

**2008 Motion Picture Credits**

**CONTACTS FOR MOTION PICTURE PRODUCTION  
TAX INCENTIVES PROGRAM**

**Department of Commerce**

•Application forms •Program guidelines

Internet home page: [www.azcommerce.com](http://www.azcommerce.com)

Motion Picture Program Administrator (602) 771-1100

**Department of Revenue**

•tax forms and instructions •information and assistance

Internet home page: [www.azdor.gov](http://www.azdor.gov)

Taxpayer assistance (602) 255-3381

From area codes 520 and 928, toll-free (800) 352-4090

Form Orders (602) 542-4260

Hearing impaired TDD user

Phoenix (602) 542-4021

From area codes 520 and 928, toll-free (800) 397-0256

**General Instructions**

**Credit for Motion Picture Production Costs**

ARS §§ 43-1075 and 43-1163 provide transferable individual and corporate income tax credits against tax liabilities for motion picture production companies that produce motion pictures completely or partially in Arizona. "Motion picture" is defined as a single medium or multimedia program including commercials, music videos or a television series. The credit is effective from and after December 31, 2005 through December 31, 2010.

The credit is based on a percentage of motion picture production costs that a motion picture production company has in Arizona that are directly attributable to the production of the motion picture in Arizona.

The tax credit is in lieu of a deduction for the expenses for which the credit is claimed. An addition to Arizona gross income is required for the amount of the expenses included in the computation of federal taxable income for which the Arizona tax credit is claimed. For example, if a taxpayer computes its \$30,000 credit on \$100,000 of expenses, the taxpayer must add \$100,000 to federal taxable income.

A taxpayer who claims a credit for motion picture production costs must not claim a credit for motion picture infrastructure projects for the same costs. No credit will be allowed to any taxpayer who has a delinquent tax balance owed to the Department of Revenue.

In order to obtain the credit for motion picture production costs, a motion picture production company must apply for and receive pre-approval from the Department of Commerce. Once pre-approval is received, the motion picture production company must incur at least \$250,000 in production costs in Arizona for each motion picture. Expenses incurred prior to the notice of pre-approval do not

qualify as production costs. Finally, the motion picture production company must obtain post-approval from the Department of Commerce prior to claiming the credit. The credit may be claimed on the first tax return due after the post-approval has been received from the Department of Commerce, but not before the tax year of the pre-approval ("allocation year"). The allocation year is the calendar year to which the credit was applied to the annual credit cap. This date will be noted on the post-approval document received from the Department of Commerce. For example, Company A, a motion picture production company, is a calendar year filer. Company A received pre-approval from the Department of Commerce for producing Motion Picture B on March 10, 2006, and received its post-approval on March 16, 2008. Because the credit is allocated to the year in which the credit is applied to the cap, Company A's credit is allocated to 2006, and 2006 is the first year of the credit. However, because Company A must claim the credit on the first return due after the post-approval, the first year in which Company A may claim the credit is 2007.

**NOTE:** *The credit for motion picture production costs must be claimed on a timely filed original income tax return, including extensions. Therefore, the credit may not be claimed on an amended return.*

When the motion picture production company first applies for qualification with the Department of Commerce, it must provide details about the production and its Arizona activities. The Department of Commerce will review the information and issue a pre-approval to the motion picture production company if it appears that it may qualify for the tax incentives. The pre-approval will include the potential amount of credit that the company may claim if it continues to meet all eligibility criteria and obtains Department of Commerce post-approval after the motion picture is complete. The credit a taxpayer may claim can never exceed the amount that the Department of Commerce pre-approved.

Only a motion picture production company that demonstrates that it has the lawful right to produce a particular production may apply for pre-approval for the credit.

**NOTE:** *The production company must submit a copy of the post-approval document from the Department of Commerce with Form 334 when claiming the credit.*

The motion picture production company must employ Arizona residents in its Arizona production activities. The percentages of full-time production employees working in Arizona that must be Arizona residents are as follows:

2006	25% of full-time employees
2007	35% of full-time employees
2008 through 2010	50% of full-time employees

To obtain more information about how to qualify for the credit for motion picture production costs, contact the Department of Commerce using the contact information shown in the box at left.

