

SECTION 12-6-3570. Motion picture related income tax credit claims.

(A) A taxpayer may claim an income tax credit of an amount equal to twenty percent, but not more than one hundred thousand dollars, of the taxpayer's cash investment in a company that develops or produces a qualified South Carolina motion picture project. A taxpayer may claim no more than one credit in connection with the production of a single qualified South Carolina motion picture project. This credit is allowed over more than one taxable year but a taxpayer's total credit in all years, toward any such project, may not exceed one hundred thousand dollars. Any unused credit may be carried forward to fifteen succeeding taxable years.

(B) A taxpayer may claim a credit in an amount equal to twenty percent of the amount of a taxpayer's investment in the company that constructs or converts or equips, or any combination of these activities, of a motion picture production facility or post-production facility in this State. No credit is allowed unless the total amount invested in the motion picture production facility is at least two million dollars, exclusive of land costs, or the total amount invested in a post-production facility is at least one million dollars, exclusive of land costs. Documentation to the Department of Parks, Recreation and Tourism sufficient to provide confirmation of this threshold must accompany the application for the credit. Any unused credit may be carried forward to fifteen succeeding taxable years. The total amount of credit, which may be claimed by all taxpayers with respect to the construction or conversion or equipping, or any combination of these activities, of a single motion picture production facility or post-production facility may not exceed five million dollars. A taxpayer may claim the credit allowed by this section only one time in connection with a single motion picture production facility and one time in a single post-production facility.

(C) The credit is earned when the cash is spent or when qualifying real property is dedicated for use as part of a South Carolina motion picture production facility or South Carolina post-production facility. If a South Carolina motion picture project, South Carolina motion picture production facility, or South Carolina post-production facility fails to meet the requirements of the section within three years from the end of the taxpayer's tax year when the credit was first claimed, then any taxpayer which claimed the credit shall increase its income tax liability in the fourth year by an amount equal to the amount of credits claimed in prior tax years with respect to the motion picture project, motion picture production facility, or post-production facility.

(D) Notwithstanding the amount of the credits allowed by this section, these credits, when combined with any other state income tax credits allowed the taxpayer for a particular taxable year, cannot reduce the taxpayer's South Carolina income tax liability more than fifty percent.

(E) All documentation provided by investors and their agents to the Department of Revenue in connection with claiming the credits allowed by this section is considered a tax return and subject to the penalty provisions in Chapter 54 of Title 12.

(F) As used in this section:

(1) "Investment" means cash with respect to subsection (A) of this section, and with respect to subsection (B) of this section cash or the fair market value of real property with any improvements thereon, or any combination of these. To qualify as "investment", cash must have been expended for services performed in this State, for tangible personal property dedicated to first use in this State, or for real property in this State. Investments in the form of real property

must be real property located in this State on which facilities are located and can include the fair market value of a lease with a term in excess of thirty-six months of real property minus the fair market value of any consideration paid for the lease.

(2) “Motion picture production facility” means a site in this State that contains soundstages designed for the express purpose of film and television production for both theatrical and video release. Production includes, but is not limited to, motion pictures, made-for-television movies, and episodic television to a national or regional audience. The motion picture production facility site must include production offices, construction shops/mills, prop and costume shops, storage areas, parking for production vehicles, all of which complement the production needs and orientation of the overall facility purpose. The term does not include television stations, recording studios, or facilities predominately used to produce videos, commercials, training films, or advertising films.

(3) “Motion picture project” means a product intended for commercial exploitation that incurs at least two hundred fifty thousand dollars of costs directly in this State to produce a master negative motion picture, whether film, tape, or other medium, for theatrical or television exhibition in the United States and in which at least twenty percent of total filming days of principal photography, but not fewer than ten filming days, is filmed in this State. Upon the recommendation of the South Carolina Film Commission, the Department of Parks, Recreation and Tourism shall certify the motion picture project as a project eligible for purposes of this article.

(4) “Post-production facility” means a site in this State designated for the express purpose of accomplishing the post-production stage of film and television production for both theatrical and video release including the creation of visual effects, editing, and sound mixing. A post-production facility site is not required to contain a soundstage or be physically located at or near soundstages.

(5) “Qualified South Carolina motion picture project” means a motion picture project which has registered by submitting its record of allocation of credits and documentation to the Department of Revenue. Before registration all documentation of a motion picture project required to meet the credit requirements must be received by the Department of Parks, Recreation and Tourism.

(6) Taxpayer means:

(a) in subsection (A), the person who invests in a qualified motion picture project;

(b) in subsection (B), the person who invests in the company that constructs, converts, or equips a “qualified South Carolina motion picture production facility”; and

(c) with respect to a motion picture equity fund created for the sole, expressed purpose of facilitating a slate of qualified South Carolina motion picture projects, the person who invests in the motion picture equity fund. Credits allowed under this subitem are allocated to the fund based upon twenty percent of the cash value of its investment in a qualified South Carolina motion picture project and distributed to equity fund members based upon the percentage of their interest in the equity fund.