

ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261]

Adopted and Filed Emergency

Pursuant to the authority of Iowa Code sections 15.104 and 15.106, the Iowa Department of Economic Development adopts new Chapter 36, “Film, Television, and Video Project Promotion Program,” Iowa Administrative Code.

Chapter 36 implements a new tax credit program authorized by 2007 Iowa Acts, House File 892. The rules describe the application process, the tax credit benefits available if approved and contract administration processes.

The Iowa Economic Development Board adopted these rules on June 13, 2007.

In compliance with Iowa Code section 17A.4(2), the Department finds that notice and public participation are impracticable and contrary to the public interest. There are two major independent feature projects pending commencement of production by the end of June 2007.

The Department also finds, pursuant to Iowa Code section 17A.5(2)“b”(2), that the normal effective date of the rules should be waived and the rules should be made effective upon filing with the Administrative Rules Coordinator on June 15, 2007. Having administrative rules in effect on this date will allow an application and review process to be in place for pending projects.

These rules are also published herein under Notice of Intended Action as **ARC 6031B** to allow for public comment.

These rules became effective on June 15, 2007.

These rules are intended to implement 2007 Iowa Acts, House File 892.

The following amendment is adopted.

Adopt **new** 261—Chapter 36 as follows:

CHAPTER 36
FILM, TELEVISION, AND VIDEO PROJECT PROMOTION PROGRAM

261—36.1(82GA, HF892) Purpose. The purpose of the film, television, and video project promotion program is to assist and encourage the production of legitimate film, television, and video projects within the state of Iowa.

261—36.2(82GA, HF892) Definitions. The following definitions apply to this chapter:

“Act” means 2007 Iowa Acts, House File 892, that authorizes tax credits for film, television, and video projects.

“IDED” means the Iowa department of economic development.

“Investor” means a person or entity that participates financially in a film, television, or video project that is registered by IDED.

“Producer” or “production company” means the legally designated entity that undertakes and pays for the project activities in Iowa.

“Project” means a film, television, or video production operation that involves expenditures and is undertaken in Iowa during the period of time defined in the application.

“Registered” or “registered project” means a film, television, or video production operation that has been determined by IDED to meet the criteria in 261—36.3(82GA, HF892).

261—36.3(82GA, HF892) Request for registration of a film, television, or video project. To be eligible to receive tax credits under this program, a request for registration shall be submitted to IDED. Requests for registration of projects must be received at least one week prior to the commencement of the production activities in the state. The Iowa film office at IDED will specify the form and content of the requests, which, at a minimum, shall document that the project:

36.3(1) Is a legitimate effort to produce an entire film, television, or video episode or a film, television, or video segment in the state.

36.3(2) Will include expenditures of at least \$100,000 in the state and have an economic impact on the economy of the state or locality sufficient to justify assistance under the program.

36.3(3) Will further tourism, economic development, and population retention or growth in the state or locality.

36.3(4) Is intended to be widely distributed beyond the Midwest region.

36.3(5) Will not depict or describe any obscene material, as defined in Iowa Code section 728.1.

261—36.4(82GA, HF892) IDED list of registered film, television, or video projects.

36.4(1) Upon review of the information provided in an applicant’s request for registration, if the request meets the criteria listed in rule 261—36.3(82GA, HF892), IDED will include the project on IDED’s list of registered film, television, or video projects.

36.4(2) Projects included on IDED’s list of registered film, television, or video projects will be eligible for the tax credits authorized by the Act.

261—36.5(82GA, HF892) Contract administration.

36.5(1) Notice of approval. Successful applicants will be notified in writing of approval of a request for registration, including any conditions and terms of the approval.

36.5(2) Contract required. The department shall prepare a contract, which includes, but is not limited to, a description of the project to be completed by the business; terms and conditions for receipt of tax credit benefits; and the repayment requirements or other penalties imposed in the event the recipient does not fulfill its obligations described in the contract.

36.5(3) Contract amendments. Projects approved under this program are limited to the descriptions and criteria stated on the application. Changes to a registered project must be reported in writing immediately to the Iowa film office along with a request for contract amendment. Upon review, the department will approve or deny the request for amendment. If the request is approved, a written contract amendment will be executed by the recipient and the department.

36.5(4) Default. Failure to complete the registered project in compliance with the descriptions and terms established in the application shall constitute a default and result in loss of tax credit benefits.

