

**RULES OF
THE GEORGIA DEPARTMENT OF ECONOMIC
DEVELOPMENT**

**CHAPTER 159-1-1
FILM TAX CREDIT**

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**159-1-1-.01 Available Tax Credits For Film, Video or Interactive
Entertainment Production**

(1) Purpose. This rule provides guidance concerning the application and qualification guidelines contained within the Georgia Entertainment Industry Investment Act (hereinafter “Act”) under O.C.G.A. § 48-7-40.26. There are two separate credits made available under the Act: the 20% “Base Tax Credit” and the 10% “Georgia Entertainment Promotion (“GEP”) Tax Credit.” Each of the two available tax credits requires an independent application and certification.

(2) Coordination of Agencies. The Georgia Department of Economic Development, (hereinafter “GDEcD”), will determine which projects qualify for the base tax credits authorized under the Act; will evaluate and certify marketing opportunities for the GEP Tax Credit; and will certify tax credit applications. The Georgia Department of Revenue (hereinafter “GDOR”) is the state agency responsible for determining qualified expenditures and for implementing the proper application of the Film Tax Credits.

(3) Cross-Reference. This rule shall be construed in harmony with the Rules of the Georgia Department of Revenue, Income Tax Division, Chapter 560-7-8, Returns and Collections, Rule 560-7-8-.45, entitled Film

Tax Credit, which governs, among other things, the application of financial thresholds and calculations of the tax credits to be allowed.

Authority: O.C.G.A. §48-7-40.26.

159-1-1-.02 Definitions.

- (1) ‘Alternative Marketing Opportunities’ means GDEcD approved promotions for the state in lieu of the inclusion of the legislated GEP Logo placement in order to receive the 10% uplift.
- (2) ‘Base Certification Letter’ means a letter from GDEcD indicating that the initial requirements to earn the “Base Tax Credit” have been met for the specific project named. The Base Certification Letter shall include a unique credit certificate number.
- (3) ‘Commercial Advertisements’ means televised announcements sponsoring or promoting ideas, goods, entertainment projects, or services that have achieved Multimarket Commercial Distribution and are aired, broadcast, or streamed via video on demand, including over-the-top broadcasting, subscription video on demand, ad-based video on demand, and transaction video on demand; individual television stations; groups of stations; networks; cable television stations; or public broadcasting stations.
- (4) ‘Development’ means any activity or expenses incurred in order to prepare the project for the preproduction phase of the project or production.
- (5) ‘Feature Film’ means, but is not limited to, a dramatic, comedic, animated, or documentary film, or high definition digital production with no commercial interruption, and intended for Multimarket Commercial Distribution to motion picture theaters, directly to the home video and/or DVD markets, cable television, premium cable, broadcast television, video on demand, streaming services, or advertiser supported sites.
- (6) ‘Film Tax Credit’ means the tax credits allowed pursuant to the 2008 Georgia Entertainment Industry Investment Act, O.C.G.A. § 48-7-40.26.
 - (a) The ‘Base Tax Credit’ means the 20% tax credit for productions that meet the minimum investment threshold in a qualified production, as certified by GDEcD and:

(b) The ‘Georgia Entertainment Promotion Tax Credit’ (“GEP Tax Credit” or “GEP Uplift”) means the additional 10% tax credit which may be obtained for projects as outlined in Rule 159-1-1-.07.

(7) ‘Fully Funded’ means that the applicant seeking certification can demonstrate that it has assets that equal or exceed 75% of the total budgeted cost of the project. These assets can be owned by the applicant, be provided by a third-party pursuant to a financing or funding agreement, or a combination of the two. GDEcD will require proof that the project is Fully Funded at the time the applicant applies for certification. Such proof may include, but is not limited to, completion or SAG or IATSE bonds, payroll statements, bank statements, and financing or funding agreements, including in-studio financing letters or agreements.

