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OVERVIEW & INSTRUCTIONS

22-27% Motion Picture, Digital Media, and Film Production Income Tax Credit

Note: Act 217, Session Laws of Hawaii 2022 (Act 217), is effective for taxable years beginning January 1, 2023, and applies to any production whose tax year begins after December 31, 2022. The Hawaii Department of Taxation Tax Announcement 2019-15 Hawaii Administrative Rules (HAR) relating to §235-17 HRS, the motion picture, digital media, and film production income tax credit as amended by Act 217, Act 143, and Act 275 (film tax credit) still offer guidelines to the statute. Please review these HAR carefully as they supersede all other instructions for the film tax credit program including any previously issued Tax Information Releases. The overall annual spending cap referred to in TIR 2019-01 remains at \$50M however the per production credit cap has been increased per Act 217 to \$17M per production.

BEFORE PRODUCTION:

- Review [Appendix A](#)**, Overview of 22-27% Motion Picture, Digital Media, and Film Production Income Tax Credit (Hawaii Revised Statutes (HRS) §235-17).
- Review** proposed HAR relating to film tax credit.
- Obtain** a Certificate of Authority to conduct business activities from the Hawaii Department of Commerce & Consumer Affairs (DCCA) (See HAR §18-235-17-03).
- Obtain** a General Excise Tax (GET) License from the Department of Taxation (DOTAX) for filing entity and any Loan-outs associated with production (See HAR §18-235-17-03).
- Distribute**, within 30 days after engagement, the Hawaii Tax Advisory to every nonresident employee, contractor, vendor, loan-out company, or other agent providing goods or performing services in Hawaii, and who do not have an active general excise tax license, explaining their tax obligations while working in the state of Hawaii. Make sure tax advisories are signed and returned to production company. (See HAR §18-235-17-18 and NEW – Tax Advisory – 2022 (12-23-22) dated December 23, 2022).
- Submit "[Production Registration Form \(PRF\)](#)" or the "[Split Year – Production Registration Form \(PRF\)](#) via [DBEDT PRODUCTION TAX CREDIT HUB \(ehawaii.gov\)](#)**. PRF must be submitted at least seven (7) days prior to first Hawaii shoot date.)
 - The Hawaii Film Office will email you an acknowledgement of receipt of your form, and if applicable, notify you whether the information you request to remain confidential will be disclosed or withheld.

DURING PRODUCTION:

- Obtain** the GET license number of ALL contractors, vendors, loan-out companies, or other agents providing goods or performing services in Hawaii. This information must be submitted with Hawaii Production Report via [DBEDT PRODUCTION TAX CREDIT HUB \(ehawaii.gov\)](#). Payments to vendors, loan-out companies, or other agents providing goods or performing services in Hawaii without GET license number may not be claimed as qualified production costs.
- If claiming costs of imported products or services as qualified production costs, complete a Sworn Statement** certifying that reasonable efforts were made to procure the products and services locally before procuring comparable products and services from outside the state of Hawaii. Use Tax must be paid on the imported products and services, and proof of those payments must be included with the Sworn Statement and submitted with the Hawaii Production Report (HPR).
- Make reasonable efforts to hire local Hawaii talent and crew. See §18-235-17-16 HAR for requirements.**
Below is a list of local film union chapters:
 1. Hawaii Teamsters and Allied Workers Local 996: (808) 847-6633
 2. International Alliance of Theatrical Stage Employees (IATSE) Local 665: (808) 596-0227
 3. International Brotherhood of Electrical Workers (IBEW) Local 1260: (808) 941-9445
 4. Musicians' Association of Hawaii Local 677: (808) 596-2121
 5. Screen Actors Guild (SAG-AFTRA): (808) 596-0388
- Make an educational or workforce development contribution.**
 - Make a financial or in-kind contribution to the arts or digital media program of a Hawaii public school or work with a local labor union chapter toward developing the workforce in Hawaii's film, television, and digital media

industries. NOTE: According to the temporary HAR, the contribution level has increased and is now 0.1% of qualified Hawaii expenditures per project, or \$1,000 whichever is greater. (HAR §18-235-17-17) See [Appendix B](#), Acceptable Workforce Development Contributions, for details.

AFTER PRODUCTION:

- **Although we encourage filers to consider a third-party CPA review, effective January 1, 2023, no AUPR is required per Act 217 SLH 2022. We encourage** a production company to submit to the Hawaii Film Office a verification review together with their Hawaii Production Report. A verification review is a report prepared by a qualified certified public accountant licensed to provide accounting services in the State of Hawaii that does not have an ownership or pecuniary interest in the taxpayer (See HRS §235-17(h), and HAR §18-235-17-14).

