

# 2023 Credit for Motion Picture Production Costs

## CONTACTS FOR CREDIT FOR MOTION PICTURE PRODUCTION COSTS

### Arizona Commerce Authority

•Application forms •Program guidelines

Website: [www.azcommerce.com](http://www.azcommerce.com)

Program Manager (602) 845-1200

### Arizona Department of Revenue

•Tax forms and instructions •Information and assistance

Website: [www.azdor.gov](http://www.azdor.gov)

Taxpayer assistance (602) 255-3381  
From area codes 520 and 928, toll-free (800) 352-4090

## General Instructions

For taxable years beginning from and after December 31, 2022, Arizona Revised Statutes §§ 43-1082 and 43-1165 provide that an individual or corporate refundable tax credit is allowed against production costs paid by a motion picture production company in this state that are subject to taxation in Arizona and that are directly attributable to a motion picture production in Arizona.

A motion picture production company is defined as "...any person that is primarily engaged in the business of producing motion pictures and that has a physical business office in this state."

Motion picture production is defined as "... a single medium or multimedia program, including a feature film, episodic series or commercial advertisement message that:

- a) Is created by production activities conducted in this state.
- b) Can be viewed or reproduced.
- c) Is intended for commercial distribution or licensing in the delivery medium used

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

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

To claim this credit, a motion picture production company must have received post-approval from the Arizona Commerce Authority (ACA) prior to claiming the credit. The credit is claimed on the tax return for the taxable year in which the post-approval has been received.

## NOTE:

- The credit for motion picture production costs must be claimed on a timely filed original income tax return, including extensions. The credit may not be claimed on an amended return.
- To claim this credit, the production company must submit a copy of the Post-Approval document with Form 334 and its Arizona income tax return.
- The credit a taxpayer may claim can never exceed the amount that was preapproved.

Co-owners of a business, including partners in a partnership, members of a limited liability company (LLC), and shareholders of an S Corporation, may each claim only their *pro rata* share of the apportioned credit based on ownership interest. The total of the apportioned credits allowed to all such owners may not exceed the amount that would have been allowed for a sole owner of the business.

The credit is available to an exempt organization that is subject to corporate income tax on unrelated business taxable income (UBTI). The credit must result from the activities that generate UBTI.

If the allowable tax credit exceeds the income taxes otherwise due on the taxpayer's income, or if there are no state income taxes due on the taxpayer's income, the amount of the credit not used to offset against income taxes shall be paid to the taxpayer in the same manner as a refund under section 42-1118.

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.

### The amount of the credit is determined as follows:

1. An amount equal to a percentage of the total amount of the qualified production costs as approved by ACA pursuant to A.R.S. § 41-1517 as follows:
  - a. For a motion picture production company that spends up to \$10,000,000, fifteen percent (15%) of production costs.
  - b. For a motion picture production company that spends more than \$10,000,000 but less than \$35,000,000, seventeen and one-half percent (17.5%) of production costs.
  - c. For a motion picture production company that spends more than \$35,000,000, twenty percent (20%) of production costs.
2. An additional two and one-half percent (2.5%) of the motion picture production company's production labor costs related to positions held by residents of this state as approved by the ACA.
3. If the motion picture production company either:
  - a. Uses a qualified production facility in this state to produce the motion picture production, an additional two and one-half percent (2.5%) of the total amount of qualified production costs as approved by ACA; or,

- b. Films primarily at a practical location, produces and films the motion picture production primarily in this state and performs all preproduction, postproduction and editing at a qualified production facility in this state, an additional two and one-half percent (2.5%) of production costs.
- 4. An additional two and one-half percent (2.5%) of the total amount of qualified production costs as approved by ACA if the motion picture production is produced and filmed in association with a long-term tenant of a qualified production facility.

**To qualify for this credit, the motion picture production company must:**

- 1. Do either of the following:
  - a. Use a qualified production facility in this state to produce the motion picture production,
  - b. If the motion picture production is filmed primarily at a practical location, produce and film the motion picture production primarily in this state and perform all preproduction, postproduction and editing at an industry standard facility, if such a facility for those functions is available.
- 2. Maintain the motion picture production company's labor positions in this state.
- 3. Include in the credits for each motion picture production an acknowledgement that the production was filmed in Arizona.
- 4. Submit a completed application to ACA.
- 5. Provide supporting statements and records requested by ACA to demonstrate the motion picture production company satisfies the criteria necessary for qualification.

