

newmexicofilmoffice

NM FILM PRODUCTION REFUNDABLE TAX CREDIT IN **10** STEPS

Please begin this process when (1) a production schedule has been determined; and, (2) when funding and cast are in place.

Reminder: All production registrations for the NM film incentive program must be received by the NMFO at least 3 weeks before Principal Photography

Step One: Read All Program Information

This document was created by the New Mexico Film Office to assist productions with the tax credit process. Please take the time to read this entire document and the documents available online at nmfilm.com, including the "Tax Credit FAQs." All steps must be followed to meet the incentive requirements.

Step Two: Print This Document

Print this document and use it as a checklist. Provide this list to production representative submitting tax application after production is completed in NM:

Your Title/Project's Company: _____

Main Contact (tel./email): _____

Step Three: Complete Registration Forms

Complete the following forms available online under Incentives/Forms at nmfilm.com:

- Film Production Company Project Registration (Part One)
- PROJECTS (choice of Episodic, Feature, Short, Doc, Commercial, Emerging Media, Post)
- Film Production Company Tax Credit Registration Form (Part Two)

Download forms using *Adobe Acrobat Reader* or above, fill out and complete forms, click the "Submit to NMFO" button at the bottom of the form. A "Send Email" box will launch asking for your preference of email carriers. Once you've selected your preferred email carrier, it will launch and the email will be prefilled. All you need to do is hit send.

EMAIL: leslie.fleming-mitchell@nmfilm.com. Questions? 505-476-5605.

THESE FORMS ARE REQUIRED A MINIMUM OF THREE WEEKS BEFORE PRODUCTION BEGINS PRINCIPAL PHOTOGRAPHY IN NEW MEXICO.

These forms apply to all qualifying types of projects (e.g. physical production, including regional/national commercials and documentaries, digital or stand-alone post). Additional requirements may apply to different types of projects as noted in "Step Nine" of this document.

□ **Step Four: Attach Synopsis or Script to Forms in Step Three**

With the synopsis or script, please indicate, for informational purposes, if you have submitted or will be submitting a script (a PDF in standard industry format) to the Film Office for location assistance.

- Any non-scripted projects (reality television, documentaries, etc.) or other project types must also submit a summary or medium-appropriate outline of the project.
- Indicate if the project involves any potentially hazardous conditions to minors or animals and whether it complies with state laws (see "Tax Agreement," referenced in step three).
- For informational purposes, include the anticipated rating equivalent to the MPAA or Television rating system for those project types.

□ **Step Five: Schedule the Pre-Production Meeting**

Email Production and Incentive Controller, Leslie Fleming-Mitchell, at the Film Office to coordinate a pre-production meeting: leslie.fleming-mitchell@nmfilm.com; or call 505.476.5605. The Film Office will coordinate with the New Mexico Tax & Revenue Department (TRD) in order for a TRD Film Unit Supervisor to participate in this meeting at the local production offices. The incentive program, including specific questions for this project, will be discussed in detail at this meeting. Meetings may also take place at the Film Office, and in some circumstances, a conference call may be permitted. Meetings often include: Line Producer, UPM, Production Supervisor, Head Accountant, Payroll Accountant and/or POC. Preliminary crew, Non-Resident Crew Exceptions (NRCE) lists (if applicable), and vendor lists should be available at the time of this meeting.

- **TRD SERVICE - HIRING RESIDENTS DURING PREP:** TRD provides a service when an individual's residency is questionable. TRD will certify NM residency for individuals that meet the requirements and are in TRD database, the certification is good for one year.

The RPD-41271, Declaration of Residency form (DOR) can be found online, <http://www.tax.newmexico.gov/Tax-Professionals/film-production-tax-credit.aspx>

The form will allow TRD to check TRD database for individual's residency.

DORs are required with an excel list with Full Name and Full Social Security Number when production submits Film Tax Credit application.

Email at: TRD-FilmCredit@state.nm.us

- **NM Product Service Request Form:** if a production utilizes a local vendor that sources inventory from out-of-state and that vendor does not lease or sell similar inventory to that of the production's request, submit a NM Product Service Request form to the Film Office to verify reasonable efforts have been made to find a local vendor that already carries similar inventory. Use the electronic pass through form and send it to lisan.lucas@nmfilm.com. The Film Office must determine reasonable efforts have been made to find that item in-state. Approval must be granted in email form before ordering from a qualified NM Production Services Company.
- **Petty Cash:** If each transaction is entered separately and the in/out that equals to "zero" are moved to a different tab. That will eliminate any transactions that would have zeroed out, if there are enough items of interest to pull a sample during TRD's internal review of qualifying expenditure after production.

It will be helpful to have the vendor's information in the transaction description if at all possible.

- **Call Sheets:** At this time, production will be asked to add the Production and Incentive Controller to the call sheet distribution list: leslie.fleming-mitchell@nmfilm.com.

