

CHAPTER 36  
FILM, TELEVISION, AND VIDEO PROJECT PROMOTION PROGRAM

**261—36.1(15) Purpose.** The purpose of the film, television, and video project promotion program is to assist and encourage the production of legitimate film, television, and video projects within the state of Iowa.

**261—36.2(15) Definitions.** The following definitions apply to this chapter:

“*Act*” means Iowa Code sections 15.391 to 15.393 as amended by 2009 Iowa Acts, Senate File 480, that authorize tax credits for film, television, and video projects.

“*Commercial domicile*” means the principal place from which the trade of business of the taxpayer is directed or managed.

“*IDED*” means the Iowa department of economic development.

“*Investor*” means a person or entity that participates financially in a film, television, or video project that is registered by IDED.

“*Iowa-based business*” means a business whose commercial domicile is in Iowa.

“*Producer*” or “*production company*” means the legally designated entity that undertakes and pays for the project activities in Iowa.

“*Project*” means a film, television, or video production operation that involves expenditures and is undertaken in Iowa during the period of time defined in the application.

“*Registered*” or “*registered project*” means a film, television, or video production operation that has been determined by IDED to meet the criteria in 261—36.3(15).

[ARC 7956B, IAB 7/15/09, effective 7/1/09]

**261—36.3(15) Request for registration of a film, television, or video project.** To be eligible to receive tax credits under this program, a request for registration shall be submitted to IDED. Requests for registration of projects must be received in accordance with deadlines posted by the department. The Iowa film office at IDED will specify the form and content of the requests, which, at a minimum, shall document that the project:

**36.3(1)** Is a legitimate effort to produce an entire film, television, or video episode or a film, television, or video segment in the state.

**36.3(2)** Will include expenditures of at least \$100,000 in the state and have an economic impact on the economy of the state or locality sufficient to justify assistance under the program.

**36.3(3)** Will further tourism, economic development, and population retention or growth in the state or locality.

**36.3(4)** Is intended to be widely distributed beyond the Midwest region.

**36.3(5)** Will not depict or describe any obscene material, as defined in Iowa Code section 728.1.

**36.3(6)** Has commitments for at least 50 percent of the funding.

**36.3(7)** The department may charge a nonrefundable fee for registration of a project under the program. The fee shall be paid to the department. The amount of the fee shall equal 1/8 of 1 percent of the value of the tax credit, and 1/16 of 1 percent of the estimated credit value shall be paid upon confirmation of the project’s eligibility to contract with the state under the program. The remaining balance shall be paid upon calculation of the total project qualified spending. Registration fees collected by the department under this subrule shall be used to support industry training, to sponsor industry events and to market the program. One-half of the fees collected will be used for industry training, 25 percent of the fees collected will be used to sponsor industry events and 25 percent of the fees collected will be used to market the program.

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**261—36.4(15) IDED list of registered film, television, or video projects.**

**36.4(1)** Upon review of the information provided in an applicant’s request for registration, if the request meets the criteria listed in rule 261—36.3(15), IDED will include the project on IDED’s list of registered film, television, or video projects.

**36.4(2)** Projects included on IDED's list of registered film, television, or video projects will be eligible for the tax credits authorized by the Act, determined by the department and stipulated in the project contract.

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**261—36.5(15) Contract administration.**

**36.5(1)** *Notice of approval.* Successful applicants will be notified in writing of approval of a request for registration, including any conditions and terms of the approval.

**36.5(2)** *Contract required.* The department shall prepare a contract, which includes, but is not limited to, a description of the project to be completed by the business; terms and conditions for receipt of tax credit benefits; the amount of the tax credit and the repayment requirements or other penalties imposed in the event the recipient does not fulfill its obligations described in the contract.

**36.5(3)** *Contract amendments.* Projects approved under this program are limited to the descriptions and criteria stated on the application. Changes to a registered project must be reported in writing immediately to the Iowa film office along with a request for contract amendment. Upon review, the department will approve or deny the request for amendment. If the request is approved, a written contract amendment will be executed by the recipient and the department.

**36.5(4)** *Default.* Failure to complete the registered project in compliance with the descriptions and terms established in the application shall constitute a default and result in loss of tax credit benefits.

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**261—36.6(15) Benefits available.** Approved projects are eligible to claim the following tax credit benefits:

1. Qualified expenditure tax credit.
2. Qualified investment tax credit.

**261—36.7(15) Qualified expenditure tax credit.**

**36.7(1)** *Description.*

*a.* For tax years beginning on or after January 1, 2007, a qualified expenditure tax credit shall be allowed against the taxes imposed in Iowa Code chapter 422, divisions II, III, and V, and in Iowa Code chapter 432, and against the moneys and credits tax imposed in Iowa Code section 533.24, for a portion of a taxpayer's qualified expenditures in a project registered under the program.

*b.* The tax credit shall not exceed 25 percent of the qualified expenditures on a project. The department may negotiate the amount of the tax credit.

