

## Chapter 09 Motion Picture Production Tax Incentive

### 100 General

101 The Motion Picture Production Tax rebate is based on the amount of the base investment made in Mississippi and Mississippi payroll as defined in Miss. Code Ann. Section 57-89-3. The rebate is available for a motion picture production company that expends at least \$50,000 in base investment or payroll, or both, in this state on a production certified by the Mississippi Development Authority. The amount of the rebate is twenty-five percent (25%) of the base investment made and expended in this state. Payroll for a Mississippi resident is eligible for a thirty percent (30%) rebate and payroll for a non-resident is eligible for a twenty-five percent (25%) rebate.

102 The total amount of rebates authorized for a motion picture production will not exceed \$8,000,000 in the aggregate and the total amount of rebates authorized in any fiscal year will not exceed \$20,000,000 in the aggregate.

103 In order to receive the rebate, the rebate request must be submitted in two electronic Excel spreadsheets upon completion of the project. One spreadsheet should contain a detailed accounting of the base investment and the other should contain the payroll and contract labor detail.

104 (Reserved)

### 200 Base Investment

201 Base investment includes purchases of goods and services from Mississippi vendors, housing, housing allowances, food, rental of equipment, dry cleaning, per diem and anything else that the motion picture company actually spends in the State of Mississippi on the production.

202 The rebate request spreadsheet should include a listing of sales invoices that detail vendor name, address, date, description of items purchased and the amount of each expenditure. The spreadsheet must contain links to images of all source documentation contained in the rebate request. Supporting documentation must be kept for verification and additional documentation may be requested. For productions that take place in more than one location, the dates for each location should be grouped together.

203 Purchases of tangible personal property must be made from a vendor with a physical location in Mississippi in order to qualify for the rebate. Purchases of services can be made from an out of state vendor and remain eligible for the rebate as long as the service is performed wholly in Mississippi. This does not include payments made to out of state independent contractors who have contracted with the motion picture production company to provide services used directly in the production such as artists, crew, actors, directors and producers. Purchases of services from a vendor must satisfy the following four criteria to be eligible for the rebate:

1. The service must be wholly performed in this state;

2. The payment may not be for a qualified personnel expenditure;
  3. The service must be directly attributable to the production; and
  4. The transaction must be subject to taxation in this state.
- 204 Items that do not qualify as base investment:
1. Online Purchases, regardless if Mississippi sales tax is charged.
  2. Postage
  3. Mileage
  4. Bank fees
  5. Credit Card fees
  6. Taxes
  7. Out of state expenses billed through a Mississippi pass through company.
  8. Any other items that do not meet the definition of base investment.
- 205 Airline tickets included in the electronic spreadsheet in the rebate request must be purchased through a Mississippi travel agent and the sales invoice must indicate the airports in which the flight departed and arrived. Airports located in Mississippi or one of the following cities are eligible for the rebate:
1. Memphis, TN
  2. New Orleans, LA
  3. Baton Rouge, LA
  4. Mobile, AL
- 206 Location rentals for housing or a set should include the Vendor/Owner name, address of the rental property, description of use, dates used and the amount spent.
- 207 Items purchased during production that are sold in Mississippi at the end of production must be decreased by the sales price of the item before being included in the rebate.
- 208 Contract labor paid to a Mississippi resident is eligible for a twenty-five percent (25%) rebate, while non-resident contract labor is not eligible for the rebate. A rebate request for contract labor should include the name of the individual, city of residence, social security number, the amount paid and a link to an image of Form 1099, if applicable, journals and any other supporting documentation.
- 209 Purchases of property or services from a local vendor who has acquired the property or services from out of state may qualify for the rebate if:
1. The Mississippi vendor is regularly engaged in the business of providing that same type of good or service.
  2. The Mississippi vendor is a permanent business enterprise; and
  3. The Mississippi vendor's sales to the motion picture production company are at an arm's length basis as evidenced by an added markup that is consistent with industry norms.
- 210 The use of a local production company to provide goods and services may also qualify for the rebate as long as the local production company meets the requirements in Section 209

above and the company was not established specifically for the needs of any one production.

211 (Reserved)

300 Payroll

301 The payroll portion of the rebate request spreadsheet should include a listing of all Mississippi residents and nonresidents receiving wages during the production. This information should include the name of the individual, address, social security number, and a breakdown of the wages paid. The rebate request should also identify the wages paid as either Form W-2 or Form 1099 income and indicate any tax withheld. The spreadsheet must contain links to images of all source documentation contained in the rebate request including W-2s and 1099s, if applicable, journals, etc. Supporting documentation must be kept for verification and additional documentation may be requested.

302 If the eligible production has physical production or post production activities both inside and outside the state, the rebate will only be allowed on a prorated amount of the eligible payroll based on the percentage of activities performed in Mississippi. Source documentation should include a journal indicating time worked between states.

303 An individual who is hired through a loan out company or a temporary staffing company will be considered an employee if the loan out company or temporary staffing company is withholding Mississippi tax, otherwise, the individual will be treated as a contract employee.

304 Payments made to personal service corporations may qualify for the rebate as long as Mississippi income tax has been withheld.

305 Payroll fees paid to Mississippi payroll companies qualify for the rebate.

306 If the payroll paid for an employee exceeds \$1,000,000, then the rebate is only authorized for the first \$1,000,000 of the single employee's payroll.

307 (Reserved)