

REFERENCE TITLE: motion picture production tax credits

State of Arizona  
Senate  
Forty-ninth Legislature  
Second Regular Session  
2010

## **SB 1409**

Introduced by  
Senators Nelson, Miranda, Verschoor; Representatives Ash, McGuire,  
Stevens, Tovar, Weiers JP: Campbell CL, Hendrix, Montenegro, Reagan, Tobin

AN ACT

REPEALING SECTIONS 43-1075 AND 43-1163, ARIZONA REVISED STATUTES; AMENDING TITLE 43, CHAPTER 10, ARTICLE 5, ARIZONA REVISED STATUTES, BY ADDING A NEW SECTION 43-1075; AMENDING TITLE 43, CHAPTER 11, ARTICLE 6, ARIZONA REVISED STATUTES, BY ADDING A NEW SECTION 43-1163; RELATING TO MOTION PICTURE PRODUCTION INCOME TAX INCENTIVES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Repeal

3 Sections 43-1075 and 43-1163, Arizona Revised Statutes, is repealed.

4 Sec. 2. Title 43, chapter 10, article 5, Arizona Revised Statutes, is  
5 amended by adding a new section 43-1075, to read:

6 43-1075. Credit for qualified production expenditures in  
7 Arizona for motion picture production costs:  
8 definitions

9 A. FOR TAXABLE YEARS BEGINNING FROM AND AFTER DECEMBER 31, 2010, A  
10 CREDIT IS ALLOWED AGAINST THE TAXES IMPOSED BY THIS TITLE FOR QUALIFIED  
11 PRODUCTION EXPENDITURES IN THIS STATE. A PRODUCTION COMPANY MAY ONLY RECEIVE  
12 A CREDIT THAT IS BASED ON THE QUALIFIED PRODUCTION EXPENDITURES SUBMITTED BY  
13 A QUALIFIED PRODUCTION COMPANY AND CERTIFIED BY THE DEPARTMENT.

14 B. TO QUALIFY FOR A CREDIT UNDER THIS SECTION, A PRODUCTION COMPANY  
15 MUST NOTIFY THE DEPARTMENT OF ITS INTENT TO APPLY FOR A MOTION PICTURE  
16 PRODUCTION TAX CREDIT AT LEAST NINETY DAYS BEFORE PRODUCTION IS SCHEDULED TO  
17 BEGIN AND MUST REGULARLY UPDATE THE INFORMATION BASED ON A SCHEDULE  
18 DETERMINED BY THE DEPARTMENT. THE INFORMATION MUST INCLUDE:

19 1. THE NAME, MAILING ADDRESS AND TELEPHONE NUMBER OF THE PRODUCTION  
20 COMPANY.

21 2. THE NAME, OFFICE ADDRESS, MAILING ADDRESS, E-MAIL ADDRESS AND  
22 TELEPHONE NUMBER OF AN INDIVIDUAL WHO WILL MAINTAIN RECORDS OF EXPENDITURES  
23 IN THIS STATE.

24 3. THE LOCATION OF THE PRIVATELY FUNDED PRODUCTION FACILITY, INCLUDING  
25 THE OFFICE ADDRESS, MAILING ADDRESS, E-MAIL ADDRESS AND TELEPHONE NUMBER OF  
26 AN OFFICIAL REPRESENTATIVE OF THE PRIVATELY FUNDED PRODUCTION FACILITY.

27 4. THE PROJECTED FIRST PREPRODUCTION DATE AND LAST PRODUCTION DATE.

28 5. THE ESTIMATED TOTAL BUDGET OF THE PRODUCTION.

29 C. TO QUALIFY FOR A CREDIT UNDER THIS SECTION, A PRODUCTION COMPANY  
30 MUST:

31 1. HAVE QUALIFIED PRODUCTION EXPENDITURES OF AT LEAST ONE HUNDRED  
32 THOUSAND DOLLARS.

33 2. EXCEPT AS PROVIDED IN SUBSECTION D, PARAGRAPH 4 OF THIS SECTION,  
34 PRODUCE FIFTY PER CENT OF ALL PRINCIPAL PHOTOGRAPHY AND POSTPRODUCTION WITHIN  
35 A PRIVATELY FUNDED PRODUCTION FACILITY.

36 3. NOT CONDUCT MORE THAN TWENTY PER CENT OF ALL PRINCIPAL PHOTOGRAPHY  
37 AND POSTPRODUCTION OUTSIDE THIS STATE.

38 4. NOT INCLUDE PROPERTY WITH RESPECT TO WHICH RECORDS ARE REQUIRED TO  
39 BE MAINTAINED UNDER 18 UNITED STATES CODE SECTION 2257.

40 D. THE AMOUNT OF THE CREDIT WITH RESPECT TO ANY INDIVIDUAL PRODUCTION  
41 IS CALCULATED BASED ON CERTIFIED INFRASTRUCTURE INVESTMENT OF A PRIVATELY  
42 FUNDED PRODUCTION FACILITY AT THE TIME OF APPLICATION TO THE DEPARTMENT  
43 PURSUANT TO SUBSECTION B OF THIS SECTION AS FOLLOWS:

44 1. IF THE CERTIFIED INFRASTRUCTURE INVESTMENT IS SEVENTY-FIVE MILLION  
45 DOLLARS OR MORE, THE AMOUNT OF THE CREDIT IS TWENTY PER CENT OF THE QUALIFIED  
46 PRODUCTION EXPENDITURES.

