

Chapter 188. Alaska Film Production Incentive Program

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3 AAC 188.010. Agencies Responsibilities. (a) The film office’s duties include:

(1) receiving and processing applications for a notice of qualification and production cost reports under AS 44.33.234; and

(2) awarding notices of qualifications.

(b) When the film office approves an application for tax credits under AS 44.33.235 the Department of Revenue and the film office shall jointly issue a tax credit certificate under 3 AAC 188.060(a).

(c) When the amount of the notices of qualification and tax credit certificates issued equals \$100,000,000, the film office will cease to issue notices of qualification.

(Eff. 0/00/00, Register 000)

Authority: AS 43.98.030 AS 44.33.231 AS 44.33.234 AS 44.33.235 AS 44.33.236
AS 44.33.238

3 AAC 188.020. Eligibility. (a) To satisfy the minimum qualified expenditure requirement of AS 44.33.233(a)(1), a producer must incur at least \$100,000 in qualified

1 expenses during production of a single film, music video, commercial or in the case of
2 television, during production of a series of episodes that will all air during one television
3 season.

4 (b) When calculating the 24-month period of AS 44.33.233(a)(1), the period
5 begins on the date upon which the film office issues the notice of qualification to the
6 producer. (Eff. 0/00/00, Register 000)

7 **Authority:** AS 44.33.236 AS 44.33.233 AS 44.33.238

8 **3 AAC 188.030. Qualified expenditures.** (a) The amount of a qualified
9 expenditure for an asset that is sold or transferred on or before completion of production
10 shall be reduced by the greater of the sale price or the fair market value of the asset at the
11 time of the sale.

12 (b) The amount of a qualified expenditure for an asset that is not sold or
13 transferred on or before completion of production shall be reduced by the amount that
14 could reasonably be recovered through subsequent sale or other realization of value by
15 disposal of the asset if at the completion of production the asset is:

- 16 (1) removed from the state; or
- 17 (2) retained by the producer for use in another production in the state.

18 (c) The arms-length standard of 26 CFR 1.482-1, as revised December 22, 2006
19 and adopted by reference, shall be used to determine whether a claimed expenditure is
20 in excess of fair market value.

21 (d) Employer-paid payroll expenses that are not paid directly to the employee do
22 not qualify for the additional 10 percent credit for wages paid to Alaska residents but do
23 qualify as eligible production expenses for the base credit.

24 (e) Expenditures incurred prior to receiving a notice of qualification or written
25 approval from the film office will not qualify for a tax credit.

26 (f) Expenditures for the following types of expenses are not qualified expenditures
27 under AS 44.33.236:

- 1 (1) fifty-percent of interstate travel and shipping costs;
- 2 (2) Intellectual property and usage rights;
- 3 (3) archival material costs, fees for stock footage, or costs for licensing.

4 (g) Expenditures do not qualify for the additional two percent credit under AS
5 44.33.235(c)(2) unless they are for:

- 6 (1) services provided in a rural area;
- 7 (2) real property located in a rural area;
- 8 (3) tangible personal property purchased, leased or rented from an Alaska business
9 that maintains a year round physical presence in a rural area; or
- 10 (4) other qualified expenditures for activities occurring in a rural area.

11 For purposes of this section, “rural area’ has the meaning provided by AS 44.33.239(7).

12 (h) Expenditures do not qualify for the additional two percent credit under AS
13 44.33.235(c)(3) unless they are for:

- 14 (1) services provided between October 1 and March 30;
- 15 (2) real or tangible personal property purchased, leased or rented from an
16 Alaska business for use during that period of time;
- 17 (3) or for other qualified expenditures for activities occurring during that
18 time.

19 (i) For purposes of AS 44.33.236(a), an expenditure is incurred in the state if it is
20 for:

1 (1) tangible property manufactured or created in the state by an Alaska
2 resident or an Alaska business domiciled in Alaska; or

3 (2) procurement of services performed in Alaska.

4 (j) For purposes of AS 44.33.236(a), an expenditure is directly related to the
5 production if it is for the direct costs of the actual production that would not have been
6 incurred independent of the production (Eff. 0/00/00, Register 000)

7 **Authority:** AS 44.33.235 AS 44.33.236 AS 44.33.238 AS 44.33.239

8 **3 AAC 188.040. Pre-qualification application process.** (a) Under AS 44.33.234,
9 a producer is required to submit a pre-qualification application to the film office on a
10 form or in a format prescribed by the film office. In addition to those set out in AS
11 44.33.234(a), the following requirements apply:

12 (1) only one producer per production will be eligible for pre-qualification;

13 (2) only one project is permissible for each application except in the case of
14 a television series in which one season counts as one project if it is completed within a
15 24-month period.