**Preapproval letter**

On determination by ACA that a motion picture production company qualifies for the credit, ACA shall issue a preapproval letter and provide a copy of that letter to the department. The preapproval letter is effective for a time period (Pre-Approval Period) prescribed by ACA. A motion picture production company may apply to ACA to extend the preapproval period if the company can demonstrate that an act of force majeure occurred and that the preapproval letter will expire before the production is complete.

The ACA may not preapprove tax credits exceeding the following amounts in a calendar year:

- \$ 75,000,000 in calendar year 2023:
- \$100,000,000 in calendar year 2024:
- \$125,000,000 in calendar year 2025 and each calendar year following.

Up to \$25,000,000 of the credit in each calendar year may be used for a motion picture production that qualifies for the program if:

- The motion picture production is filmed at a practical location;
- The motion picture production is produced and filmed primarily in this state, and;
- The motion picture production company performs all preproduction, postproduction and editing is performed

at an industry standard facility in this state, if such a facility for those functions is available.

**Postapproval letter**

On completion of the motion picture production, a motion picture production company that is preapproved for the credit shall apply to ACA for approval of the credit and provide an audited statement completed by a certified public accountant in this state certifying the total amount of eligible production costs associated with the production. ACA shall provide postapproval to the motion picture production company stating it has met the eligibility requirements, and notify this department that the motion picture production company may claim the tax credit.

**Specific Instructions**

Complete the name and taxpayer identification number section at the top of the form. Indicate the period covered by the taxable year. Include the completed form with 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 exempt organization with UBTI, 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.

**Part 1 - Listing of Post-Approved Motion Picture Productions and Approved Credit Amount**

**Lines 1 through 6**

List all of your productions that ACA has issued a post-approval for this taxable year.

**Lines 1 and 2**

- Enter the Program Calendar Year in column (A). The allocation year is the calendar year for which you were pre-approved for the credit and it was applied to the annual credit cap. This date will be indicated on the post-approval letter received from ACA.
- Enter the Name of the Production in column (B).
- Enter the Priority Placement Number in column (C).
- Enter the approved credit amount in column (D).

**Line 3**

Enter the total approved credit amount from all included schedules.

**NOTE:** *If there are not enough lines on the form to enter all productions eligible to be claimed this year, include a schedule that shows all of the information Part 2 requires.*

**Line 4**

Enter the total amount of credit passed through from partnerships on Form 334-P, line 3c,

**Line 5**

Enter the total amount of credit passed through from S Corporations on Form 334-S, line 3c.

**Line 6**

Add lines 1 through 5. Enter the total. This is your total credit amount.

**Part 2 – Credit Recapture****Line 7**

Enter the Priority Placement Number from the ACA for the motion picture production that is being recaptured.

**Line 8**

Enter the date on which the Priority Placement Number was recaptured.

**Line 9**

Enter the total recapture of the credit for Motion Picture Production Costs. Enter the total amount(s) of the credit(s) to be recaptured. If more than one Post-Approval has been recaptured, enter the total amount of all credits that were recaptured. (Include a schedule.)

**Line 10**

If the credit was previously passed through from a partnership, enter the partner's portion of the credit to be recaptured from Form 334-P, Part 3, line 5d.

**Line 11**

If the credit was previously passed through from an S Corporation, enter the shareholder's portion of the credit to be recaptured from Form 334-S, Part 3, line 5d.

**Line 12**

Add lines 9 through 11. Enter the total. This is the total amount of the credit to be recaptured.

**Part 3 – Partners' Share of the Credit**

A partnership<sup>1</sup> claiming this credit *must* pass it through to its partners. Skip to the instructions for completing Form 334-P on page 5.

- Complete Form 334-P for each partner.
- Provide a completed copy of Form 334-P to each partner.
- Provide a copy of the Post-Approval received from ACA to each partner.
- Include a copy of each completed Form 334-P with your tax return.
- Keep a copy of each completed Form 334-P for your records.
- Do not complete the remainder of this form.

