

**71.07 (5f) FILM PRODUCTION SERVICES CREDIT.** (a) *Definitions.* In this subsection:

1. “Accredited production” means a film, video, broadcast advertisement, or television production, as approved by the department of commerce, for which the aggregate salary and wages included in the cost of the production for the period ending 12 months after the month in which the principal filming or taping of the production begins exceeds \$50,000. “Accredited production” also means an electronic game, as approved by the department of commerce, for which the aggregate salary and wages included in the cost of the production for the period ending 36 months after the month in which the principal programming, filming, or taping of the production begins exceeds \$100,000. “Accredited production” does not include any of the following, regardless of the production costs:

- a. News, current events, or public programming or a program that includes weather or market reports.
- b. A talk show.
- c. A production with respect to a questionnaire or contest.
- d. A sports event or sports activity.
- e. A gala presentation or awards show.
- f. A finished production that solicits funds.
- g. A production for which the production company is required under 18 USC 2257 to maintain records with respect to a performer portrayed in a single media or multimedia program.
- h. A production produced primarily for industrial, corporate, or institutional purposes.

2. “Claimant” means a person who files a claim under this subsection.

3. “Production expenditures” means any expenditures that are incurred in this state and directly used to produce an accredited production, including expenditures for set construction and operation, wardrobes, make-up, clothing accessories, photography, sound recording, sound synchronization, sound mixing, lighting, editing, film processing, film transferring, special effects, visual effects, renting or leasing facilities or equipment, renting or leasing motor vehicles, food, lodging, and any other similar expenditure as determined by the department of commerce. “Production expenditures” do not include salary, wages, or labor-related contract payments.

(b) *Filing claims.* Subject to the limitations provided in this subsection, for taxable years beginning after December 31, 2008, a claimant may claim as a credit against the tax imposed under s. 71.02 or 71.08 any of the following amounts:

1. An amount equal to 25 percent of the salary, wages, or labor-related contract payments paid by the claimant in the taxable year to individuals, including actors, who were residents of this state at the time that they were paid and who worked on an accredited production in this state, not including the salary, wages, or contract payments paid to any individual who was paid more than \$250,000.

3. An amount equal to 25 percent of the production expenditures paid by the claimant in the taxable year to produce an accredited production.

(c) *Limitations.* 1. A claimant may not claim a credit under this subsection if less than 35 percent of the total budget for the accredited production is spent in this state.

2. The total amount of the credits that a claimant may claim under [par. (b) 2.] in a taxable year shall not exceed an amount equal to the first \$20,000 of salary, wages, or labor-related contract payments paid to each individual described in [par. (b) 2.] in the taxable year.

**NOTE: The cross-reference in brackets does not exist as the result of the governor’s partial veto of 2009 Wis. Act 28.**

3. No credit may be claimed under par. (b) 3. for the purchase of tangible personal property or items, property, or goods under s. 77.52 (1) (b), (c), or (d) the sale of which is not sourced to this state, as provided under s. 77.522.

5. The maximum amount of the credits that may be claimed under this subsection and sub. (5h) and ss. 71.28 (5f) and (5h) and 71.47 (5f) and (5h) in fiscal year is \$ 500,000.

6. No credit may be allowed under this subsection unless the claimant files an application with the department of commerce, at the time and in the manner prescribed by the department of commerce, and the department of commerce approves the application. The claimant shall submit a fee with the application in an amount equal to

2 percent of the claimant's budgeted production expenditures or to \$5,000, whichever is less. The claimant shall submit a copy of the approved application with the claimant's return.

7. Partnerships, limited liability companies, and tax-option corporations may not claim the credit under this subsection, but the eligibility for, and the amount of, the credit are based on their payment of amounts under par. (b). A partnership, limited liability company, or tax-option corporation shall compute the amount of credit that each of its partners, members, or shareholders may claim and shall provide that information to each of them. Partners, members of limited liability companies, and shareholders of tax-option corporations may claim the credit in proportion to their ownership interest.

(d) *Administration*. 1. Section 71.28 (4) (e), (g), and (h), as it applies to the credit under s. 71.28 (4), applies to the credits under this subsection.