16 (b) The film office will review the pre-qualification application, reviewing
17 applications in the order that they are received. The film office will determine the order
18 by:

19 (1) the date stamp placed on the application on the day it is received into
20 the film office;

21 (2) when multiple applications are received on the same day, the postmark
22 date on the application will determine the order that it will be received.

23 (c) If an application is complete and accompanied with all required materials, the
24 film office will email the producer notifying the producer that the film office has received

1 the application. The film office will send the notice via the U.S. postal service if
2 requested to do so by the producer.

3 (d) If the application is incomplete or is not accompanied by all the required
4 materials, the film office will notify the producer by email that the application requires
5 additional information, materials or documentation. The film office will send the notice
6 via the U.S. postal service if requested to do so by the producer.

7 (e) If the film office receives a complete application package that does not meet
8 the minimum qualifications, the film office will notify the producer by email that the
9 project does not qualify for the incentive program with an explanation why it does not
10 qualify; The film office will send the notice via the U.S. postal service if requested to do
11 so by the producer.

12 (f) Producers who are notified by the film office that a project does not meet
13 minimum qualifications may reapply; however, the re-application will be treated as a new
14 application for purposes of subsection (b) of this section.

15 (g) After the film office approves a pre-qualification application, it will issue a
16 notice of qualification that sets out the estimated amount of the film production tax credit
17 and the period during which the producer may incur expenditures for which the producer
18 may claim a credit.

19 (h)An producer denied a notice of qualification is entitled to an administrative
20 hearing and may secure one by filing a notice of appeal within 30 days after the date of
21 the notice informing the producer that the producer's project does not qualify. The notice
22 of appeal must be in writing and will be considered filed on the date it is received by the
23 film office. (Eff. 0/00/00, Register 000)

24

25 **Authority:** AS 44.33.234 AS 44.33.238

26 **3 AAC 188.050. Award of tax credits.** (a) In order to obtain tax credits, a
27 producer shall provide the film office with a viewable copy of the finished film,

1 television series episodes, or other final product of the production, with the other items
2 required by AS 44.33.235(d). The film office may refuse to award the producer any tax
3 credits if the final product of the production does not follow the script provided by the
4 producer under AS 44.33.234 and the final product is contrary to the best interests of the
5 State of Alaska under AS 44.33.233.

6 (b) The film office will not accept a verification of the final production cost report
7 of qualified expenditures incurred in Alaska submitted under AS 44.33.235(d) unless the
8 verification was prepared by a certified public accountant who holds a current license as
9 such, issued by the State of Alaska and is an independent third party, not related to the
10 producer or involved in anyway with the production.

11 (c) The film office may not award a film credit under AS 44.33.235 that exceeds
12 the estimated film production tax credit provided in the notice of qualification issued for
13 the production under AS 44.33.234.

14 (d) A producer must submit with the items required by AS 44.33.235(d) and this
15 section, a sworn certification that neither the producer nor the subject production are
16 involved in unresolved legal actions filed in a State of Alaska or federal court in the state.
17 If the producer or subject production is involved in such a legal action after submission of
18 the sworn certification, the producer shall immediately notify the film office. Failure to
19 comply with this subsection may result in no credit being awarded the producer. The film
20 office shall suspend determination of eligibility for a tax credit pending resolution of any
21 legal actions filed in a State of Alaska or federal court in this state that involve the
22 producer or the subject production.

23 (e) An producer that receives notice from the film office that it will not award all
24 the tax credits that the producer applied for is entitled to an administrative hearing and

1 may secure one by filing a notice of appeal within 30 days after the date of the denial
2 notice. The notice of appeal must be in writing and will be considered filed on the date it
3 is received by the film office. (Eff. 0/00/00, Register 000)

4 **Authority:** AS 44.33.233 AS 44.33.234 AS 44.33.235 AS 44.33.236 AS
5 44.33.237 AS 44.33.238

6 **3 AAC 188.060. Tax credit certificate.** (a) Film tax credits will be provided
7 under AS 43.98.030(a) in the form of a tax credit certificate signed by the commissioners
8 of the Department of Commerce, Community, and Economic Development and the
9 Department of Revenue.