261—36.6(82GA, HF892) Benefits available. Approved projects are eligible to claim the following tax credit benefits:

1. Qualified expenditure tax credit.
2. Qualified investment tax credit.

261—36.7(82GA, HF892) Qualified expenditure tax credit.

36.7(1) Description.

a. For tax years beginning on or after January 1, 2007, a qualified expenditure tax credit shall be allowed against the taxes imposed in Iowa Code chapter 422, divisions II, III, and V, and in Iowa Code chapter 432, and against the moneys and credits tax imposed in Iowa Code section 533.24, for a portion of a taxpayer’s qualified expenditures in a project registered under the program.

b. The tax credit shall equal 25 percent of the qualified expenditures on a project.

c. Under rule 261—36.7(82GA, HF892), an individual may claim a tax credit of a partnership, limited liability company, S corporation, estate, or trust electing to have income taxed directly to the individual. The

amount claimed by the individual shall be based upon the pro rata share of the individual's earnings from the partnership, limited liability company, S corporation, estate, or trust.

d. Any tax credit in excess of the taxpayer's liability for the tax year may be credited to the tax liability for the following five years or until depleted, whichever is earlier.

e. A tax credit shall not be carried back to a tax year prior to the tax year in which the taxpayer claims the tax credit.

36.7(2) Qualified expenditures. A qualified expenditure by a taxpayer is a payment to an Iowa resident or an Iowa-based business for the sale, rental, or furnishing of tangible personal property or for services directly related to the registered project including, but not limited to:

1. Aircraft.
2. Vehicles.
3. Equipment.
4. Materials.
5. Supplies.
6. Accounting.
7. Animals and animal care.
8. Artistic and design services.
9. Graphics.
10. Construction.
11. Data and information services.
12. Delivery and pickup services.
13. Labor and personnel. "Labor and personnel" does not include the director, producers, or cast members other than extras and stand-ins.
14. Lighting.
15. Makeup and hairdressing.
16. Film.
17. Music.
18. Photography.
19. Sound.

20. Video and related services.
21. Printing.
22. Research.
23. Site fees and rental.
24. Travel related to Iowa distant locations.
25. Trash removal and cleanup.
26. Wardrobe.

36.7(3) Approval of tax credit—process.

a. After verifying the eligibility for a tax credit under this program, IDED shall issue a film, television, and video project promotion program tax credit certificate to be attached to the taxpayer's tax return.

b. The tax credit certificate shall contain the taxpayer's name, address, tax identification number, the date of project completion, the amount of credit, other information required by the department of revenue, and a place for the name and tax identification number of a transferee and the amount of the tax credit being transferred.

c. A tax credit certificate issued may be transferred to any person or entity. Within 90 days of transfer, the transferee shall submit the transferred tax credit certificate to the department of revenue along with a statement containing the transferee's name, tax identification number, and address, and the denomination that each replacement tax credit certificate is to carry and any other information required by the department of revenue. Within 30 days of receiving the transferred tax credit certificate and the transferee's statement, the department of revenue shall issue one or more replacement tax credit certificates to the transferee. Each replacement tax credit certificate must contain the information required for the original tax credit certificate and must have the same expiration date that appeared in the transferred tax credit certificate. Tax credit certificate amounts of less than \$1000 shall not be transferable. A maximum of two transfers shall be allowed.

d. A qualified expenditure tax credit shall not be claimed by a transferee until a replacement tax credit certificate identifying the transferee as the proper holder has been issued.

e. The transferee may use the amount of the tax credit transferred against the taxes imposed in Iowa Code chapter 422, divisions II, III, and V, and in Iowa Code chapter 432, and against the moneys and credits tax imposed in Iowa Code section 533.24, for any tax year the original transferor could have claimed the tax credit. Any consideration received for the transfer of the tax credit shall not be included as income under Iowa Code chapter 422, divisions II, III, and V, under Iowa Code chapter 432, or against the moneys and credits tax

imposed in Iowa Code section 533.24. Any consideration paid for the transfer of the tax credit shall not be deducted from income under Iowa Code chapter 422, divisions II, III, and V, under Iowa Code chapter 432, or against the moneys and credits tax imposed in Iowa Code section 533.24.