## Credit for Motion Picture Infrastructure Projects

ARS §§ 43-1075.01 and 43-1163.01 provide transferable individual and corporate income tax credits against tax liabilities for investments in motion picture infrastructure projects in Arizona. The credit is effective from and after October 31, 2007 through December 31, 2010.

The amount of the credit is fifteen per cent of the total base investment in the project in Arizona. The tax credit is in lieu of a deduction for the expenses for which the credit is claimed. An addition to Arizona gross income is required for the amount of the expenses included in the computation of federal taxable income for which the Arizona tax credit is claimed.

A taxpayer who claims a credit for motion picture infrastructure projects must not claim a credit for motion picture production costs for the same costs. No credit will be allowed to any taxpayer who has a delinquent tax balance owed to the Department of Revenue.

In order to obtain a credit for motion picture infrastructure projects, a taxpayer must apply for and receive pre-approval from the Department of Commerce. The applicant must be the person who will own and operate the infrastructure project. The infrastructure projects are divided into two categories: (1) soundstage or (2) support and augmentation facilities.

Once pre-approval is received for a soundstage, the applicant must incur at least \$250,000 in project costs in Arizona within ninety days, an additional \$1,000,000 in project costs in Arizona within twelve months, and a total of \$5,000,000 in project costs in Arizona within thirty-six months.

Once pre-approval is received for support and augmentation facilities, the applicant must incur at least \$250,000 in project costs in Arizona within ninety days and a total of \$1,000,000 in project costs in Arizona within thirty-six months.

When the applicant first applies for pre-approval with the Department of Commerce, it must provide details about the infrastructure project in Arizona. The Department of Commerce will review the information and issue a pre-approval to the applicant if it appears that it may qualify for the tax incentives. The pre-approval will include the potential amount of credit that the company may claim if it continues to meet all eligibility criteria and obtains Department of Commerce post-approval after the infrastructure project is complete. The credit a taxpayer may claim can never exceed the amount that the Department of Commerce pre-approved.

Upon completion of the motion picture infrastructure project, the pre-approved applicant must apply to the Department of Commerce for post-approval. The credit may only be claimed in the tax year in which it is earned. The credit is earned upon post-approval. For example, if the infrastructure project was post-approved by the Department of Commerce on October 1, 2008, a calendar year taxpayer would claim the credit on its 2008 return.

After receiving post-approval, a company and all persons signing the application for pre-approval may be disqualified from receiving future credits for motion

picture infrastructure projects if the applicant fails to submit a report to the Department of Commerce within eighteen months of post-approval that includes:

- a list of activities and productions conducted at the project in the twelve months following post-approval;
- the amount of any additional capital investment; and
- any changes to or improvements made to the project since the date of post-approval.

**NOTE:** *The company must submit a copy of the post-approval document from the Department of Commerce with Form 334 when claiming the credit.*

To obtain more information about how to qualify for the credit for motion picture infrastructure projects, contact the Department of Commerce using the contact information shown in the box on the previous page.

## Credit Transfer

### Form 334-1 - Schedule of Credit Transfers

Arizona law allows you to obtain either of the credits from other entities, and to transfer your credits to other entities. Use Form 334-1 to record transfers you made to, and received from, other entities.

Check a box to indicate the year the credit was originated. Check only one box. Complete a separate Form 334-1 for transfers related to each year. For example, if the taxpayer is transferring production cost credits from both 2007 and 2008, the taxpayer would complete one Form 334-1 for 2007 and complete a separate Form 334-1 for 2008.

Check the box to indicate to which credit this form applies. Check only one box. Complete a separate Form 334-1 for transfers related to each credit. For example, if the taxpayer is transferring both a production costs credit and an infrastructure project credit, the taxpayer would complete one Form 334-1 for the production costs credit and complete a separate Form 334-1 for the infrastructure project credit.

Complete Part I to record the credits you have received as transfers from other entities. If you received a credit as a transfer directly from the entity that originated the credit, enter the name and TIN of the originating entity in column (a). In column (b), write "same as transferor." If you received the credit from an entity other than the originating entity, enter that entity information in column (a), and the information of the originating entity in column (b).

Complete Part II to record the credits you transferred to others this tax year. In column (h), enter any credit balance you have remaining on a credit you transferred to someone else. If you have no balance remaining, write zero in column (h).

