

CHAPTER 36

CHAPTER 36, LAWS 2002

AN ACT

RELATING TO TAXATION; PROVIDING A TAX CREDIT FOR A PORTION OF DIRECT FILM PRODUCTION EXPENDITURES FOR FILMS MADE IN NEW MEXICO; DECLARING AN EMERGENCY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. FILM PRODUCTION TAX CREDIT.--

A. The tax credit created by this section may be referred to as the "film production tax credit". An eligible film production company may apply for, and the taxation and revenue department may allow, a tax credit for fifteen percent of direct production expenditures made in New Mexico that are directly attributable to the production in New Mexico of a film and subject to taxation by the state of New Mexico.

B. The film production tax credit shall not be claimed with respect to expenditures for which the film production company has delivered a nontaxable transaction certificate pursuant to Section 7-9-86 NMSA 1978.

C. A long-form narrative film production for which the film production tax credit is claimed shall contain an acknowledgment that the production was filmed in New Mexico.

D. As used in this section:

- (1) "direct production expenditure" includes:
- (a) the cost of a story and scenario to be used for a film;
 - (b) wages or salaries for talent, management and labor paid to persons who are residents of New Mexico;
 - (c) the cost of set construction and operations, wardrobe, accessories and related services;
 - (d) the cost of photography, sound synchronization, lighting and related services;
 - (e) the cost of editing and related services;
 - (f) rental of facilities and equipment;

- (g) leasing of vehicles;
- (h) costs of food or lodging;
- (i) airfare if purchased through a New Mexico-based travel agency or travel company;
- (j) insurance costs and bonding if purchased through a New Mexico-based insurance agent; and
- (k) other direct costs of producing the film in accordance with generally accepted entertainment industry practice;

(2) "film" means a single media or multimedia program, including national advertising messages, that is fixed on film, videotape, computer disc, laser disc or other similar delivery medium, that can be viewed or reproduced and that is exhibited in theaters, licensed for exhibition by individual television stations, groups of stations, networks, cable television stations or other means or licensed for the home viewing market; and

(3) "film production company" means a person that produces film for exhibition in theaters, on television or elsewhere.

E. To be eligible for the film production tax credit, a film production company shall submit to the New Mexico film division of the economic development department information required by the division to demonstrate conformity with the requirements of this section. The division shall determine the eligibility of the company and shall report this information to the taxation and revenue department in a manner and at times the economic development department and the taxation and revenue department shall agree upon.

F. To receive a film production tax credit, a film production company shall apply to the taxation and revenue department on forms and in the manner the department may prescribe. The application shall include a certification of the amount of direct production expenditures made in New Mexico with respect to the film production for which the film production company is seeking the film production tax credit. If the requirements of this section have been complied with, the taxation and revenue department shall approve the film production tax credit and issue a document granting the tax credit.

G. The film production company may apply all or a portion of the film production tax credit granted by the document against personal income tax liability or corporate

income tax liability. If the amount of the film production tax credit claimed exceeds the film production company's tax liability for the taxable year in which the credit is being claimed, the excess shall be refunded.

Section 2. APPLICABILITY.--The provisions of this act apply to taxable years beginning on or after January 1, 2002.

Section 3. EMERGENCY.--It is necessary for the public peace, health and safety that this act take effect immediately.

HOUSE BILL 118, AS AMENDED
WITH EMERGENCY CLAUSE
SIGNED MARCH 4, 2002