

Film Tax Credit Committee
Understanding the PA Film Tax Credit
2013 PA Film Incentive Debate

History :

In 2007 The Film Tax Credit Law (Act 55) was put into place to promote the growth of film television and related production companies and job growth in Pennsylvania. It encourages more commerce with Pennsylvania owned businesses like hotels, restaurants, rental car companies and building material suppliers. Additionally it promotes tourism within the Commonwealth.

Program guidelines can be viewed in their entirety here (updated in 2012):

http://www.newpa.com/sites/default/files/uploads/FilmTaxCredit_Guidelines_7_18_2012.pdf

Since that time the film tax credit program has been administered by the PA Department of Community and Economic Development (DCED) together with the Pennsylvania Film Office. Since 2007 there have been two amendments to the program. Act 48 of October 2009 and Act 85 of 2012.

Applications are selected on the following criteria:

1. The anticipated number of production days in a qualified production facility.
2. The anticipated number of Pennsylvania employees.
3. The number of preproduction days through postproduction days in Pennsylvania.
4. The anticipated number of days spent in Pennsylvania hotels.
5. The Pennsylvania production expenses in comparison to the production budget.
6. The use of studio resources.

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INCENTIVE	TYPE OF INCENTIVE	REFUNDABLE/ TRANSFERABLE/ CARRY FORWARD	PER PROJECT CAP	MINIMUM SPEND	ANNUAL CAP	QUALIFIED LABOR	LOAN OUT WITHHOLDING / REGISTRATION	SCREEN CREDIT REQUIRED	CPA AUDIT REQUIRED	SUNSET DATE	ENACTED BILL NUMBER
25% + 5%*	Tax Credit	No/Yes/3yr**	20% of the Annual Cap	60% of Budget Incurred in PA	\$60M Per Fiscal Year (7/1 - 6/30)	Each Resident & Nonresident Subject to Withholding****	No/Yes	Yes	Yes	NA	S 97 H 761

*An additional 5% of total qualified expenditures may be earned for a feature film, TV film or TV series, which: is intended for a national audience; films at a qualified facility; and, meets the minimum stage filming requirements (MSFR). **Carry forward not available to transferee. ***Principal actors' collective salaries and loan out payments are capped at \$15M.

Requirements: No sooner than 90 days PRIOR to the start of principal photography, submit a complete application; must incur at least 60% of total production expenses in Pennsylvania (the Department has the discretion to waive the 60% requirement for feature films, TV films or TV series with at least \$30 million in Pennsylvania production expense and that otherwise qualify for the additional 5%). In order to earn the additional 5% on qualified expenses, productions with at least \$30 million in Pennsylvania production expense must: build at least two sets and shoot a minimum of 15 days at a qualified facility; and, spend or incur at least \$5 million in direct expenditures relating to the use or rental of tangible property at or for services provided by a qualified facility. Productions with less than \$30 million in Pennsylvania production expense must: build at least one set and shoot a minimum of 10 days at a qualified facility; and, spend or incur at least \$1.5 million in direct expenditures relating to the use or rental of tangible property at or for services provided by a qualified facility. Both the applicant and all loan out companies must be registered to do business in Pennsylvania PRIOR to the start of principal photography. The application fee (not to exceed \$5,000) is equal to 0.2% of 25% of the estimated Pennsylvania expenditures and is nonrefundable unless the application is rejected due to lack of state funds.

Summary: This program is not administered on a first-come, first-served basis. Pennsylvania offers a transferable tax credit of up to 30% on nearly all production expenses incurred in Pennsylvania. In any fiscal year, the department may award up to 30% of the tax credits available in the next fiscal year, 20% of credits available in the second successive fiscal year, and 10% of credits available in the third successive fiscal year.

Qualified Spend: Qualified production expenses include most costs incurred within Pennsylvania. Resident and nonresident wages subject to Pennsylvania taxation are eligible if services are performed in Pennsylvania. However, payments for above-the-line services to be provided by principal actors, whether received directly or through a loan out company, are capped at \$15 million collectively.

Chart from Cast & Crew <http://www.castandcrew.com/production-incentives.php>

How it works:

A movie wants to apply for the tax credit. In order for them to apply they have to commit to spending a minimum of 60% of their ***entire production budget*** in the state of Pennsylvania on ***qualified PA production expenses****

* See this list of Qualifying PA Expenses (*make note of the Clarifications on the last page*):

http://filminpa.com/wp-content/uploads/2012/06/Appendix-C-Film-Tax-Credit-Qualifying-NonQualifying-Expenditures-2012.pdf?utm_source=newpa&utm_medium=website&utm_campaign=filmcredit2012

Note:

1. The designated product or service must be used or performed in the state of Pennsylvania.
2. Payments for Above the Line services to be provided by principal actors, weather received directly or through a loan-out company, are capped at \$15 Million Collectively.

The amount of the tax credit available for an eligible project is equal to 25% of *Qualified Pennsylvania Production Expenses* for the project.

So if a film with a production budget of \$1,000,000.00 spends \$600,000 (60%) in Pennsylvania on *qualified PA production expenses*, then they are eligible for a PA tax credit of \$150,000 (25% of \$600,000). This Credit can be applied to approved PA state taxes. Production companies may be eligible to sell any remaining credits. (see section XI http://www.newpa.com/sites/default/files/uploads/FilmTaxCredit_Guidelines_7_18_2012.pdf for approved taxes & rules governing transfer of unused credit)

Pennsylvania Department of Community And Economic Development Summary

<http://www.newpa.com/find-and-apply-for-funding/funding-and-program-finder/film-tax-credit-program>

PA Qualifying-non Qualifying Expenditures

http://filminpa.com/wp-content/uploads/2012/06/Appendix-C-Film-Tax-Credit-Qualifying-NonQualifying-Expenditures-2012.pdf?utm_source=newpa&utm_medium=website&utm_campaign=filmcredit2012

Film Tax Credit Program Guidelines

http://www.newpa.com/sites/default/files/uploads/FilmTaxCredit_Guidelines_7_18_2012.pdf

Quick Reference Summary of PA Film Tax Credit

<http://www.castandcrew.com/production-incentives.php>