**NOTE:** *Both the transferor and transferee must report transfers to the department within thirty days of the transfer. Transferors file Form 334-O while transferees file Form 334-E. Do not file the forms with Form 334. Instead, file them to this address: Arizona Department of Revenue, Office of Economic Research and Analysis, PO BOX 25248, Phoenix, AZ 85002.*

## Carryover Periods

These credits may be carried forward and used against not more than five consecutive taxable years' income tax liabilities.

### Credit for Motion Picture Production Costs

The carryover period for the credit for motion picture production costs is determined by the allocation year of the motion picture production company that originated the credit. The allocation year is the calendar year to which the credit was applied to the annual credit cap. This date will be noted on the post-approval document received from the Department of Commerce.

**Example 1:** Company C, a motion picture production company, is a calendar year filer. Company C received pre-approval from the Department of Commerce for producing Motion Picture D on January 3, 2006. Because the credit is allocated to the year the credit is applied to the annual credit cap, 2006 is the allocation year; 2006 is also the first year of the credit.

Company C received its post-approval for Motion Picture D on October 10, 2006. Company C claims the credit on the first return due after the post-approval, but not before the allocation year. The first year in which Company C may claim the credit is 2006. Because the carryforward period begins with the first year after the allocation year, 2007 is the first year of the carryover period.

If Company C transfers the credit to Company E during Company E's 2007 tax year (year one of the carryover period), Company E may use the credit to apply against its 2007 tax liability. If Company E transfers the credit in 2008 to Company F, Company F would be using the credit in the second carryover year. There would be three more consecutive calendar years remaining in the carryover period. A credit allocated to the 2006 annual credit cap can be carried forward through calendar year 2011.

**Example 2:** Company G, a motion picture production company, is a calendar year filer. Company G received pre-approval from the Department of Commerce for producing Motion Picture H on March 9, 2007. Because the credit is allocated to the year the credit is applied to the annual credit cap, 2007 is the allocation year; 2007 is also the first year of the credit.

Company G received its post-approval for Motion Picture H on March 16, 2009. Because Company G can claim the credit on the first return due after post-approval, the first year in which Company G may claim the credit is 2008. Because the carryforward period begins with the first year after the allocation year, 2008 will also be the first year of the carryover period.

If Company G transfers the credit to Company I during the Company I's 2009 tax year (year two of the carryover period), Company I may use the credit to apply against its 2009 tax liability. If Company I transfers the credit to Company J in 2010, then Company J would be using the credit in the third carryover year. There would be two more consecutive taxable years remaining in the carryover period. A credit allocated to the 2007 annual credit cap can be carried forward through calendar year 2012.

**NOTE:** *The credit for motion picture production costs must be claimed on a timely filed original income tax return, including extensions. Therefore, it may not be claimed on an amended return.*

### Credit for Motion Picture Infrastructure Projects

The carryover period for the credit for motion picture infrastructure projects is determined by the taxable year the credit is earned (post-approved) by the originating applicant.

**Example 1:** Company K is a calendar year filer. Company K received pre-approval from the Department of Commerce for Infrastructure Project L on February 15, 2008. Company K received post-approval on December 10, 2008. Company K claims the credit on its 2008 return. 2008 is the post-approval taxable year. Because the credit is established on Company K's 2008 income tax return, 2009 is the first year of the carryover period.

If Company K transfers the credit to Company M during Company M's 2009 tax year (year one of the carryover period), Company M may use the credit to apply against its 2009 tax liability. If Company M transfers the credit to Company N in 2010, Company N would be using the credit in the second carryover year. There would be three more consecutive calendar years remaining in the carryover period. A credit earned and established in calendar year 2008 can be carried forward through calendar year 2013.

**Example 2:** Company P is a calendar year filer. Company P received pre-approval from the Department of Commerce for Infrastructure Project Q on February 11, 2008. Company P received post-approval on December 22, 2010. Company P claims the credit on its 2010 return. 2010 is the post-approval taxable year. Because the credit is established on its 2010 income tax return, 2011 is the first year of the carryover period.

If Company P transfers the credit to Company R during Company R's 2011 tax year (year one of the carryover period), Company R may use the credit to apply against its 2011 tax liability. If Company R transfers the credit to Company S in 2012, Company S would be using the credit in the second carryover year. There would be three more consecutive calendar years remaining in the carryover period. A credit earned and established in calendar year 2010 can be carried forward through calendar year 2015.

