

MN S 1986, Introduced

Minnesota

SUMMARY: Relates to taxation; modifies individual income and corporate franchise provisions; proposes a film production credit; allows the credit to be transferable to offset insurance premiums taxes.

SAME AS: #MN H 1975

Legislative History and Analysis

Changes in Bill text reflected as:

~~Text Deleted~~

Text Added

~~Text Vetoed~~

Current Legislative Status

03/10/2021 INTRODUCED.

03/10/2021 To SENATE Committee on TAXES.

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Tomassoni

SF 1986

as introduced - 92nd Legislature (2021 - 2022)

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A bill for an act relating to taxation; modifying individual income and corporate franchise provisions; proposing a film production credit; allowing the credit to be transferable to offset insurance premiums taxes; amending Minnesota Statutes 2020, sections 290.06, by adding a subdivision; 2971.20, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapter 116U.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. **[116U.27] FILM PRODUCTION CREDIT.**

Subdivision 1. Definitions.

- (a) *For purposes of this section, the following terms have the meanings given.*
- (b) *"Allocation certificate" means a certificate issued by the commissioner to a taxpayer upon receipt of an initial application for a credit for a project that has not yet been completed.*
- (c) *"Application" means the application for a credit under subdivision 4.*
- (d) *"Commissioner" means the commissioner of employment and economic development.*
- (e) *"Credit certificate" means a certificate issued by the commissioner upon submission of the cost verification report in subdivision 4, paragraph (e).*
- (f) *"Eligible production costs" has the meaning given in section 116U.26, paragraph (b), clause (1).*
- (g) *"Film" has the meaning given in section 116U.26, paragraph (b), clause (2).*
- (h) *"Project" means a film:*
 - (1) *that includes the promotion of Minnesota;*
 - (2) *for which the taxpayer has expended at least \$1,000,000 in the taxable year for eligible production costs; and*
 - (3) *to the extent practicable, that employs Minnesota residents.*
- (i) *"Promotion of Minnesota" or "promotion" means visible display of the term "produced in Minnesota" or "filmed in Minnesota" in the film.*

Subd. 2. Credit allowed. *A taxpayer is eligible for a credit equal to 25 percent of eligible production costs paid in a taxable year. A taxpayer may only claim a credit if the taxpayer was issued a credit certificate under subdivision 4.*

Subd. 3. Credit assignable. *A taxpayer who is eligible for a credit under this subdivision may assign the credit, in whole or in part, to another taxpayer, who is then allowed the credit under section 290.06, subdivision 39, or 297I.20, subdivision 4. An assignment is not valid unless the assignee notifies the commissioner within 30 days of the date that the assignment is made. The commissioner shall prescribe*

the forms necessary for notifying the commissioner of the assignment of a credit certificate and for claiming a credit by assignment. A credit must be assigned for at least 75 percent of the credit amount subject to assignment.

Subd. 4. Applications; allocations.

- (a) To qualify for a credit under this section, a taxpayer must submit to the commissioner an initial application for a credit in the form prescribed by the commissioner, in consultation with the commissioner of revenue.*
- (b) Upon approving an application for a credit that meets the requirements of this section, the commissioner shall issue allocation certificates that:
 - (1) verify eligibility for the credit;*
 - (2) state the amount of credit anticipated for the eligible project, with the credit amount equal to 25 percent of eligible project costs; and*
 - (3) state the taxable year in which the credit is allocated.**

The commissioner must consult with Minnesota Film and Television prior to issuing an allocation certificate.

- (c) The commissioner must not issue allocation certificates for more than \$25,000,000 of credits each year. If the entire amount is not allocated in that taxable year, any remaining amount is available for allocation for the four following taxable years until the entire allocation has been made. The commissioner must not award any credits for taxable years beginning after December 31, 2030, and any unallocated amounts cancel on that date.*
- (d) The commissioner must allocate credits on a first-come, first-served basis.*
- (e) Upon completion of a project, the taxpayer shall submit to the commissioner a report prepared by an independent certified public accountant licensed in the state of Minnesota to verify the amount of eligible production costs related to the project. The report must be prepared in accordance with generally accepted accounting principles. Upon receipt and review of the cost verification report, the commissioner shall determine the final amount of eligible production costs and issue a credit certificate to the taxpayer. The credit may not exceed the anticipated credit amount on the allocation certificate.*

If the credit is less than the anticipated amount on the allocation credit, the difference is returned to the amount available for allocation under paragraph (c). To claim the credit under section 290.06, subdivision 39, or 2971.20, subdivision 4, a taxpayer must

include a copy of the certificate as part of the taxpayer's return.

