

AK H 113, Recommended as Substituted from Committee

Alaska

SUMMARY: Relates to a tax exemption for qualified small businesses; provides for an effective date.~SAME AS:
Changes in Bill text reflected as:

~~Text Deleted~~

Text Added

~~Text Vetoed~~

Current Legislative Status

02/24/2025 INTRODUCED.

02/24/2025 To HOUSE Committee on LABOR AND COMMERCE.

02/24/2025 Additionally referred to HOUSE Committee on FINANCE.

03/10/2025 From HOUSE Committee on LABOR AND COMMERCE: Do pass with substitute.

03/10/2025 To HOUSE Committee on FINANCE.

~

session: Alaska 34th Legislature - First Regular Session

cite: 2025 AK H 113

Recommended as Substituted from Committee

March 10, 2025

Labor and Commerce

CS FOR HOUSE BILL NO. 113(L&C)

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTY-FOURTH LEGISLATURE - FIRST SESSION

"An Act relating to a tax exemption for qualified small businesses; relating to the film production promotion program; creating a transferable tax credit applicable to certain film production expenditures incurred in the state; and providing for an effective date."

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

* **Section 1.**AS 43.20.012(a) is amended to read:

(a) The tax imposed by this chapter does not apply to

(1) an individual;

(2) a fiduciary;

(3) the income received by a regional association qualified under AS 16.10.380 or nonprofit corporation holding a hatchery permit under AS 16.10.400 from the sale of salmon or salmon eggs under AS 16.10.450 or from a cost recovery fishery under AS 16.10.455; ~~OR~~

(4) the income received by a nonprofit corporation holding a permit under AS 16.12.010 from the sale of shellfish under AS 16.12.080 or from a cost recovery fishery under AS 16.12.090 ; *or*

(5) an Alaska corporation that is a qualified small business and that meets the active business requirements in 26 U.S.C. 1202(e), as that subsection read on January 1, 2012, subject to the restrictions set out in (f) of this section.

* **Sec. 2.**AS 43.20.012 is amended by adding new subsections to read:

(e) For the purposes of (a)(5) of this section,

(1) whether a corporation qualifies under (a)(5) of this section shall be determined on the first day of the tax year

for which the corporation claims it qualifies under (a)(5) of this section;

(2) all corporations that are members of the same parent-subsidary controlled group shall be treated as one corporation.

(f) The total amount of tax foregone by the state under (a)(5) of this section may not exceed \$2,700,000 each calendar year. If the total amount of tax foregone under (a)(5) of this section exceeds \$2,700,000 in a calendar year, the department shall allocate the tax exemption in order of returns received that year.

(g) The department shall notify a known corporation that qualifies under (a)(5) of this section at least one year before the expiration of the exemption under (a)(5) of this section.

(h) In this section,

(1) "Alaska corporation" means a corporation that has been incorporated in the state or is authorized to do business in the state;

(2) "parent-subsidary controlled group" has the meaning given in 26 U.S.C. 1202, as that section read on January 1, 2012;

(3) "qualified small business" has the meaning given in 26 U.S.C. 1202, as that section read on January 1, 2012, and does not include a construction, transportation, utility, or fisheries business.

* **Sec. 3.** AS 43.98 is amended by adding new sections to read:

Sec. 43.98.031. Film production tax credit. (a) In cooperation with the film production promotion program, the department shall provide a transferable film production tax credit to a producer for qualified production expenditures.

(b) A tax credit provided under (a) of this section may be sold, assigned, exchanged, conveyed, or otherwise transferred in whole or in part.

(c) A taxpayer acquiring a transferable credit may use the credit or a portion of the credit to offset taxes imposed under AS 43.20 (Alaska Net Income Tax Act). Any portion of the credit not used may be used at a later period or transferred under (b) of this section.

(d) The department shall adopt regulations necessary for the administration of this section.

(e) A credit provided under (a) of this section, whether sold, assigned, exchanged, conveyed, or otherwise transferred, in whole or in part, must be used within three years after being provided by the department.

(f) The number of tax credits provided in the aggregate under this section may not exceed \$20,000,000.

Sec. 43.98.032. Eligibility. (a) A film production is eligible for a tax credit under AS 43.98.031 if the producer has \$100,000 or more in qualified expenditures, as determined under AS 43.98.036, in a consecutive 24-month period.

(b) The following productions are not eligible, regardless of the production costs:

(1) news, weather, or current events programming;

(2) a production produced primarily for industrial, corporate, or institutional purposes, and for internal use;

(3) an advertisement, infomercial, or any other production that solicits funds, except for a commercial television advertisement produced for national distribution; or

(4) a political advertisement.

Sec. 43.98.033. Qualification for film production tax credit. (a) A film producer may apply for the film production tax credit under AS 43.98.031 by submitting an application to the film production promotion program. The application must include

(1) a script or synopsis of the production;

(2) the names of the producer, director, and proposed cast;

(3) estimated start, completion, and filming dates; and

(4) other information the film production promotion program may require to determine the producer's eligibility for a credit and the estimated amount of the credit.