*c.* Under rule 261—36.7(15), an individual may claim a tax credit of a partnership, limited liability company, S corporation, estate, or trust electing to have income taxed directly to the individual. The amount claimed by the individual shall be based upon the pro rata share of the individual's earnings from the partnership, limited liability company, S corporation, estate, or trust.

*d.* Any tax credit in excess of the taxpayer's liability for the tax year may be credited to the tax liability for the following five years or until depleted, whichever is earlier.

*e.* A tax credit shall not be carried back to a tax year prior to the tax year in which the taxpayer claims the tax credit.

**36.7(2)** *Qualified expenditures.*

*a.* A qualified expenditure by a taxpayer is a payment to an Iowa resident or an Iowa-based business for the sale, rental, or furnishing of tangible personal property or for services directly related to the registered project including, but not limited to:

1. Aircraft.
2. Vehicles.
3. Equipment.
4. Materials.
5. Supplies.
6. Accounting.
7. Animals and animal care.

8. Artistic and design services.
9. Graphics.
10. Construction.
11. Data and information services.
12. Delivery and pickup services.
13. Labor and personnel as described in 36.7(2) “b.”
14. Lighting.
15. Makeup and hairdressing.
16. Film.
17. Music.
18. Photography.
19. Sound.
20. Video and related services.
21. Printing.
22. Research.
23. Site fees and rental.
24. Travel related to Iowa distant locations.
25. Trash removal and cleanup.
26. Wardrobe.

*b.* Labor and personnel. For purposes of this subrule, “labor and personnel” includes the following:

(1) Compensation that is paid to the principal producer, principal director, and principal cast members is a qualified expenditure if the principal producer, principal director, or principal cast member is an Iowa resident or an Iowa-based business and if the compensation paid meets one of the following conditions:

1. If the total of qualified expenditures is at least \$10 million but less than \$20 million, the qualifying compensation paid to each principal producer, principal director, and principal cast member shall not exceed \$250,000 each.

2. If the total of qualified expenditures is at least \$20 million, the qualifying compensation paid to each principal producer, principal director, and principal cast member shall not exceed \$1 million each.

(2) Compensation that is paid to personnel other than the principal producer, principal director, or principal cast members qualifies if the compensation meets one of the following conditions:

1. If the total of qualified expenditures is less than \$10 million, the qualifying compensation paid to labor and personnel other than the principal producer, the principal director, and principal cast members shall not exceed \$150,000 for each detailed budget line item or for each budget accounting subcode.

2. If the total of qualified expenditures is at least \$10 million but less than \$20 million, the qualifying compensation paid to labor and personnel other than the principal producer, the principal director, and the principal cast members shall not exceed \$200,000 for each detailed budget line item or for each budget accounting subcode.

3. If the total of qualified expenditures is at least \$20 million, the qualifying compensation paid to labor and personnel other than the principal producer, the principal director, and the principal cast members shall not exceed \$300,000 for each detailed budget line item or for each budget accounting subcode.

*c.* The department and the department of revenue shall establish a list of eligible expenditures and negotiable expenditures.

**36.7(3) Approval of tax credit—process.**

*a.* After project completion and verification of the eligibility for a tax credit under this program, IDED shall issue a film, television, and video project promotion program tax credit certificate to be attached to the taxpayer’s tax return.

*b.* The tax credit certificate shall contain the taxpayer’s name, address, tax identification number, the date of project completion, the amount of credit, other information required by the department of

revenue, and a place for the name and tax identification number of a transferee and the amount of the tax credit being transferred.

*c.* A tax credit certificate issued may be transferred to any person or entity. Within 90 days of transfer, the transferee shall submit the transferred tax credit certificate to the department of revenue along with a statement containing the transferee's name, tax identification number, and address, and the denomination that each replacement tax credit certificate is to carry and any other information required by the department of revenue. Within 30 days of receiving the transferred tax credit certificate and the transferee's statement, the department of revenue shall issue one or more replacement tax credit certificates to the transferee. Each replacement tax credit certificate must contain the information required for the original tax credit certificate and must have the same expiration date that appeared in the transferred tax credit certificate. Any certificates issued on or after the program's effective date, May 17, 2007, may be freely transferred without regard to face value. A maximum of two transfers shall be allowed.

*d.* A qualified expenditure tax credit shall not be claimed by a transferee until a replacement tax credit certificate identifying the transferee as the proper holder has been issued.

*e.* The transferee may use the amount of the tax credit transferred against the taxes imposed in Iowa Code chapter 422, divisions II, III, and V, and in Iowa Code chapter 432, and against the moneys and credits tax imposed in Iowa Code section 533.24, for any tax year the original transferor could have claimed the tax credit. Any consideration received for the transfer of the tax credit shall not be included as income under Iowa Code chapter 422, divisions II, III, and V, under Iowa Code chapter 432, or against the moneys and credits tax imposed in Iowa Code section 533.24. Any consideration paid for the transfer of the tax credit shall not be deducted from income under Iowa Code chapter 422, divisions II, III, and V, under Iowa Code chapter 432, or against the moneys and credits tax imposed in Iowa Code section 533.24.

