Title 10
Chapter 7.5
CALIFORNIA FILM & TELEVISION TAX CREDIT PROGRAM

Section 5500. Definitions

(a) **"Applicant"** is any corporation, partnership, limited partnership, limited liability corporation (LLC) or other entity or individual that is principally engaged in the production of the "qualified motion picture" and that controls the film or television program during pre-production, production and post-production. The applicant is the qualified taxpayer that upon final approval will receive the tax credit certificate.

(b) "**Basic Cable"** means non-broadcast television programming that is transmitted to the viewer via cable, satellite, wireless, or internet protocol for a basic subscription fee, as opposed to a separate channel or group of channels for which the viewer pays a separate per program or per channel fee (which fee is a substantial charge relative to other charges made to the subscriber).

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

(d) **"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".

(e) **"Director**" is the person or persons identified and described in Government Code section 14998.3 and also called Director of the Film Commission, Director of the Commission, or Director of the Office.

(f) "**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.

(g) **"Miniseries"** means a motion picture, produced for initial exploitation on television, which contains a scripted storyline requiring two or more consecutive hours of programming (inclusive of commercial advertisements and interstitial programming, defined as short programming which is often shown between televised movies or other events).

(h) **"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 requiring two or more consecutive hours of programming (inclusive of commercial advertisements and interstitial programming).

(i) **"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.

(j) **"Reality Program"** means a program depicting real events and non-actors through actual footage which presents persons engaged in purportedly unscripted situations; no fictional characters are created.

(k) **"Strip Show"** means television programming in which three or more episodes are regularly produced in their entirety in one week (e.g., "Judge Judy", "Entertainment Tonight").

(l) **"Television Season**" means the initial exhibition of a set of television episodes lasting no less than six episodes and no more than 30 episodes within a period of twelve (12) months.

(m) **"Television Series"** also known as "episodic television," means a regularly occurring production.

(n) **"Total Production Budget"** means the Budget used by the Qualified Taxpayer and production company for all Qualified Motion Picture purposes, including complying with budget thresholds, and shall include but is not limited to Above-The-Line costs including wages, and Below-The-Line costs including post-production, insurance, rights, and licensing fees. Total Production Budget shall include wages, goods, and services performed and incurred within and outside of California.

Authority Cited: Section 17053.85(e) and 23685(e), Revenue and Taxation Code, Section 11152, Government Code. Reference: Section 17053.85 and 23685, Revenue and Taxation Code, Section 14998.1, Government Code.

Section 5501. Application Process For Tax Credit Allocation

(a) The open allocation periods for the California Film & Television Tax Credit Program shall be announced by the Director of the CFC prior to each new fiscal year. The California fiscal year is from July 1 to June 30. The announcement shall include a description of the application process and the application filing.

(b) Applications will be accepted on a first-come, first-served basis as determined by the date applications are received by the Director of the CFC. In the event that more than one application is received on the same date, a random selection process administered by the Director of the CFC shall determine the order of all applications received on the same date.

(c) Applicants for the tax credit allocation shall complete and submit the California Film & Television Tax Credit Program Application Form, CFC Form A, (New 6/1/2009), hereby incorporated by reference.

(1) Completed applications shall be submitted at least thirty (30) calendar days prior to the start of Principal Photography in California. Any expenditures for services, wages, or goods incurred prior to application approval will not be considered Qualified Expenditures.

(2) An Applicant shall not submit duplicate applications for a project. Submittal of duplicate applications shall be good cause to disqualify an applicant from the tax credit program.

(3) A Television Series, shall submit one application for the entire Television Season of that Television Series.

(4) Incomplete applications shall not be eligible for tax credit allocation. The Director of CFC shall notify the Applicant of any deficiencies and shall require all information to be submitted within three (3) business days of notification or the application shall be removed from the queue.

(d) The application shall include the following supporting documentation:

(1) A Budget for the Qualified Motion Picture Project that shall include:

(A) A Budget indicating the Qualified Expenditures, minus financing cost. One hard copy and an electronic copy in an industry standard budgeting program. If completion bond fees affect the eligibility of a production to qualify for the California Film & Television Credit Program, the costs are allowed to be deducted from the Budget. If the applicant omits the completion bond fee for the purpose of falling below the ten million dollar ($10,000,000) or the seventy-five million dollar ($75,000,000) thresholds, the completion bond fee shall not be considered a Qualified Expenditure.

