



ADMINISTRATIVE RULES OF MONTANA

42.4.3411 MEDIA PRODUCTION TAX CREDIT APPLICATION

- (1) To reserve a media production tax credit, a production company must submit a media production tax credit application (application) on a form provided by the department, including all supporting documentation provided in this rule, with payment of the fee required under 15-31-1005, MCA. The department will not consider an application "filed" until:
 - (a) the production company, including its affiliates if the production company is a C corporation, in the state-certified production complies with 15-31-1003(10), MCA;
 - (b) the production company has paid the required fee; and
 - (c) the supporting documentation for the application is complete, legible, and is presented in an orderly manner.
- (2) The fee required under 15-31-1005, MCA, is due, in full, with each new application. Any submission of an application associated with another state-certified production, even for the same tax year, constitutes a new application and is subject to another fee. Providing additional documentation after an application is submitted to complete a department request does not constitute a new application.
- (3) The application must be filed by the date provided in 15-30-2604, MCA, following the end of the tax year the expenditures were incurred and compensation was paid, or the following tax year if an election pursuant to ARM 42.4.3408(2) is made. For the purpose of this section, production expenditures and compensation incurred between July 1, 2019 and the first day of the tax year beginning in 2020 are deemed to have occurred in tax year beginning in 2020.
- (4) Production companies with a multi-year production must file the media production tax credit application and pay the required fee for each tax year any base investment expenses are incurred, except:
 - (a) for tax years beginning after June 30, 2019, but before January 1, 2020, which must be filed with the media production tax credit application pertaining to expenditures incurred and compensation paid in tax years beginning in 2020; or
 - (b) if an election pursuant to ARM 42.4.3408(1) or (2) is made. If so, the production company must pay the required fee for each base investment reported on the application before any election is made.
- (5) An application is considered "submitted" on the day the department receives all of the information, documents, and fee described in (1) from the applicant submitted via the department's online portal, and according to department procedures. A "complete" application includes:

- (a) a submission of costs, as provided in 15-31-1005, MCA, which includes a list of all the affiliates or hired production companies that incurred the qualifying production expenditures and compensation paid included in the production credit base.
- (b) a production verification report, as required by 15-31-1006, MCA.
- (c) detailed information on production expenditures incurred in Montana and directly used for the qualified production activity, including:
 - (i) the total expenditures incurred for each category of production expenditures listed in 15-31-1003(11)(a), MCA;
 - (ii) all receipts for expenses, in order, using account identification numbers provided by the department in the submission of costs and presented by each account in decreasing amounts of expenditures. All the receipts must include the account to which they relate. Additionally, receipts related to payments made to a Montana college or university, expenses incurred towards an in-studio facility in Montana for 20 days or more, and expenses incurred in underserved areas, must be clearly identified with a notation of "college," "in studio," or "underserved" on the first page of the receipt.
 - (iii) copies of all the call sheets related to compensation of employees whether they are employees of the production company or a loan-out company.
 - (iv) detailed amounts of withholding applied to loan-out company employees as listed on the loan-out company withholding report.
 - (v) copies of contracts with any loan-out companies pertaining to any inclusion of compensation in the base investment and production credit base.
 - (vi) copies of any agreements with any loan-out company employees pertaining to their personal services performed on behalf of the loan-out company.
 - (vii) copies of department Form MEDIA-COMP referencing the state-certified production and the status of each employee of a production company, hired production company, and loan-out company.
- (6) Any application or submission of costs information presented to the department in a disorganized or unsystematic manner, or where source documents, receipts, and other support documents are provided in an unprepared format, will be deemed "insufficient for review" by the department and will be returned to the production company. In this case, the statutory fee will not be refunded. However, a subsequent, acceptable submission of costs will not require a second payment of the fee.
- (7) If the department accepts the application for review but determines that additional documentation is necessary to correct or complete the application, it will send one written request for additional information to the applicant, or its designated, authorized representative.
 - (a) The department's correspondence will list the deficiencies of the items required under (5) and provide the applicant or its authorized representative 30 days to cure all deficiencies.
 - (b) Failure by the applicant or its authorized representative to provide the requested items within the time prescribed in (7)(a) may result in the denial of the application and the return of all application materials to the applicant. In this case, the statutory fee will not be refunded by the department.

- (8) At its discretion, but not earlier than the 30-day period described in (7)(a), the department may adjust the amount of media production tax credit or base investment, or both, if the applicant is unable to provide records substantiating the inclusion of the expense in the base investment or as a qualifying expense for the calculation of the media production tax credit. Any downward adjustment to a base investment by the department is not considered a denial or a return of the application or submission of costs. In this case, the statutory fee will not be refunded by the department.
- (9) The production company is responsible for keeping records or substantiating evidence of all production expenditures and compensation payments. Copies of the media production tax credit documentation organized in the same manner as described in (5) must be provided to the certified public accountant preparing the production verification report, required under 15-31-1006, MCA.

Authorizing statute(s): 15-31-1012, MCA

Implementing statute(s): 15-1-201, 15-31-1012, MCA

History: NEW, 2020 MAR p. 1638, Eff. 8/29/20.