## Credit Recapture

If the originating company or other transferor was not qualified or was disqualified from using the credit at the time of transfer, the department is required to either disallow the credit claimed by the transferee, or recapture the credit from the transferee. The department may require that the transferee file an amended return to recapture the credit. The transferee's recourse is against the transferor. The transferor of a disqualified credit should advise the transferees of the disqualification. A pass-through entity that has passed a disqualified credit through to its partners or shareholders should advise each partner or shareholder of their recapture amount.

The originating company may enter into a limited managed audit agreement with the department to confirm the credit amount. Contact the department's audit section for details.

## Specific Instructions

Complete the name and taxpayer identification number section at the top of the form. Indicate the period covered by the taxable year. Attach the completed form to the tax return.

All returns, statements, and other documents filed with the department require a taxpayer identification number (TIN). The TIN for a corporation, an S corporation, or a partnership is the taxpayer's employer identification number. The TIN for an individual is the taxpayer's social security number or an IRS individual taxpayer identification number. A taxpayer that fails to include its TIN may be subject to a penalty.

If you did not originate the credit, but received the credit as a transfer, skip Parts I, II, and III, and complete the remainder of Form 334. Also complete Form 334-1.

If you are not originating or claiming carryforwards for the credit for motion picture production costs, skip Parts II and VII, and complete the remainder of Form 334. Complete Form 334-1, if applicable.

If you are not originating or claiming carryforwards for the credit for motion picture infrastructure projects, skip Parts III and VIII, and complete the remainder of Form 334. Complete Form 334-1, if applicable.

### Part I - Individual who will Maintain Records of Expenditures in Arizona

In this area, write the name, address, and telephone number of the person who will keep the records of the expenditures the company has in Arizona. If more than one individual will keep the records, attach an additional schedule.

Your tax information on file with the department is confidential. The department cannot discuss your tax information with anyone else, unless you have authorized the department to release confidential information to that person. You may use Form 285 to authorize the department to release confidential information to the individual(s) you have named in Part I, or any appointee you choose. See Form 285 for details.

### Part II - Listing of Post-Approved Productions

#### Lines 1 through 4 -

In Part II, list all of your productions that the Department of Commerce post-approved that are eligible to be claimed on this year's tax return. Credits for motion picture production costs are eligible to be claimed on the first tax return due after the post-approval date, including extensions, but not before the allocation year tax return. Write the allocation year in column (a)1. The allocation year is the calendar year to which the credit was applied to the annual credit cap. This date will be noted on the post-approval document received from the Department of Commerce. The Department of Commerce has assigned each production a priority placement number, which should be the same on both pre-approval and post-approval documents. List this number in column (a)3.

If the company entered into a limited managed audit agreement, list the approved credit amount based on the

Motion Picture Tax Credit Certificate. Otherwise, enter the approved credit amount per the post-approval document.

If you do not have enough lines on the form to enter all of the productions eligible to be claimed this tax year, attach a schedule that shows all of the information Part II requires. Enter the total approved credit amount from all attached schedules on line 3. Add lines 1 through 3, and enter the total on line 4. This is the total credit for motion picture production costs originated this year.

If you are not claiming a credit for an infrastructure project, skip Part III. Complete Form 334-1 before completing Part IV and the rest of Form 334.

### Part III - Listing of Post-Approved Infrastructure Projects

#### Lines 5 through 8 -

In Part III, list all of your infrastructure projects that the Department of Commerce post-approved that are eligible to be claimed on this year's tax return. Credits for motion picture infrastructure projects are eligible to be claimed on the tax return of the tax year that includes the post-approval date. Write the taxable year the credit is earned based on the date the Department of Commerce post-approved the infrastructure project. The Department of Commerce has assigned each infrastructure project a priority placement number, which should be the same on both pre-approval and post-approval documents. List this number in column (a)3.

If you do not have enough lines on the form to enter all of the infrastructure projects eligible to be claimed this tax year, attach a schedule that shows all of the information Part III requires. Enter the total approved credit amount from all attached schedules on line 7. Add lines 5 through 7, and enter the total on line 8. This is the total credit for motion picture infrastructure projects originated this year.

