

DIVISION 003
FILM PRODUCTION DEVELOPMENT CONTRIBUTION CREDIT

951-003-0000

Purpose

- (1) These rules specify the procedures for Oregon Film and Video Office certification of tax credits arising from contributions to the Oregon Production Investment Fund, as authorized by ORS 315.514.
- (2) The Oregon Production Investment Fund tax credits were authorized by the 2003 legislature to:
 - (a) Encourage taxpayers to make contributions to the Oregon Production Investment Fund by providing a financial return for qualified contributions.
 - (b) Encourage film and television production in Oregon by providing incentives in the form of production spending rebates, from the Oregon Production Investment Fund, to qualifying productions.
 - (c) Strengthen Oregon's film and video industry infrastructure by bringing in more production spending to this sector of the economy.

Stat. Auth: ORS 284.335 & 315.514

Stats. Implemented: ORS 315.514

Hist:

951-003-0001

Definitions

- (1) "Tax credit" means certification of an amount for credit by the Oregon Film and Video Office under ORS 315.514 and these administrative rules and arising from a qualifying contribution.
- (2) "Oregon Production Investment Fund" means the fund created by ORS 284.367.
- (3) "Qualifying contribution" means a contribution made by a taxpayer to the Oregon Production Investment Fund and for which an application, in the form designated by the Oregon Film and Video Office, is submitted for a tax credit.
- (4) "Tax credit certificate" means a certificate issued by the Oregon Film and Video Office to a taxpayer evidencing a tax credit.

Stat. Auth: ORS 284.335 & 315.514

Stats. Implemented: ORS 315.514

Hist:

951-003-0005

Allocation of Certificates

- (1) Taxpayers making a contribution to the Oregon Production Investment Fund and wishing to receive a tax credit must submit the contribution, together with an application for tax credit, to the Oregon Film and Video Office, in care of the Oregon Economic and Community Development Department. The contribution need not accompany the application to the extent the taxpayer is only requesting a reservation of tax credits for future issuance with respect to future committed contributions, as provided in these administrative rules.
 - (a) Contributions from \$1.00 to \$10,000.00 may be made by check, VISA or Mastercard.
 - (b) Contributions in excess of \$10,000.00 must be made by direct wire from Contributors bank to the OPIF treasury fund or by check.
 - (c) Availability of tax credits is determined at the time the contributed funds have cleared the contributor's account, not on the date a check or visa payment is written or received by the Oregon Film Office or Oregon Economic and Community Development Department
- (2) The Oregon Film and Video Office shall make tax credit application forms available to taxpayers in hard copy and electronic formats and taxpayers may submit applications and contributions either in hard copy format or electronically through the Oregon Film and Video Office website.
- (3) The Oregon Film and Video Office will begin accepting contributions and applications for tax credits on January 1, 2005. The Oregon Film and Video Office shall consider applications for tax credits in the chronological order in which the applications are received.
- (4) After approval of a taxpayer's application for a tax credit, the Film and Video Office shall issue to the tax payer a tax credit certificate for the tax year during which the qualifying contribution was received.
 - (a) The Oregon Film and Video Office shall not issue a tax credit certificate to the contributing taxpayer until the Oregon Economic and Community Development Department has verified the amount of contribution.
 - (b) Tax credit certificates for qualifying contributions made between January 1, 2005 and June 30, 2005, shall be issued after July 1, 2005.
 - (d) (c) Tax credit certificates for qualifying contributions made on or after July 1, 2005 shall be issued within 45 days of the Oregon Film and Video Office's receipt of verification of the qualifying contribution from the Oregon Economic and Community Development Department.
- (5) The amount of a qualifying contribution shall be 90% of the amount of tax credit issued with respect to that contribution.
- (6) The tax credit certificates issued during a single State of Oregon fiscal year may not evidence more than \$5 million of tax credits, in aggregate.

(7) If at the time an application for tax credit is considered, the Oregon Film and Video Office has already issued or reserved tax credits totaling \$5 million for the fiscal year in which the contribution submitted with the application is received, the Oregon Film and Video Office will deny the application. If at the time an application for tax credit is considered, the Oregon Film and Video office has already issued or reserved tax credits that, when added to the tax credits that would be issued if the application were approved, would total more than \$5 million for the fiscal year in which the contribution submitted with the application is received, the Oregon Film and Video Office may either deny the application in full or approve the application in an amount necessary to bring the total tax credits issued or reserved to \$5 million for the fiscal year in which the contribution is received and deny the remainder of the application.

(8) If the Film and Video Office denies an application for a tax credit in full or in part, it shall notify the taxpayer applicant of the denial in writing within 45 days of the denial.

(9) A taxpayer who receives notice of denial of an application for tax credit may request, in writing and within 90 days after its receipt of the notice of denial, a refund of that portion of its contribution, actually received by the Film and Video Office, with respect to which the Film and Video Office did not issue a tax credit certificate. The Film and Video Office shall issue the refund within 60 days after its receipt of the refund request.

(10) In its application, a taxpayer may, in addition to or in lieu of applying for immediate issuance of a tax credit, request that the Oregon Film and Video Office reserve tax credits for future issuance based on future contributions committed by the taxpayer. The Oregon Film and Video office may approve, approve in part and deny in part, or deny tax credit reservation requests in its discretion. In determining whether to approve, approve in part and deny in part, or deny a tax credit reservation request, the Film and Video Office will consider the following factors:

- (a) The current uncommitted balance in the Oregon Production Investment Fund;
- (b) The amount of tax credits then available for issuance for the fiscal year with respect to which the reservation is requested;
- (c) The number of pending applications for tax credits;
- (d) The anticipated future demand for tax credits for the fiscal year with respect to which the reservation is requested.
- (e) The number of tax credits the taxpayer is requesting the Film and Video Office to reserve.

(f) The length of time between the approval of the reservation and the anticipated receipt of the contributions with respect to the reserved tax credits;

(g) Such other factors as the Film and Video office considers appropriate in the particular circumstance in order to further the purposes of the Oregon Production Investment Fund tax credits.

(11) The Film and Video Office shall notify a taxpayer requesting a tax credit reservation of the approval, approval in part and denial in part, or denial of the request within 45 days after the Film and Video Office's receipt of the request. If the reservation request is approved in whole or in part, the Film and Video Office shall reserve tax credits for future issuance consistent with that approval.

(12) A taxpayer with reserved tax credits must submit to the Film and Video Office sufficient contributions to support tax credits reserved for issuance during a particular fiscal year, no later than the date set forth in the Film and Video Office's notice of reservation approval. Contributions must be submitted to the Film and Video Office in care of the Oregon Economic and Community Development Department. If the contributions necessary to support issuance of reserved tax credits are not received by the applicable deadline, the reservation of those tax credits and the reservations of all other tax credits for that taxpayer shall automatically expire and those tax credits shall no longer be considered reserved tax credits and shall become immediately available for issuance to or reservation by other taxpayers in accordance with these administrative rules.

(11) No tax credits or tax credit certificates shall be issued with respect to reserved tax credits until the Film and Video Office receives sufficient contributions to support issuance of tax credits and tax credit certificates with respect to the reserved tax credits. The Film and Video Office shall issue tax credit certificates to the taxpayer with respect to reserved tax credits within 45 days after the Film and Video Office's receipt of verification from the Oregon Economic and Community Development Department of receipt of sufficient contributions to support issuance of the reserved tax credits.

Stat. Auth: ORS 284.335 & 315.514

Stats. Implemented: ORS 315.514

Hist: