

15 AAC 20.260 is amended 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, **transfer date, if applicable,** and the expiration date. **If the** [THE] current holder **is the first person to whom the certificate was issued,** [MUST TAKE] the credit **may be taken** 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. **If the current holder acquired the certificate through a transfer, the credit may be taken 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 transferred the certificate to the current holder and no later than the date on which the certificate expires.** The current holder must attach **the original** [A COPY OF THE] certificate to the tax return on which the credit is claimed. **If the original certificate is lost, stolen or misplaced, an affidavit signed under penalty of perjury stating that the original certificate was lost, stolen or misplaced must be attached 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;

(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 **or, if the original certificate is lost, stolen, or misplaced, an affidavit signed under penalty of perjury stating that the original certificate was lost, stolen, or misplaced;** 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 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. \_\_\_/\_\_\_/\_\_\_,

Register \_\_\_)

**Authority:** AS 43.05.080 AS 43.98.030