

THE MISSISSIPPI MOTION PICTURE INCENTIVE PROGRAM (effective 12 May 2008)

The Mississippi Motion Picture Incentive Program is an incentive program designed to encourage motion picture production in the state. This incentive program is designed to provide a rebate on eligible expenditures of the company and to provide sales and use tax exemptions or reductions on eligible purchases.

This program is available for national distributed motion pictures, television programs, documentaries, short films, DVDs, and commercials. The production of news or athletic events do not qualify, nor does any project that contains any material or performance deemed obscene, as defined in Section 97-29-103, Mississippi Code of 1972. *

DEFINITIONS

“Motion picture” means a nationally distributed feature length film, video, DVD, television program or series, or commercial made in whole or in part in Mississippi for theatrical or DVD release or television viewing. It does not include televised news or athletic events. It cannot contain any material or performance defined as obscene in Mississippi Code, Section 97-29-103.

“Motion picture production company” means any company engaged in the business of producing nationally distributed motion pictures, videos, DVDs, television programs or series, or commercials.

“Project” means a production certified by the Mississippi Development Authority. To qualify, a project must be a nationally distributed feature length film, video, DVD, television program or series, or commercial that is made (in whole or in part) in Mississippi for theatrical or television viewing. For the production of a television series, each season can be designated as a separate project.

THE PRODUCTION REBATES

There is a \$20,000 minimum Mississippi investment (local spend) per project. There is an \$8 million per project maximum on the production rebate. There is a \$20 million annual cap. There is no minimum requirement for production days or percentage of production spend.

Mississippi Investment Rebate

A production company that has an approved project is eligible for a 20% rebate of their base investment (local spend) in Mississippi. The base investment is based on production expenditures in Mississippi, including, but not limited to:

- Purchases of goods and services from Mississippi vendors, including legal and insurance costs;

- Costs of services directly related to the project of a local payroll company;
- Fees directly associated with setting up a local production LLC for the project;
- Costs of the rental or purchase of equipment from an out-of-state equipment company that has established a local office in Mississippi, or from a Mississippi production company/vendor with a vendor/license agreement with an out-of-state company, or if a Mississippi production company/vendor provides equipment rented from an out-of-state company;
- Payments made to local travel agencies for airfares directly related to the project in Mississippi where travel is to/from Mississippi, New Orleans, Memphis, or Mobile; and

For certain purchases, such as real property and automobiles used by the production company, special rules will be applied by the State Tax Commission to determine the value of the asset during the Mississippi production period.

Base investment does not include expenditures made outside of Mississippi even if the items are subsequently brought into the state, though in accordance with Mississippi law those expenditures may be exempt from sales and use tax.

Resident Payroll Rebate

A production company that has an approved project is eligible for a 25% rebate on payroll paid to resident cast and crew whose wages are subject to Mississippi Income Tax Withholding and for that portion of their salary for the project up to and including \$1 million. (To qualify, the employee must live in Mississippi, or maintain a home here and spend more than 6 months in the state.) For purposes of this program, payroll means salary, wages, or other compensation including related benefits paid to employees upon which Mississippi income tax is due and has been withheld.

Non-Resident Payroll Rebate

A production company that has an approved project is eligible for a 20% rebate on payroll paid to non-resident cast and crew whose wages are subject to Mississippi Income Tax Withholding and for that portion of their salary for the project up to and including \$1 million. For purposes of this program, payroll means salary, wages, or other compensation including related benefits paid to employees upon which Mississippi income tax is due and has been withheld.

For the purposes of the rebate, personal service corporations (PSCs), payroll services, and loan-out companies are considered “employees” of the production. Contracts must be provided that show total compensation, and Mississippi Income Tax Withholding must be made for the loan-out to qualify.

The total rebate generated based on the Mississippi investment (local spend) and the resident and non-resident payroll cannot exceed \$8 million per project.

