

2012 Motion Picture Credits

**CONTACTS FOR MOTION PICTURE PRODUCTION
TAX INCENTIVES PROGRAM**

Arizona Commerce Authority

Program Manager (602) 845-1200

Department of Revenue

•tax forms and instructions •information and assistance

Internet home page: www.azdor.gov

Taxpayer assistance (602) 255-3381

From area codes 520 and 928, toll-free (800) 352-4090

Hearing impaired TDD user

Phoenix (602) 542-4021

From area codes 520 and 928, toll-free (800) 397-0256

General Instructions

Credit for Motion Picture Production Costs

Former Arizona Revised Statute §§ 43-1075 and 43-1163 provided transferable individual and corporate income tax credits against tax liabilities for motion picture production companies that produce motion pictures completely or partially in Arizona. "Motion picture" was defined as a single medium or multimedia program including commercials, music videos or a television series.

The credit is based on a percentage of motion picture production costs that a motion picture production company has in Arizona that are directly attributable to the production of the motion picture in Arizona.

The tax credit is in lieu of a deduction for the expenses for which the credit is claimed. An addition to Arizona gross income is required for the amount of the expenses included in the computation of federal taxable income for which the Arizona tax credit is claimed. For example, if a taxpayer computes its \$30,000 credit on \$100,000 of expenses, the taxpayer must add \$100,000 to federal taxable income.

No credit will be allowed to any taxpayer who has a delinquent tax balance owed to the Department of Revenue.

In order to obtain the credit for motion picture production costs, a motion picture production company must have received preapproval from the former Arizona Department of Commerce by December 31, 2010. The motion picture production company must obtain postapproval from the Arizona Commerce Authority ("Commerce") prior to claiming the credit. The credit may be claimed on the first tax return due after the postapproval has been received, but not before the tax year of the preapproval ("allocation year"). The allocation year is the calendar year to which the credit was applied to the annual credit cap. This date will be noted on the postapproval document. For example, Company A, a motion picture production company, is a calendar year filer. Company A received preapproval from Commerce for producing Motion Picture B on March 9, 2007, and received its postapproval on March 16, 2009. Because the credit is allocated to the year in which the credit is applied to the cap, Company A's credit is allocated to

2007, and 2007 is the first year of the credit. However, because Company A must claim the credit on the first return due after the postapproval, the first year in which Company A may claim the credit is 2008.

NOTE: *The credit for motion picture production costs must be claimed on a timely filed original income tax return, including extensions. Therefore, the credit may not be claimed on an amended return.*

The credit a taxpayer may claim can never exceed the amount that was preapproved.

NOTE: *The production company must submit a copy of the postapproval document with Form 334 when claiming the credit.*

Credit Transfer

Form 334-1 - Schedule of Credit Transfers

Former Arizona law allowed you to obtain the motion picture credit from other entities, and to transfer your credit to other entities. Use Form 334-1 to record transfers you made to, and received from, other entities.

Check a box to indicate the allocation year of the credit. Check only one box. Complete a separate Form 334-1 for transfers related to each allocation year. For example, if the taxpayer is transferring credits from both 2007 and 2008, the taxpayer would complete one Form 334-1 for 2007 and complete a separate Form 334-1 for 2008.

Complete Part I to record the credits you have received as transfers from other entities. If you received a credit as a transfer directly from the motion picture company that originated the credit, enter the name and TIN of the motion picture company in column (a). In column (b), write "same as transferor." If you received the credit from an entity other than the motion picture company, enter that entity information in column (a), and the information of the motion picture company in column (b).

Complete Part II to record the credits you transferred to others. In column (h), enter any credit balance you have remaining on a credit you transferred to someone else. If you have no balance remaining, write zero in column (h).

Form 334-E and Form 334-O - Notice of Transfer

Complete Form 334-E or Form 334-O as instructed on the form.