(8) ‘Game Engine’ means the software system or code used to create and develop an interactive game with core functionality that typically includes rendering 2D or 3D graphics, sound, scripting, animation, artificial intelligence, physics, and input.

(9) ‘Game Platform’ means the electronic delivery system used to launch or play the interactive game and includes mobile applications.

(10) ‘Interactive Entertainment’ means projects produced in Georgia and as defined and approved by GDEcD means those that meet all of the following requirements:

(a) Employs electronics including Game Platforms and Game Engines to create an interactive system with which a user can play;

(b) Contains or creates a computer-controlled virtual universe or simulated environment within which an individual using the program may interact to generate visual feedback and achieve a goal within that universe or environment as determined by the player’s skill and or luck;

(c) Contains at least three of the following six elements: animated graphical images, static graphic images, sound, text, 2d or 3d geometry, scoring/leaderboard/badges/trophies system;

(d) Are not products developed by the Qualified Interactive Entertainment Production Company or developer for internal use;

(e) Meets the requirement of Multimarket Commercial Distribution via digital platforms, including advertiser supported websites, designed for the distribution of interactive games.

- (i) Projects eligible for certification include: game types/categories traditionally found in videogame or retail stores or Internet-based social, casual, serious, and social networking games on mobile, console, computer, smart device and television platforms.
- (ii) Projects not eligible for certification include, but are not limited to the following: Internet sites that do not meet all of the defined requirements of Interactive Entertainment; streamed linear media such as podcasts or audio; interpersonal communications services such as video conferencing, wireless telecommunications, text-based channels, chat rooms, broadcast/streamed viewing enhancements; small-scale games embedded and used exclusively in advertising; and marketing and promotional websites or microsites.

(11) ‘Life of the Project’ means from any public screening or release date through all ancillary uses, markets, and distribution channels worldwide, unless an exemption is agreed upon by GDEcD.

(12) ‘Multimarket Commercial Distribution’ means paid commercial distribution with media buys which extend to multiple markets outside the State of Georgia.

(13) ‘Music Video’ means a filmed or digitally recorded song, often portraying musicians performing the song or including visual images interpreting the lyrics.

(14) ‘Pilot’ means the initial episode produced for a proposed Series.

(15) ‘Preproduction’ means the process of preparation for actual physical production in Georgia, and is considered to begin with the establishment of a dedicated commercial production office, the hiring of key crew members including a Unit Production Manager and/or Line Producer, and includes, but is not limited to, activities such as location scouting, hiring of crew, construction of sets, etc. Preproduction does not include the process of ‘Development’. (See paragraph (4) of this rule).

(16) ‘Principal Photography’ means principal ongoing filming within Georgia of significant portions of a qualified film that involves the main lead actor(s) and the director and which is intended to be incorporated into the final product; in the case of animation projects, it means the time from when the script is finalized and continues through the finalization of animatics.

(17) ‘Principal Photography Start Date’ means the first date within Georgia of principal ongoing filming of significant portions of a qualified film that involves the main lead actor(s) and the director and which is intended to be incorporated into the final product; in the case of animation projects, it means the date that the script is finalized.

(18) ‘Production Company’ is defined as a company that is primarily engaged in qualified production activities which have been approved by GDEcD.

(19) ‘Qualified Interactive Entertainment Production Company’ means a company that satisfies the requirements of O.C.G.A. § 48-7-40.26(b)(10) and which is primarily engaged in qualified production activities related to Interactive Entertainment which has been approved by GDEcD. “Primarily engaged” means a company whose gross income from qualified production activities related to Interactive Entertainment which has been approved by GDEcD exceeds 50% of their total gross income for their taxable year or whose expenses from qualified production activities related to Interactive Entertainment which has been approved by GDEcD exceeds 50% of their total expenses for their taxable year.

(20) ‘Series,’ which may also be known as episodic programming, means a production intended in its initial run for broadcast on television or streaming.

(21) ‘Streamed’ or ‘Streaming’ is video content sent in compressed form over the Internet and displayed by the viewer in real time.