Subd. 5. Report required. *By March 15, 2023, the commissioner, in consultation with the commissioner of revenue, must provide a report to the chairs and ranking minority members of the legislative committees with jurisdiction over economic development and taxes. The report must comply with sections 3.195 and 3.197, and must detail the following:*

- (1) the amount of credits earned in each taxable year;*
- (2) the number of applications received and approved for the credit;*
- (3) the types of projects eligible for the credit;*
- (4) the total economic impact of the credit in Minnesota, including the number of jobs resulting from the credit; and*
- (5) any other information the commissioner, in consultation with the commissioner of revenue, deems necessary for purposes of claiming and administering the credit.*

Subd. 6. Expiration. *This section expires January 1, 2031, for taxable years beginning after December 31, 2030.*

EFFECTIVE DATE. *This section is effective for taxable years beginning after December 31, 2020, and before January 1, 2031.*

Sec. 2. Minnesota Statutes 2020, section 290.06, is amended by adding a subdivision to read:

Subd. 39. Film production credit.

- (a) A taxpayer may claim a credit against the tax imposed by this chapter equal to the amount certified on a credit certificate under section 116U.27. The credit is subject to the limitations in paragraphs (e) and (f).*
- (b) The credit is limited to the liability for tax, as computed under this chapter, for the taxable year. If the amount of the credit determined under this subdivision for any taxable year exceeds this limitation, the excess is a film production credit carryover to each of the five succeeding taxable years. The entire amount of the excess unused credit for the taxable year is carried first to the earliest of the taxable years to which the credit may be carried and then to each successive year to which the credit may be carried. The amount of the unused credit that may be added under this paragraph must not exceed the taxpayer's liability for tax, less any film production credit for the taxable year.*
- (c) Credits allowed to a partnership, a limited liability company taxed as a partnership, or an S corporation are passed through to the partners, members, shareholders, or owners, respectively, pro rata to each based on the partner's, member's, shareholder's, or owner's share of the entity's assets, or as specially allocated in the organizational documents or any other executed agreement, as of the last day of the taxable year.*

(d) Notwithstanding the approval and certification by the commissioner of employment and economic development under section 116U.27, the commissioner may utilize any audit and examination powers under chapter 270C or 289A to the extent necessary to verify that the taxpayer is eligible for the credit and to assess the amount of any improperly claimed credit. The commissioner may only assess the original recipient of the credit certificate for the amount of improperly claimed credits. The commissioner may not assess a credit certificate transferee for any amount of improperly claimed credits, and a transferee's claim for credit is not affected by the commissioner's assessment of improperly claimed credits against the transferor.

(e) This subdivision expires January 1, 2031, for taxable years beginning after December 31, 2030.

EFFECTIVE DATE. *This section is effective for taxable years beginning after December 31, 2020, and before January 1, 2031.*

Sec. 3. Minnesota Statutes 2020, section 2971.20, is amended by adding a subdivision to read:

Subd. 4. Film production credit.

(a) A taxpayer may claim a credit against the premiums tax imposed under this chapter equal to the amount indicated on the credit certificate statement issued to the company under section 116U.27. If the amount of the credit exceeds the taxpayer's liability for tax under this chapter, the excess is a credit carryover to each of the five succeeding taxable years. The entire amount of the excess unused credit for the taxable year must be carried first to the earliest of the taxable years to which the credit may be carried and then to each successive year to which the credit may be carried. This credit does not affect the calculation of fire state aid under section 477B.03 and police state aid under section 477C.03.

(b) This subdivision expires January 1, 2031, for taxable years beginning after and premiums received after December 31, 2030.

EFFECTIVE DATE. *This section is effective for taxable years beginning after and for premiums received after December 31, 2020, and before January 1, 2031.*