1           2. IF THE CERTIFIED INFRASTRUCTURE INVESTMENT IS AT LEAST FIFTY  
2 MILLION DOLLARS, BUT NOT MORE THAN SEVENTY-FIVE MILLION DOLLARS, THE AMOUNT  
3 OF THE CREDIT IS FIFTEEN PER CENT OF THE QUALIFIED PRODUCTION EXPENDITURES.

4           3. IF THE CERTIFIED INFRASTRUCTURE INVESTMENT IS AT LEAST TWENTY  
5 MILLION DOLLARS, BUT NOT MORE THAN FIFTY MILLION DOLLARS, THE AMOUNT OF THE  
6 CREDIT IS FIVE PER CENT OF THE QUALIFIED PRODUCTION EXPENDITURES.

7           4. IF THE PRODUCTION DOES NOT USE A PRIVATELY FUNDED PRODUCTION  
8 FACILITY, THE AMOUNT OF THE CREDIT IS AS FOLLOWS:

9           (a) FIVE PER CENT OF QUALIFIED PRODUCTION EXPENDITURES OF AT LEAST TWO  
10 HUNDRED THOUSAND DOLLARS BUT NOT MORE THAN FIVE HUNDRED THOUSAND DOLLARS.

11           (b) FIFTEEN PER CENT OF QUALIFIED PRODUCTION EXPENDITURES OF AT LEAST  
12 FIVE HUNDRED THOUSAND DOLLARS BUT NOT MORE THAN ONE MILLION DOLLARS.

13           (c) TWENTY PER CENT OF QUALIFIED PRODUCTION EXPENDITURES OF AT LEAST  
14 ONE MILLION DOLLARS BUT NOT MORE THAN ONE MILLION FIVE HUNDRED THOUSAND  
15 DOLLARS.

16           E. WITHIN THIRTY DAYS AFTER SUBMITTAL OF THE APPLICATION, THE  
17 DEPARTMENT SHALL CERTIFY THE VALUE OF THE INFRASTRUCTURE INVESTMENT OF A  
18 PRIVATELY FUNDED PRODUCTION FACILITY BASED ON DOCUMENTATION SUBMITTED WITH  
19 THE APPLICATION. THE PRIVATELY FUNDED PRODUCTION FACILITY MAY VOLUNTARILY  
20 ENTER INTO A LIMITED MANAGE AUDIT AGREEMENT PURSUANT TO TITLE 42, CHAPTER 2,  
21 ARTICLE 7 THAT INCLUDES AN AUDIT OF ITS INFRASTRUCTURE INVESTMENT. THE AUDIT  
22 MUST BE CONDUCTED BY THE TAXPAYER'S AUTHORIZED REPRESENTATIVE, AS DEFINED IN  
23 SECTION 42-2301, WHO IS AN INDEPENDENT CERTIFIED PUBLIC ACCOUNTANT LICENSED  
24 IN THIS STATE. THE CERTIFIED PUBLIC ACCOUNTANT AND THE FIRM THE CERTIFIED  
25 PUBLIC ACCOUNTANT IS AFFILIATED WITH SHALL NOT REGULARLY PERFORM SERVICES FOR  
26 THE PRIVATELY FUNDED PRODUCTION FACILITY OR ITS AFFILIATES. IF THE DIRECTOR  
27 ACCEPTS THE FINDINGS OF THE AUDIT AND ISSUES A CERTIFICATION OF  
28 INFRASTRUCTURE INVESTMENT VALUE THAT AMOUNT ACCEPTED IS NOT SUBJECT TO  
29 FURTHER REVIEW. THE DIRECTOR SHALL PROVIDE A WRITTEN CERTIFICATE STATING THE  
30 AMOUNT OF THE INFRASTRUCTURE INVESTMENT. A PRIVATELY FUNDED PRODUCTION  
31 FACILITY MAY REQUEST CERTIFICATION OF ITS INFRASTRUCTURE INVESTMENT AT ANY  
32 TIME ON OR BEFORE DECEMBER 31, 2015.

33           F. WITHIN FORTY-FIVE DAYS AFTER COMPLETION OF A PRODUCTION THE  
34 PRODUCTION COMPANY MAY APPLY TO THE DEPARTMENT ON FORMS PRESCRIBED BY THE  
35 DEPARTMENT FOR THE INCOME TAX CREDIT FOR QUALIFIED PRODUCTION  
36 EXPENDITURES. THE DEPARTMENT SHALL PROCESS THE APPLICATION WITHIN FORTY-FIVE  
37 DAYS AFTER RECEIPT.

38           G. THE DEPARTMENT SHALL NOT ALLOW A CREDIT UNDER THIS SECTION TO A  
39 TAXPAYER WHO HAS A DELINQUENT TAX BALANCE OWING TO THE DEPARTMENT UNDER THIS  
40 TITLE OR TITLE 42.

41           H. THE AMOUNT OF THE CREDIT SHALL NOT EXCEED \_\_\_\_\_ FOR ANY  
42 INDIVIDUAL PRODUCTION BY A QUALIFIED PRODUCTION COMPANY.

