

## Incentives

### **CALIFORNIA FILM & TELEVISION INCENTIVE PROGRAM**

On February 20, 2009, Governor Arnold Schwarzenegger signed legislation creating tax credits for film and television productions as part of an economic stimulus provision in the new state budget. The California Film Commission is currently developing program guidelines and application procedures. Applications will be available on June 1, 2009. **Applications will be accepted on a first come, first served basis beginning on July 1, 2009.**

#### **How the Tax Credit Works**

Qualified taxpayers are allowed a credit against income and/or sales and use taxes, based on qualified expenditures, for taxable years beginning on or after January 1, 2011. Credits applied to income tax liability are not refundable. Only tax credits issued to an "independent film" may be transferred or sold to an unrelated party. Other qualified taxpayers may carryover tax credits for 5 years and transfer tax credits to an affiliate.

#### **How much was allocated to the program?**

- \$100 million annually beginning fiscal year 2009/2010 through fiscal year 2013/2014
- \$10 million of the annual funding shall be set aside for independent films
- Any unused funds carryover to the next fiscal year

#### **How are the funds allocated?**

Tax Credits will be allocated on a first-come, first-served basis, as long as funds are available within each fiscal year. On each day that applications are received, they will be selected at random via a daily lottery. Each approved project will receive a credit allocation "reservation" pending the project's continued eligibility and final documentation. The final credit allocation will be the lesser of: 1) the estimated reservation amount or 2) an amount based on final qualified spend.

#### **What Types of Productions Qualify for the Program?**

To apply for the California Film and Television Incentive Program, a "qualified motion picture" must be one of the following:

##### **(Eligible for 20% Tax Credit):**

- Feature Films (\$1 million minimum - \$75 million maximum production budget)
- Movies of the week or miniseries (\$500,000 minimum production budget)
- New television series licensed for original distribution on basic cable (\$1 million minimum budget; one-half hour shows and other exclusions apply)

### **(Eligible for 25% Tax Credit):**

- A television series, without regard to episode length, that filmed all of its prior seasons outside of California.
- An "independent film" (\$1 million – \$10 million budget that is produced by a company that is not publicly traded and that publicly traded companies do not own more than 25% of the producing company.)

A "qualified motion picture" must also meet the following conditions:

- 75% test (production days or total production budget) in California
- Application must be submitted at least 30 days prior to principal photography
- Once application is approved, principal photography must begin within 180 days and post production must be completed within 30 months

### **What expenditures qualify?**

"Qualified expenditures" are amounts paid or incurred for the purchase or lease of tangible personal property and qualified wages for services performed in California.

The following costs are **not** qualified expenditures:

- **Any costs incurred prior to application approval will not qualify for credits.**
- Wages paid to writers, directors, music directors, music composers, music supervisors, producers and performers, other than background actors with no scripted lines.
- Expenses, including wages, related to new use, reuse, clip use, licensing, secondary markets, residual compensation or the creation of any ancillary produced including but not limited to, a soundtrack album, toy, game, trailer or teaser.
- Expenses related to acquisition, development, turnaround or any rights thereto; financing, overhead, marketing, promotion, or distribution of a qualified motion picture.
- State and Federal Income taxes.
- Audit expenses; Completion bond.

### **What types of productions are not eligible for the incentive program?**

Commercials; music videos; TV pilots; news programs; current events or public affairs programs; talk shows; game shows; sporting events; ½ hour (airtime) episodic TV shows; awards shows; productions that solicit funds; reality programs; student films; industrial films; clip based programming where more than 50% of content is comprised of licensed footage; documentaries; variety programs; daytime dramas; strip shows; pornography.

## Application Procedures

The California Film Commission is developing application procedures. Once established, applications will be accepted on a first come first served basis beginning on July 1, 2009 as long as funds are available within each fiscal year.

- The open application period will be announced by the CFC prior to each new fiscal year for the duration of the program.
- Applications will be accepted on a first come first served basis. This process will be run as a daily lottery each business day.
- Applications must be submitted **at least thirty (30) calendar days prior to the start of principal photography.**
- Applications that meet program criteria will be accepted and credits will be assigned (reserved) until the annual allocation is exhausted.
- Within 10 business days of receiving the requested supporting materials, the CFC will notify the applicant of accepted or rejected status. Credit will be assigned (reserved) to all accepted applicants until the annual allocation is exhausted.
- If the application meets the criteria and is approved, the production must begin principal photography no later than 180 days from approval date **which is the date the allocation reservation letter is issued.** (If the production does not begin filming prior to the 180 day deadline, the reservation of credits will be forfeited and the applicant will be placed back in the queue. There will be no guarantee that additional credits will be available once placed in the queue.)
- Once a qualified television series has been approved and accepted into the program, that series will be placed at the top of the queue for lottery numbering (based on order received) for each successive year in the life of that series whenever credits are assigned within a fiscal year.
- Once an application is accepted, the primary producer, UPM and production accountant or other appropriate personnel will be required to attend an orientation meeting with the CFC.