

Alaska Statutes – Film Office & Incentive Program

Title 43. REVENUE AND TAXATION - Chapter 98. MISCELLANEOUS PROVISIONS

Film Production Incentive

Sec. 43.98.030. Film production tax credit.

- (a) In cooperation with the film office in the Department of Commerce, Community, and Economic Development, the department shall provide a transferable film production tax credit to a producer, as defined in AS 44.33.239 , for qualified production expenditures under AS 44.33.231 - 44.33.239.
- (b) A tax credit provided under (a) of this section may be sold, assigned, exchanged, conveyed, or otherwise transferred in whole or in part.
- (c) A taxpayer acquiring a transferable credit may use the credit or a portion of the credit to offset taxes imposed under AS 43.20 (Alaska Net Income Tax Act). Any portion of the credit not used may be used at a later period or transferred under (b) of this section.
- (d) The department shall adopt regulations necessary for the administration of this section.
- (e) A credit provided under (a) of this section, whether sold, assigned, exchanged, conveyed, or otherwise transferred, in whole or in part, must be used within three years after being provided by the department.
- (f) The number of tax credits provided in the aggregate under this section may not exceed \$100,000,000.

Title 44. STATE GOVERNMENT - Chapter 33. DEPARTMENT OF COMMERCE, COMMUNITY, AND ECONOMIC DEVELOPMENT

Film Office

Sec. 44.33.231. Duties.

- (a) There is created a film office in the Department of Commerce, Community, and Economic Development. The film office shall
 - (1) cooperate with organizations in the private sector for the expansion and development of film production industries in the state;
 - (2) promote Alaska as an appropriate location for film production;

- (3) provide production assistance through connecting film directors, makers, and producers with Alaska location scouts and contractors, including contractors providing assistance with permit applications;
 - (4) certify Alaska film production internship training programs and promote the employment of program interns by eligible productions; and
 - (5) in cooperation with the Department of Revenue, administer the Alaska film production incentive program.
- (b) The film office shall make available to the legislature, within 30 days after the start of each regular session, a report of the activities conducted by the film office under AS 43.33.231 - 43.33.239. The report must include
- (1) the number of applications received under AS 44.33.234 ;
 - (2) the number of applications approved by the film office; and
 - (3) the number of, and amount of, tax credits disbursed under AS 44.33.232.
- (c) The commissioner shall appoint a director to oversee the film office and carry out its duties under AS 44.43.231 - 44.43.239.

Sec. 44.33.232. Alaska film production incentive program.

Subject to appropriations for the purpose, the film office shall administer in cooperation with the Department of Revenue the Alaska film production incentive program to provide a tax credit under AS 43.98.030 for certain film production expenditures incurred in the state.

Sec. 44.33.233. Eligibility.

- (a) A film production is eligible for a tax credit under AS 43.98.030, if the
- (1) producer has \$100,000 or more in qualified expenditures in a consecutive 24-month period under AS 44.33.236 ;
 - (2) film office determines that the production is not contrary to the best interests of the state; and
 - (3) production is approved by the film office.
- (b) In determining under (a) of this section whether a production is not contrary to the best interests of the state, the film office may consider
- (1) the effect of the production on both the immediate and long-term prospects for the film industry in Alaska;
 - (2) the effect of the production on the employment of Alaska residents; and
 - (3) the effect of the production on the economy of the state.
- (c) The following productions are not eligible, regardless of the production costs:
- (1) news, weather, or current events programming;

- (2) a production produced primarily for industrial, corporate, or institutional purposes, and for internal use;
- (3) an advertisement, infomercial, or any other production that solicits funds, except for a commercial television advertisement produced for national distribution;
- (4) a political advertisement; or
- (5) a production that is determined by the film office to contain sexually explicit conduct as defined in 18 U.S.C. 2256.

Sec. 44.33.234. Qualification for film production tax credit.

- (a) A film producer may apply for the film production tax credit under AS 43.98.030 by submitting an application to the film office on a form provided by the film office. The application must include
 - (1) a script or synopsis of the production;
 - (2) the names of the producer, director, and proposed cast;
 - (3) estimated start, completion, and filming dates; and
 - (4) other information the film office may require to determine the producer's eligibility for a credit and the estimated amount of the credit.
- (b) If the film office approves an application submitted under (a) of this section, the film office shall issue a notice of qualification to the producer. The notice of qualification must include a determination by the film office of the estimated film production tax credit for which the production qualifies.

Sec. 44.33.235. Award of film production tax credit.

- (a) Subject to AS 43.98.030 (f), the film office, in cooperation with the Department of Revenue, shall determine the amount of the tax credit under AS 43.98.030 available to a producer who has obtained a notice of qualification under AS 43.33.234 (b), based on the qualified expenditures of the production under AS 44.33.236 .
- (b) The base amount of a tax credit awarded under this section is equal to 30 percent of the qualified expenditures of the production.
- (c) In determining the amount of the tax credit, the percentage provided by (b) of this section shall be increased by the film office based on the following criteria:
 - (1) an additional 10 percent of qualified expenditures that are wages paid to Alaska residents;
 - (2) an additional two percent of qualified expenditures made in a rural area; and
 - (3) an additional two percent of qualified expenditures made in the state between October 1 and March 30.
- (d) After completion of the production, the producer shall provide the film office with a production cost report detailing the qualified expenditures of the production, with

verification by an independent certified public accountant approved by the film office that the costs claimed in the report are qualified expenditures under AS 44.33.236 .

