

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.

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 (ph/email): _____

Step Three: Complete Registration & Agreement Forms

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

- Film Production Company Project Registration
- Film Production Tax Credit Agreement (Stand-Alone Post has a separate agreement)

Print, sign, scan then email the completed forms to Production and Incentive Controller, Sherry England:

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

THESE FORMS ARE REQUIRED BEFORE PRODUCTION BEGINS 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 Sr. Manager of Operations, Rochelle Bussey, 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 the 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 and vendor lists should be available at the time of this meeting.

- **TRD SERVICE - HIRING RESIDENTS DURING PREP:** TRD provides a service that assists productions with determining crew residency during prep. Email each of the signed Declaration of Residency forms (DORs), provided online, to the TRD Audit & Compliance Unit: Priscilla.Castro@state.nm.us. This form allows TRD to relay whether each crew member has filed their state income tax return in New Mexico as a full-time, in-state resident, at any time in the past. No other information is provided. Include “first year” residents for returning residents or for crew that has submitted as “first year” before. (DORs are also required *after* production with the tax credit submission along with an Excel list of names and full socials.)
- **NM Vendor Forms:** 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 Vendor form to the Film Office to verify reasonable efforts have been made to find a local vendor that already carries similar inventory. Scan and email these forms to leslie.fleming-mitchell@nmfilm.com. The Film Office must determine reasonable efforts have been made to find that item in-state. The Film Office is not approving the expenditure or the out-of-state vendor.
- **Petty Cash:** Be sure accounting enters each transaction separately for a clean sample during TRD’s internal review of the qualifying expenditures after production. Add the vendor info in the transaction description if at all possible. Note: “Negatives” that are returns and that entered as their own transaction are likely to be considered non-qualifying expenditures.
- **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.
- **TRD Service:** To assist the process, a “Site Visit” for a review of “source to documentation” may be beneficial to the production. For productions that have few line items in the ledgers, contact TRD for further information. If the production will be reviewed by the TRD sampling process (and it will not be working with a NM CPA Firm), this service does not apply. Contact: Priscilla Castro, TRD Film Unit Supervisor, at Priscilla.Castro@state.nm.us; or call **505-827-0919**. Additional information about the details of the submission are briefly described in this document and also available in additional detail at <http://www.tax.newmexico.gov/Tax-Professionals/film-production-tax-credit.aspx>.

□ **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”).

Film Production Companies are required to submit their application within a year from the last qualifying expenditure made in their tax year NOT from the end of the project.

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:

- Review the sample workbook available both at nmfilm.com and on TRD’s film website: <http://www.tax.newmexico.gov/Tax-Professionals/film-production-tax-credit.aspx>.
- Ledgers or “bibles” need to be organized per this template.
- For the sampling process as described on the TRD website, TRD will request that all negatives must be reconciled in the ledgers.
- Ledgers or “bibles” must add up to the totals entered on the tax application form: Application for Film Production Tax Credit (RPD-41229).
- 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 all full-time, in-state residents and first-year residents whose qualifying payments for services are being submitted by production, a list in a separate Excel sheet with at least their full name and full social security number must be included with the submission. This is in addition to their Declaration of Residency forms (DORs).
- For productions that started prep in calendar year 2015 and thereafter, when the tax credit is \$5M or more in a given tax year, and an external CPA audit is required, the audit results must be attached to the tax application.
- Contact the Film Office regarding credit assignability one-time, full or partial amount, to an eligible third party: 505-476-5604.

**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

Once the application is submitted to TRD from the Film Office, TRD will submit an engagement letter to the authorized representative and request submission of the ledgers and any other required documents via a secure electronic transfer. The project is now in queue and TRD has up to 186 days to complete the internal review.

If you have any additional questions about how to prepare your tax package, please contact: Priscilla Castro, TRD Film Unit Supervisor, at Priscilla.Castro@state.nm.us or call 505-827-0919.

□ **Step Ten: File for the Authorized Credit**

After the internal review, TRD will return the Application for Film Production Tax Credit form with the approved claim amount to the registered film production company (filing entity.) The authorized representative must sign this form and it needs to be filed with the company’s state income tax return or informational return (using the applicable form: PIT, CIT, PTE or FID-1). Filing may only

occur at the close of your company's taxable year to claim the credit. Contact the TRD's Audit and Compliance Division in Santa Fe with questions: Priscilla.Castro@state.nm.us.

- Attach a copy of the approved Application for Film Production Tax Credit with the return and send it to:

Priscilla Castro, Film Credit Supervisor, NM Taxation and Revenue
P.O. Box 630
Santa Fe, NM 87504-0630
505-827-0919

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>)

Before Production

- [Film Production Company Project Registration Form](#)
- [Film Production Tax Credit Agreement](#)
- [Production Tax Credit Agreement Stand-Alone Post Production](#)
- [Declaration of Residency](#)
- [FCAP Application \(Part One\)](#)
- [Application for Nontaxable Transaction Certificates Type 16](#) *(Not to Use with Tax Credit)*

After Production

- [Film Stats Form](#)
- [Application for Film Production Tax Credit](#)

Other

- [NM Tax Credit in Ten Steps](#)
- [Pre-Production Meeting Review](#)
- [NM Vendor Form](#)
- [Actor Loan Outs: CRS Tax ID & Filing for Refund](#)
- [State Property Hold-Request Form](#)