

State of New Mexico - Taxation and Revenue Department

FILM-RELATED TAX CREDIT CLAIM FORM

WHO MAY USE THIS FORM: After the film production company has received approval of the total qualifying expenditures on its RPD-41229, *Application for Film Production Tax Credit*, or RPD-41381, *Application for Film And Television Tax Credit*, from the Taxation and Revenue Department, a completed Form RPD-41228, *Film-Related Tax Credit Claim Form*, must be attached to the New Mexico form PIT-1, CIT-1, S-Corp, PTE, or FID-1 return, on which approved film-related tax credits (*film production tax credit* and *film and television tax credit*) are claimed. Subject to certain limitations, the amount of the tax credit may be applied to the tax due on the return. If the amount of the film-related tax credit exceeds the film production company's income tax liability for the tax year, the excess may be refunded. See the instructions to this form for more details about the limitations and how to complete the income tax return when claiming the credit.

NOTE: No interest will be paid on any credit amount refunded pursuant to the Film Production Tax Credit Act (Section 7-1-68 NMSA 1978).

Attach this claim form to your e-filed income tax return or attach and mail this claim form with your return to: New Mexico Taxation and Revenue Department, Attn: Film Production Tax Credit, P.O. Box 8485, 14th floor, Albuquerque, NM 87198. For assistance, call (505) 841-6338 or send email to TRD-FilmCredit@state.nm.us.

Name of the film production company (claimant) _____	Enter the FEIN or the SSN of the claimant Check one: <input type="checkbox"/> FEIN <input type="checkbox"/> SSN
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Computation of the Amount of Tax Credit Claimed

1. Enter the beginning and ending date of the report period to which you wish to claim approved tax credit.

From _____ to _____

2. **Enter the net New Mexico income tax calculated before applying any credit.**

2.	\$	
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3. Enter the sum of total credit from column (e), Schedule A, to be applied to the tax due on your current New Mexico PIT-1, CIT-1, S-Corp, PTE or FID-1 tax return. Also attach a completed Schedule CR for the applicable tax program.

3.	\$	
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4. Enter the sum of total credit from column (f), Schedule A, to be refunded. Also attach a completed Schedule CR for the applicable tax program.

4.	\$	
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Enter the credit claimed on the applicable line of the New Mexico income tax Schedule PIT-CR, CIT-CR, S-Corp-CR, or FID-CR, and attach it to the New Mexico income tax return on which the credit is to be applied. You may also claim a refund of this credit by attaching this claim form to your pass-through entity return.

NOTE: Failure to attach this form, including Schedule A, to your New Mexico income tax return will result in denial of the credit.

I declare that I have examined this return including any accompanying schedules and statements, and to the best of my knowledge and belief, it is true, correct and complete.

Signature of Taxpayer or Agent _____ Title _____ Date _____

Refund Express. If you request the credit to be refunded to you and the credit will be paid out in future years, you may wish to have your future payments deposited directly into your bank account through Refund Express. Complete the "Refund Express" portion below when the credit claims authorized for payment may be distributed over multiple years. The Refund Express information reported on the income tax return to which you apply the credit will determine where the refundable portion of the film production tax credit that is paid. The Refund Express information below will determine where the refundable portion of future payments is paid. See "Limitations on Receiving the Credit Claimed on a Return" in these instructions.

All fields are required. Complete the bank routing number, the account number, and you must mark the appropriate box to indicate the type of account. Failure to complete all fields will cause your Refund Express request to be denied, and the Department will mail you a paper check. **Question 4 is required:** A direct deposit of your refund, "Refund Express", may not be made to a bank account located at a financial institution outside the territorial jurisdiction of the United States. See page 2 of 3 in these instructions, for more information.

REFUND EXPRESS!! HAVE YOUR REFUND DIRECTLY DEPOSITED. SEE INSTRUCTIONS AND FILL IN 1, 2, 3 AND 4.

1. Routing number: <input style="width: 100%;" type="text"/>	3. Type: <input type="checkbox"/> Checking Enter "X"	<input type="checkbox"/> Savings Enter "X"	4. REQUIRED: WILL THIS REFUND GO TO OR THROUGH AN ACCOUNT LOCATED OUTSIDE THE UNITED STATES? If yes, you may not use this refund delivery option. See instructions.
2. Account number: <input style="width: 100%;" type="text"/>			YES <input type="checkbox"/> NO <input type="checkbox"/> You must answer this question.

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Schedule A

To claim approved film production tax credit or film and television tax credit, complete and attach Form RPD-41228, *Film-Related Tax Credit Claim Form*, including this schedule, to your New Mexico tax return. Also attach the applicable tax credit Schedule PIT-CR, CIT-CR, S-Corp-CR or FID-CR to your return. A Schedule CR is not needed if applying the credit against a pass-through entity return.

(a) TRD - credit approval #	(b) Date of approval	(c) Amount of credit approved	(d) Amount of credit assigned	(e) Amount applied to the attached return	(f) Amount to be refunded
TOTAL credit Enter the sum of columns (e) and (f) here and on lines 3 and 4 of Form RPD-41228, page 1, respectively.					