- (e) Subject to (g) of this section, the film office, in cooperation with the Department of Revenue, shall determine the amount of the tax credit based on the information provided by the producer under (d) of this section and shall award a tax credit in cooperation with the Department of Revenue under AS 43.98.030 if the producer has satisfied all requirements under AS 44.33.231 - 44.33.239.
- (f) The award of a tax credit under this section is conditioned on the producer's and the production's full compliance with all applicable state laws and regulations. At the request of the film office, a producer shall provide any information necessary for the film office to determine the producer's and production's compliance with this subsection.
- (g) In determining the amount of a tax credit awarded under this section, the film office may reduce the amount of the tax credit by any amount the film office considers necessary to allow the state, or a political subdivision of the state, to recover the cost of any damages caused by any act or omission of the producer or production.
- (h) The film office, in cooperation with the Department of Revenue, may withhold the award of a tax credit under this section if the office determines that there are filed, but unresolved, legal actions in the state involving the producer or production.

Sec. 44.33.236. Determination of qualified expenditures.

- (a) Expenditures made by a production company in connection with a film production approved by the film office that shall be considered qualified expenditures must be directly related to the production and be incurred in the state. Only expenditures that are ordinary, reasonable, and not in excess of fair market value and that are for real or tangible property, fees, services, or state or municipal taxes shall be considered. Expenditures may include
 - (1) costs of set construction and operation;
 - (2) costs of wardrobes, make-up, accessories, and related services;
 - (3) costs associated with photography and sound synchronization;
 - (4) costs of lighting and related services and materials;
 - (5) costs of editing and related services;
 - (6) rental of facilities and equipment;
 - (7) leasing of vehicles;
 - (8) costs of food and lodging;
 - (9) costs of digital or tape editing, film processing, transfer of film to tape or digital format, sound mixing, and special and visual effects;
 - (10) the total aggregate payroll for services performed in Alaska, including all salaries, wages, compensation, and related benefits provided to producers,

directors, writers, actors, and other personnel that are directly attributable to services performed in Alaska;

- (11) the costs of the use of an Alaska business for processing qualified payroll and related expenditures;
- (12) costs of music, if performed, composed, or recorded by an Alaska musician, or released or published by an Alaska business;
- (13) costs of intrastate travel, if provided by an Alaska business;
- (14) costs relating to the design, construction, improvement, or repair of a film, video, television, or digital production or postproduction facility or related property, infrastructure, or equipment, except commercial exhibition facilities, as determined by the film office;
- (15) costs of state or municipal taxes levied in Alaska on the lease or rental of passenger or recreational vehicles or the rental of rooms or other lodging; or
- (16) other similar production expenditures as determined by the film office in cooperation with the Department of Revenue.

(b) Production costs that may not be considered qualified expenditures include

- (1) costs related to the acquisition, determination, transfer, or use of a film production tax credit under AS 43.98.030 ;
- (2) postproduction expenditures for marketing and distribution;
- (3) production financing, depreciation, and amortization costs, and other costs that are not cash or cash equivalent expenditures directly attributable to production costs incurred in the state;
- (4) amounts that are later reimbursed or reasonably anticipated to be reimbursed, resulting in a reduction in production costs;
- (5) amounts that are reasonably anticipated to be recovered through subsequent sale or other realization of value by disposal of an asset that has been claimed as a qualified expenditure;
- (6) amounts that are paid to a person or entity as a result of participation in profits from the exploitation of the production;
- (7) costs incurred in the purchase of real or tangible property for which a qualified expenditure has, at any time, been claimed.

Sec. 44.33.237. Recovery of film production tax credit.

- (a) The film office, in cooperation with the Department of Revenue, may review, audit, and bring legal proceedings to recover any amount of a tax credit awarded under AS 44.33.235 from a producer or production to which a credit was awarded if the film office determines that the film producer or production is liable for damages to the state, or any political subdivision of the state.
- (b) Legal proceedings may not be brought under (a) of this section more than one year after the date the tax credit was awarded under AS 44.33.235 .

Sec. 44.33.238. Regulations.

The film office, in cooperation with the Department of Revenue, may adopt procedures and regulations to carry out its functions under AS 44.33.231 - 44.33.239.

Sec. 44.33.239. Definitions.

In AS 44.33.231 - 44.33.239,

- (1) "Alaska business" means
 - (A) a person who holds a current Alaska business license;
 - (B) a person who provides goods or services under the name as appearing on the person's current Alaska business license;
 - (C) a person who has maintained a place of business within the state staffed by the person or an employee of the person for a period of six months immediately preceding the date the goods or services were provided;
 - (D) a person who is
 - (i) incorporated or qualified to do business under the laws of the state;
 - (ii) a sole proprietorship, and the proprietor is a resident of the state;
 - (iii) a limited liability company organized under AS 10.50, and all members are residents of the state; or
 - (iv) a partnership under former AS 32.05, AS 32.06, or AS 32.11, and all partners are residents of the state; and
 - (E) if the business is a joint venture, a joint venture composed entirely of ventures that qualify under (A) - (D) of this subsection;
- (2) "commissioner" means the commissioner of commerce, community, and economic development;
- (3) "department" means the Department of Commerce, Community, and Economic Development;
- (4) "film" includes television, commercials, and videos;
- (5) "film office" means the film office created under AS 44.33.231 ;
- (6) "producer" means a person who arranges financing for or supervises the production of a film, video, commercial, or television production or pilot;
- (7) "rural area" means a community with a population of 1,500 or less or a community with a population of 5,500 or less that is not connected by road or rail to Anchorage or Fairbanks.