Full Evaluation of Tax Expenditures:
Tax Benefits for Media Production Companies
Background Presented to the Government Oversight Committee on June 15, 2022

Enacted	Statute(s)	Taxpayers Affected	Est. Revenue Loss
2006	36 MRSA §5219-Y; 36 MRSA §6902; 5 MRSA §13090-L	Fewer than 10 taxpayers	FY22 $150,000 FY23 $150,000

Sources: Maine Revised Statutes and Maine State Tax Expenditure Report 2022 – 2023.

Description

The two tax incentives available for visual media production companies producing certified visual media productions are: [1]

(1) a non-refundable income tax credit (5% of non-wage production expenses);[2] and

(2) a reimbursement of wages (12% of production wages for Maine-resident wage earners and 10% for non-resident wage earners) for certified productions of visual media production companies.[3]

Visual media productions that are certified may claim one or both of the incentives depending on their eligible expenses.[4] Visual media productions must spend greater than $75,000 to be eligible for the incentives.

For the wage reimbursement, certified production wages that are claimed are limited to $50,000 per individual. Wages that exceed the $50,000 limit for the wage reimbursement cannot be included in "nonwage visual media expenses" for the credit.

The certified visual media production tax credit is non-refundable and may not be carried forward.[5]

[1] Under 5 MRSA §13090-L(2-A)(D), the definition of "visual media production" includes not only television and movie productions but also video games and websites and excludes (1) news, current events or public programming shows or a program that includes weather or market reports, (2) talk shows, (3) sports events or activities, (4) gala presentations or awards shows, (5) finished productions that solicits funds, and (6) adult films or explicit materials required to keep records under 18 U.S. Code §2257.
[2] 36 MRSA §5219-Y(1)
[3] 36 MRSA §6902(1)
[4] Given the nature of the nonrefundable nature of the tax credit, some productions may have eligible expenses but still not be able to make use of the tax credit if they have no Maine state tax liability.
[5] Taxpayers that claim Pine Tree Development Zone tax credit are not eligible for the certified visual media production tax credit.

Administration

The incentives are jointly administered by the Maine State Film Office (MFO) within the Department of Economic and Community Development (DECD) and Maine Revenue Services (MRS). Applications for a visual media production certificate, needed to claim the credit or the reimbursement, are made to DECD through MFO. Applicants are required to provide information about the production and those involved, proof of insurance, financial information demonstrating full financing and that the production will incur at least $75,000 in visual media production expenses. Applicants are also expected to provide data demonstrating that the visual media production will benefit the people of Maine by increasing opportunities for employment and that the production will strengthen the economy of the State. [6]

Within 4 weeks of the completion of the production, the company must confirm its compliance with application requirements by completing the certified visual media production report and submitting it to the MFO.

The tax credit is claimed through normal tax filing processes at MRS.

The wage reimbursement is claimed through application to MRS within 6 weeks of the submission of the certified visual media production report.

Reporting

Certified visual media production companies applying for the incentives must provide the certified visual media production report to MFO/DECD as described above.

On an annual basis, MFO is required to submit a report to the Taxation Committee regarding the certification and reporting related to the visual media production credit and reimbursement. The report must include:

- information on rule making activity;
- outreach efforts to visual media production companies;
- the number of applications for the visual media production credit and tax reimbursement;
- the number of credits and reimbursements granted, the revenue loss associated with the credit and reimbursement; and
- the amount of visual media production expenses generated in the State as a result of the credit and reimbursement.[7]

[6] The requirements are specified under 5 MRSA §13090-L(3). Productions are also required to provide the names and contacts of the principals, an agreement to provide an on-screen credit in the visual media production for the State of Maine; evidence that the visual media production is not owned by, affiliated with or controlled by a person that is in default on a loan made by the State or guaranteed by the State; and a projected scheduled for preproduction, production, and postproduction that shows that the production will begin within 60 days after the certification.

[7] 5 MRSA §13090-L(7)

Legislative Activity

Since enactment in 2006,[8] changes have been made to the calculation of the income tax credit, a limit has been introduced for wages eligible for the wage reimbursement, a certification process for productions has been introduced,[9] and clarification of eligible expenses have been made.[10]

Most recently, legislation was introduced 2021[11] that would have made substantial changes to the incentives by changing spend thresholds and increasing incentive amounts and accessibility. The bill was not enacted into law.

[8] PL 2005, c. 519
[9] PL 2009, c. 470
[10] PL 2011, c. 240
[11] LD 1334