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### OFFICE OF THE LIEUTENANT GOVERNOR ALASKA

#### MEMORANDUM

TO:

Ginger Blaisdell, AAC Contact

Department of Revenue

FROM:

Special Assistant

907.465.4081

DATE:

November 22, 2010

RE:

Filed Permanent Regulations: Department of Revenue

film production tax credit: 15 AAC 20.260

Attorney General File:

JU2009200892

Regulation Filed:

11/22/2010

Effective Date:

12/22/2010

Print:

196, January 2011

cc with enclosures:

Linda Miller, Department of Law

Jim Pound, Administrative Regulation Review Committee

Judy Herndon, LexisNexis

## ORDER ADOPTING CHANGES TO REGULATIONS OF THE DEPARTMENT OF REVENUE

The attached three pages of regulations, dealing with the film production tax credit, are adopted and certified to be a correct copy of the regulation changes that the Department of Revenue adopts under the authority of AS 43.98 and after compliance with the Administrative Procedure Act (AS 44.62), specifically including notice under AS 44.62.190 and 44.62.200 and opportunity for public comment under AS 44.62.210.

This action is not expected to require an increased appropriation.

In considering public comments, the Department of Revenue paid special attention to the cost to private persons of the regulatory action being taken.

The regulation changes adopted under this order take effect on the 30th day after they have been filed by the lieutenant governor as provided in AS 44.62.180.

DATE: ///5/10 Anchorage, Alaska

Tax Division

Department of Revenue

FILING CERTIFICATION

I, Craig E. Campbell, Lieutenant Governor for the State of Alaska, certify that on November 72, 2010, at 1.38p.m., I filed the attached regulations according to the provisions of AS 44.62.040 - 44.62.120.

Lieutenant Governor Graig E. Campbell

Effective: December 22, 2010 Register: 196, January. 2011

# State of Alaska

Department of Revenue Office of the Commissioner Patrick S. Galvin



### SARAH PALIN, GOVERNOR

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Juneau, Alaska 99811-0405 Phone: (907) 465-2350

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### DELEGATION OF AUTHORITY

In accordance with AS 44.17.010, the authority and responsibility for adopting regulations under the Alaska Administrative Procedure Act for the following is hereby delegated to Marcia Davis, Deputy Commissioner, and Jonathan Iversen, Tax Division Director when I am unavailable:

Alaska Net Income Tax Act (AS 43.20),

Estate Tax (AS 43.31),

Motor Fuel Tax (AS 43,40),

Tobacco Taxes and Sales (AS 43.50),

Transportation Taxes (AS 43.52),

Oil and Gas Production Taxes and Oil Surcharge (AS 43.55),

Oil and Gas Exploration, Production and Pipeline Transportation

Property Taxes (AS 43.56),

Excise Tax on Alcoholic Beverages (AS 43.60),

Mining License Tax (AS 43.65)

Fisheries Business License and Taxes (AS 43.75),

Fisheries Taxes and Assessments (AS 43.76)

Fishery Resource Landing Tax (AS 43.77),

Tire Fees (AS 43.98.025)

Games of Chance and Contests of Skill (AS 05.15),

Unclaimed Property (AS 34.45)

SIGNED:

Patrick S. Galvin

Commissioner

Department of Revenue

SIGNED AND SWORN TO BEFORE ME THIS 18TH DAY OF JULY, 2008

STATE OF ALASKA OFFICIAL SEAL Lacy Wilcox NOTARY PUBLIC My Commission Expires With Office SIGNED

Notary Public in and for the

State of Alaska /

MY COMMISSION EXPIRES: With office

# FOR DELEGATION OF THE LIEUTENANT GOVERNOR'S AUTHORITY

I, CRAIG E. CAMPBELL, LIEUTENANT GOVERNOR OF THE STATE OF ALASKA, designate the following state employee to perform the Administrative Procedures Act filing functions of the Office of the Lieutenant Governor:

SCOTT CLARK, Special Assistant

IN TESTIMONY WHEREOF, I have signed and affixed the Seal of the State of Alaska, at Juneau, on February 23, 2010.

OF THE STATE OF ALAS A

CRAIG E. CAMPBÉLL LIEUTENANT GOVERNOR Register Manuary 2011

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

- **15 AAC 20.260. Film production tax credit.** (a) Upon notification from the film office of the award, under AS 44.33.231 44.33.239 and 3 AAC 188, of a film production tax credit to a producer, and as provided under AS 43.98.030, the department will issue the producer a film production tax credit certificate.
- (b) To use a film production tax credit provided under AS 43.98.030 to offset taxes imposed under AS 43.20 (Alaska Net Income Tax Act), the current holder of the film production tax credit certificate must use the credit no later than three years after the date on which the department initially issued the certificate. On the certificate, the department will identify the date of initial issuance and the expiration date. The current holder must take the credit on one or more of the returns required under AS 43.20 for a tax period that occurred, in whole or in part, no earlier than the date on which the department initially issued the certificate and no later than the date on which the certificate expires. The current holder must attach a copy of the certificate to the tax return on which the credit is claimed.
- (c) Transfer under AS 43.98.030(b) of a film production tax credit is subject to department approval under this subsection and (d) of this section. To request approval, the transferor must
- (1) make a request for transfer on a form or in a format prescribed by the department, and must include on the request
  - (A) the number assigned by the department of the film production tax credit certificate being transferred;
    - (B) the transferor's name, address, and federal tax identification number;

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- (C) the transferee's name, address, and federal tax identification number;
- (D) the date of the transfer; and
- (E) the amount of the credit being transferred;
- (2) include with the request the original film production tax credit certificate; and
- (3) include with the request, 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 will approve a request for transfer if
- (1) the transferor provides the information and items required under (c) of this section; and
  - (2) in the case of a transferor that is a producer, there is not
  - (A) a filed, but unresolved, legal action in the state involving the producer or production; or
  - (B) an outstanding liability 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 film production tax credit certificate to the transferee. The department will also issue a certificate to the transferor to the extent that the transferor retains a portion of the film production tax credit. The

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transfer of the credit in whole or in part does not extend the three-year period during which the credit may be used.

- (f) A film production tax credit is subject to reduction, withholding, or recovery under AS 44.33.235(f) (h) and 44.33.237. However, the department will not reduce the amount of a credit transferred in a transaction in which the transferor and transferee act independently and do not have a relationship to each other.
  - (g) In this section,
    - (1) "film office" has the meaning given in AS 44.33.239;
- (2) "producer" has the meaning given in AS 44.33.239. (Eff. <u>\*12.122.1201</u>) Register 196)

Authority:

AS 43.05.080

AS 43.98.030