Authorized contact person: List the name and telephone number of the individual who Department of Revenue employees may contact with questions about this form. Confidential information may be disclosed to a principal officer, any person designated by a principal officer, any person designated in a resolution by the corporate board of directors or other similar governing body, or to an individual designated as an authorized representative in a valid power of attorney. A principal corporate officer of a parent corporation may execute a written authorization for a controlled subsidiary. Refer to Arizona General Tax Ruling GTR 02-1 for additional information on the definition of a controlled subsidiary. IF THIS INDIVIDUAL IS NOT A PRINCIPAL OFFICER, OR IS NOT DESIGNATED AS AN AUTHORIZED

REPRESENTATIVE IN A VALID POWER OF ATTORNEY, THE TAXPAYER UNDERSTANDS AND AGREES THAT CONFIDENTIAL INFORMATION MAY BE DISCLOSED TO THIS INDIVIDUAL.

NOTE: Both the transferor and transferee must report transfers to the department within thirty days of the transfer. Transferors file Form 334-O while transferees file Form 334-E. Do not file the forms with Form 334. Instead, file them to this address: Arizona Department of Revenue, Office of Economic Research and Analysis, PO BOX 25248, Phoenix, AZ 85002.

Carryover Period

The credit for motion picture production costs may be carried forward and used against not more than five consecutive taxable years' income tax liabilities.

The carryover period is determined by the allocation year of the motion picture production company that originated the credit. The allocation year is the calendar year to which the credit was applied to the annual credit cap. This date will be noted on the postapproval document received from Commerce. All motion picture credits are already in the five year carryover period.

Example 1: Company C, a motion picture production company, is a calendar year filer. Company C received preapproval from Commerce for producing Motion Picture D on January 3, 2010. Because the credit is allocated to the year the credit is applied to the annual credit cap, 2010 is the allocation year; 2010 is also the first year of the credit.

Company C received its postapproval for Motion Picture D on June 14, 2012. Company C may claim the credit on the first return due after the postapproval, but not before the allocation year. The first year in which Company C may claim the credit is 2011. Because the carryforward period begins with the first year after the allocation year, 2011 is the first year of the carryover period.

If Company C transfers the credit to Company E during Company E's 2012 tax year (year two of the carryover period), Company E may use the credit to apply against its 2012 tax liability. If Company E transfers the credit in 2013 to Company F, Company F would be using the credit in the third carryover year. There would be two more consecutive calendar years remaining in the carryover period. A credit allocated to the 2010 annual credit cap can be carried forward through calendar year 2015.

NOTE: The credit for motion picture production costs must be claimed on a timely filed original income tax return, including extensions. Therefore, it may not be claimed on an amended return.

Limited Managed Audit

The motion picture company may enter into a limited managed audit agreement with the department to confirm the credit amount. Contact the department's audit section for details.

Specific Instructions

Complete the name and taxpayer identification number section at the top of the form. Indicate the period covered by the taxable year. Attach the completed form to the tax return.

All returns, statements, and other documents filed with the department require a taxpayer identification number (TIN). The TIN for a corporation, an S corporation, or a partnership is the taxpayer's employer identification number. The TIN for an individual is the taxpayer's social security number or an Internal Revenue Service individual taxpayer identification number. A taxpayer that fails to include its TIN may be subject to a penalty.

If you did not originate the credit, but received the credit through a transfer, skip Parts I through IV. Complete Part V and Form(s) 334-1.

Part I - Individual who Will Maintain Records of Expenditures in Arizona

In this area, enter the name, address, and telephone number of the person who will keep the records of the expenditures the company has in Arizona. If more than one individual will keep the records, attach an additional schedule.

Your tax information on file with the department is confidential. The department cannot discuss your tax information with anyone else, unless you have authorized the department to release confidential information to that person. You may use Form 285 to authorize the department to release confidential information to the individual(s) you have named in Part I, or any appointee you choose. See Form 285 for details.

Part II - Listing of Postapproved Productions

Lines 1 through 4 -

In Part II, list all of your productions that Commerce postapproved that are eligible to be claimed on this year's tax return. Credits for motion picture production costs are eligible to be claimed on the first tax return due after the postapproval date, including extensions. Write the allocation year in column (a)1. The allocation year is the calendar year to which the credit was applied to the annual credit cap. This date will be noted on the postapproval document received from Commerce. Commerce has assigned each production a priority placement number, which should be the same on both preapproval and postapproval documents. List this number in column (a)3.

If the company entered into a limited managed audit agreement, list the approved credit amount based on the Motion Picture Tax Credit Certificate. Otherwise, enter the approved credit amount per the postapproval document.

