



COLORADO

HB23-1275: Modification of the Film Production Incentive

Representative Lindstedt / Senator Roberts

The Colorado Film Incentive Program:

- Currently, the Colorado Film Incentive Program provides performance-based incentives to film production companies that produce visual media (such as movies, short films, television shows, commercials, video games, etc.) in part or entirely in Colorado.
- In order for a film production company to receive a film incentive:
 - The film production company must apply to the office of economic development for a performance-based incentive prior to the start of film production activities in the state.
 - The office of economic development will determine the film production company's potential eligibility for a performance-based incentive. If eligibility is determined, the office of economic development with the permission of the Economic Development Commission may provide the film production company with written conditional approval for a performance-based incentive.
 - The film production company, upon completion of the filming activities in the state, shall submit documentation of the film production's expenses.
 - Upon reviewing and confirming accuracy of the documentation, the office of economic development will provide the film production company with the incentive.
- The performance-based incentive is a refund of up to 20% of the film production company's eligible Colorado-based expenses. Per statute, an eligible Colorado-based expense is a "qualified local expenditure," which includes costs associated with:
 - The procurement of construction and operational services;
 - The procurement of production rental facilities and equipment; and
 - The payment for services of film production staff, including photography, sound recording, editing, and related services;

The Challenge:

- As of now, statute does not define loan-out companies' obligation to pay Colorado state income taxes or provide a mechanism by which they can do so in relation to the film incentive program.
- To reflect standard practice and align with film incentive programs in other states, the statute should be updated to allow payments made to loan-out companies that perform work in-state on a film production to count as qualified expenses towards the film incentive rebate.

Legislation:

- HB23-1275 amends the "qualified local expenditure" definition to include costs associated with the payment for services from a loan-out company ("personal services corporation" or an "employee-owned personal services corporation"). A personal services corporation is a common employment structure in the entertainment industry that provides the services of an individual to a film production (i.e., the services of Tom Cruise is provided by Tom Cruise's personal services corporation).
- HB23-1275 further clarifies, for the purposes of verifying eligibility for the incentive, that:
 - Production companies shall withhold on out-of-state labor who provide services to the film production in Colorado;
 - Production companies shall file informational returns (like a W-2 or 1099-style document) with the Department of Revenue reporting payments made to resident and nonresident loan-out companies.