(B) A Television Series shall be allowed to submit a pattern budget including all amortization costs, in lieu of documents required in subsection (d)(1)(A) above.

(C) Animated productions shall submit a Budget as described in subsection 5501(d)(1)(A) including, but not limited to direct labor and an appropriate allocation of Indirect labor including but not limited to: Engineering, Software developers, Project coordinators/line producer, Visual f/x supervisors, Creative Directors, Finance and Accounting personnel; materials required for the production of a specified animated production; insurance; legal fees; communication expenses; depreciation on capitalized shared equipment used in creating content; repairs and maintenance on shared equipment used in creating content; occupancy costs (including rent, depreciation on leasehold improvements, utilities, security.)

(2) One-Line Shooting schedule ("production board"). One hard copy and an electronic PDF (Portable Document Format) file.

(A) A Television Series shall be allowed to submit 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.

(B) Animated productions shall be allowed to submit a production schedule indicating sequences and the start and end dates of major departments including modeling, animation, lighting and effects, in lieu of a one-line shooting schedule.

(3) Synopsis of the screenplay, teleplay or series. One hard copy and electronic PDF or Word document.

(4) Screenplay for the production, electronic PDF. If for confidentiality a script is not publicly available, submit a one-line schedule in continuity order.

(5) Financing Sources Report, CFC Form B, (New, 6/1/2009), hereby incorporated by reference. Applicants that indicate the qualified motion picture production is 100% self-financed in Section Five on the Application Form, CFC Form A, (New 6/1/2009), shall not be required to submit the Financing Sources Report.

(6) Relocation Statement. For a TV Series that has filmed all of its prior season(s) outside of California (minimum of six (6) episodes), and intends to relocate to California, the applicant shall supply a certification stating that the tax credit provided is the primary reason for relocating signed by the Qualified Taxpayer or a representative of the Qualified Taxpayer.

(7) Independent Film Declaration, CFC Form C (New 6/1/2009), hereby incorporated by reference.

(e) Within 20 business days of receipt of the completed application and all requested supporting documents, the Director of the CFC will notify the applicant of accepted or rejected status. An approved application shall meet the Eligibility Requirements in Section 5502 of these regulations. Upon approval, a Credit Allocation Letter, CFC Form D, (New 6/1/2009), hereby incorporated by reference, shall be issued to the applicant indicating the amount of tax credits reserved, as provided in Section 5504.

(f) Within one month of issuance of the Credit Allocation Letter, an Applicant shall be required to have two of the following staff members attend an orientation meeting with the Director of CFC or his/her designee: a primary producer, unit production manager, a production accountant and/or other appropriate personnel.

(g) Any Television Series that has been approved and issued a Credit Allocation Letter, shall be placed at the top of the queue for an open allocation period in each subsequent year in the life of that series whenever credits are assigned within a fiscal year. Queue placement in subsequent years will be based on the year of original application and original queue number assigned for that series. Each television series must submit a new application for each season prior to any open application period.

(h) Principal Photography shall commence no later than 180 calendar days after the Credit Allocation Letter is issued. If the production does not begin filming prior to the 180-day deadline, the tax credit allocation shall be revoked.

Authority Cited: Section 17053.85(e) and 23685(e), Revenue and Taxation Code, Section 11152, Government Code. Reference: Section 17053.85(g) and 23685(g), Revenue and Taxation Code, Section 14998.1, Government Code.

Section 5502. Eligibility Determination

(a) Applicant is planning to produce a “Qualified Motion Picture”.

(b) The "Qualified Motion Picture" complies with the provisions of sections 17053.85(b)(15) and 23685(b)(15) of the Revenue and Taxation Code,

(c) The Applicant plans to film at least 75% of Principal Photography days wholly in California or 75% of the Total Production Budget will be incurred in California. Principal Photography days in California shall not include the filming of primarily backgrounds, visual effects, action and crowd scenes by the second, stunt, or visual effects units.