(22) ‘Television Film,’ which may also be known as a ‘Movie of-the-Week,’ ‘MOW,’ ‘Television Special,’ ‘Made for Television Movie,’ ‘TV Movie,’ or ‘TV Miniseries,’ means a production intended for broadcast on television or streaming.

(23) ‘Uplift Certification Letter’ means a letter from GDEcD electronically certifying that a project has met the requirements to earn the “GEP Tax Credit” including that the project achieved multimarket commercial distribution in multiple markets within five years of the date that the first Base Certification Letter was issued, and that the applicant has provided proof of the same. The Uplift Certification Letter shall include a unique credit certificate number.

(24) ‘Work for Hire’ means an arrangement whereby one Production Company contracts with another Production Company to engage in qualified production activities pursuant to a production services agreement. Merely financing or providing funding to a Production Company does not make the financing/funding company the “hiring” company for purposes of the entertainment tax credit statute. In the instance of co-productions, both companies must provide a written agreement to GDEcD as to which party will be entitled to earn and claim the tax credit. In the instance of a work-for-hire, the hired company will not be eligible for the Film Tax Credit.

Authority: O.C.G.A. §48-7-40.26.

159-1-1-.03 Film Tax Credit Certification.

(1) State Certified Production.

(a) Project Certification Requirement. Prior to claiming any Film Tax Credit, each new film, video, television or Interactive Entertainment project must be certified as meeting the guidelines and the intent of the Act. Projects are certified by GDEcD on a project-by-project basis. The type of projects eligible to receive the Base Tax Credits are Feature Films, Television Films, Series or Episodes, Pilots , Commercial Advertisements, Music Videos, and Interactive Entertainment Projects as defined and approved by GDEcD. Producers will be required to provide budget information, funding sources, distribution agreements, production schedules, call sheets, personnel information, and any other documentation as requested by GDEcD. Only one Production Company may claim the tax credit, per project.

Beginning on or after January 1, 2018, the maximum total tax credits allowed for Qualified Interactive Entertainment Production Companies is \$1.5 million per taxable year for a single company and the maximum total tax credits allowed among all Qualified Interactive Entertainment Production Companies is \$12.5 million. The Commissioner of Revenue shall preapprove applications for Interactive Entertainment tax credits

based on a first come, first serve basis. Therefore, GDEcD certification of Interactive Entertainment projects does not guarantee that credits will be available.

Each project must be applied for and certified individually once the project is Fully Funded. Certification shall not be used to secure funding. Certification applications for all projects shall be submitted electronically to GDEcD.

(b) Projects Not Eligible for Certification. Certain categories of projects do not qualify for the Film Tax Credit including, but not limited to, the following:

1. Live or prerecorded broadcast of athletic events;
2. Live or prerecorded news or current affairs programming covering news that has recently occurred or is ongoing at the time of the broadcast;
3. Local interview or talk shows or other local interest programming not intended for Commercial Multimarket Distribution;
4. Projects and content consisting solely of footage not shot, recorded, or originally created in Georgia, or content that is primarily post-production in nature;
5. Website development;
6. Corporate marketing, industrial, or training productions;
7. Any productions in violation of Title 16 Chapter 12 of the state's Obscenity Statute;
8. Sole platform arcade video games;
9. Small scale games embedded and used exclusively in advertising, marketing and promotional websites or microsites;
10. Infomercials, Infotainment, or Solicitation-based productions;
11. Certain instructional or how-to-video based content and programming, as determined by GDEcD;
12. Political or Editorial-based content programming;
13. Projects that do not meet the requisite base investment requirement;
14. Marketing or political campaigns;
15. Internet sites and digital media projects that do not meet all of the defined requirements of Interactive Entertainment; interpersonal communications services such as video conferencing, wireless telecommunications, text-based channels, chat rooms, or broadcast/streamed viewing enhancements.