43           I. A MOTION PICTURE PRODUCTION COMPANY, AT ITS EXPENSE, MAY  
44 VOLUNTARILY ENTER INTO A LIMITED MANAGED AUDIT AGREEMENT PURSUANT TO TITLE  
45 42, CHAPTER 2, ARTICLE 7 THAT INCLUDES AN AUDIT OF ITS PRODUCTION COSTS AND  
46 OTHER REQUIREMENTS PRESCRIBED BY THIS SECTION TO CONFIRM THE AMOUNT OF ANY

1 CREDIT UNDER THIS SECTION. THE REQUEST TO ENTER INTO THE AUDIT MUST BE MADE  
2 AFTER THE MOTION PICTURE PRODUCTION COMPANY NOTIFIES THE DEPARTMENT OF ITS  
3 INTENT TO USE THE MOTION PICTURE PRODUCTION TAX CREDIT PURSUANT TO SUBSECTION  
4 B OF THIS SECTION. THE AUDIT MUST BE CONDUCTED BY THE TAXPAYER'S AUTHORIZED  
5 REPRESENTATIVE, AS DEFINED IN SECTION 42-2301, WHO IS AN INDEPENDENT  
6 CERTIFIED PUBLIC ACCOUNTANT LICENSED IN THIS STATE. THE CERTIFIED PUBLIC  
7 ACCOUNTANT AND THE FIRM THE CERTIFIED PUBLIC ACCOUNTANT IS AFFILIATED WITH  
8 SHALL NOT REGULARLY PERFORM SERVICES FOR THE MOTION PICTURE PRODUCTION  
9 COMPANY OR ITS AFFILIATES. IF THE DIRECTOR ACCEPTS THE FINDINGS OF THE AUDIT  
10 AND ISSUES A NOTICE OF DETERMINATION PURSUANT TO SECTION 42-2303 AND THE  
11 TAXPAYER TIMELY FILES ITS INCOME TAX RETURN WITH THE APPROPRIATE CREDIT CLAIM  
12 FORMS, THE CREDIT AMOUNT ACCEPTED IS NOT SUBJECT TO RECAPTURE, DISALLOWANCE,  
13 REDUCTION OR DENIAL WITH RESPECT TO THE MOTION PICTURE PRODUCTION COMPANY.  
14 THE DIRECTOR'S NOTICE OF DETERMINATION SHALL INCLUDE A WRITTEN CERTIFICATE TO  
15 THE TAXPAYER STATING THE AMOUNT OF THE CREDIT AND THAT THE CREDIT IS NOT  
16 SUBJECT TO RECAPTURE. THIS SUBSECTION DOES NOT PROHIBIT THE RECAPTURE OF A  
17 CREDIT FROM A MOTION PICTURE PRODUCTION COMPANY IF THE COMPANY FAILED TO  
18 DISCLOSE MATERIAL INFORMATION DURING THE AUDIT OR FALSIFIED ITS BOOKS OR  
19 RECORDS OR OTHERWISE ENGAGED IN AN ACTION THAT PREVENTED AN ACCURATE AUDIT.

20 J. CO-OWNERS OF A MOTION PICTURE PRODUCTION COMPANY, INCLUDING  
21 PARTNERS IN A PARTNERSHIP, MEMBERS OF A LIMITED LIABILITY COMPANY AND  
22 SHAREHOLDERS OF AN S CORPORATION AS DEFINED IN SECTION 1361 OF THE INTERNAL  
23 REVENUE CODE, MAY ALLOCATE THE CREDIT ALLOWED UNDER THIS SECTION AMONG THE  
24 CO-OWNERS ON ANY BASIS WITHOUT REGARD TO THEIR PROPORTIONAL OWNERSHIP  
25 INTEREST. THE TOTAL OF THE CREDITS ALLOWED ALL SUCH OWNERS OF THE MOTION  
26 PICTURE PRODUCTION COMPANY MAY NOT EXCEED THE AMOUNT THAT WOULD HAVE BEEN  
27 ALLOWED FOR A SOLE OWNER OF THE COMPANY.

28 K. IF THE ALLOWABLE TAX CREDIT FOR A TAXPAYER EXCEEDS THE TAXES  
29 OTHERWISE DUE UNDER THIS TITLE ON THE CLAIMANT'S INCOME, OR IF THERE ARE NO  
30 STATE INCOME TAXES DUE ON THE CLAIMANT'S INCOME, THE AMOUNT OF THE CLAIM NOT  
31 USED AS AN OFFSET AGAINST INCOME TAXES SHALL BE PAID TO THE TAXPAYER IN THE  
32 SAME MANNER AS A REFUND UNDER SECTION 42-1118. REFUNDS MADE PURSUANT TO THIS  
33 SUBSECTION ARE SUBJECT TO SETOFF UNDER SECTION 42-1122.

34 L. THE DEPARTMENT OF REVENUE SHALL MAINTAIN ANNUAL DATA ON THE TOTAL  
35 AMOUNT OF MONIES CREDITED PURSUANT TO THIS SECTION AND THE TOTAL AMOUNT OF  
36 QUALIFIED PRODUCTION EXPENDITURES SUBMITTED BY MOTION PICTURE PRODUCTION  
37 COMPANIES AND ANTICIPATED FUTURE CREDIT AND QUALIFIED PRODUCTION EXPENDITURE  
38 AMOUNTS BASED ON THE INFORMATION SUBMITTED PURSUANT TO SUBSECTION C OF THIS  
39 SECTION, AND, NOTWITHSTANDING TITLE 42, CHAPTER 2, ARTICLE 1, SHALL PROVIDE  
40 THE INFORMATION TO THE DEPARTMENT OF COMMERCE FILM OFFICE, THE GOVERNOR, THE  
41 PRESIDENT OF THE SENATE AND THE SPEAKER OF THE HOUSE BY OCTOBER 15 EACH YEAR.

42 M. A TAXPAYER WHO CLAIMS A CREDIT FOR MOTION PICTURE PRODUCTION  
43 EXPENDITURES UNDER THIS SECTION SHALL NOT CLAIM A CREDIT UNDER SECTION  
44 43-1075.01 FOR THE SAME COSTS.

