

Title 24
DEPARTMENT OF COMMERCE
Subtitle 05 ECONOMIC DEVELOPMENT
Chapter 25 Film Production Tax Exemption

Authority: Economic Development Article, §6-203, Annotated Code of Maryland

.01 Purpose.

This chapter describes the:

- A. Requirements for a film producer or film production company to receive a certificate of eligibility for the film production activity tax exemption; and
- B. Procedures that will be used by the Department of Commerce to:
 - (1) Issue tax exemption certificates, and
 - (2) Monitor and evaluate the effectiveness of the film production tax exemption.

.02 Scope and Administration.

Certification of eligibility for the sales and use tax exemption for film production activities is administered by the Department of Commerce. The Comptroller of the Treasury shall administer the tax exemption.

.03 Definitions.

- A. In this chapter, the following terms have the meanings indicated.
- B. Terms Defined.
 - (1) "Act" means Economic Development Article, Title 6, Subtitle 2, and Tax-General Article, §11-226, Annotated Code of Maryland.
 - (2) "Comptroller" means Comptroller of the Treasury, State of Maryland.
 - (3) "Department" means the Department of Commerce.
 - (4) "Film producer" means an individual with sufficient recognized professional, artistic, or educational credentials to successfully undertake the business or artistic responsibilities of organizing and supervising the production of film production activity as defined in §B(5) of this regulation, or both.
 - (5) Film Production Activity.
 - (a) "Film production activity" means the production or post-production of film or video projects including feature films, television projects, commercials, corporate films, infomercials, music videos, or other projects for which the producer or production company will be compensated, and which are intended for nationwide commercial distribution.
 - (b) "Film production activity" includes the production or post-production of digital, animation, and multimedia projects.
 - (c) "Film production activity" does not include:
 - (i) Production or post-production of student films or noncommercial personal videos;
 - (ii) Any activity not necessary to and not undertaken directly and exclusively for the making of a master film, tape, or image; or
 - (iii) Production or post-production of projects the sale, display, exhibition, distribution, advertising, receipt or possession of which, in the State, would violate the provisions of any State or federal law, including but not limited to Criminal
 - (6) "Film production company" means a corporation, business trust, partnership, limited liability company, association, two or more persons having a joint or common interest, or any other legal entity with a currently valid federal tax ID number, that employs or includes one or more individuals who meet the

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Subtitle 05 ECONOMIC DEVELOPMENT
Chapter 25 Film Production Tax Exemption

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qualifications for a film producer set forth in §B(4) of this regulation, and whose goal is to engage in film production activity.

- (7) "Maryland Film Office" means the Maryland Film Office, a unit of the Department of Commerce's Division of Tourism, Film, and the Arts.
- (8) Nationwide Commercial Distribution.
 - (a) "Nationwide commercial distribution" means intended for commercial distribution extending primarily beyond Maryland's local or regional (Maryland, Virginia, and the District of Columbia) market.
 - (b) "Nationwide commercial distribution" does not include:
 - (i) Distribution primarily via Internet transmission; or
 - (ii) Live coverage of an event, including but not limited to news, sporting events, and concerts.
- (9) "Secretary" means the:
 - (a) Secretary of Commerce; or
 - (b) Secretary's designee.

.04 Certification Procedures.

- A. To apply for a certificate of eligibility to receive the film production activity tax exemption, a film producer or film production company shall submit to the Maryland Film Office, on an application form approved by the Department:
 - (1) Name of producer;
 - (2) Production company;
 - (3) Title of the project;
 - (4) Type of project (feature film, television series, commercial, etc.);
 - (5) Start date of preproduction and end date of production;
 - (6) Federal tax identification number;
 - (7) Home and local business address, telephone and fax numbers;
 - (8) Planned distribution of the project;
 - (9) Signature of an authorized agent;
 - (10) Production expenses projected to be incurred in the State;
 - (11) Production expenses projected to be subject to the Maryland sales and use tax in the absence of the exemption;
 - (12) Production expenses projected to be eligible for the sales and use tax exemption for film production activities; and
 - (13) Any other information requested by the Department.
- B. If a film producer or film production company is considered eligible to receive the film production activity tax exemption, the Maryland Film Office shall issue a numbered tax exemption Certificate of Eligibility and a Comptroller Buyer Certification to the film producer or film production company, and shall forward a copy of the Certificate of Eligibility to the Comptroller. The Buyer Certification shall include a list of examples of tangible personal property and taxable services that are eligible and ineligible for the tax exemption.

Title 24
DEPARTMENT OF COMMERCE
Subtitle 05 ECONOMIC DEVELOPMENT
Chapter 25 Film Production Tax Exemption

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- C. The film producer or film production company, or authorized personnel, shall present a copy of the Buyer Certification to each vendor at the time of the purchase or lease of tax-exempt tangible personal property or services.
- D. The Comptroller may conduct periodic audits of the records of the film producer or film production company to assure proper compliance.

.05 Tax Exemption.

- A. Sales and use tax does not apply to a sale of certain tangible personal property or services to a film producer or film production company certified by the Department if the tangible personal property or services are used directly in connection with a film production activity.
- B. The types of tangible personal property and services used directly in connection with a film production activity which are subject to the sales and use tax exemption when sold to a film producer or film production company certified by the Department are specified by the Comptroller at COMAR 03.06.01.35B—E.

.06 Waiver.

The Secretary may waive or vary particular provisions of this chapter to the extent that the waiver is not inconsistent with the Act if:

- A. Conformance to the requirement of any federal, State, or local program necessitates waiver or variance of a regulation; or
- B. In the determination of the Secretary, the application of a regulation in a specific case or in an emergency situation would be inequitable or contrary to the purposes of the Act.