(d) To qualify as a Television Series that relocated to California, the Television Series shall meet the following criteria:

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

(2) Each episode shall be any program length and may be produced for distribution in any media outlet including, but not limited to, basic cable, pay (premium) cable, or network broadcast.

(e) A Television Pilot is not considered a “Qualified Motion Picture” and shall not be eligible for tax credit. Television Pilot means the initial episode produced for a proposed Television Series. This category shall include shorter formats which are known as “television presentation,” a production of at least fifteen (15) minutes in length, produced for the purposes of selling a proposed television series, but not intended for broadcast.

(f) A “Qualified Motion Picture” issued a Credit Allocation Letter that exceeds the maximum Total Production Budget of $75 million, shall be disqualified and the tax credit allocation shall be revoked.

(g) An Independent Film issued a Credit Allocation Letter in accordance with the provisions in section 17053.85(b)(6) of the Revenue and Taxation Code, that exceeds the Total Production Budget of $10 million, shall be reclassified as a Feature Film. The Applicant shall not be required to submit a new application, but the credit allocation percentage will be adjusted as provided in 5504(a), and the application shall be placed at the end of the queue for any available tax credits in the non-Independent Film allocation category.

(h) Movies of the Week and Mini-Series may be considered an Independent film providing they comply with the provision in section 17053.85(b)(6) and 23685(b)(6) of the Revenue and Taxation Code.

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

Authority Cited: Section 17053.85(e) and 23685(e), Revenue and Taxation Code, Section 11152, Government Code. Reference: Section 17053.85(a) and 23685(a), Revenue and Taxation Code, Section 14998.1, Government Code.

Section 5503. Qualified Expenditures

(a) The Qualified Expenditures shall be allowed as provided in sections 17053.85(b)(16) and 23685(b)(16) of the Revenue and Taxation Code.

(1) If any portion of the costs of tangible personal property are required to be capitalized for state income or franchise tax purposes, then Qualified Expenditures will include the proportionate amount of any depreciation or amortization expense allowable during the period of time the property was used in the Qualified Motion Picture within the state, as computed under Part 10 or Part 11 of Division 2 of the Revenue and Taxation Code, and shall also include any amount treated as not properly chargeable to capital account (within the meaning of Revenue and Taxation Code section 17255) that is allowable as a deduction during such period.

(2) Qualified Wages shall also include payments to a Qualified Entity, registered to do business in California, to the extent their services are performed in California, including but not limited to Qualified Expenditures as defined in 17053.85(b)(13) and 23685(b)(13) of the Revenue and Taxation Code.

(b) The non-qualifying expenditures are as provided in sections 17053.85(b)(18)(B) and 23685(b)(18)(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 5506.

(3) Expenditures for services performed outside the state of California are not considered qualified expenditures e.g., 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.

Authority Cited: Section 17053.85(e) and 23685(e), Revenue and Taxation Code, Section 11152, Government Code. Reference: Section 17053.85(a) and 23685(a), Revenue and Taxation Code, Section 14998.1, Government Code.

Section 5504. Tax Credit Allocation

(a) The amount of tax credit allocated shall be based on the percentage of the qualified expenditures as provided in sections 17053.85(a) and 23685(a) of the Revenue and Taxation Code.

(b) If all tax credits have been allocated for the fiscal year, Qualified Motion Pictures shall be placed in the queue in the order their applications were received until either: credits become available that fiscal year, the production elects to be removed from the queue, or until the end of the fiscal year.

(c) Ten million dollars ($10,000,000.00) in tax credits shall be reserved for allocation to Independent Films per fiscal year.

Authority Cited: Section 17053.85(e) and 23685(e), Revenue and Taxation Code, Section 11152, Government Code. Reference: Section 17053.85(a), 17053.85(j), 23685(a), and 23685(j), Revenue and Taxation Code.

Section 5505. Approved Applicant Responsibility

(a) An applicant issued a Credit Allocation Letter shall be required to comply with the following during the production period:

(1) Submit by email to the Director of the CFC, on the first day of principal photography, the Daily Call Sheet, signed by the Production Manager. Documents shall be in a PDF file format.