16. Film or television Projects created for a limited audience, including, but not limited to museum presentations;
17. Film or program intended primarily for industrial, corporate or institutional end-users;
18. Any Project that falls outside of industry standards;
19. Any Project where filming is merely incidental or ancillary to the primary purpose of the Project, such as live concerts or events; and
20. The creation of phone, tablet or desktop apps that do not meet the defined requirements of Interactive Entertainment.

(c) Base Certification Letters. Projects that meet the certification requirements will be sent a Base Certification Letter with a project certification number. GDEcD shall use reasonable efforts to make a certification decision and, if appropriate, provide the Base Certification Letter to the Production Company or Qualified Interactive Entertainment Production Company within sixty (60) days of the submission of a completed certification application; provided however, that if such Base Certification Letter is not sent within this sixty (60) day period, the Production Company or Qualified Interactive Entertainment Production Company may deem its application to be denied, and begin the appeals process outlined in Rule 159-1-1-.08.

Applicants that voluntarily withdraw Base Tax Credit applications prior to a decision by GDEcD may reapply for the same project in the future. Projects that are denied and fail to appeal within the thirty (30) day timeframe cannot reapply. In the instance of co-productions, both companies must provide an agreement as to which party will earn the tax credits. In the instance of a work-for-hire, the work-for-hire company will not be eligible for the Film Tax Credit. If a film or television project is certified, but does not notify GDEcD or begin filming within thirty (30) days of the submitted schedule, a retraction of the Base Certification Letter may be issued. Amendments to the application must be made in writing to GDEcD.

Authority: O.C.G.A. §48-7-40.26.

159-1-1-.04 Base Tax Credit Certification Application Process.

(1) For all feature films and television projects to be considered for approval, film and television Production Companies or studios must submit a completed certification application with a shooting script not

earlier than ninety (90) days prior to the Principal Photography Start Date but before the completion of Principal Photography.

Producers of Interactive Entertainment projects must submit a synopsis of each project along with a completed certification application not earlier than ninety (90) days before the beginning of Interactive Entertainment production.

Music video producers must submit a basic outline of the storyline elements, script, and or story board if applicable, along with a completed certification application not earlier than thirty (30) days prior to the scheduled Principal Photography Start Date and before the completion of Principal Photography.

Production Companies submitting applications for Commercial Advertisements must submit a listing of the television commercial(s) being produced, script, and or story board if applicable, along with a completed certification application(s) not earlier than (30) days prior to the Principal Photography Start Date and before the completion of Principal Photography. Production Companies submitting applications for Commercial Advertisements must also submit proof that the commercial was televised.

(2) Projects should strive to be completed within a single tax year. However, for a project that is not completed within the applicant's tax year (fiscal year or calendar year), a new project certification must be applied for in each successive tax year. A Base Certification Letter must be obtained for each project for each year that tax credits are claimed. A single project cannot span more than two tax years, unless given prior written approval by GDEcD. A Production Company seeking a Base Certification Letter for a second tax year must provide proof that qualified production activity was ongoing in the second year. Such letter shall not be issued for deferred or delinquent payments that carried over from the first tax year. This two tax year limitation on a single project shall not apply to projects for animation or Interactive Entertainment. This two tax year limitation applies to all multi-year entertainment productions that qualify for the Film Tax Credits including, but not limited to, Feature Films, Series, and other television productions.

(3) All projects applying for the Base Tax Credit must be Fully Funded and must record content, in whole or part, within Georgia. Projects must also supply documentation verifying that Principal Photography

occurred within Georgia. Such documentation must be supplied no later than ninety (90) days after the completion of Principal Photography.

(4) Projects that do not finish or are postponed for an extended period of time, or projects that fail to provide documentation verifying that Principal Photography occurred within Georgia within ninety (90) days from the completion of Principal Photography may have their Base Certification Letter retracted at GDEcD's sole discretion.

Authority: O.C.G.A. §48-7-40.26.

159-1-1-.05 Qualified Productions & Production Activities.