1 N. THE CREDIT ALLOWED BY THIS SECTION IS IN LIEU OF ANY ALLOWANCE FOR  
2 STATE TAX PURPOSES OF A DEDUCTION OF THOSE EXPENSES ALLOWED BY THE INTERNAL  
3 REVENUE CODE.

4 O. FOR THE PURPOSES OF THIS SECTION:

5 1. "PRIVATELY FUNDED PRODUCTION FACILITY" MEANS A PERMANENT FACILITY  
6 IN THIS STATE OF ONE OR MORE SETS OR STAGES USED PRIMARILY:

7 (a) BY ANY PRODUCTION COMPANY OR COMPANIES AND ANY LAND, PERMANENT  
8 BUILDINGS AND CAPITAL EQUIPMENT THAT IS IN OR ADJACENT TO, AND IS NECESSARY  
9 FOR THE OPERATION OF THE FACILITY, INCLUDING PERMANENT FACILITIES USED TO  
10 COMPLEMENT PRODUCTION NEEDS.

11 (b) FOR STAGING AND FILMING MOTION PICTURES AND ANY LAND, PERMANENT  
12 BUILDINGS OR CAPITAL EQUIPMENT THAT IS IN OR ADJACENT TO, AND IS NECESSARY  
13 FOR THE OPERATION OF THE FACILITY, INCLUDING PERMANENT FACILITIES USED TO  
14 COMPLEMENT MOTION PICTURE PRODUCTION NEEDS AND COMPLEMENT THE MOTION PICTURE  
15 PRODUCTION.

16 2. "PRODUCTION COMPANY" MEANS ANY PERSON PRIMARILY ENGAGED IN THE  
17 BUSINESS OF PRODUCING ENTERTAINMENT CONTENT CREATED IN WHOLE OR IN PART  
18 WITHIN THE STATE, INCLUDING MOTION PICTURES, DOCUMENTARIES, LONG-FORM  
19 PRODUCTIONS, SPECIALS, SERIES, MINISERIES, SOUND RECORDINGS, VIDEOS AND MUSIC  
20 VIDEOS AND INTERSTITIALS, TELEVISION PROGRAMMING, INTERACTIVE TELEVISION,  
21 INTERACTIVE GAMES, VIDEOGAMES, COMMERCIALS, INFOMERCIALS, ANY FORMAT OF  
22 DIGITAL MEDIA, INCLUDING AN INTERACTIVE WEBSITE, CREATED FOR DISTRIBUTION OR  
23 EXHIBITION TO THE GENERAL PUBLIC, AND ANY TRAILER, PILOT, VIDEO TEASER OR  
24 DEMO CREATED PRIMARILY TO STIMULATE THE SALE, MARKETING, PROMOTION OR  
25 EXPLOITATION OF FUTURE INVESTMENT IN EITHER A PRODUCT OR A QUALIFIED  
26 PRODUCTION BY ANY MEANS AND MEDIA IN ANY DIGITAL MEDIA FORMAT, FILM OR  
27 VIDEOTAPE. PRODUCTION COMPANY DOES NOT INCLUDE ANY ONGOING TELEVISION  
28 PROGRAM CREATED PRIMARILY AS NEWS, WEATHER OR FINANCIAL MARKET REPORTS, A  
29 PRODUCTION FEATURING CURRENT EVENTS, SPORTING EVENTS AND AWARDS SHOW OR OTHER  
30 GALA EVENT, A PRODUCTION WHOSE SOLE PURPOSE IS FUNDRAISING, A LONG-FORM  
31 PRODUCTION THAT PRIMARILY MARKETS A PRODUCT OR SERVICE, A PRODUCTION USED FOR  
32 CORPORATE TRAINING OR IN-HOUSE CORPORATE ADVERTISING OR OTHER SIMILAR  
33 PRODUCTIONS FOR WHICH RECORDS ARE REQUIRED TO BE MAINTAINED UNDER 18 UNITED  
34 STATES CODE SECTION 2257.

35 3. "QUALIFIED PRODUCTION EXPENDITURE" MEANS THE FOLLOWING EXPENDITURES  
36 DIRECTLY RELATED TO A PRODUCTION BY A PRODUCTION COMPANY:

37 (a) TEN PER CENT OF WAGES PAID TO RESIDENTS OF THIS STATE FOR WORK  
38 PERFORMED IN THIS STATE.

39 (b) MATERIAL PURCHASED IN THIS STATE FOR CONSTRUCTION OF SETS, SPECIAL  
40 EFFECTS AND OTHER PURPOSES.

41 (c) EQUIPMENT RENTED OR LEASED IN THIS STATE.

42 (d) EQUIPMENT ACQUIRED OR OTHERWISE PURCHASED IN THIS STATE.

43 (e) FACILITIES LEASED FOR PREPRODUCTION, PRODUCTION AND POSTPRODUCTION  
44 IN ARIZONA.

45 (f) HOTEL AND LODGING IN THIS STATE.

46 (g) CATERING AND FOOD EXPENSES PURCHASED IN THIS STATE.

- 1 (h) LOCATION FEES IN THIS STATE.
- 2 (i) POST PRODUCTION EXPENSES IN THIS STATE.
- 3 (j) FUEL PURCHASED IN THIS STATE.
- 4 (k) VEHICLES RENTED IN THIS STATE.

