

State of New Mexico - Taxation and Revenue Department
FILM PRODUCTION TAX CREDIT CLAIM FORM
Instructions

To be eligible for the film production tax credit, a film production company must first be approved by the Film Division of the New Mexico Economic Development Department. After approval, the company may apply for the credit by submitting a completed Form RPD-41229, *Application for Film Production Tax Credit*, to the Taxation and Revenue Department (TRD). TRD approves the credit and issues a document granting it. The application must be submitted within one year of the date of the last direct production or postproduction expenditure in New Mexico.

To Claim the Approved Film Production Tax Credit. Once the approved film production company has received approval from the Film Division and the Taxation and Revenue Department, a completed Form RPD-41228, *Film Production Tax Credit Claim Form*, must be attached to a completed New Mexico return (Form PIT-1, CIT-1, S-Corp, or FID-1) filed after the close of the tax year for authorization for payment. For qualifying expenditures made after April 15, 2013, the credit may be claimed by filing the New Mexico PTE, *Pass-Through Entity Income and Information Return*.

All direct production expenditures and postproduction expenditures incurred during the tax year by a film production company shall be submitted as part of the same income tax return. A credit claim shall not be divided and submitted with multiple returns or in multiple years.

Subject to certain limitations, the amount of the tax credit authorized for payment may be applied to the tax due on the return, or if the amount of the film production tax credit exceeds the film production company's income tax liability for the tax year, the excess may be refunded.

Limitations on Receiving the Credit Claimed on a Return. Except as provided in the next paragraph, the total aggregate film production tax credits that may be paid out in any fiscal year is limited to \$50,000,000. A film production tax credit claimed that is unable to be paid because total claims paid during the current fiscal year, exceeded \$50,000,000, shall be placed at the front of the queue for the next fiscal year.

If in fiscal years 2013 through 2015, the aggregate amount in each fiscal year of the film production tax credit claims authorized for payment is less than \$50,000,000, then the difference in that fiscal year or \$10,000,000, whichever is less, shall be added to the aggregate amount of the film production tax credit claims that may be authorized for payment in the immediately following fiscal year.

If the credit amount claimed by a film company is less than \$2,000,000 in a tax year, the amount shall be applied or paid immediately upon processing of the income tax return.

For credit claims of \$2,000,000 or more in a tax year, the credit

shall be distributed over multiple years as follows:

- If the credit amount claimed is \$2,000,000 or more, but less than \$5,000,000 in a tax year, half of the amount of the film production tax credit shall be applied or paid immediately upon processing of the income tax return and the remainder shall be paid 12 months following the date of the first payment, and
- If the credit amount claimed is \$5,000,000 or more in a tax year, one third of the amount of the film production tax credit shall be applied or paid immediately upon processing of the income tax return, one third of the film production tax credit shall be paid 12 months following the date of the first payment, and one third of the film production tax credit shall be paid 24 months following the date of the first payment.

Any amount of a credit claim that is carried forward as described above, is *also* subject to the total aggregate film production tax credit limit of \$50,000,000 paid in any fiscal year. However, the portion of the amount of credit that is carried forward is placed in front of the queue in the next fiscal year. If a partial payment is made because the tax credit limit has been met in a fiscal year, then the difference owed shall retain its original position in the queue.

For purposes of determining the payment of credit claims that are required to be paid out over multiple years, the secretary of the Taxation and Revenue Department may require that credit claims of affiliated persons be combined into one claim, if necessary, to accurately reflect closely integrated activities of affiliated persons.

NOTE: No interest shall be paid on any amount refunded under the Film Production Tax Credit Act.

Completing the Income Tax Return:

Complete the income tax return, CIT-1, PIT-1, S-Corp, PTE, or FID-1 based on the federal return that you are required to file.

<u>If you are required to file:</u>	<u>File New Mexico form:</u>
Federal Form 1040,	PIT-1 return;
Federal Form 1041,	FID-1 return;
Federal Form 1065,	PTE return;
Federal Form 1120,	CIT-1 return; or
Federal Form 1120S,	S-Corp return

You may also need to complete the tax credit schedule, CIT-CR, PIT-CR, S-Corp-CR or FID-CR. Enter the total film production tax credit approved and the amount of the credit that you want applied to the tax liability due on the schedule CR for non-refundable credits. For CIT, S-Corp, PTE, and FID returns, also enter the refundable portion of the tax credit claimed on the main return. For PIT, enter the refundable portion of the tax credit claimed on Schedule PIT-RC. The Department will compare the amounts entered and determine how and when the credit will be paid. No interest shall be paid on any amount

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refunded under the Film Production Tax Credit Act. **Caution:** If the amount you request to be applied to the tax liability due on the return is not eligible to be paid immediately, you will be billed for the tax liability not paid, and you may be subject to interest on the unpaid tax due.