(1) The Base Tax Credit applies to all qualified and certified entertainment productions, as determined solely by GDEcD, including Feature Films, Pilots, Series, Television Films, Specials, Episodes, Commercial Advertisements, Music Videos and Interactive Entertainment projects which have been approved and certified by GDEcD.

(2) Production Companies that act as a conduit to enable other production companies' projects to qualify for the Film Tax Credit that would not otherwise be eligible on their own will not be certified for Film Tax Credits. Work-for-hire service companies, including postproduction houses, catering companies, equipment rental houses, and motion picture laboratories are not eligible to receive the Film Tax Credit, but the Production Companies employing them may include these expenditures as part of their project expenses.

(3) Studios designing platforms for outside game developers are not eligible for the Film Tax Credit; however, the studio that buys these platforms from a Georgia vendor may claim them as an expense toward the production of a video game project.

(4) Expenditures incurred in Georgia for postproduction are qualified only on the portion of the project that was shot, recorded, or originally created in whole or in part in the state. Postproduction of footage shot outside the state is not a qualified production expenditure under O.C.G.A. § 48-7-40.26. However, post-production companies may pursue tax credits subject to the requirements of O.C.G.A. § 48-7-40.26A so long as the postproduction expenditure was not claimed as a tax credit by a Production Company under this code section.

(5) Expenditures for the Development phase of projects do not qualify for the Film Tax Credit. Projects must have entered 'Preproduction' in order for expenditures to qualify for the Film Tax Credit.

(6) Qualified Commercial Advertisements are eligible for the Base Tax Credit; however, such commercial advertisements are not eligible for the GEP Tax Credit.

(7) Any misrepresentation or material change of project information without written notification to GDEcD or GDOR or the submission of project documentation that does not adhere to industry standards may result in denial or revocation of certification.

Authority: O.C.G.A. §48-7-40.26.

159-1-1-.06 Georgia Entertainment Promotion Tax Credit.

(1) The GEP Tax Credit is available only for projects specified in Rule 159-1-1-.07 below, which also comply with the requirements of Rule 159-1-1-.06, have been approved and certified by GDEcD, and are commercially distributed in multiple markets within five (5) years from the date that the first Base Certification Letter was issued.

(2) GEP Tax Credit certification applications must be submitted to GDEcD. In order to be eligible, projects must include the GEP Logo and a link to <http://www.exploregeorgia.org/film> on the promotional website as outlined in O.C.G.A. §48-7-40.26 from any point of initial public screening, and submit proof of the same to GDEcD, or they may offer Alternative Marketing Opportunities of equal or greater marketing value to the State. The decision whether to include the GEP Logo or pursue the Alternative Marketing Opportunity must be made at the time the project submits an application to pursue the GEP Tax Credit. Applications will be reviewed and agreements will be executed. The GEP Logo and link may not be used in a project without GDEcD's prior written approval. Projects that are not eligible or approved for the GEP Tax Credit may still be eligible for the Base Tax Credit. Once all agreed upon obligations have been met, and applicant has provided documentation establishing the same, GDEcD will issue the Uplift Certification Letter. If an applicant seeking the GEP Tax Credit fails to fulfill all of the obligations of the GEP Logo and link, or the Alternative marketing agreement, or, , fails to provide proof of distribution to GDEcD within five (5) years from the date that the first Base Certification Letter was issued, the project will not be eligible for the GEP Tax Credit. In the case of projects that have Base Certification Letters issued for multiple tax years, the five (5) year period shall begin from the date of the first Base Certification Letter for the project.