5 Sec. 3. Title 43, chapter 11, article 6, Arizona Revised Statutes, is  
6 amended by adding a new section 43-1163, to read:

7 43-1163. Credit for qualified production expenditures in  
8 Arizona for motion picture production costs:  
9 definitions

10 A. FOR TAXABLE YEARS BEGINNING FROM AND AFTER DECEMBER 31, 2010, A  
11 CREDIT IS ALLOWED AGAINST THE TAXES IMPOSED BY THIS TITLE FOR QUALIFIED  
12 PRODUCTION EXPENDITURES IN THIS STATE. A PRODUCTION COMPANY MAY ONLY RECEIVE  
13 A CREDIT THAT IS BASED ON THE QUALIFIED PRODUCTION EXPENDITURES SUBMITTED BY  
14 A QUALIFIED PRODUCTION COMPANY AND CERTIFIED BY THE DEPARTMENT.

15 B. TO QUALIFY FOR A CREDIT UNDER THIS SECTION, A PRODUCTION COMPANY  
16 MUST NOTIFY THE DEPARTMENT OF ITS INTENT TO APPLY FOR A MOTION PICTURE  
17 PRODUCTION TAX CREDIT AT LEAST NINETY DAYS BEFORE PRODUCTION IS SCHEDULED TO  
18 BEGIN AND MUST REGULARLY UPDATE THE INFORMATION BASED ON A SCHEDULE  
19 DETERMINED BY THE DEPARTMENT. THE INFORMATION MUST INCLUDE:

- 20 1. THE NAME, MAILING ADDRESS AND TELEPHONE NUMBER OF THE PRODUCTION  
21 COMPANY.
- 22 2. THE NAME, OFFICE ADDRESS, MAILING ADDRESS, E-MAIL ADDRESS AND  
23 TELEPHONE NUMBER OF AN INDIVIDUAL WHO WILL MAINTAIN RECORDS OF EXPENDITURES  
24 IN THIS STATE.
- 25 3. THE LOCATION OF THE PRIVATELY FUNDED PRODUCTION FACILITY, INCLUDING  
26 THE OFFICE ADDRESS, MAILING ADDRESS, E-MAIL ADDRESS AND TELEPHONE NUMBER OF  
27 AN OFFICIAL REPRESENTATIVE OF THE PRIVATELY FUNDED PRODUCTION FACILITY.
- 28 4. THE PROJECTED FIRST PREPRODUCTION DATE AND LAST PRODUCTION DATE.
- 29 5. THE ESTIMATED TOTAL BUDGET OF THE PRODUCTION.

30 C. TO QUALIFY FOR A CREDIT UNDER THIS SECTION, A PRODUCTION COMPANY  
31 MUST:

- 32 1. HAVE QUALIFIED PRODUCTION EXPENDITURES OF AT LEAST ONE HUNDRED  
33 THOUSAND DOLLARS.
- 34 2. EXCEPT AS PROVIDED IN SUBSECTION D, PARAGRAPH 4 OF THIS SECTION,  
35 PRODUCE FIFTY PER CENT OF ALL PRINCIPAL PHOTOGRAPHY AND POSTPRODUCTION WITHIN  
36 A PRIVATELY FUNDED PRODUCTION FACILITY.
- 37 3. NOT CONDUCT MORE THAN TWENTY PER CENT OF ALL PRINCIPAL PHOTOGRAPHY  
38 AND POSTPRODUCTION OUTSIDE THIS STATE.
- 39 4. NOT INCLUDE PROPERTY WITH RESPECT TO WHICH RECORDS ARE REQUIRED TO  
40 BE MAINTAINED UNDER 18 UNITED STATES CODE SECTION 2257.

41 D. THE AMOUNT OF THE CREDIT WITH RESPECT TO ANY INDIVIDUAL PRODUCTION  
42 IS CALCULATED BASED ON CERTIFIED INFRASTRUCTURE INVESTMENT OF A PRIVATELY  
43 FUNDED PRODUCTION FACILITY AT THE TIME OF APPLICATION TO THE DEPARTMENT  
44 PURSUANT TO SUBSECTION B OF THIS SECTION AS FOLLOWS:

1           1. IF THE CERTIFIED INFRASTRUCTURE INVESTMENT IS SEVENTY-FIVE MILLION  
2 DOLLARS OR MORE, THE AMOUNT OF THE CREDIT IS TWENTY PER CENT OF THE QUALIFIED  
3 PRODUCTION EXPENDITURES.

4           2. IF THE CERTIFIED INFRASTRUCTURE INVESTMENT IS AT LEAST FIFTY  
5 MILLION DOLLARS, BUT NOT MORE THAN SEVENTY-FIVE MILLION DOLLARS, THE AMOUNT  
6 OF THE CREDIT IS FIFTEEN PER CENT OF THE QUALIFIED PRODUCTION EXPENDITURES.

7           3. IF THE CERTIFIED INFRASTRUCTURE INVESTMENT IS AT LEAST TWENTY  
8 MILLION DOLLARS, BUT NOT MORE THAN FIFTY MILLION DOLLARS, THE AMOUNT OF THE  
9 CREDIT IS FIVE PER CENT OF THE QUALIFIED PRODUCTION EXPENDITURES.

10          4. IF THE PRODUCTION DOES NOT USE A PRIVATELY FUNDED PRODUCTION  
11 FACILITY, THE AMOUNT OF THE CREDIT IS AS FOLLOWS:

12           (a) FIVE PER CENT OF QUALIFIED PRODUCTION EXPENDITURES OF AT LEAST TWO  
13 HUNDRED THOUSAND DOLLARS BUT NOT MORE THAN FIVE HUNDRED THOUSAND DOLLARS.

14           (b) FIFTEEN PER CENT OF QUALIFIED PRODUCTION EXPENDITURES OF AT LEAST  
15 FIVE HUNDRED THOUSAND DOLLARS BUT NOT MORE THAN ONE MILLION DOLLARS.