2. If the allowable amount of the claim under par. (b) exceeds the tax otherwise due under s. 71.02 or 71.08 or no tax is due under s. 71.02 or 71.08, the amount of the claim not used to offset the tax due shall be certified by the department of revenue to the department of administration for payment by check, share draft, or other draft drawn from the appropriation account under s. 20.835 (2) (bm).

**(5h) FILM PRODUCTION COMPANY INVESTMENT CREDIT.** (a) *Definitions*. In this subsection:

1. "Claimant" means a person who files a claim under this subsection and who does business in this state as a film production company.

2. "Film production company" means an entity that exclusively creates accredited productions, as defined in sub. (5f) (a) 1.

3. "Physical work" does not include preliminary activities such as planning, designing, securing financing, researching, developing specifications, or stabilizing property to prevent deterioration.

4. "Previously owned property" means real property that the claimant or a related person owned during the 2 years prior to doing business in this state as a film production company and for which the claimant may not deduct a loss from the sale of the property to, or an exchange of the property with, the related person under section 267 of the Internal Revenue Code, except that section 267 of the Internal Revenue Code is modified so that if the claimant owns any part of the property, rather than 50 percent ownership, the claimant is subject to section 267 of the Internal Revenue Code for purposes of this subsection.

(b) *Filing claims*. Subject to the limitations provided in this subsection, for taxable years beginning after December 31, 2008, a claimant may claim as a credit against the tax imposed under s. 71.02 or 71.08 an amount that is equal to 15 percent of the following that the claimant paid in the taxable year to establish or operate a film production company in this state:

1. The purchase price of depreciable, tangible personal property and items, property, and goods under s. 77.52 (1) (b), (c), and (d), if the sale of the tangible personal property, items, property, or goods is sourced to this state under s. 77.522. 2. The amount expended to acquire, construct, rehabilitate, remodel, or repair real property.

(c) *Limitations*. 1. A claimant may claim the credit under par. (b) 1., if the tangible personal property, or item, property, or good under s. 77.52 (1) (b), (c), or (d), is purchased after December 31, 2008, and the tangible personal property, item, property, or good is used for at least 50 percent of its use in the claimant's business as a film production company.

2. A claimant may claim the credit under par. (b) 2. for an amount expended to construct, rehabilitate, remodel, or repair real property, if the claimant began the physical work of construction, rehabilitation, remodeling, or repair, or any demolition or destruction in preparation for the physical work, after December 31, 2008, and the completed project is placed in service after December 31, 2008.

3. A claimant may claim the credit under par. (b) 2. for an amount expended to acquire real property, if the property is not previously owned property and if the claimant acquires the property after December 31, 2008, and the completed project is placed in service after December 31, 2008.

4. No claim may be allowed under this subsection unless the department of commerce certifies, in writing, that the credits claimed under this subsection are for expenses related to establishing or operating a film production company in this state and the claimant submits a copy of the certification with the claimant's return.

4m. The maximum amount of the credits that may be claimed under this subsection and sub. (5f) and ss. 71.28 (5f) and (5h) and 71.47 (5f) and (5h) in fiscal year is \$500,000.

5. Partnerships, limited liability companies, and tax-option corporations may not claim the credit under this subsection, but the eligibility for, and the amount of, the credit are based on their payment of amounts under par. (b). A partnership, limited liability company, or tax-option corporation shall compute the amount of credit that each of its partners, members, or shareholders may claim and shall provide that information to each of them. Partners, members of limited liability companies, and shareholders of tax-option corporations may claim the credit in proportion to their ownership interests.

(d) *Administration.* 1. Section 71.28 (4) (e), (g), and (h), as it applies to the credit under s. 71.28 (4), applies to the credits under this subsection.

2. If the allowable amount of the claim under par. (b) exceeds the tax otherwise due under s. 71.02 or 71.08 or no tax is due under s. 71.02 or 71.08, the amount of the claim not used to offset the tax due shall be certified by the department of revenue to the department of administration for payment by check, share draft, or other draft drawn from the appropriation account under s. 20.835 (2) (bL).