Each partner is entitled to only a *pro rata* share of each credit based on the partner's ownership interest in the partnership. The total of each credit allowed to all partners may not exceed the amount that would have been allowed for a sole owner.

<sup>1</sup> Including an LLC that is classified as a partnership for federal income tax purposes.

**NOTE:** *Trusts and estates that are partners in a partnership are not eligible to claim this credit. However, the share of a partnership owned by a grantor trust that is disregarded for federal income tax purposes is treated as owned by the grantor. The grantor may claim his or her share of the credit.*

**Part 4 – S Corporation Credit Election and Shareholder's Share of Credit****Lines 13, 13a, & 13b – S Corporation Credit Election**

The S Corporation<sup>2</sup> must complete line 7 and line 7a or line 7b. The S Corporation must make an irrevocable election either to claim the current taxable year credit at the corporate level or to pass the credit through to its shareholders. To make the S Corporation election:

- Enter the date the S Corporation taxable year ends in the box provided.
- Check the box on line 7a electing to claim the current taxable year credit at the corporate level; or,
- Check the box on line 7b electing to pass the current taxable year 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 Arizona Form 120S.

If the S Corporation elects to claim the credit at the corporate level, continue to Part 4.

If the S Corporation elects to pass this credit through to its shareholders, proceed to the instructions for completing Form 334-S on page 6.

If passing this credit through to the shareholders:

- Complete Form 334-S for each shareholder.
- Provide each shareholder with a copy of his or her completed Form 334-S.
- Provide a copy of the Post-Approval received from ACA to each shareholder.
- Include a copy of each completed Form 334-S with your tax return.
- Keep a copy of each completed Form 334-S for your records.

Each S Corporation shareholder is entitled to only a *pro rata* share of pass-through credit based on ownership interest in the S Corporation. The total of the credit allowed to all shareholders may not exceed the amount that would have been allowed for a sole owner.

**NOTE:** *Trusts and estates that are shareholders of S Corporations, are not eligible to claim this credit. However, the share of an S Corporation owned by a grantor trust that is disregarded for federal income tax purposes is treated as owned by the grantor. The grantor may claim his or her share of the credit.*

<sup>2</sup> Including an LLC that makes a valid federal election to be taxed as an S Corporation for federal income tax purposes.

**Part 5 – Credit Recapture Summary****Line 14**

Enter the taxable year(s) for which you claimed the credit that are being recaptured.

**Line 15**

*Individuals, C Corporations, S Corporations that claimed the credit at the corporate level, and exempt organizations with UBTI*, enter the amount from Part 2, line 12.

- *Individuals that **did not make the Small Business Income election***: Also enter this amount on Form 301, Part 2, line 28.
- *Individuals that **made the Small Business Income election***: Also enter this amount on Form 301-SBI, Part 2, line 21.
- *C Corporations, S Corporations that claimed the credit at the corporate level, and exempt organizations with UBTI*: Also enter this amount on Form 300, Part 2, line 19.

**Part 6 - Total Credit for Motion Picture Production Costs****Line 16**

Individuals, C Corporations, S Corporations claiming this credit at the corporate level, and exempt organizations with UBTI: Enter the amount from Part 1, line 6.

Partnerships: Enter "0".

S Corporations electing to pass this credit through to individual shareholders: Enter "0".

Individuals that **did not make the Small Business Income election**: Also, enter this amount on Form 140, line 58; or Form 140NR, line 65; or Form 140PY, line 67; or Form 140X, line 45.

Individuals that **made the Small Business Income election**: Also, enter this amount on Form 140-SBI, line 61; or Form 140NR-SBI, line 59; or Form 140PY-SBI, line 61; or Form 140X-SBI, line 61.

C Corporations: Also, enter this amount on Form 120, line 22; or Form 120A, line 14; or Form 120X, line 22(c).

Exempt organizations with UBTI: Also, enter this amount on Form 99T, line 12.

S Corporations *claiming* this credit at the corporate level: Also, enter this amount on Form 120S, line 20.

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## Form 334-P, Distribution to Partners of a Partnership

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Enter the taxable year for which this credit is being passed through to your partners.