**36.7(4) Approval of tax credit—reporting.** All qualified expenditures made for a registered project must be submitted in a format approved by the department prior to production once the producer has completed the project. No additional claims will be accepted once the Schedule of Qualified Expenses or previously approved documentation has been received by the Iowa film office.

[ARC 7956B, IAB 7/15/09, effective 7/1/09]

## **261—36.8(15) Qualified investment tax credit.**

### **36.8(1) Description.**

*a.* For tax years beginning on or after January 1, 2007, an investment tax credit shall be allowed against the taxes imposed in Iowa Code chapter 422, divisions II, III, and V, and in Iowa Code chapter 432, and against the moneys and credits tax imposed in Iowa Code section 533.24, for a portion of a taxpayer's investment in a project registered under the program.

*b.* The tax credit shall not exceed 25 percent of the investment in the project. Under rule 261—36.8(15), an individual may claim a tax credit of a partnership, limited liability company, S corporation, estate, or trust electing to have income taxed directly to the individual. The amount claimed by the individual shall be based upon the pro rata share of the individual's earnings from the partnership, limited liability company, S corporation, estate, or trust.

*c.* Any tax credit in excess of the taxpayer's liability for the tax year may be credited to the tax liability for the following five years or until depleted, whichever is earlier.

*d.* A tax credit shall not be carried back to a tax year prior to the tax year in which the taxpayer claims the tax credit.

### **36.8(2) Approval of tax credit—process.**

*a.* After project completion and verification of the eligibility for a tax credit under this program, the Iowa department of economic development shall issue a film, television, and video project promotion program tax credit certificate to be attached to the taxpayer's tax return.

*b.* The tax credit certificate shall contain the taxpayer's name, address, tax identification number, the date of project completion, the amount of credit, other information required by the department of

revenue, and a place for the name and tax identification number of a transferee and the amount of the tax credit being transferred.

*c.* A tax credit certificate issued may be transferred to any person or entity. Within 90 days of transfer, the transferee shall submit the transferred tax credit certificate to the department of revenue along with a statement containing the transferee's name, tax identification number, and address, and the denomination that each replacement tax credit certificate is to carry and any other information required by the department of revenue. Within 30 days of receiving the transferred tax credit certificate and the transferee's statement, the department of revenue shall issue one or more replacement tax credit certificates to the transferee. Each replacement tax credit certificate must contain the information required for the original tax credit certificate and must have the same expiration date that appeared in the transferred tax credit certificate. Any certificates issued on or after the program's effective date, May 17, 2007, may be freely transferred without regard to face value. A maximum of two transfers shall be allowed.

*d.* An investment tax credit shall not be claimed by a transferee until a replacement tax credit certificate identifying the transferee as the proper holder has been issued.

*e.* The transferee may use the amount of the tax credit transferred against the taxes imposed in Iowa Code chapter 422, divisions II, III, and V, and in Iowa Code chapter 432, and against the moneys and credits tax imposed in Iowa Code section 533.24, for any tax year the original transferor could have claimed the tax credit. Any consideration received for the transfer of the tax credit shall not be included as income under Iowa Code chapter 422, divisions II, III, and V, under Iowa Code chapter 432, or against the moneys and credits tax imposed in Iowa Code section 533.24. Any consideration paid for the transfer of the tax credit shall not be deducted from income under Iowa Code chapter 422, divisions II, III, and V, under Iowa Code chapter 432, or against the moneys and credits tax imposed in Iowa Code section 533.24.

**36.8(3) Limitation.** The same taxpayer cannot claim both an expenditure tax credit and an investment tax credit on the same project.

**36.8(4) Calculation.** The total of all investment tax credits per project cannot exceed 25 percent of qualified expenditures on that project. This amount will be awarded proportionally to each individual's investment in the registered project.

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### **261—36.9(15) Reduction of gross income due to payments received from qualified expenditures in registered projects.**

**36.9(1)** For the tax year in which a qualified expenditure occurred, and for the ensuing three tax years, a taxpayer may claim a reduction in adjusted gross income not to exceed in a tax year 25 percent of the amount of the qualified expenditure for purposes of taxes imposed in Iowa Code chapter 422, divisions II and III, for payments received from the sale, rental, or furnishing of tangible personal property or services directly related to the production of a project registered under this chapter which meets the criteria of a qualified expenditure under rule 261—36.7(15).

**36.9(2)** A taxpayer claiming a qualified expenditure tax credit, a business in which such taxpayer has an equity interest, or a business in whose management such taxpayer participates is not eligible to receive the adjusted gross income reduction under this rule.

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These rules are intended to implement Iowa Code sections 15.391 to 15.393 as amended by 2009 Iowa Acts, Senate File 480.

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