16           (c) TWENTY PER CENT OF QUALIFIED PRODUCTION EXPENDITURES OF AT LEAST  
17 ONE MILLION DOLLARS BUT NOT MORE THAN ONE MILLION FIVE HUNDRED THOUSAND  
18 DOLLARS.

19          E. WITHIN THIRTY DAYS AFTER SUBMITTAL OF THE APPLICATION, THE  
20 DEPARTMENT SHALL CERTIFY THE VALUE OF THE INFRASTRUCTURE INVESTMENT OF A  
21 PRIVATELY FUNDED PRODUCTION FACILITY BASED ON DOCUMENTATION SUBMITTED WITH  
22 THE APPLICATION. THE PRIVATELY FUNDED PRODUCTION FACILITY MAY VOLUNTARILY  
23 ENTER INTO A LIMITED MANAGE AUDIT AGREEMENT PURSUANT TO TITLE 42, CHAPTER 2,  
24 ARTICLE 7 THAT INCLUDES AN AUDIT OF ITS INFRASTRUCTURE INVESTMENT. THE AUDIT  
25 MUST BE CONDUCTED BY THE TAXPAYER'S AUTHORIZED REPRESENTATIVE, AS DEFINED IN  
26 SECTION 42-2301, WHO IS AN INDEPENDENT CERTIFIED PUBLIC ACCOUNTANT LICENSED  
27 IN THIS STATE. THE CERTIFIED PUBLIC ACCOUNTANT AND THE FIRM THE CERTIFIED  
28 PUBLIC ACCOUNTANT IS AFFILIATED WITH SHALL NOT REGULARLY PERFORM SERVICES FOR  
29 THE PRIVATELY FUNDED PRODUCTION FACILITY OR ITS AFFILIATES. IF THE DIRECTOR  
30 ACCEPTS THE FINDINGS OF THE AUDIT AND ISSUES A CERTIFICATION OF  
31 INFRASTRUCTURE INVESTMENT VALUE THAT AMOUNT ACCEPTED IS NOT SUBJECT TO  
32 FURTHER REVIEW. THE DIRECTOR SHALL PROVIDE A WRITTEN CERTIFICATE STATING THE  
33 AMOUNT OF THE INFRASTRUCTURE INVESTMENT. A PRIVATELY FUNDED PRODUCTION  
34 FACILITY MAY REQUEST CERTIFICATION OF ITS INFRASTRUCTURE INVESTMENT AT ANY  
35 TIME ON OR BEFORE DECEMBER 31, 2015.

36          F. WITHIN FORTY-FIVE DAYS AFTER COMPLETION OF A PRODUCTION THE  
37 PRODUCTION COMPANY MAY APPLY TO THE DEPARTMENT ON FORMS PRESCRIBED BY THE  
38 DEPARTMENT FOR THE INCOME TAX CREDIT FOR QUALIFIED PRODUCTION EXPENDITURES.  
39 THE DEPARTMENT SHALL PROCESS THE APPLICATION WITHIN FORTY-FIVE DAYS AFTER  
40 RECEIPT.

41          G. THE DEPARTMENT SHALL NOT ALLOW A CREDIT UNDER THIS SECTION TO A  
42 TAXPAYER WHO HAS A DELINQUENT TAX BALANCE OWING TO THE DEPARTMENT UNDER THIS  
43 TITLE OR TITLE 42.

44          H. THE AMOUNT OF THE CREDIT SHALL NOT EXCEED \_\_\_\_\_ FOR ANY  
45 INDIVIDUAL PRODUCTION BY A QUALIFIED PRODUCTION COMPANY.

1 I. A MOTION PICTURE PRODUCTION COMPANY, AT ITS EXPENSE, MAY  
2 VOLUNTARILY ENTER INTO A LIMITED MANAGED AUDIT AGREEMENT PURSUANT TO TITLE  
3 42, CHAPTER 2, ARTICLE 7 THAT INCLUDES AN AUDIT OF ITS PRODUCTION COSTS AND  
4 OTHER REQUIREMENTS PRESCRIBED BY THIS SECTION TO CONFIRM THE AMOUNT OF ANY  
5 CREDIT UNDER THIS SECTION. THE REQUEST TO ENTER INTO THE AUDIT MUST BE MADE  
6 AFTER THE MOTION PICTURE PRODUCTION COMPANY NOTIFIES THE DEPARTMENT OF ITS  
7 INTENT TO USE THE MOTION PICTURE PRODUCTION TAX CREDIT PURSUANT TO SUBSECTION  
8 B OF THIS SECTION. THE AUDIT MUST BE CONDUCTED BY THE TAXPAYER'S AUTHORIZED  
9 REPRESENTATIVE, AS DEFINED IN SECTION 42-2301, WHO IS AN INDEPENDENT  
10 CERTIFIED PUBLIC ACCOUNTANT LICENSED IN THIS STATE. THE CERTIFIED PUBLIC  
11 ACCOUNTANT AND THE FIRM THE CERTIFIED PUBLIC ACCOUNTANT IS AFFILIATED WITH  
12 SHALL NOT REGULARLY PERFORM SERVICES FOR THE MOTION PICTURE PRODUCTION  
13 COMPANY OR ITS AFFILIATES. IF THE DIRECTOR ACCEPTS THE FINDINGS OF THE AUDIT  
14 AND ISSUES A NOTICE OF DETERMINATION PURSUANT TO SECTION 42-2303 AND THE  
15 TAXPAYER TIMELY FILES ITS INCOME TAX RETURN WITH THE APPROPRIATE CREDIT CLAIM  
16 FORMS, THE CREDIT AMOUNT ACCEPTED IS NOT SUBJECT TO RECAPTURE, DISALLOWANCE,  
17 REDUCTION OR DENIAL WITH RESPECT TO THE MOTION PICTURE PRODUCTION COMPANY.  
18 THE DIRECTOR'S NOTICE OF DETERMINATION SHALL INCLUDE A WRITTEN CERTIFICATE TO  
19 THE TAXPAYER STATING THE AMOUNT OF THE CREDIT AND THAT THE CREDIT IS NOT  
20 SUBJECT TO RECAPTURE. THIS SUBSECTION DOES NOT PROHIBIT THE RECAPTURE OF A  
21 CREDIT FROM A MOTION PICTURE PRODUCTION COMPANY IF THE COMPANY FAILED TO  
22 DISCLOSE MATERIAL INFORMATION DURING THE AUDIT OR FALSIFIED ITS BOOKS OR  
23 RECORDS OR OTHERWISE ENGAGED IN AN ACTION THAT PREVENTED AN ACCURATE AUDIT.