Complete Form 334-1 before completing the rest of Form 334.

### FORM 334-1

#### Credit for Motion Picture Production Costs

Complete Form(s) 334-1; check the box to indicate the allocation year in which the credit was originated and that the form is for the credit for motion picture production costs. Refer to Form(s) 334-1 to determine amounts needed for Form 334, Part IV, lines 10 or 12 or Part VII, lines 31 or 34. List all transferred credits on Form(s) 334-1, but only include transferred credits from allocation year 2008 in Part IV on lines 10 or 12. Transferred credits from previous allocation years should be included in Part VII on lines 31 or 34. For example, if a taxpayer transfers a credit in the amount of \$50,000 established on its 2007 calendar year return, in addition to completing Form 334-1, Part II, the taxpayer would enter \$50,000 on Part VII, line 34, column (a). This amount would not be included in Part IV, line 12.

#### Credit for Motion Picture Infrastructure Projects

Complete Form(s) 334-1; check the box to indicate the taxable year in which the credit was earned and that the form is for the credit for motion picture infrastructure projects.

Refer to it to determine amounts needed for Form 334, Part IV, lines 15 or 17. List all transferred credits on Form(s) 334-1, but only include transferred credits that received post-approval in tax year 2008 in Part IV on lines 15 or 17. Transferred credits originated in previous tax years should be included in Part VIII on lines 40 or 43.

**NOTE:** *Since 2008 is the first year for this credit, there can be no transfers from a prior year. For the 2008 taxable year, do not enter any amount on lines 40 or 43.*

## FORM 334

### Part IV - Current Taxable Year's Credit Summary

#### Line 9 -

On line 9, enter the total credit for motion picture production costs you originated this year from Part II, line 4.

#### Line 10 -

Enter the total amount of credits for production costs you received from transferors for allocation year 2008 on line 10.

#### Line 11 -

Add lines 9 and 10, and enter the result on line 11.

#### Line 12 -

Enter the total amount of credits for production costs you transferred to others for allocation year 2008 on line 12.

#### Line 13 -

Subtract line 12 from line 11, and enter the result on line 13. This is your total current taxable year's credit for motion picture production costs. Transferred credits from previous allocation years should be included in Part VII on lines 31 or 34.

#### Line 14 -

On line 14, enter the total credit for motion picture infrastructure projects you originated this year from Part III, line 8.

#### Line 15 -

Enter the total amount of credits for infrastructure projects that you received from transferors that received post-approval in tax year 2008 on line 15.

#### Line 16 -

Add lines 14 and 15, and enter the result on line 16.

#### Line 17 -

Enter the total amount of credits for infrastructure projects that received post-approval in 2008 that you transferred to others on line 17.

#### Line 18 -

Subtract line 17 from line 16, and enter the result on line 18. This is your total current year's credit for motion picture infrastructure projects. Transferred credits originated in previous tax years should be included in Part VIII on lines 40 or 43.

**NOTE:** *Since 2008 is the first year for this credit, there can be no transfers from a prior year. For the 2008 taxable year, do not enter any amount on lines 40 or 43.*

### Part V - S Corporation Credit Election and Shareholder's Share of Credit

#### Lines 19 through 24 -

S corporations must complete this portion of Form 334 in order for the S corporation or its shareholders to claim these credits. The S corporation must make an irrevocable election either to claim the credits or to pass the credits through to its shareholders. The election statements must be signed by one of the officers of the S corporation who is also a signatory to the Arizona Form 120S.

If the S corporation elects to pass the credit through to its shareholders, it must first complete Form 334, Parts I through IV, then complete Part V, lines 21 through 24, separately for each shareholder. The S corporation may determine the amount of pass-through credits on any basis, without regard to ownership interest. The total of the credits allowed to all shareholders may not exceed the amount that would have been allowed for a sole owner.

The S corporation must furnish each shareholder with a copy of the completed Form 334. Each shareholder would then complete Parts VII through IX.

### Part VI - Partner's Share of Credit

#### Lines 25 through 28 -

A partnership must complete Form 334, Parts I through IV, then complete Part VI, lines 25 through 28, separately for each partner. The partnership may determine the amount of pass-through credits on any basis, without regard to ownership interest. The total of the credits allowed to all partners may not exceed the amount that would have been allowed for a sole owner.

