

15 AAC 20 is amended by adding a new section to read:

15 AAC 20.160. Film production tax credit.

(a) Upon notice of qualification from the Alaska Film Office of the Department of Commerce, Community and Economic Development, the department will issue a film production tax credit.

The credit

- (1) may be utilized to offset taxes imposed under AS 43.20 (Alaska Net Income Tax);
- (2) expires three years from the date of initial issue by the department;
- (3) is transferable.

(b) Under AS 43.98.030(e), a film production tax credit certificate must be used to offset taxes under AS 43.20 within three years from the date of initial issue shown on the credit certificate.

The credit may be claimed against the taxes due of the current holder as listed on the credit certificate issued by the department or against the taxes due of the Alaska consolidated group which includes the current certificate holder. The certificate holder must take the credit on one or more of its Alaska Corporation Net Income Tax Returns for a tax period that includes the date of initial issue through the expiration date of the certificate as identified by the department on the certificate. A copy of the tax credit certificate issued by the department must be attached to the tax return on which the credit is claimed.

(c) Transfer of a film production tax credit allowed under AS 43.98.030(b) must be approved by the department. The department will approve a request for transfer of a film production tax credit upon receipt of a request for transfer. The request for transfer must be accompanied by the original credit certificate, be made on a form or in a format prescribed by the department, and include

- (1) the number assigned by the department of the credit certificate being transferred;
- (2) the transferor's name, address and federal identification number;
- (3) the transferee's name, address and federal identification number;
- (4) the date of the transfer;
- (5) the amount of the credit being transferred; and

(6) if the transferor is the producer, a sworn certification that neither the producer nor the production is the subject of an investigation or administrative proceeding concerning alleged violations by the producer or the production of the laws or regulations of this state, and that neither the producer nor the production is involved in a legal action filed in a federal court or a court in this state concerning alleged violations by the producer or the production of the laws or regulations of this state.

(d) The department shall deny a request for transfer if

- (1) the requestor does not provide all information required by the department or
- (2) the requestor is the producer and there are
 - (i) filed, but unresolved, legal actions in the state involving the producer or the production or

(ii) outstanding liabilities due to the state or a political subdivision of the state as a result of damages caused by an act or omission of the producer or production.

(e) Upon approval of the request for transfer, the department will issue a credit certificate to the transferee. The department will also issue a credit certificate to the transferor to the extent that the transferor retains a portion of the film production tax credit. The transfer of the credit in whole or in part does not extend the three-year period in which the credit can be used under AS 43.98.030(a) and subsection (c) of this section.

(f) In cooperation with the Alaska Film Office, the department may reduce the amount of the tax credit issued to a producer under AS 43.98.030(a) in whole or in part in accordance with AS 44.33.235(f) through (h) and 44.33.237. The department may not reduce the amount of a film production tax credit transferred in an arm’s length transaction under (d) of this section. In this section, “arm’s length transaction” means a transaction in which the transferor and transferee act independently and have no relationship to each other.

(Eff. __/__/____, Register __)

Authority:	AS 43.98.030	AS 44.33.231	AS 44.33.232	AS 44.33.235
	AS 44.33.237	AS 44.33.238		