- **Submit "[Hawaii Production Report \(HPR\)](#)" via [DBEDT PRODUCTION TAX CREDIT HUB \(ehawaii.gov\)](#)** w/backup documentation (see expenditure report templates at [www.filmoffice.hawaii.gov/incentives-tax-credits](#) for level of detail required), **Hawaii vendor list, crew list, petty cash back up** and any other required deliverables to Hawaii Film Office no later than 90 days following the end of each taxable year in which qualified production costs were expended.
 - Keep all your Hawaii receipts, invoices, and other expenditure records for verification purposes and in case of tax audit.
 - Allow ample time before your tax filing deadline for the Hawaii Film Office to process your Report and issue a certification letter to you.
 - If your production is eligible for credit, the Hawaii Film Office will send a credit certification letter to you. If applicable, the Hawaii Film Office will also notify you whether the information you request to remain confidential will be disclosed or withheld.

- **Submit 0.2% Payment to HFO via [DBEDT PRODUCTION TAX CREDIT HUB \(ehawaii.gov\)](#).**
 - Once the HPR is approved, payment will need to be made online before a certificate is issued.
 - Once the payment is submitted and certified, a certificate is issued for that production and the process is completed.

- **File [Certification Letter and Tax Forms](#) with the Hawaii Department of Taxation**
 - File a copy of the certification letter with the following tax forms on or before the prescribed deadline for the filing of your Hawaii income taxes:
 - Hawaii State Income Tax Return
 - Form N-340, Motion Picture, Digital Media, and Film Production Income Tax Credit
 - Schedule CR, Schedule of Tax Credits
 - >> Hawaii tax forms and instructions can be found at: <http://tax.hawaii.gov/forms/>
 - >> If you have multiple qualifying productions in any taxable year, please aggregate on a single form the qualified production costs for which you are claiming the credit.
 - Note: Once the certificate letter has been issued and tax return filed, the Department of Taxation will be reviewing your credit eligibility and, in some cases, perform an audit.

Deadline: All claims, including any amended claims, must be filed on or before the end of the 12th month following the close of the taxable year for which the tax credit may be claimed. Failure to comply with the 12-month filing requirement constitutes waiver of the right to claim the credit. Waiver of the credit due to an untimely claim is final and cannot be appealed. The Department of Taxation has no authority to suspend or waive this provision (See HRS §235-17(c), and HAR §18-235-17-06).

- **Provide End Credit or the Like to State of Hawaii**
 - See [Appendix C](#), Format Guidelines for Providing End Credit to the State of Hawaii

- **Provide DVD Copy of Production or screener link and Electronic Press Kit** (if one exists) to Hawaii Film Office

IMPORTANT NOTE: Be sure to use the appropriate Production Registration Form (PRF), especially if filing for a split tax year.

TIMELINE FOR CLAIMING THE CREDIT

22-27% Motion Picture, Digital Media, and Film Production Income Tax Credit

At least seven business days prior to first Hawaii shoot date: **Submit completed "Production Registration Form" via [DBEDT PRODUCTION TAX CREDIT HUB \(ehawaii.gov\)](http://DBEDT.PRODUCTION.TAX.CREDIT.HUB.ehawaii.gov)**



Approx. 2-3 weeks after we receive your "Production Registration Form":
Hawaii Film Office will mail you an acknowledgement of receipt of your form + if applicable, notify you whether the information you request to remain confidential will be disclosed or withheld.



Shoot your project and make your workforce development contribution
(Submit "Workforce Development Contribution Report"—section 14, pp.4-5 of "Hawaii Production Report"—to school or union official to verify, sign, and return to you)



No later than 90 days following the end of each taxable year in which qualified production costs were expended

Submit completed "Hawaii Production Report" + detailed Hawaii expenditure report, Hawaii vendor list with GET License numbers + payroll log + crew list + petty cash list + end credit screen grab and any other required deliverables via [DBEDT PRODUCTION TAX CREDIT HUB \(ehawaii.gov\)](http://DBEDT.PRODUCTION.TAX.CREDIT.HUB.ehawaii.gov)
Approx. 3 – 9 months after we receive your "Hawaii Production Report" and 0.2% fee has been paid via [DBEDT PRODUCTION TAX CREDIT HUB \(ehawaii.gov\)](http://DBEDT.PRODUCTION.TAX.CREDIT.HUB.ehawaii.gov)



(ehawaii.gov) :
Filer will receive certification letter + if applicable, notify you whether the information you request to remain confidential will be disclosed or withheld via [DBEDT PRODUCTION TAX CREDIT HUB \(ehawaii.gov\)](http://DBEDT.PRODUCTION.TAX.CREDIT.HUB.ehawaii.gov)



On or before the prescribed deadline for the filing of your Hawaii income taxes:
Submit the following forms to the Department of Taxation:

- (1) Hawaii State Income Tax Return**
- (2) Form N-340, Motion Picture, Digital Media, and Film Production Income Tax Credit**
- (3) Schedule CR, Schedule of Tax Credits**
- (4) Copy of credit certification letter from Hawaii Film Office**

(Deadline: All claims, including any amended claims, must be filed on or before the end of the 12th month following the close of the taxable year for which the tax credit may be claimed. Failure to comply with the 12-month filing requirement constitutes waiver of the right to claim the credit.)