Complete Form 334-P for each partner of the partnership, *except for* trust or estate partners. However, a partnership ownership share that is owned by a grantor trust that is disregarded for federal income tax purposes is treated as owned by the grantor. The grantor may claim his or her share of the credit.

The partnership must furnish each partner with their completed copy of Form 334-P, including additional schedules as needed.

### Part 1 - Distribution of the Credit

*Complete Part 1 to distribute the credit to the partners of the partnership (complete lines 1 through 3).*

#### Line 1

Enter the partnership name, EIN, and the Priority Placement Number received from ACA in the spaces provided.

#### Line 2

Enter the partner's name and TIN in the spaces provided.

#### Line 3a

Enter the amount of this credit from the partnership's Form 334, Part 1, line 6.

#### Line 3b

Enter the partner's ownership percentage.

#### Line 3c

Multiply line 3a by line 3b and enter the result. **This is the partner's portion of the credit.**

### Part 2 - Distribution of Motion Picture Production Expenses

*Complete Part 2 to notify each partner of their share of the motion picture production expenses to be added back to their calculation of Arizona taxable income (complete lines 4a and 4b).*

#### Line 4a

Enter the amount of the partnership's approved motion picture production expenses.

#### Line 4b

Multiply the amount on line 4a by the percentage on line 3b. Enter the result. This is the partner's portion of the motion picture production expenses to be added back to their calculation of Arizona taxable income. **This is the partner's portion of the motion picture production expenses.**

### Part 3 - Recapture of the Credit

*Complete Part 3 to notify each partner of their share of the recapture of the Credit for Motion Picture Production Costs which has been determined to be incorrect (complete lines 5a through 5d).*

#### Line 5a

Enter the Priority Placement Number of the credit that was recaptured.

#### Line 5b

Enter the date the Priority Placement Number was recaptured.

#### Line 5c

Enter the amount of the credit to be recaptured from the partnership's Form 334, Part 2, line 12.

Multiply the amount on line 5a by the percentage on line 3b. Enter the result. **This is the partner's portion of the credit to be recaptured.**

## Form 334-S, Distribution to Shareholders of an S Corporation

Enter the taxable year for which this credit is being passed through to your shareholders.

Complete Form 334-S for each shareholder of the S Corporation, *except for* trust or estate shareholders. However, an S Corporation ownership share that is owned by a grantor trust that is disregarded for federal income tax purposes is treated as owned by the grantor. The grantor may claim his or her share of the credit.

The S Corporation must furnish each shareholder with a completed copy of Form 334-S, including additional schedules as needed.

### Part 1 Distribution of the Credit

*Complete Part 1 to distribute the credit to the S Corporation shareholders (complete lines 1 through 3).*

#### Line 1

Enter the S Corporation name, EIN, and the Priority Placement Number received from ACA in the spaces provided.

#### Line 2

Enter the shareholder's name and TIN in the spaces provided.

#### Line 3a

Enter the amount of this credit from the S Corporation's Form 334, Part 1, line 6.

#### Line 3b

Enter the shareholder's ownership percentage.

#### Line 3c

Multiply line 3a by line 3b and enter the result. **This is the shareholder's portion of the credit.**

### Part 2 Distribution of Motion Picture Production Expenses

*Complete Part 2 to notify each shareholder of their share of the motion picture production expenses to be added back to their calculation of Arizona taxable income (complete lines 4a and 4b).*

#### Line 4

Enter the amount of the S Corporation's approved motion picture production expenses.

#### Line 4b

Multiply the amount line 4a by the percentage on line 3b. Enter the result. This is the shareholder's portion of the motion picture production expenses to be added back to their calculation of Arizona taxable income. **This is the shareholder's portion of the credit to be recaptured.**

### Part 3 Recapture of the Credit

*Complete Part 3 to notify each shareholder of their share of the recapture of the Credit for Motion Picture Production Costs which has been determined to be incorrect (complete lines 5a through 5d).*

#### Line 5a

Enter the Priority Placement Number of the credit that was recaptured.

#### Line 5b

Enter the date the Priority Placement Number was recaptured.

#### Line 5c

Enter the amount of the credit to be recaptured from the partnership's Form 334, Part 2, line 12.

Multiply the amount on line 5a by the percentage on line 3b. Enter the result. **This is the shareholder's portion of the credit to be recaptured.**