SALES & USE TAX INCENTIVES

Sales and Use Tax Exemptions

Items used directly in the production of a film are exempt from the state's 7% sales and use tax, pursuant to Section 27-65-101 of the Mississippi Code of 1972. Items must be used on location to qualify for the exemption. Production items that can be exempted are:

- Film
- Videotape
- Building materials used in the construction of sets
- Makeup
- Fabric used as or in the construction of wardrobe
- Clothing used as wardrobe, including shoes, accessories, and jewelry
- Materials used as set dressing
- Materials used as props
- Materials used in the creation of special effects
- "Expendables" used by camera, grip, and electric departments such as tape, fasteners, or compressed air

Sales and Use Tax Reduced Rates

Production equipment and machinery used directly in the filming and/or editing of a project may be taxed at the reduced rate of 1.5%, as stated in Section 27-65-11 and Section 27-65-17 of the Mississippi Code of 1972. The following production equipment is eligible for this reduced rate:

- Audio equipment
- Camera equipment
- Editing equipment
- Lighting equipment
- Projection equipment
- Sound equipment
- Computer equipment used for animation, editing, or special effects

MISSISSIPPI MOTION PICTURE INCENTIVE PROGRAM APPLICATION

To apply for certification, the production company should submit a letter of application to the Mississippi Film Office/Mississippi Development Authority. The letter should be signed by an officer and include the following:

- 1) The company's name and business address, including phone numbers. (This should be the name of the company to receive the credit/rebate.)
- 2) The name(s) of the Line Producer and/or Unit Production Manager and/or Production Accountant.
- 3) The title of the production.
- 4) The project type: feature-length film, video, television series, or commercial.
- 5) The proposed dates of production, including start date of pre-production and completion date of principal photography in Mississippi.
- 6) A copy of the script (including a one page synopsis), commercial storyboard, or documentary outline/treatment.
- 7) The proposed budget, or a document detailing estimated local spend and non-resident payroll.
- 8) The intended plan for national distribution. National distribution may include theatrical presentation, video or DVD release, or television/cable broadcast. Commercials must be national.
- 9) The letter must also include the following statements:
 - "This project does not include any material or performance defined in Section 97-29-103, Mississippi Code of 1972."*
 - "This production company does not include any company owned, affiliated, or controlled, in whole or in part, by any company or person which is in default on a loan made by the state or a loan guaranteed by the state, or any company or person who has ever declared bankruptcy under which an obligation of the company or person to pay or repay public funds or monies was discharged as a part of such bankruptcy."

MISSISSIPPI MOTION PICTURE INCENTIVE PROGRAM PROCESS

Applications must be submitted before the beginning of production for the Mississippi portion of the project; tax exemption/reduction applications must be completed, submitted and approved before point of purchase exemptions/reductions can be taken.

Note: Rebates and tax exemptions will not be given on any expenditures made prior to the certification date.

The Mississippi Film Office reviews the application for requisite information and submits the application for approval at the Mississippi Development Authority's Board meeting. The Board reviews the application and notifies the Production of its findings. A positive notification will include:

Approval letter and MDA Board meeting minutes

A certification number

Contact information for the Mississippi State Tax Commission

The following relevant Mississippi Tax Commission Forms:

- 70-001: Mississippi Registration Application
- 72-415: Direct Pay Permit Application

General guidelines and program information

The Mississippi State Tax Commission will issue a direct pay permit that allows the production company to make purchases exempt from sales and use tax. This permit will be issued approximately ten (10) business days after receipt of all completed relevant applications.

The company will be responsible for self-assessing the tax on any purchases made with the permit that are subject to the reduced rate of tax. Production items (as listed above) bought or leased outside of Mississippi for exclusive use on location in Mississippi will be exempt from Mississippi use tax. Equipment or machinery (as listed above) bought or leased outside of Mississippi for exclusive use on location in Mississippi will be subject to a reduced use tax of 1.5%.

Upon completion of the Mississippi portion of the project, the production company must supply the Mississippi State Tax Commission and the Mississippi Film Office with documentation to substantiate the rebate request. This documentation should include a summary of Mississippi expenditures that includes:

- Vendor Name, Mississippi Address, and Contact Information
- Vendor Federal Identification Number
- Item or Service Purchased
- Amount Paid

Both the exemption and the rebate may be utilized for Mississippi expenditures – a purchase of eligible production materials will be exempt from the 7% state sales tax and can be included in the rebate request.

The State Tax Commission reserves the right to request verification of expenditures by an independent party, or request copies of invoices and proof of payment prior to approving the rebate request. The State Tax Commission will attempt to process all rebate requests within 45 days of submission of the required documentation.

ADDITIONAL INFORMATION

Additional information with respect to the program and these program guidelines may be obtained by contacting:

The Mississippi Film Office
P. O. Box 849
Jackson, MS 39205
601-359-3422

***Section 97-29-103, Mississippi Code of 1972 can be viewed at the following website:
<http://michie.lexisnexis.com/mississippi>.**