

Subject Film production tax credit

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Overview

The bill establishes a non-refundable income and corporate franchise tax credit equal to 25 percent of “film production costs.” The credit is transferable, and capped at \$50 million in taxable years 2019 and 2020, \$60 million in taxable years 2021 and 2022, and \$75 million in taxable years 2023 and later. Under the bill, the Department of Employment and Economic Development (DEED) is responsible for administering the application process for the credit.

Background on direct spending program: The 2013 legislature appropriated \$10 million to the Minnesota Film and TV Board for the film production jobs program (\$5 million each year for fiscal year 2014 and fiscal year 2015); the 2015 legislature appropriated \$3.5 million for fiscal year 2016 and \$1.5 million for fiscal year 2017; the 2016 legislature appropriated an additional \$4.5 million for fiscal year 2017; the 2017 legislature appropriated \$1 million (\$500,000 each year for fiscal year 2018 and fiscal year 2019).

Summary

Section	Description
1	<p>Film Production Credit.</p> <p>Subd. 1. Definitions. Defines “application,” “commissioner,” “eligible production costs,” “film,” “project,” and “promotion of Minnesota.”</p> <p>“Eligible production costs” are defined by reference to the direct spending film production jobs program statute (section 116U.26). Defined costs cover amounts spent for a broad range of activities involved in making a film, such as:</p> <ul style="list-style-type: none">▪ the story and scenario;▪ salaries of talent, management, and labor;▪ set construction and operations, wardrobe, accessories, and related services;▪ photography, sound synchronization, lighting, and related services;▪ editing;▪ rental of facilities and equipment;

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	<ul style="list-style-type: none">▪ other direct costs of production under generally accepted entertainment industry practice;▪ above-the-line talent fees for nonresident talent; and▪ postproduction costs.
	“Application” means the application for a credit certificate under subdivision 3.
	“Commissioner” means the commissioner of DEED.
	“Films” are defined by reference to include television or Internet pilots, programs, series, documentaries, music videos, and television commercials, but exclude news, weather, current events, talk shows, sports coverage, award shows, and similar.
	“Project” is defined as a film that includes the promotion of Minnesota and for which a taxpayer expended at least \$1 million in eligible production costs in the taxable year.
	“Promotion of Minnesota” means visible display of the term “produced in Minnesota” or “filmed in Minnesota.”
	Subd. 2. Credit allowed; credit transferrable. Provides an income and corporate franchise tax credit equal to 25 percent of “eligible production costs.”
	Allows a taxpayer to sell or assign the credit in lieu of claiming it. The sale or assignment must be for 80 percent of the credit amount.
	The credit may only be claimed or transferred after approval and certification by DEED.
	Subd. 3. Application; allocations. Requires taxpayers to apply to DEED prior to claiming the credit. The application must specify whether the credit will be claimed by the taxpayer or assigned/transferred, and designate the taxpayer to whom the credit is assigned or transferred.
	Requires DEED to issue allocation certificates that verify eligibility for the credit, state the amount of credit anticipated, and state the taxable year in which the credit or transfer is allocated.
	Limits credit amounts or transfers to \$50 million in taxable years 2019 and 2020, \$60 million in taxable years 2021 and 2022, and \$75 million in taxable years 2023 and later.
	Requires that credits be allocated on a first-come, first-served basis. Any credit amounts not allocated do not cancel and are added to the subsequent year’s allocation.

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2	<p>Permits the Department of Revenue to use its audit and examination powers to verify the taxpayer is eligible for the credit.</p> <p>Subd. 4. Report required. Requires DEED to submit a report on the credit to the tax and economic development committees of the legislature by March 15, 2021. The report must detail the amount of credits claimed in each taxable year, the number of applications received and approved, the types of projects eligible for the credit, and any other information DEED deems necessary.</p> <p>Film production credit.</p> <p>Allows taxpayers issued certificates under section 1 of the bill to claim the credit against the individual income or corporate franchise tax.</p> <p>Limits the credit or credit transfer to the taxpayer's liability in the taxable year. Allows taxpayers to carry forward the credit to each of the five succeeding tax years. Requires taxpayers to claim the carryover credits in the first year for which they may be claimed.</p> <p>Requires that credits for pass-through entities are passed through pro rata to the entity's members, partners, shareholders, or owners.</p> <p>Requires credits for part-year residents to be allocated based on their residency percentage.</p>



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