10 (b) The transfer or sale of the tax credit certificate does not extend the three year
11 period in which the credit can be used under AS 43.98.030(e), which begins on the date
12 on which the credit certificate is provided under AS 43.98.030(a).

13 (b) The holder of the tax credit certificate is responsible for using the tax credit in
14 a tax year when the credit is still valid.

15 (c) The department will not hold a tax credit transferee liable for any portion of a
16 film credit that is disqualified after the transfer. In event of disqualification, the
17 department shall seek recourse against the producer to whom the tax credit certificate was
18 provided and not the transferee. (Eff. 0/00/00, Register 000)

19 **Authority:** AS 43.98.030 AS 44.33.237 AS 44.33.238

20 **3 AAC 188.070. Alaska film production internship training program.** (a) The
21 film office may maintain a list of certified Alaska film production internship training
22 programs and provide the list to film producers applying for a film production tax credit.

23 (b) Organizations eligible to be included on the list are entities that are based in
24 Alaska and that facilitate learning and career opportunities for Alaska residents. These
25 entities may include:

1 (1) education institutions located in the state that are accredited by the
2 Northwest Commission on Colleges and Universities; and

3 (2) Alaska businesses that offer a formal internship training program in
4 film, television or video production and have worked in one of fields in each of the
5 five previous years). (Eff. 0/00/00, Register 000)

6 **Authority:** AS 44.33.231 AS 44.33.238

7 **3 AAC 188.080 Producer requirements.** (a) Within one year of receiving a
8 credit, the producers receiving a tax credit shall provide a written report to the film office
9 about the film, television episodes, or other final product of the production for which the
10 credit was provided, With the report, the producer shall inform the film office as to what
11 commercial use was made of the final product.

12 (b) The producer must submit the application for tax credits to the film office on a
13 form or in a format prescribed by the film office within 60 days after the 24 month
14 qualifying period ends.

15 (c) Feature films must include in the end credits an acknowledgment that the
16 production was filmed in Alaska in a format prescribed by the film office.

17 AS 44.33.231 AS 44.33.238

18 **3 AAC 188. 090. Definitions.** The following words and terms shall have the
19 following meanings:

20 (1) “Alaska musician” in AS 44.33.236 (a)(12) means an Alaska resident who is a
21 musician;

22 (2) “Alaska resident” means any individual who meets the residency of AS
23 01.10.055;

24 (3) “disbursed” in AS 44.33.231(b)(3) means a tax credit has been provided under
25 AS 43.98.030;

1 (4) “fees” in AS 44.33.236(a) mean the price charged by a government for a
2 privilege;

3 (5) “film office” is the agency within the Office of Economic Development in the
4 Department of Commerce, Community and Economic Development that operates the
5 Film Producer Incentive Program;

6 (6) “leasing of vehicles” in AS 44.33.236(a)(7) means rentals and leases of
7 vehicles registered and licensed in the State of Alaska.

8 (7) “news, weather, or current events” in AS44.33.233(c)(1) means any ongoing
9 television program created primarily as news, weather or financial market reports, but
10 does not mean a documentary on a specific news, weather or current event;

11 (8) “ordinary and reasonable” in AS 44.33.236(a) means ordinary and necessary.

12 (9) “real or tangible property” in AS 44.33.236 means land and things
13 permanently attached to the land, such as trees, buildings, and stationary mobile homes
14 and other personal valuables that can be seen and touched.

15 (10) “services” in AS 44.33.236(a) means work performed as an occupation or
16 business by an Alaska business that is commercially domiciled in Alaska;

17 (11) “state” means all the land and waters of the State of Alaska as defined by
18 Article XII, Section 1 of the Alaska Constitution.

19 (12) " “television” in AS 44.33.239 and these regulations means an electronic
20 system of transmitting transient images of fixed or moving objects together with sound
21 over a wire or through space by apparatus that converts light and sound into electrical
22 waves and reconverts them into visible light rays and audible sound.(Eff. 0/00/00,
23 Register 000)

24 Authority: AS 44.33.231 AS 44.33.232 AS 44.33.236 AS 44.33.238 AS 44.33.239