24 J. CO-OWNERS OF A MOTION PICTURE PRODUCTION COMPANY, INCLUDING  
25 CORPORATE PARTNERS IN A PARTNERSHIP, MAY ALLOCATE THE CREDIT ALLOWED UNDER  
26 THIS SECTION AMONG THE CO-OWNERS ON ANY BASIS WITHOUT REGARD TO THEIR  
27 PROPORTIONAL OWNERSHIP INTEREST. THE TOTAL OF THE CREDITS ALLOWED ALL SUCH  
28 OWNERS OF THE MOTION PICTURE PRODUCTION COMPANY MAY NOT EXCEED THE AMOUNT  
29 THAT WOULD HAVE BEEN ALLOWED FOR A SOLE OWNER OF THE COMPANY.

30 K. IF THE ALLOWABLE TAX CREDIT FOR A TAXPAYER EXCEEDS THE TAXES  
31 OTHERWISE DUE UNDER THIS TITLE ON THE CLAIMANT'S INCOME, OR IF THERE ARE NO  
32 STATE INCOME TAXES DUE ON THE CLAIMANT'S INCOME, THE AMOUNT OF THE CLAIM NOT  
33 USED AS AN OFFSET AGAINST INCOME TAXES SHALL BE PAID TO THE TAXPAYER IN THE  
34 SAME MANNER AS A REFUND UNDER SECTION 42-1118. REFUNDS MADE PURSUANT TO THIS  
35 SUBSECTION ARE SUBJECT TO SETOFF UNDER SECTION 42-1122.

36 L. THE DEPARTMENT OF REVENUE SHALL MAINTAIN ANNUAL DATA ON THE TOTAL  
37 AMOUNT OF MONIES CREDITED PURSUANT TO THIS SECTION AND THE TOTAL AMOUNT OF  
38 QUALIFIED PRODUCTION EXPENDITURES SUBMITTED BY MOTION PICTURE PRODUCTION  
39 COMPANIES AND ANTICIPATED FUTURE CREDIT AND QUALIFIED PRODUCTION EXPENDITURE  
40 AMOUNTS BASED ON THE INFORMATION SUBMITTED PURSUANT TO SUBSECTION C OF THIS  
41 SECTION, AND, NOTWITHSTANDING TITLE 42, CHAPTER 2, ARTICLE 1, SHALL PROVIDE  
42 THE INFORMATION TO THE DEPARTMENT OF COMMERCE FILM OFFICE, THE GOVERNOR, THE  
43 PRESIDENT OF THE SENATE AND THE SPEAKER OF THE HOUSE BY OCTOBER 15 EACH YEAR.

44 M. A TAXPAYER WHO CLAIMS A CREDIT FOR MOTION PICTURE PRODUCTION  
45 EXPENDITURES UNDER THIS SECTION SHALL NOT CLAIM A CREDIT UNDER SECTION  
46 43-1075.01 FOR THE SAME COSTS.



1 N. THE CREDIT ALLOWED BY THIS SECTION IS IN LIEU OF ANY ALLOWANCE FOR  
2 STATE TAX PURPOSES OF A DEDUCTION OF THOSE EXPENSES ALLOWED BY THE INTERNAL  
3 REVENUE CODE.

4 O. FOR THE PURPOSES OF THIS SECTION:

5 1. "PRIVATELY FUNDED PRODUCTION FACILITY" MEANS A PERMANENT FACILITY  
6 IN THIS STATE OF ONE OR MORE SETS OR STAGES USED PRIMARILY:

7 (a) BY ANY PRODUCTION COMPANY OR COMPANIES AND ANY LAND, PERMANENT  
8 BUILDINGS AND CAPITAL EQUIPMENT THAT IS IN OR ADJACENT TO, AND IS NECESSARY  
9 FOR THE OPERATION OF THE FACILITY, INCLUDING PERMANENT FACILITIES USED TO  
10 COMPLEMENT PRODUCTION NEEDS.

11 (b) FOR STAGING AND FILMING MOTION PICTURES AND ANY LAND, PERMANENT  
12 BUILDINGS OR CAPITAL EQUIPMENT THAT IS IN OR ADJACENT TO, AND IS NECESSARY  
13 FOR THE OPERATION OF THE FACILITY, INCLUDING PERMANENT FACILITIES USED TO  
14 COMPLEMENT MOTION PICTURE PRODUCTION NEEDS AND COMPLEMENT THE MOTION PICTURE  
15 PRODUCTION.