- **Step Six: Submit Press Release Answers to the Film Office for Feature & Television Productions**

As certified on the project's registration form, and for major features and television projects, the State Film Office announces a project producing in the state through a press release at least one week prior to the commencement of principal photography. The primary contact and publicist, as included with the registration form, will receive press release (PR) questions from the Film Office. The Film Office will draft a PR for the production company's review. Please respond to these questions and/or submit a draft press release to the Senior Manager of Operations, rochelle@nmfilm.com. If the Film Office does not receive a response to the PR questions or a draft is not submitted, the Film Office will distribute a press release announcing the project is filming in New Mexico unless otherwise agreed upon in writing with the production company. Call the Senior Manager of Operations, Rochelle Bussey at 505-476-5604 with questions. **Other types of projects may be asked to also submit a PR.**

COMPLETE YOUR PRODUCTION!

Enjoy our state, be safe, and please contact us if you need any assistance along the way.

- **Step Seven: Inform the Film Office of Verification of Payments and Accounting Contacts**

- Email the Production and Incentive Controller at leslie.fleming-mitchell@nmfilm.com with accounting contacts and a post accounting address for billing inquiries to be posted online. Include, per statute, the name of the production, the address of the production company and contact information that includes a working phone number, fax number and email address for both the local production office and the permanent (post accounting) production office. This information will remain posted on the website until all financial obligations incurred in the state by the film production company have been paid.
- Email Production and Incentive Controller leslie.fleming-mitchell@nmfilm.com when production has paid all production expenses for New Mexico and the production does not have any outstanding financial obligations. (In other words, all checks have been "cut" and all bills have been paid.) The Film Office cannot, by law, submit your Tax Credit Application to TRD after the production until this verification has occurred. If crew or vendors have contacted the Film Office with claims of an outstanding obligation, production will be contacted. Production must notify the Film Office of the date those claims were paid. Note "obligations" for the purposes of this incentive means an authorized purchase order or contract was in place between the crew member or vendor and the production.
- Include the final crew list and final vendor list in this email to the Production and Incentive Controller.

- **Step Eight: Submit Forms as Required by the Film Office**

- During production, accounting is asked to track spending in New Mexico for the project. During wrap, this form with the self-reported production actuals is submitted to the Film Office. Stats are required per law and assist in maintaining the program:

- This form can be found online under Incentives/Forms at nmfilm.com.
- All Projects Must Submit the Film Office Stats Form.
- Complete the Statistics form and email it to Production and Incentive Controller: leslie.fleming-mitchell@nmfilm.com.
- Tips for Line 30 & 31:
 - ♦ Coding may include five major cities and counties and an “other” for manual entries.
 - ♦ Refer to the NM GRT rates table available on the NM TRD website.
 - ♦ This is spend (billing address) not filming locations.
 - ♦ Line 30 - include qualifying and non-qualifying; do not include payroll; and, review petty cash covers for major dollar amounts.
 - ♦ Line 31: includes qualifying spend only that is subject to Gross Receipts Tax (GRT) (i.e. rentals, expendables, food and location fees - not fuel or payroll.)
 - ♦ Line 31: GRT does not have to be documented from every receipt – it may be backed out as the difference does not affect the aggregates. [Click for an example.](#)
- Confirm Production and Incentive Controller received list of all film locations (include city, town and county), all call sheets, and final crew and vendor lists.
- Contact the Production and Incentive Controller at leslie.fleming-mitchell@nmfilm.com to discuss the production’s experience while shooting in NM. This may be a conversation with the Producer, Line Producer, or Head Accountant. Any additional information needed from the Film Office regarding submission may be addressed at this time.
- Screen Credits: All projects with an end crawl must include an acknowledgement of the “State of New Mexico.” Examples include “Filmed on Location in the State of New Mexico,” or “Thank You to the State of New Mexico.”
- For long-form narrative (features) and television episodes, a NM True state logo, provided by the Film Office, must also be included with the above mentioned acknowledgement. A screen shot of the logo in the end credits must be submitted to leslie.fleming-mitchell@nmfilm.com prior to the tax application submission; (include with final Tax Application Form for features and documentaries.)

If applicable, include these documents for the following project types and participation:

- Regional, International and Internet Commercials:
 - A signed letter, on letterhead, from the client or ad agency, describing relationship with the contracted production company, and confirming which party is filing for the credit
 - Proof of Media Buys (must include more than one for regional commercials)
 - Link to URL or equivalent if applicable
- Television applying for an additional 5%:
 - Episode list: titles and NM Budget
 - Proof of Order: from distributor, signed letterhead with the number of episodes and air dates if available
- Standalone Television Pilots for an additional 5%:
 - Affidavit confirming the intention to shoot the series in NM if ordered to Series
- Features utilizing a qualified production facility with an NM budget under \$30M
 - Top sheet for NM budget verification
- Documentaries, Mobile Apps and Internet Projects:
 - Link to URL or equivalent

- Projects with a tax credit \$5M and over:
 - CPA audit results from a firm licensed to practice in NM
- Projects participating in the Nonresident Crew Exceptions:
 - Completed template with approved positions
 - Documents related to the training requirement

□ **Step Nine: Submitting the Tax Credit Application**

A tax application is required for each tax year in which qualifying expenses were incurred for the project by the company listed on the Film Office’s project registration form (“Step Three”).