The partnership must furnish each partner with a copy of the completed Form 334. Each partner would then complete Parts VII through IX.

### Part VII - Available Credit Carryover - Motion Picture Production Costs

#### Lines 29 through 37 -

Use Part VII to figure your total available credit carryover for motion picture production costs. Complete lines 29 through 37, columns (a) through (f), if you claimed the credit on a prior year's return and the credit was more than your tax.

Enter the allocation year(s) from which you are carrying over the credit on line 29. The allocation year is the calendar year to which the credit was applied to the annual credit cap. This date will be noted on the post-approval document received from the Department of Commerce. On line 30, enter the credit originally computed for that allocation year. On line 31, enter the total of any credit transfers you received that were originated in that allocation year. Add lines 30 and 31 together and enter the result on line 32. On line 33, enter the amount of the credit originated in that allocation year which you have already used. Enter the amount of credit from that allocation year that you transferred to other entities on line 34. On line 35, enter the total amount of credit that you can no longer use because it

was disallowed, recaptured, or has expired. Subtract the amounts on lines 33 through 35 from line 32, and enter the difference on line 36. Add the amounts entered on line 36, columns (a) through (e) and enter the result on line 37, column (f).

**NOTE:** *Be sure to complete and attach Form(s) 334-1, one for each allocation year transferred credits were originated from, to detail credit transfers included on lines 31 and/or 34.*

### **Part VIII - Available Credit Carryover - Motion Picture Infrastructure Projects**

**NOTE:** *Since 2008 is the first year for this credit, there can be no carryover from a prior year. For the 2008 taxable year, do not enter any amount on lines 38 through 46.*

#### **Lines 38 through 46 -**

Use Part VIII to figure your total available credit carryover for motion picture infrastructure projects. Complete lines 38 through 46, columns (a) through (f), if you claimed the credit on a prior year's return and the credit was more than your tax.

Enter the post-approval taxable year from which you are carrying over the credit on line 38. This is the taxpayer's taxable year that includes the post-approval date. On line 39, enter the credit originally computed for that post-approval taxable year. On line 40, enter the total of any credit transfers you received from that post-approval taxable year. Add lines 39 and 40 together and enter the result on line 41.

On line 42, enter the amount of the credit from that post-approval taxable year which you have already used. Enter the amount of credit you transferred from this post-approval taxable year to other entities on line 43. On line 44, enter the total amount of credit that you can no longer use because it was disallowed, recaptured, or has expired. Subtract the amounts on lines 42 through 44 from line 41, and enter the difference on line 45. Add the amounts entered on line 45, columns (a) through (e) and enter the result on line 46, column (f).

**NOTE:** *Be sure to complete and attach Form(s) 334-1, one for each taxable year transferred credits were originated from, to detail credit transfers included on lines 40 and/or 43.*

### **Part IX - Total Available Credit**

#### **Line 47 -**

Enter the current year's credit for motion picture production costs.

*Individuals and corporations (including S corporations that elected to claim the credit)* - enter the credit from Part IV, line 13.

*S corporation shareholders* - enter the credit from Part V, line 23.

*Partners of a partnership* - enter the credit from Part VI, line 27.

#### **Line 48 -**

Enter the amount from Part VII, line 37, column (f).

#### **Line 49 -**

Add lines 47 and 48. This is the total available credit for motion picture production costs.

#### **Line 50 -**

Enter the current year's credit for motion picture infrastructure projects.

*Individuals and corporations (including S corporations that elected to claim the credit)* - enter the credit from Part IV, line 18.

*S corporation shareholders* - enter the credit from Part V, line 24.

*Partners of a partnership* - enter the credit from Part VI, line 28.

#### **Line 51 -**

Enter the amount from Part VIII, line 46, column (f).

#### **Line 52 -**

Add lines 50 and 51. This is the total available credit for motion picture infrastructure projects.

#### **Line 53 -**

Add lines 49 and 52. Line 53 is the total available credit(s) for motion picture production costs and infrastructure projects that may be applied to the current taxable year's tax liability.

*Corporations and S corporations* - enter the total on Form 300, Part I, line 14.

*Individuals* - enter the total on, Form 301, Part I, line 20.