



## Georgia Department of Revenue

1800 Century Boulevard, NE | Atlanta, Georgia 30345

### Film Tax Credit Reminders

#### May 2023 Advisory Board Meeting

**Please know that this is informal guidance and should not be interpreted as a ruling or policy decision by the Department.**

**1. What are the best email addresses for film credit questions?**

- [TaxCredits.Inquiries@dor.ga.gov](mailto:TaxCredits.Inquiries@dor.ga.gov): Taxpayer Services Division (e.g., questions about transferring credit and credits for productions not requiring an audit)
- [Film.Audits@dor.ga.gov](mailto:Film.Audits@dor.ga.gov): Audits Division (e.g., questions about film credit audits and audit procedures)
- [Tax.Policy@dor.ga.gov](mailto:Tax.Policy@dor.ga.gov): Office of Tax Policy (e.g., questions about film credit statute and regulations; questions regarding protests;)

**2. What is the due date for submitting film production mandatory audit applications?**

Mandatory audit applications must be submitted within one year of the completion of principal photography. This is a very important date, as this is now the only way to request an audit to generate a film tax credit. In the past, before film credit audits were mandatory, productions requesting voluntary audits could request and use film tax credit before the voluntary audit was completed.

Current requirements are included in Film Tax Credit Rule 560-7-8-.45(18), which is available on our website. Here is the portion addressing the application due date:

*(18) Application for Mandatory Audit. A production company seeking to claim the film tax credit for projects covered under paragraph (17) of this regulation must apply for an audit of the film tax credit in the manner provided by the Department within one year from the date of the completion of the state certified production where such date is defined as the date of the completion of principal photography.*

**3. What role does each agency (GDEcD and DOR) play in granting the additional 10% promotional credit under the mandatory audit requirements?**

GDEcD determines whether a project meets the initial requirements for the additional 10% promotional credit and issues the production company a letter with their determination. DOR conducts the mandatory audit and issues an Audit Final Determination Letter listing the amount of approved expenditures that have been certified. This triggers issuance of a 20% film tax credit certificate.

Once GDEcD certifies that the production has completed the promotional activity required for the additional 10% credit, they notify DOR, which triggers issuance of a 10% film tax credit certificate. If the additional 10% credit approval is received from

GDEcD after the tax year-end, the 10% certificate will have different effective years than the 20% certificate.

This procedure is different from prior procedures, which issued one combined 30% credit certificate. As a result, DOR no longer includes the amount of credit on the Audit Final Determination letter. Instead, the Audit Final Determination Letter lists only the total amount of expenditures that have been certified by the audit. This is being done to avoid confusion, since the credit will now be issued in two letters (20% and 10%) instead of one letter (30%).

**4. Is there one place on the DOR website where all film tax credit audit resources are located, such as the audit manual and the list of qualified expenditures?**

We have updated our website, and all film tax credit audit resources can now be found in one place: <https://dor.georgia.gov/film-tax-credits/film-tax-credit-resources>. Our website will undergo changes this year, and we are open to suggestions on how the film tax changes can be more user friendly.

**5. Can you explain film audit procedures and next steps that occur after principal photography has wrapped? When does DOR issue its final certification amount? Is that sent via mail or email?**

The audit procedures and next steps are listed on the website. The audit protocol is...

- Production submits a mandatory audit application within 12 months of the completion of principal photography and includes their auditor preference (outside Certified Eligible Auditor or DOR).
- The auditor will be assigned and will contact the production to initiate the audit.
- The auditor will submit an Initial Document Request (IDR) #1 to the production company requesting the necessary documents.
- The auditor will review the documents supplied in IDR #1 and request additional documentation (e.g., Accounts Payable, vendor invoices, loan-out allocation forms, etc.).
- The length of the audit will be determined by many factors, including but not limited to the scope and complexity of the production and the responsiveness of the production in supplying the documents.
- If the audit is completed by outside certified auditors, then DOR will review the audit findings, request additional information as needed, and finalize the audit.
- Once the audit is finalized and approved, DOR will issue correspondence titled "Film Tax Credit Audit Final 20% Certificate." This correspondence will include the GDEcD Certificate, qualified spend amount, the credit amount, and the certificate number to use or transfer the credit. The letter and certificate will be visible on the Georgia Tax Center (GTC) and will be mailed. If the production does not agree with the audit findings, the 20% correspondence can be protested in accordance with the Georgia Taxpayer Bill of Rights.
- After the final 20% audit letter is issued, and GDEcD certifies the additional 10% promotional credit, DOR will issue correspondence titled "Film Tax Credit Audit Final 10% Certification," which will provide the certificate number for the film tax credit and include the same information as the 20% letter. The 10% credit amount is based solely on the amount of expenditures certified on the 20% audit letter.

**6. Please explain Georgia vendor requirements and verification.**

Georgia vendor requirements are included in the film tax credit statute, regulation, and in the audit procedure manual. Each of these resources are available on the DOR website. In general, a Georgia vendor is one that sells or rents more than a de minimis amount of property that is regularly held in their inventory in the ordinary course of business from a physical location in Georgia, with at least one individual working at the location on a regular basis. If the vendor sells goods that are not regularly held in their inventory, then it could be acting as a conduit and would not qualify as a Georgia vendor. The production is responsible for taking steps to ensure the Georgia vendor collects and remits sales tax, when appropriate, or it must timely remit the use tax directly to the DOR. In order to do this, the production can use the sales tax verification tool available on the GTC website (<https://gtc.dor.ga.gov/#3>) to verify that the vendor is registered for Georgia sales tax. The production can also request copies of the vendor's sales tax registration certificate and business license to assist in documenting its compliance with the Georgia vendor requirements. The auditor will use all available information and documentation provided by the production to determine whether a vendor meets the requirements.