If the credit exceeds your income tax liability, the excess of credits over liability shall be refunded to you in the form of a check or directly deposited into your bank account



Provide end credit or the like to State of Hawaii and Provide DVD copy of production, screener link and electronic press kit (if one exists) to Hawaii Film Office

Appendix A:

Overview of 22-27% Motion Picture, Digital Media, and Film Production Income Tax Credit

The Motion Picture, Digital Media, and Film Production Income Tax Credit is a refundable income tax credit based on a production company's Hawaii expenditures while producing a qualified film, television, commercial, or digital media project.

What is the tax credit?

- The credit is calculated as a percentage of "qualified production costs" incurred in Hawaii
- The credit shall be claimed against the Hawaii taxpayer's net income tax liability for the taxable year in which the credit is properly claimed
- If the credit exceeds net income tax liability, the excess of credits over liability shall be refunded
- The credit was initially established by Act 88 in 2006, and was amended by Act 89 in 2013, and was further amended by Act 143 in 2017 applicable to taxable years beginning January 1, 2019.
- The credit is administered by the Hawaii Film Office and the Hawaii Department of Taxation

How much is the tax credit?

- 22% of total "qualified production costs" incurred while filming on Oahu
- 27% of total "qualified production costs" incurred while filming on a neighbor island
- There is a \$17 million credit cap per "qualified production"

What changes were made to the law as part of Act 143?

- An overall annual spending ceiling of \$50 million was imposed with the ability to claim from the subsequent year once the \$50 million aggregate cap has been reached.
- All productions claiming the credit regardless of size must secure a third-party review by a qualified CPA firm at the production's expense. The fees for the third-party review are considered a qualified production cost so long as the cost of the review is subject to Hawaii state tax. Qualified CPAs must be licensed to practice in the state of Hawaii.
- Before claiming the costs of products or services imported from outside the state as qualified production costs, productions must affirm by sworn statement that they were unsuccessful at procuring those items locally. Productions must also provide proof that Hawaii use tax was paid on the costs of products or services imported from outside Hawaii in order to claim those costs as qualified production costs.

Who is eligible for the tax credit?

- A company that produces a "qualified production" that spends a minimum of \$100,000 in "qualified production costs" in Hawaii, and can be categorized as one of the following:
 - Feature film (narrative, documentary, experimental, student)
 - Short film (narrative, documentary, experimental, student)
 - Television movie
 - Commercial (an advertising message filmed within 6 consecutive weeks in Hawaii for dissemination via television broadcast or theatrical distribution)
 - Music video
 - Interactive game
 - Television series pilot
 - Single season (up to 22 episodes) of a television series regularly filmed in the State (if the number of episodes per single season exceeds 22, additional episodes for the same season shall constitute a separate "qualified production")
 - Television special
 - Single television episode that is not part of a TV series regularly filmed or based in the State
 - National magazine show
 - National talk show
 - Productions (other than advertising) with Internet-only distribution.

Which "qualified production costs" are used in calculating the credit amount?

- "Qualified production costs" must meet all of the following requirements:
 - Costs that are incurred in Hawaii
 - Costs that are subject to Hawaii's general excise tax or income tax
 - Costs that belong to the following general categories (not an exhaustive list):
 - (1) Costs incurred during preproduction, such as location scouting and related services;
 - (2) Costs of set construction and operations, purchases or rentals of wardrobe, props, accessories, food, office supplies, transportation, equipment, and related services;
 - (3) Wages or salaries of cast, crew, and musicians;
 - (4) Costs of photography, sound synchronization, lighting, and related services;
 - (5) Costs of editing, visual effects, music, other post-production, and related services;
 - (6) Rentals and fees for use of local facilities and locations;
 - (7) Rentals of vehicles and lodging for cast and crew;
 - (8) Airfare for flights to or from Hawaii, and interisland flights;
 - (9) Insurance and bonding;
 - (10) Shipping of equipment and supplies to or from Hawaii, and interisland shipments; or
 - (11) Fees for state and county facilities and locations.
- For more detailed information on specific "qualified production costs," please see the FAQ about the 22-27% Credit (<http://filmoffice.hawaii.gov/incentives-tax-credits/>),
 - **Tax Information Release (TIR) No 2019-01 which includes proposed Hawaii Administrative Rules relating to the Motion Picture, Digital Media, and Film Production Income Tax Credit**
<http://filmoffice.hawaii.gov/tir-2019-01/>

Are there additional requirements for claiming the tax credit?