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Instructions

To Claim an Approved Film-Related Tax Credit. After the film production company is determined eligible by the Film Office and RPD-41229, *Application For Film Production Tax Credit*, or RPD-41381, *Application For Film And Television Tax Credit*, and has been approved by the Taxation and Revenue Department (TRD), film-related tax credits (*film production tax credit* and *film and television tax credit*) may be claimed by attaching a completed Form RPD-41228, *Film-Related Tax Credit Claim Form*, including Schedule A, to the film production company's New Mexico income tax return (Form PIT-1, CIT-1, S-Corp, or FID-1) filed after the close of its tax year for authorization for payment. The income tax return must be timely filed. For qualifying expenditures made after April 15, 2013, the credit may be claimed by filing the New Mexico PTE, *Pass-Through Entity Income and Information Return*.

All direct production expenditures and postproduction expenditures incurred during the tax year by a film production company shall be submitted as part of the same income tax return. Claim the credit in full on the return for the year expenses were incurred. **Do not** divide and submit the credit claim with multiple returns or in multiple years.

Subject to certain limitations, the amount of the tax credit authorized for payment may be applied to the tax due on the return. Or if the amount of the film-related tax credit exceeds the film production company's income tax liability for the tax year, the excess may be refunded. No interest will be paid on any credit amount refunded pursuant to the Film Production Tax Credit Act (Section 7-1-68 NMSA 1978).

Limitations on Receiving the Credit Claimed on a Return

The total aggregate film-related tax credits that may be paid out in any fiscal year is limited to \$50,000,000. A claimed film and television tax credit or film production tax credit that is unable to be paid because total claims paid during the current fiscal year exceeded \$50,000,000 shall be placed at the front of the queue for the next fiscal year.

The date a credit claim is received by TRD determines the order that a credit claim is authorized for payment.

When credit claims are authorized by TRD, the film-related tax credits are paid as follows:

If the amount claimed by a film company is less than \$2,000,000 in a tax year, the amount shall be applied or paid immediately upon processing of the income tax return.

For credit claims of \$2,000,000 or more in a tax year, the credit shall be distributed over multiple years as follows:

- If the credit amount claimed is \$2,000,000 or more, but less than \$5,000,000 in a tax year, half of the amount of the tax credit shall be applied or paid immediately upon processing of the income tax return and the remainder shall be paid 12 months following the date of the first payment, and
- If the credit amount claimed is \$5,000,000 or more in a tax year, one third of the amount of the film-related tax credit shall be applied or paid immediately upon processing of the income tax return, one third of the film-related tax credit shall be paid 12 months following the date of the first payment, and one third of the film-related tax credit shall be paid 24 months following the date of the first payment.

Any amount of a credit claim that results in payments in multiple years as described previously, is *also* subject to the total aggregate film-related tax credit limit of \$50,000,000 paid in any fiscal year. However, the portion of the amount of the credit-payment not yet paid is placed in front of the queue in the next fiscal year. If a partial payment is made because the tax credit limit has been met in a fiscal year, then the difference owed shall retain its original position in the queue.

For purposes of determining the payment of credit claims that are required to be paid out over multiple years, the TRD Secretary may require that credit claims of affiliated persons be combined into one claim, if necessary, to accurately reflect closely integrated activities of affiliated persons.

Completing the Income Tax Return

Complete the income tax return, CIT-1, PIT-1, S-Corp, PTE, or FID-1 based on the federal return that you are required to file.

If you are required to file:

Federal Form 1040
Federal Form 1041
Federal Form 1065
Federal Form 1120
Federal Form 1120S

File New Mexico form:

PIT-1 return
FID-1 return
PTE return
CIT-1 return
S-Corp return

You also need to complete the tax credit schedule, CIT-CR, PIT-CR, S-Corp-CR or FID-CR. Enter the total film-related tax credit approved and the amount of the credit that you want applied to the tax liability due and refunded on the Schedule CR for business related tax credits. TRD will

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compare the amounts entered and determine how and when the credit will be paid.

CAUTION: If the amount you request to be applied to the tax liability due on the return is not eligible to be paid immediately, you will be billed for the tax liability not paid, and you may be subject to interest on the unpaid tax due.

For all tax programs, you must attach Form RPD-41228, *Film-Related Tax Credit Claim Form*, including Schedule A, to your return. Failure to attach this form will result in denial of your claim for the credit.

Attach RPD-41228 to your e-filed income tax return or attach and mail the claim form with your completed return to: New Mexico Taxation and Revenue, Attn: Film Production Tax Credit, P.O. Box 8485, 14th floor, Albuquerque, NM 87198. Mailing to this address ensures that your claim is recorded timely.

IMPORTANT: Do not mail the return to the address on the income tax return.

Assignment of Film Production Tax Credits

After the film production company has received approval for the total qualifying expenditures from TRD, a completed Form RPD-41380, *Notice of Assignment of Film Production Tax Credit*, allows TRD to honor an assignment of the film production tax credit to a third-party financial institution, or to an authorized third-party. Form RPD-41380 must be attached to the film production company's income tax return on which the credit is claimed.