(3) If the producers of movie content, television content, music video content or interactive game content opt to include the GEP Logo in their project and a link to <http://www.exploregeorgia.org/film> in the promotional website as outlined in O.C.G.A. §48-7-40.26, GDEcD will make available various versions of the GEP Logo and the link to each qualified GEP Tax Credit applicant at no charge. The GEP Logo will only be provided to applicants that GDEcD has certified as being eligible to receive the GEP Tax Credit. The GEP Logo may not be used in a project without prior written GDEcD approval. Furthermore, it is required that each qualified GEP Tax Credit applicant utilizing the logo to fulfill the GEP Tax Credit requirements submit proof of the required placement of the GEP Logo in the completed film, television production, music video or Interactive Entertainment Production to GDEcD. In the instance of any project using Streaming to satisfy the Commercial Multimarket Distribution requirement, the GEP logo shall automatically appear in the end credits in accordance with the requirements outlined in O.C.G.A. §48-7-40.26 and these rules, and shall not require the viewer to take any action to view the GEP logo as a result of the Streaming platform automatically proceeding to the next episode, preview, or production. In the event that the GEP logo is only viewable if the viewer has to take action to stop the automatic proceeding to the next episode, preview or production, such logo placement shall not serve to meet the eligibility requirements for the GEP Tax Credit.

If the inclusion of the GEP Logo or link to <http://www.exploregeorgia.org/film> is prohibited by the Children's Television Act, or any other local, state or federal government policy, or if the Production Company cannot, for any reason, fulfill the placement requirements, GDEcD, under the Alternative Marketing Opportunities, will offer acceptable alternatives to allow the GEP Tax Credit to the applicant and the greatest level of promotion for the State of Georgia. The GEP Logo or agreed upon alternative marketing must be utilized for the life of the project, beginning with any public screening.

(4) If the GEP Logo or agreed upon alternative marketing promotion has not been fulfilled within five (5) years from the date that the first Base Certification Letter was issued, the project will not be eligible for the GEP Tax Credit. Both logo requirements and Alternative Marketing Opportunities must be for the life of the project, beginning with any public screening. However, GDEcD's ability to retract certification is limited by the applicable statute of limitations for assessing income tax for any claiming or carryover year, or in the instance of audited productions, by the prohibition on recapturing credits from transferees or purchasers.

Authority: O.C.G.A. §48-7-40.26.

159-1-1-.07 Qualified Productions for GEP Tax Credit

(1) ‘Qualified Movie Production’ means a Feature Film that has been granted GEP Tax Credit certification by GDEcD. Feature Films must include a shooting script for review along with their Base Tax Credit certification application and GEP Tax Credit application (if applicable). After completion of the project, a digital copy of the project containing the five (5) second long GEP Logo before the below the line crew crawl and the address of the promotional website must be sent to GDEcD for review. Proof of fulfillment for the GEP Logo or agreed upon alternative marketing promotion must be provided to GDEcD no later than five (5) years from the date that the first Base Certification Letter was issued, or the project will not be eligible for the GEP Tax Credit.

(2) ‘Qualified TV Production’ means Pilot, Series (in whole or in part), Television Films, and specials that have been granted GEP Tax Credit certification by GDEcD. Television productions must include a shooting script for review with their Base Tax Credit certification application and GEP Tax Credit application (if applicable). After completion of the project, a digital copy of the project containing the required GEP Logo with the address of the promotional website must be sent to GDEcD for review. To qualify for the GEP Tax Credit, the production must include a five (5) second long Georgia promotional logo in the body of the program; to be placed in the opening title sequence; as a bumper into or out of a commercial break; or in a prominent position in each single project’s end credits with no less than a half screen exposure and not over content. Proof of fulfillment for the GEP Logo or agreed upon alternative marketing promotion must be provided to GDEcD no later than five (5) years from the date that the first Base Certification Letter was issued, or the project will not be eligible for the GEP Tax Credit.

(3) ‘Qualified Music Video’ means music video projects granted GEP Tax Credit certification by GDEcD. To qualify for the GEP Tax Credit, a minimum of a five (5) second long Georgia logo exposure must occur at the end of the finished product, as well as in all units sold, and included in all online promotions. After completion of the project, a digital copy of the project containing the required GEP Logo and link must be sent to GDECD for review. Music video producers must provide a song lyric sheet and general outline of the storyboard of the music video in advance of production or prior to approval of the GEP Tax Credit certification. Demonstrated Multimarket Commercial Distribution outside the state of Georgia is required. Proof of fulfillment for the GEP Logo or agreed upon alternative marketing promotion must be provided to GDEcD

no later than five (5) years from the date that the first Base Certification Letter was issued, or the project will not be eligible for the GEP Tax Credit.