- During production, a "qualified production" must:
 - Demonstrate reasonable efforts to hire local talent and crew. Such efforts must be reported on the "Hawaii Production Report".
 - Make financial or in-kind contributions or educational or workforce development efforts, in partnership with related local industry labor organizations, educational institutions, or both, toward the furtherance of the local film and television and digital media industries. Such contributions must be reported on the "Hawaii Production Report." **NOTE:** The level of this contribution has increased and is non-refundable even if the production ultimately does not qualify to claim the tax credit.
 - If claiming costs of imported products or services as qualified production costs, complete a Sworn Statement certifying that reasonable efforts were made to procure the products and services locally before procuring comparable products and services from outside the state of Hawaii. Pay Hawaii's use tax on the imported products and services and include proof of payment with the Sworn Statement.
- Provide a screen credit or the like to the State of Hawaii, if applicable.
- Provide a DVD copy of the production and an electronic press kit (if one exists) to the Hawaii Film Office.

Who is NOT eligible for the tax credit?

- Productions that spend less than \$100,000 in Hawaii
- Productions that can be categorized as one of the following (not an exhaustive list):
 - Daily news
 - Public affairs programs
 - Non-national magazine or talk shows
 - Televised sporting events or activities
 - Productions that solicit funds
 - Productions produced primarily for industrial, corporate, institutional, or other private purposes
 - Pornography

How is the credit claimed?

- At least one week prior to the first Hawaii shoot date, a "qualified production" must register with the Hawaii Film Office by submitting a "Production Registration Form."
- No later than 90 days following the end of each taxable year in which "qualified production costs" were expended, a "qualified production" must submit a "Hawaii Production Report," detailed Hawaii expenditure report, Hawaii

vendor list, and final crew list to the Hawaii Film Office. If, based on the information provided, the applicant qualifies for the credit, the Film Office will issue a credit certification letter to the applicant. Note: Once the certificate letter has been issued and tax return filed, the Department of Taxation will be reviewing your credit eligibility and, in some cases, perform an audit.

- The applicant must then submit the following forms to the Department of Taxation on or before the prescribed deadline for the filing of your Hawaii income taxes: (1) Hawaii State Income Tax Return, (2) Form N-340, Motion Picture, Digital Media, and Film Production Income Tax Credit, (3) Schedule CR, Schedule of Tax Credits, and (4) Copy of credit certification letter from Hawaii Film Office. (Deadline: All claims, including any amended claims, must be filed on or before the end of the 12th month following the close of the taxable year for which the tax credit may be claimed. Failure to comply with the 12-month filing requirement constitutes waiver of the right to claim the credit. Tax forms can be found at: <http://tax.hawaii.gov/forms/>)

How will I receive my credit?

- The credit shall be claimed against the net income tax liability for the taxable year. "Net income tax liability" means net income tax liability reduced by all other credits allowed under Hawaii income tax law.
- If the credit exceeds your income tax liability, the excess of credits over liability shall be refunded to you, provided that no refunds or payment on account of the credits shall be made for amounts less than \$1.

(It usually takes the Department of Taxation approximately 2-3 months to process the returns and issue the credit.)

Statutory and Tax References:

- Statute: HRS §235-17 (Established by Act 88 Session Laws of Hawaii (SLH) 2006, amended by Act 89 SLH 2013 and further amended by Act 143 SLH 2017 and Act 275 SLH 2019)
http://www.capitol.hawaii.gov/hrscurrent/Vol04_Ch0201-0257/HRS0235/HRS_0235-0017.htm
<https://filmoffice.hawaii.gov/wp-content/uploads/2018/12/ACT-143-2019.pdf>
*http://www.capitol.hawaii.gov/session2017/bills/HB423_CD1_.HTM
- Newly adopted Hawaii Administrative Rules
http://files.hawaii.gov/tax/legal/har_temp/Film_Rules_STANDARD_eff_191117.pdf
- General: Department of Taxation: <http://tax.hawaii.gov/>

For further information, contact the Hawaii Film Office at 808-586-2570 or incentives@hawaiifilmoffice.com or the Hawaii Department of Taxation's Rules Office at 808-587-1530 or Tax.Rules.Office@hawaii.gov