NOTE: Under current statute, only the film production tax credit may be assigned to financial institutions or third parties. The film and television tax credit, which applies to productions commencing on or after January 1, 2016, cannot currently be assigned. The Department will update these forms should the film and television tax credit become assignable.

An approved film production tax credit can be assigned once, and may not be further transferred or assigned.

For purposes of the Film Production Tax Credit Act,

- (1) an *authorized third-party* means an entity that:
 - (a) holds the rights to a film for which a film production tax credit may be claimed; and
 - (b) initiates that film's production, and
- (2) a *financial institution* means:
 - (a) a fund purposely created to produce a film; or
 - (b) a bank, savings institution or credit union that is

organized or chartered pursuant to the laws of New Mexico or the United States and that files a New Mexico income tax return.

The financial institution or authorized third-party must be verified, in advance, by the Film Office.

Schedule A Instructions

For each approved film-related tax credit (*film production tax credit* and *film and television tax credit*), complete a row in Schedule A. Do not include credits which have been claimed in full.

COLUMN INSTRUCTIONS

- (a) **TRD - credit approval #.** Enter the credit number assigned by TRD from the approval documentation.
- (b) **Date of approval.** Enter the date of TRD's approval for the credit from the approval notice.
- (c) **Amount of credit approved.** For each credit, enter the amount of credit approved.
- (d) **Amount of credit assigned.** For each film production tax credit, enter the amount of credit assigned to a third-party financial institution or to an authorized third-party, and attach a Form RPD-41380, *Notice of Assignment of Film Production Tax Credit*, for each assignment of all or a portion of the credit.

NOTE: RPD-41366, *Notice of Distribution of Film Production Tax Credit*, indicating credit transfer from a pass-through entity to an owner, member, or partner, must be submitted along with applications RPD-41229 or RPD-41381.
- (e) **Amount applied to the attached return.** For each credit, enter the total amount of credit claimed and applied to the liability due on the attached return.
- (f) **Amount to be refunded.** For each credit, enter in column the amount of excess credit that is to be refunded to the taxpayer. To determine this amount, subtract the sum of columns (d) and (e) from column (c).

NOTE: Failure to attach Form RPD-41228 and Schedule A, to your New Mexico tax return will result in denial of the credit.

Refund Express—Question 4 is required: A direct deposit of your refund, Refund Express, may not be made to a bank account located at a financial institution outside the territorial jurisdiction of the United States. In order to comply with federal banking rules, anyone wishing to have their refund directly deposited into their account must answer an additional question when completing the Refund

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Express portion of their return or claim form. If you do not answer the question, your refund will be mailed to you in the form of a paper check. If you answer the question incorrectly, your refund may be delayed, rejected or frozen by the National Automated Clearing House Association or the Office of Foreign Assets Control.

The question asks whether the refund will go to or through an account located outside the United States. The question also warns you that if the answer is **yes**, you should not choose the Refund Express method of delivering your refund. Your options are to use a different bank account or to leave the Refund Express portion of your return blank and a paper check will be mailed to the address on the return.

A financial institution is located within the territorial jurisdiction of the United States if it is located:

- within the United States;
- on a United States military base; or
- in American Samoa, Guam, the Northern Mariana Islands, Puerto Rico or the U.S. Virgin Islands.

Refund Express is available for deposits to the taxpayer's account *only*. **Taxpayers may not request the funds to be deposited into the account of another payee.**

TRD is not responsible for the misapplication of a direct deposit refund that is caused by the error, negligence or malfeasance on the part of the taxpayer. Verify that you enter the correct bank information.

Why Use Refund Express?

- Avoid delays that may occur in mailing a check. Refund Express does not guarantee that you will receive your refund check earlier—only that when the check is issued, it will reach the bank more quickly.

- Payment is more secure. There is no check to get lost.
- More convenient. No trip to the bank to deposit your check.
- Saves tax dollars. A refund by direct deposit costs less than a check.

What is the Routing Number?

The routing number is for bank identification and **must be nine digits**. If the first two digits are not 01 through 12 or 21 through 32, the system will reject the direct deposit and you will receive a check.

Your check may state that it is payable through a bank different from the financial institution where you have your checking account. If so, do not use the routing number on that check. Instead, contact your financial institution for the correct routing number to enter on this line.

Entering Your Account Number

Your account number can be up to 17 characters. Include hyphens, but omit spaces and special symbols. Enter the number from left to right. Leave unused boxes blank. **Do not** include the check number.

You **must** indicate the **type of account**. Place an **X** in the **Checking** box if it is a checking account, or in the **Savings** box if the account is a savings account. This field is required.

CAUTION: Verify that the information you enter is correct and that your financial institution will accept a direct deposit payable to the name on CIT-1, PIT-1, S-Corp, PTE, or FID-1 income tax return.

NOTE: TRD will mail you a paper check if your bank does not accept your Refund Express information.