If you do not have enough lines on the form to enter all of the productions eligible to be claimed this tax year, attach a schedule that shows all of the information Part II requires. Enter the total approved credit amount from all attached schedules on line 3. Add lines 1 through 3, and enter the

total on line 4. This is the total credit for motion picture production costs.

Because the allocation year in column (a)1 is 2010 or prior, the credit for motion picture production costs is already in the five year carryover period. Enter the amount for each production from Part II, column (b) in Part V, on line 13, in the column corresponding with the allocation year in Part II, column (a)1.

Complete Form 334-1 before completing the rest of Form 334.

FORM 334-1

Complete Form(s) 334-1; check the box to indicate the allocation year in which the credit was originated. Complete a Form 334-1 for each allocation year. List all transferred credits on Form(s) 334-1. Refer to Form(s) 334-1 to determine amounts needed for Form 334, Part V, lines 14 or 17. For example, if a taxpayer transfers a credit in the amount of \$50,000 from the 2007 allocation year, in addition to completing Form 334-1, Part II, the taxpayer would enter \$50,000 on Part V, line 17 in the column for 2007.

FORM 334

NOTE: *Because all motion picture production cost credits are beyond the allocation year, they are already in the carryover period. All credits claimed in Part II should be entered in Part V, line 13 of the allocation year of the credit.*

Part III - S Corporation Credit Election and Shareholder's Share of Credit

Lines 5 through 8 -

S corporations must complete this portion of Form 334 in order for the S corporation or its shareholders to claim the credit. The S corporation must make an irrevocable election either to claim the credit or to pass the credit through to its shareholders. The election statement must be signed by one of the officers of the S corporation who is also a signatory to the Arizona Form 120S.

If the S corporation elects to pass the credit through to its shareholders, it must first complete Form 334, Parts I and II, then complete Part III, lines 6 through 8, separately for each shareholder. The S corporation may determine the amount of pass-through credits on any basis, without regard to ownership interest. The total of the credits allowed to all shareholders may not exceed the amount that would have been allowed for a sole owner.

The S corporation must furnish each shareholder with a copy of pages 1 and 2 of Form 334 and a copy of the postapproval document received from Commerce. Each shareholder would then complete Part V.

Part IV - Partner's Share of Credit

Lines 9 through 11 -

A partnership must complete Form 334, Parts I and II, then complete Part IV, lines 9 through 11, separately for each partner. The partnership may determine the amount of pass-through credits on any basis, without regard to ownership interest. The total of the credits allowed to all partners may not exceed the amount that would have been allowed for a sole owner.

The partnership must furnish each partner with a copy of pages 1 and 2 of Form 334 and a copy of the postapproval document received from Commerce. Each partner would then complete Part V.

Part V - Available Credit Carryover

Lines 12 through 20 -

Use Part V to figure your total available credit carryover for motion picture production costs. Complete lines 12 through 20, columns (a) through (e), if you claimed the credit on a prior year's return and the credit was more than your tax, or because the credit originated on this year's tax return was from a prior allocation year.

The allocation year(s) are entered on line 12. The allocation year is the calendar year to which the credit was applied to the annual credit cap. This date will be noted on the postapproval document received from Commerce. On line 13, enter the credit originally computed for that allocation year. On line 14, enter the total of any credit transfers you received that were originated in that allocation year. Add lines 13 and 14 together and enter the total on line 15. On line 16, enter the amount of the credit originated in that allocation year which you have already used. Enter the amount of credit from that allocation year that you transferred to other entities on line 17. On line 18, enter the total amount of credit that you can no longer use because it was disallowed, recaptured, or has expired. Subtract the sum of the amounts on lines 16 through 18 from line 15, and enter the difference on line 19. Add the amounts entered on line 19, columns (a) through (d) and enter the result on line 20, column (e).

NOTE: *Be sure to complete and attach Form(s) 334-1, one for each allocation year transferred credits were originated from, to detail credit transfers included on lines 14 and/or 17.*

The amount on Part V, line 20, column (e) is the available credit carryover for motion picture production costs.

Corporations and S corporations - enter the amount on Part V, line 20, column (e) on Form 300, Part I, line 13.

Individuals - enter the amount on Part V, line 20, column (e) on Form 301, Part I, line 19.