(2) Submit by email to the Director of the CFC the final production reports for each day of Principal Photography signed by the Unit Production Manager; may be submitted weekly in arrears in an electronic file in PDF format.

(3) Submit by email to the Director of the CFC within five (5) business days after each month end, the Monthly Status Report, CFC Form I (New, 6/1/2009), hereby incorporated by reference. This report shall include project status information, including any anticipated changes in the estimated qualified expenditures.

(A) After the submittal of the original Monthly Status Report, the applicant shall not be required to submit a report monthly if there is no change in the project status information.

(B) The Applicant shall email to the Director each month that there is no change in the last Monthly Status Report. The Applicant shall include the Credit Letter Allocation number on the email.

(4) Fiscal Year-End Expenditure Report, Form K, (New 6/1/2009), hereby incorporated by reference, for any production that extends over more than one State of California fiscal year.

Authority Cited: Section 17053.85(e) and 23685(e), Revenue and Taxation Code, Section 11152, Government Code. Reference: Section 17053.85(g), 23685(g), Revenue and Taxation Code.

Section 5506. Credit Certificate Issuance Process

(a) The Applicant shall be required to submit the following documents upon completion of the project:

(1) Request for Tax Credit Certificate, CFC Form J, (New 6/1/2009), hereby incorporated by reference.

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

(3) A letter from the post production facility or post production department on its letterhead certifying the date of completion of post production .

(4) List of all Cast, Crew, and Vendors for the project. PDF electronic file.

(5) Expenditure Summary Report, CFC Form F, (New 6/1/2009), hereby incorporated by reference.

(6) Employment Diversity Report, CFC Form H, (New 6/1/2009), hereby incorporated by reference.

(7) A current, certified, report verifying the Budget, Qualified Expenditures and final cost report, prepared and signed by a California licensed Certified Public Accountant.

(8) Main and End Title Final “Checker” or “Galley”, signed by a production representative which may include Credits Administration, Legal Affairs, or the Post Production Supervisor. The Checker or Galley is the actual layout of the titles normally produced by a Title House or other post-production facility. Submit one electronic copy in PDF.

(9) Aggregate Filming Days Summary. Each applicant shall provide a report that includes the total number of filming days in California and outside of California for motion picture productions by category produced by the applicant and its controlled affiliates during the calendar year of the application.

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

(c) The production shall be completed in a timely manner as required in sections 17053.85(b)(15)(B)(ii) and 23685(b)(15)(B)(ii) of the Revenue and Taxation Code

(d) The Director of the CFC shall review all the required materials submitted by the applicant to determine that the applicant meets all the criteria for the program. During the review, the Director of CFC may request additional documentation to determine if the production is a Qualified Motion Picture and to verify the Qualified Expenditures. The Director of CFC shall approve or disapprove the request for the Credit Certificate.

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

(f) Upon approval, the Credit Certificate, CFC Form M, (new 6/1/2009), (New 6/1/2009), hereby incorporated by reference, shall be issued to the “Qualified Taxpayer”. If the entity that incurs the Qualified Expenditures is a partnership, limited liability corporation or subchapter S corporation (pass-through entity), that entity is the "qualified taxpayer" for purposes of filing the tax credit application and receiving the final Credit Certificate.

Authority Cited: Section 17053.85(e) and 23685(e), Revenue and Taxation Code, Section 11152, Government Code. Reference: Section 17053.85(g) and 23685(g), Revenue and Taxation Code, Section 14998.1, Government Code.

Section 5507. On Screen Credit and Promotional Requirements

(a) All productions that are issued a Credit Certificate shall be required to comply with the following provisions:

(1) Provide an on-screen acknowledgement to: CALIFORNIA FILM COMMISSION, except where that acknowledgement may be prohibited by the Children's Television Act or any other local, state, or federal government policy.

(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: Section 17053.85(e) and 23685(e), Revenue and Taxation Code, Section 11152, Government Code. Reference: Section 17053.85 and 23685, Revenue and Taxation Code, Section 14998.1, Government Code.