16 2. "PRODUCTION COMPANY" MEANS ANY PERSON PRIMARILY ENGAGED IN THE  
17 BUSINESS OF PRODUCING ENTERTAINMENT CONTENT CREATED IN WHOLE OR IN PART  
18 WITHIN THE STATE, INCLUDING MOTION PICTURES, DOCUMENTARIES, LONG-FORM  
19 PRODUCTIONS, SPECIALS, SERIES, MINISERIES, SOUND RECORDINGS, VIDEOS AND MUSIC  
20 VIDEOS AND INTERSTITIALS, TELEVISION PROGRAMMING, INTERACTIVE TELEVISION,  
21 INTERACTIVE GAMES, VIDEOGAMES, COMMERCIALS, INFOMERCIALS, ANY FORMAT OF  
22 DIGITAL MEDIA, INCLUDING AN INTERACTIVE WEBSITE, CREATED FOR DISTRIBUTION OR  
23 EXHIBITION TO THE GENERAL PUBLIC, AND ANY TRAILER, PILOT, VIDEO TEASER OR  
24 DEMO CREATED PRIMARILY TO STIMULATE THE SALE, MARKETING, PROMOTION OR  
25 EXPLOITATION OF FUTURE INVESTMENT IN EITHER A PRODUCT OR A QUALIFIED  
26 PRODUCTION BY ANY MEANS AND MEDIA IN ANY DIGITAL MEDIA FORMAT, FILM OR  
27 VIDEOTAPE. PRODUCTION COMPANY DOES NOT INCLUDE ANY ONGOING TELEVISION  
28 PROGRAM CREATED PRIMARILY AS NEWS, WEATHER OR FINANCIAL MARKET REPORTS, A  
29 PRODUCTION FEATURING CURRENT EVENTS, SPORTING EVENTS AND AWARDS SHOW OR OTHER  
30 GALA EVENT, A PRODUCTION WHOSE SOLE PURPOSE IS FUNDRAISING, A LONG-FORM  
31 PRODUCTION THAT PRIMARILY MARKETS A PRODUCT OR SERVICE, A PRODUCTION USED FOR  
32 CORPORATE TRAINING OR IN-HOUSE CORPORATE ADVERTISING OR OTHER SIMILAR  
33 PRODUCTIONS FOR WHICH RECORDS ARE REQUIRED TO BE MAINTAINED UNDER 18 UNITED  
34 STATES CODE SECTION 2257.

35 3. "QUALIFIED PRODUCTION EXPENDITURE" MEANS THE FOLLOWING EXPENDITURES  
36 DIRECTLY RELATED TO A PRODUCTION BY A PRODUCTION COMPANY:

37 (a) TEN PER CENT OF WAGES PAID TO RESIDENTS OF THIS STATE FOR WORK  
38 PERFORMED IN THIS STATE.

39 (b) MATERIAL PURCHASED IN THIS STATE FOR CONSTRUCTION OF SETS, SPECIAL  
40 EFFECTS AND OTHER PURPOSES.

41 (c) EQUIPMENT RENTED OR LEASED IN THIS STATE.

42 (d) EQUIPMENT ACQUIRED OR OTHERWISE PURCHASED IN THIS STATE.

43 (e) FACILITIES LEASED FOR PREPRODUCTION, PRODUCTION AND POSTPRODUCTION  
44 IN ARIZONA.

45 (f) HOTEL AND LODGING IN THIS STATE.

46 (g) CATERING AND FOOD EXPENSES PURCHASED IN THIS STATE.

- 1 (h) LOCATION FEES IN THIS STATE.
- 2 (i) POST PRODUCTION EXPENSES IN THIS STATE.
- 3 (j) FUEL PURCHASED IN THIS STATE.
- 4 (k) VEHICLES RENTED IN THIS STATE.

5 Sec. 4. Effect on preexisting tax credits

6 This act does not affect the validity of income tax credits granted  
7 under prior law. Taxpayers, including transferees, who qualified for credits  
8 under sections 41-1517, 41-1517.01, 43-1075, 43-1075.01, 43-1163 and  
9 43-1163.01, Arizona Revised Statutes, in effect before the effective date of  
10 this act, may use any applicable amounts of those credits, including allowed  
11 carryovers, against income tax liabilities for subsequent taxable years as  
12 provided by law in effect before the effective date of this act.

13 Sec. 5. Purpose

14 Pursuant to section 43-223, Arizona Revised Statutes, the legislature  
15 enacts sections 43-1075 and 43-1163, Arizona Revised Statutes, as added by  
16 this act, to encourage development in this state of a strong capital and  
17 infrastructure base for motion picture production and related activity to  
18 achieve an independent, self-supporting industry. This objective is divided  
19 into immediate and long-term objectives as follows:

- 20 1. Attract private investment for the production of motion pictures in  
21 this state.
- 22 2. Develop a tax and capital infrastructure that encourages private  
23 development.
- 24 3. Develop a system using income tax credits to encourage investments  
25 in a qualified production facilities.
- 26 4. Create high quality employment opportunities within this sector,  
27 and increase this state's global competitiveness by fully using economic  
28 development tools within the motion picture and digital media industry.
- 29 5. Encourage spin-off development such as educational programs to  
30 provide a labor force trained in all aspects of film and digital production.

31 Sec. 6. Review of income tax credits

32 Notwithstanding section 43-222, Arizona Revised Statutes, in 2010 the  
33 joint legislative income tax credit review committee shall not review the  
34 income tax credits in sections 43-1075, 43-1075.01, 43-1163 and 43-1163.01,  
35 Arizona Revised Statutes.

36 Sec. 7. Effective date

37 Sections 1, 2 and 3 of this act are effective and apply to taxable  
38 years beginning from and after December 31, 2010.