production facility shall meet the provisions in sections 5509(u) and 5509(k)(2)(B).

(3) One to eight percentage points for the percentage of principal photography days outside the Los Angeles Zone in relation to the qualified motion picture's total principal photography days in the state.

(4) Ranges to establish percentage points for the above criteria shall be posted on the CFC website prior to any application period. The CFC shall establish these ranges according to the following method: after an application period closes, application data for each of the three activities above—visual effects spending, total principal photography days, and total out of Los Angeles zone days—shall be sorted from lowest to highest value. In each of the three categories, the CFC shall then use the National Institute of Standards and

Technology formula to create cut-off values that sort an equal number of projects into each point range as further described below.

Following the *National Institute of Standards and Technology (NIST)* "Engineering Statistics Handbook: Percentile" formula, the applicant pool is first ranked from lowest to highest value in each of the three categories, where 1 corresponds to the first lowest rank. The formula then finds the rank  $n$  associated with each percentile cut-off as follows:

$$n = P/100 \times (N + 1)$$

P is the percentile of interest. If there are ten possible point ranges for example, then P = 10 would correspond to the 10th percentile, P = 20th to the 20th percentile, and so forth, until the 100th percentile has been calculated. N is the total number of applicants in the current applicant pool.

The formula then uses a standard rounding and conversion procedure to turn the rank  $n$  into a monetary cut-off value. The Excel function *PERCENTILE* automatically does this calculation according to the same NIST formula (see citation: <http://www.itl.nist.gov/div898/handbook/prc/section2/prc262.htm>) The CFC shall use this Excel function to determine initial cut-offs, and then choose final cut-offs within +/- 10 percent of what the formula produces, such that the ranges can be rounded. Ranges may be adjusted for future application periods based on the data collected from previous application periods.

(c) The jobs ratio calculation shall not include any increase to the tax credit from work outside the Los Angeles zone, qualified visual effects or qualified expenditures related to music scoring or music track recording incurred in California as set forth in Section 5512(d).

(d) The jobs ratio multiplied by (total points [acquired in (b)(1)-(4)] x 1/100) + 1 shall be the adjusted jobs ratio which shall be utilized to rank qualified motion pictures within each category during the application process, pursuant to Section 5509(i).

(e) This process shall be automatically calculated on the online application, based on the information provided by the applicant.

(f) If information submitted by an applicant is overstated on the application, the applicant will be penalized as provided in Revenue and Taxation Code Sections 17053.95(d)(2) and 23695(d)(2).

Authority Cited: Sections 17053.95(e) and 23695(e), Revenue and Taxation Code, Section 11152, Government Code. Reference: Sections 17053.95 and 23695, Revenue and Taxation Code, Section 14998.1, Government Code

## **Section 5516. On Screen Credit and Promotional Requirements**

(a) All productions that are issued a tax credit certificate shall be required to comply with the following provisions:

(1) Provide an on-screen acknowledgement to: THE STATE OF CALIFORNIA AND THE CALIFORNIA FILM COMMISSION and include the California Film Commission Logo, to be provided by the CFC to the applicant, except where that acknowledgement may be prohibited by the Children's Television Act or any other local, state, or federal government policy. Such acknowledgement and logo shall appear on every episode of a television series except where prohibited as above.

(2) Provide five (5) production stills in digital file format cleared by the production company and with cast approvals for promotional use by the CFC.

(3) Provide an electronic press kit, if available.

Authority Cited: Sections 17053.95(e) and 23695(e), Revenue and Taxation Code, Section 11152, Government Code. Reference: Sections 17053.95 and 23695, Revenue and Taxation Code, Section 14998.1, Government Code.