(4) ‘Qualified Interactive Entertainment Project’ means an Interactive Entertainment project that has been granted GEP Tax Credit certification by GDEcD, but does not include Prereleased Games. To qualify for the GEP Tax Credit, Interactive Entertainment Projects must include a total of fifteen (15) seconds of GEP logo exposure in units sold, and up to a three (3) second GEP Logo adjacency in all online promotions. The fifteen (15) second requirement may be aggregated and met through up to three (3) separate and distinct displays of the GEP Logo throughout the Interactive Entertainment project totaling fifteen (15) seconds. Prereleased Games do not qualify for the GEP Tax Credit. Placement of the GEP Logo within a Interactive Entertainment Project must be discussed in advance with GDEcD. Interactive Entertainment Projects must provide a synopsis of the Interactive Entertainment project including architecture, navigation and story plotlines before the project can be certified.

(5) For any project seeking the GEP Tax Credit, proof of fulfillment for the GEP Logo or agreed upon alternative marketing promotion must be provided to GDEcD no later than five (5) years from the date that the first Base Certification Letter was issued, or the project will not be eligible for the GEP Tax Credit. GDEcD will have sole authority for the certification of any project; the denial of certification for any project; the denial of certification of the GEP Tax Credit; the agreed upon type, style, length and placement of the GEP Logo, and the settlement of all disputes regarding the GEP Tax Credit.

(6) Every effort will be made to negotiate in good faith with applicants at all times in order to provide the greatest level of promotion, economic impact, and jobs creation for the state of Georgia.

Authority: O.C.G.A. §48-7-40.26.

159-1-1-.08 Appeals Process.

(1) If the authorized applicant’s completed Base Tax Credit application is denied by GDEcD, the Base Certification Letter is retracted by GDEcD, or if GDEcD fails to provide the applicant with a certification decision within the sixty (60) day period, the applicant shall have the right to appeal the denial, retraction, or failure of certification of the Base Tax Credit. Incomplete Base Tax Credit applications or Base Tax Credit applications that have been voluntarily withdrawn by the applicant prior

to a decision from GDEcD are not eligible to appeal. An appeal may be made by sending a letter along with supporting documentation outlining applicant's argument as to why the denial, retraction, or failure to certify was improper, to the General Counsel, Georgia Department of Economic Development, 75 Fifth Street, NW, Suite 1200, Atlanta, Georgia 30308, within thirty (30) days from the date of issuance of the Base Tax Credit certification denial or retraction letter by GDEcD or within ninety (90) days from the submission of a Base Tax Credit Application from which no certification decision was issued. Failure to request an appeal within thirty (30) days or ninety (90) days as applicable will finalize the denial decision on the Base Tax Credit, and applicant may not reapply for the same project.

(2) Upon receipt of a timely letter of appeal, the General Counsel will address the merits of the Base Tax Credit appeal and the nature of the dispute with the Commissioner of GDEcD, who will make the final decision. GDEcD shall issue a final opinion and order on the appeal within sixty (60) days of receipt of a timely appeal.

(3) Any further appeals of the Base Tax Credit must be made before the Office of State Administrative Hearings. In the event an applicant pursues further appeal of the Base Tax Credit to the Office of State Administrative Hearings, and such appeal finds in favor of GDEcD, then applicant may be responsible for the payment of any fees and costs charged by the Office of State Administrative Hearings in connection with the appeal.

Authority: O.C.G.A. §48-7-40.26.

159-1-1-.09 Effective Date. This regulation as amended shall become effective on January 1, 2021, and shall apply to projects certified on or after such date.

Authority: O.C.G.A. §48-7-40.26.