36.7(4) Approval of tax credit—reporting. All qualified expenditures made for a registered project must be submitted on Form Z, Schedule of Qualified Expenses, once the producer has completed the project. No other form of reporting will be accepted. No additional claims will be accepted once the Schedule of Qualified Expenses has been received by the Iowa film office.

261—36.8(82GA, HF892) Qualified investment tax credit.

36.8(1) Description.

a. For tax years beginning on or after January 1, 2007, an investment tax credit shall be allowed against the taxes imposed in Iowa Code chapter 422, divisions II, III, and V, and in Iowa Code chapter 432, and against the moneys and credits tax imposed in Iowa Code section 533.24, for a portion of a taxpayer's investment in a project registered under the program.

b. The tax credit shall equal 25 percent of the investment in the project. Under rule 261—36.8(82GA, HF892), an individual may claim a tax credit of a partnership, limited liability company, S corporation, estate, or trust electing to have income taxed directly to the individual. The amount claimed by the individual shall be based upon the pro rata share of the individual's earnings from the partnership, limited liability company, S corporation, estate, or trust.

c. Any tax credit in excess of the taxpayer's liability for the tax year may be credited to the tax liability for the following five years or until depleted, whichever is earlier.

d. A tax credit shall not be carried back to a tax year prior to the tax year in which the taxpayer claims the tax credit.

36.8(2) Approval of tax credit—process.

a. After verifying the eligibility for a tax credit, the Iowa department of economic development shall issue a film, television, and video project promotion program tax credit certificate to be attached to the taxpayer's tax return.

b. The tax credit certificate shall contain the taxpayer's name, address, tax identification number, the date of project completion, the amount of credit, other information required by the department of revenue, and a place for the name and tax identification number of a transferee and the amount of the tax credit being transferred.

c. A tax credit certificate issued may be transferred to any person or entity. Within 90 days of transfer, the transferee shall submit the transferred tax credit certificate to the department of revenue along with a statement containing the transferee's name, tax identification number, and address, and the denomination that each replacement tax credit certificate is to carry and any other information required by the department of revenue. Within 30 days of receiving the transferred tax credit certificate and the transferee's statement, the department of revenue shall issue one or more replacement tax credit certificates to the transferee. Each replacement tax credit certificate must contain the information required for the original tax credit certificate and must have the same expiration date that appeared in the transferred tax credit certificate. Tax credit certificate amounts of less than \$1000 shall not be transferable. A maximum of two transfers shall be allowed.

d. An investment tax credit shall not be claimed by a transferee until a replacement tax credit certificate identifying the transferee as the proper holder has been issued.

e. The transferee may use the amount of the tax credit transferred against the taxes imposed in Iowa Code chapter 422, divisions II, III, and V, and in Iowa Code chapter 432, and against the moneys and credits tax imposed in Iowa Code section 533.24, for any tax year the original transferor could have claimed the tax credit. Any consideration received for the transfer of the tax credit shall not be included as income under Iowa Code chapter 422, divisions II, III, and V, under Iowa Code chapter 432, or against the moneys and credits tax imposed in Iowa Code section 533.24. Any consideration paid for the transfer of the tax credit shall not be deducted from income under Iowa Code chapter 422, divisions II, III, and V, under Iowa Code chapter 432, or against the moneys and credits tax imposed in Iowa Code section 533.24.

36.8(3) Limitation. The same taxpayer cannot claim both an expenditure tax credit and an investment tax credit on the same project.

36.8(4) Calculation. The total of all investment tax credits per project cannot exceed 25 percent of qualified expenditures on that project. This amount will be awarded proportionally to each individual's investment in the registered project.

261—36.9(82GA, HF892) Reduction of gross income due to payments received from qualified expenditures in registered projects.

36.9(1) For tax years beginning on or after January 1, 2007, a reduction in adjusted gross income is allowed for purposes of taxes imposed in Iowa Code chapter 422, divisions II and III, for payments received from the

sale, rental, or furnishing of tangible personal property or services directly related to the production of a project registered under this

chapter which meets the criteria of a qualified expenditure under rule 261—36.7(82GA, HF892).

36.9(2) A taxpayer claiming a qualified expenditure tax credit, a business in which such taxpayer has an equity interest, or a business in whose management such taxpayer participates is not eligible to receive the adjusted gross income reduction under this rule.

These rules are intended to implement 2007 Iowa Acts, House File 892.

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