For direct production expenditures made on or after April 15, 2013, an eligible film production company that is required to file Federal Form 1065, may apply for a film production tax credit, and may claim the credit on the New Mexico PTE return.

For direct production expenditures made before April 15, 2013, the eligible film production company required to file Federal Form 1065, may not claim the credit on the New Mexico PTE return. In this case, the taxpayer filing the Form PTE must pass approved film production tax credit to its owners, members or partners, using Form RPD-41366, *Notice of Distribution of Film Production Tax Credit*. This form must be completed and attached to Form RPD-41229, *Application for Film Production Tax Credit*, at the time of making application for the credit, but no later than the date the credit is approved by TRD. When completing Form RPD-41366 do not complete the fields marked "to be completed by TRD". The Department will complete these fields once the film production tax credit is approved. The amount of tax credit distributed will be based on the percentage of claim provided by the film production company.

For all tax programs, you must attach Form RPD-41228, *Film Production Tax Credit Claim Form*, to your return. Failure to attach this form will result in denial of your claim for the credit.

Do not mail the return to the address on the income tax return. The completed income tax return and Form RPD-41228 must be mailed to: New Mexico Taxation and Revenue, Attn: Film Production Tax Credit, P.O. Box 5418, Santa Fe, New Mexico, 87502-5418. Mailing to this address ensures that your claim is recorded timely.

Refund Express (continued from the first page)

Refund Express - Question 4 is required: A direct deposit of your refund, "Refund Express", may not be made to a bank account located at a financial institution outside the territorial jurisdiction of the United States. In order to comply with federal banking rules, anyone wishing to have their refund directly deposited into their account must answer an additional question when completing the Refund Express portion of their return. If you do not answer the question, your refund will be mailed to you in the form of a paper check. If you answer the question incorrectly, your refund may be delayed, rejected or frozen by the National Automated Clearing House Association (NACHA) or the Office of Foreign Assets Control (OFAC). The question asks whether the refund will go to or through

an account located outside the United States. The question also warns you that if the answer is "yes", you should not choose the Refund Express method of delivering your refund. Your options are to use a different bank account or to leave the Refund Express portion of your return blank and a paper check will be mailed to the address on the return.

A financial institution is located within the territorial jurisdiction of the United States if it is:

- located within the United States;
- located on a United States military base; or
- located in American Samoa, Guam, the Northern Mariana Islands, Puerto Rico or the U.S. Virgin Islands.

Refund express is available for deposits to the taxpayer's account *only*. **Taxpayers may not request the funds to be deposited into the account of another payee.**

TRD is not responsible for the misapplication of a direct deposit refund that is caused by the error, negligence or malfeasance on the part of the taxpayer. Verify that you enter the correct bank information.

Why Use Refund Express?

- Avoid delays that may occur in mailing a check. Refund Express does not guarantee that you will receive your refund check earlier — only that when the check is issued, it will reach the bank more quickly.
- Payment is more secure. There is no check to get lost.
- More convenient. No trip to the bank to deposit your check.
- Saves tax dollars. A refund by direct deposit costs less than a check.

What is the Routing Number?

The routing number is for bank identification and **must be nine digits**. If the first two digits are not 01 through 12 or 21 through 32, the system will reject the direct deposit and you will receive a check.

Your check may state that it is payable through a bank different from the financial institution where you have your checking account. If so, do not use the routing number on that check. Instead, contact your financial institution for the correct routing number to enter on this line.

Entering Your Account Number

Your account number can be up to 17 characters. Include hyphens, but omit spaces and special symbols. Enter the number from left to right. Leave unused boxes blank. **Do not** include the check number.

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You **must** indicate the **type of account**. Place an "X" in the "Checking" box if it is a checking account, or in the "Savings" box if the account is a savings account. This field is required.

Caution: Verify that the information you enter is correct and that your financial institution will accept a direct deposit payable to the name on CIT-1, PIT-1, S-Corp, PTE, or FID-1 income tax return. **NOTE:** The Department will mail you a paper check if your bank does not accept your Refund Express information.

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