Per Section 7-2F-6 (I) NMSA 1978 states; “...the application shall be submitted within one year of the date of the last direct production expenditure in New Mexico or the last postproduction expenditure in New Mexico incurred within the film production company’s taxable year...”

Regardless if the production crosses tax years, “Step Seven” and “Step Eight” must be completed before a production submits their first (or only) tax application:

- For guidance on submission of ledgers (bibles):

Please refer to TRD Submissions on the following website:

<http://www.tax.newmexico.gov/Tax-Professionals/film-production-tax-credit.aspx>

- Ledgers (bibles) must reconcile with the totals entered on the film tax application form: Application for Film and Television Tax Credit, RPD 41381
- The address on this form should be your corporate, home or primary office – not your New Mexico production office, because your credit check will be sent to the address you list if you do not choose direct deposit.
- For NM full-time and first year residents whose qualifying payments for services done in NM are being claimed in the submission by production, an excel list with Full Name and Full Social Security Number must be included with the DORs.
- **For productions with an external CPA audit is required for credit \$5M+.** The Production Company is to submit CPA Pre-Submission Worksheet and Tax Information Authorization to NMFO. NMFO will issue TRD a memo after all obligations are met.

For guidance on submission for a CPA audit:

Please refer to TRD Submissions and Certified Public Accountants on the following website: <http://www.tax.newmexico.gov/Tax-Professionals/film-production-tax-credit.aspx>

Final submission after CPA audit by Production Company to NMFO.

Application for Film and Television Tax Credit – RPD 41381 must be submitted with CPA audit results no later than one year of the last NM expenditure of the project.

- Notice of Assignment of Film Production Tax Credit _RPD 41380 must meet the requirement in Section 7-2F-5 NMSA 1978; under Form & Publications that is located on TRD website: <http://www.tax.newmexico.gov/forms-publications.aspx>

**DO NOT EMAIL ANY BACKUP DOCUMENTATION FOR TRD TO THE FILM OFFICE.
The NM Film Office verifies eligibility and NM TRD verifies qualifying expenses.**

- Mail the Application for Film Production Tax Credit (RPD-41229) to:
Leslie Fleming-Mitchell, Production and Incentive Controller
New Mexico Film Office, EDD
1100 South St. Francis Drive. #1213
Joseph Montoya Building, 1st Floor
Santa Fe, NM 87505

The application will be entered in the queue and the 180-days will start from the date the Memo and application package is delivered to TRD. TRD auditor will email the Production Company an engagement letter, tax authorizations, timeline and links to the contact on the application to upload the ledgers through TRD secure system.

For any questions in regard to submissions of ledgers, please contact NM Tax and Revenue Department at TRD-FilmCredit@state.nm.us or call 505-841-6485.

Step Ten: File for the Authorized Credit

Filing the Income Tax Return for Credit refund:

NM Income Tax Return to be filed is the same Production Company named on the Film Credit Application.

- Business Credit Approval Letter will be sent via email to the person on the application on or before 180-day deadline.
- An NM Income Tax return will need to be filed for each year of expenditures (if there is more than one tax year) to receive the credit refund.

For the return to be processed quicker; it can be E-filed; the website address is as follows: <http://www.tax.newmexico.gov/Online-Services/>
If tax return is E-filed; please email TRD-FilmCredit@state.nm.us and advise when return was filed so it can be logged into workbook.

Or

Mailing address is as follows:
Film Credit Supervisor
NM Taxation and Revenue
P.O. Box 8485, 14th Floor
Albuquerque, NM 87198
505-841-6485

Norm for refunds, can take up to 16 weeks to receive; depending on the amount and if the return is mailed.

When tax returns are received by TRD Supervisor, Supervisor will log the return in and hand deliver to the individual who is going to process the return. Income tax returns mailed to TRD, are entered first come, first entered in the system.

The credit is applied to any tax liability the production company has incurred (and franchise fees, if applicable.) *Tip: Check the "REFUND EXPRESS" box for a direct deposit and a faster refund.*

The overall process may be 9 to 12 months after wrap, including the 2-3 months from the time the return is filed, only if the production turns around the required documentation in a timely manner.

Remember Step One! – Additional details are available at **NMFILM.COM**.

DEFERED PAYMENT REMINDER:

- If your tax credit is less than \$2M, payment occurs immediately upon authorization by TRD.
- If your tax credit is \$2M or more but less than \$5M, the first payment occurs immediately upon authorization by TRD; and, the second occurs twelve months later.
- If your tax credit is \$5M or more, the first payment occurs immediately upon authorization by TRD; the second payment occurs twelve months later; and, the third payment occurs twenty-four months after the first payment.

All payments are subject to the program's annual cap. If \$50M is not totally paid out in a given fiscal year, deferred payments scheduled in the following fiscal year will be paid in advance until \$50M has been expended. (New Mexico's fiscal year is July 1 through June 30.) If the cap is "hit" prior to the fiscal year's end, authorized payments will be paid on July 1 of the upcoming fiscal year.

FORMS at NMFILM.COM (<http://nmfilm.com/Forms.aspx>)

Good Luck and may you have a great experience filming in New Mexico!