(b) If the film production promotion program approves an application submitted under (a) of this section, the film production promotion program shall issue a notice of qualification to the producer. The notice of qualification must include a determination by the film production promotion program of the estimated film production tax credit for which the production qualifies.

Sec. 43.98.034. Award of film production tax credit. (a) Subject to AS 43.98.031(f), the film production promotion program, in cooperation with the department, shall determine the amount of the tax credit under AS 43.98.031 available to a producer who has obtained a notice of qualification under AS 43.98.033(b), based on the qualified expenditures of the production under AS 43.98.036.

(b) The base amount of a tax credit awarded under this section is equal to 25 percent of the qualified expenditures of the production.

(c) In determining the amount of the tax credit, the percentage provided by (b) of this section shall be increased by the film production promotion program based on the following criteria:

(1) an additional 5 percent of qualified expenditures that are wages paid to Alaska residents;

(2) an additional two percent of qualified expenditures made in a rural area; and

(3) an additional two percent of qualified expenditures made in the state between October 1 and March 30.

(d) After completion of the production, the producer shall provide the film production promotion program with a production cost report detailing the qualified expenditures of the production, with verification by an independent certified public accountant approved by the film production promotion program that the costs claimed in the report are qualified expenditures under AS 43.98.036.

(e) Subject to (g) of this section, the film production promotion program, in cooperation with the department, shall determine the amount of the tax credit based on the information provided by the producer under (d) of this section and shall award a tax credit in cooperation with the department if the producer has satisfied all requirements under AS 43.98.031 - 43.98.038.

(f) The award of a tax credit under this section is conditioned on the producer's and the production's full compliance with all applicable state laws and regulations. At the request of the film production promotion program, a producer shall provide any information necessary for the film production promotion program to determine the producer's and production's compliance with this subsection.

(g) In determining the amount of a tax credit awarded under this section, the film production promotion program may reduce the amount of the tax credit by any amount the film production promotion program considers necessary to allow the state, or a political subdivision of the state, to recover the cost of any damages caused by any act or omission of the producer or production.

(h) The film production promotion program, in cooperation with the department, may withhold the award of a tax credit under this section if the program determines that there are filed, but unresolved, legal actions in the state involving the producer or production.

(i) To qualify for the tax credit under AS 43.98.031, a producer shall include, in the end credits of each qualified film, the logo designed under former AS 44.25.105(b) and the words, "Filmed in Alaska with the Support of the State of Alaska."

Sec. 43.98.036. Determination of qualified expenditures. (a) Expenditures made by a production company in connection with a film production approved by the film production promotion program that shall be considered qualified expenditures must be directly related to the production and be incurred in the state. Only expenditures that are ordinary, reasonable, and not in excess of fair market value and that are for real or tangible property, fees, services, or state or municipal taxes shall be considered. Expenditures may include

(1) costs of set construction and operation;

(2) costs of wardrobes, make-up, accessories, and related services;

(3) costs associated with photography and sound synchronization;

(4) costs of lighting and related services and materials;

(5) costs of editing and related services;

- (6) rental of facilities and equipment;
- (7) leasing of vehicles;
- (8) costs of food and lodging;
- (9) costs of digital or tape editing, film processing, transfer of film to tape or digital format, sound mixing, and special and visual effects;
- (10) the total aggregate payroll for services performed in Alaska, including all salaries, wages, compensation, and related benefits provided to producers, directors, writers, actors, and other personnel that are directly attributable to services performed in Alaska;
- (11) the costs of the use of an Alaska business for processing qualified payroll and related expenditures;
- (12) costs of music, if performed, composed, or recorded by an Alaska musician, or released or published by an Alaska business;
- (13) costs of intrastate travel, if provided by an Alaska business;
- (14) costs relating to the design, construction, improvement, or repair of a film, video, television, or digital production or postproduction facility or related property, infrastructure, or equipment, except commercial exhibition facilities, as determined by the film production promotion program; or
- (15) other similar production expenditures as determined by the film production promotion program in cooperation with the Department of Revenue.

(b) Production costs that may not be considered qualified expenditures include

- (1) costs related to the acquisition, determination, transfer, or use of a film production tax credit under AS 43.98.031;
- (2) postproduction expenditures for marketing and distribution;
- (3) production financing, depreciation, and amortization costs, and other costs that are not cash or cash equivalent expenditures directly attributable to production costs incurred in the state;
- (4) amounts that are later reimbursed or reasonably anticipated to be reimbursed, resulting in a reduction in production costs;
- (5) amounts that are reasonably anticipated to be recovered through subsequent sale or other realization of value by disposal of an asset that has been claimed as a qualified expenditure;
- (6) amounts that are paid to a person or entity as a result of participation in profits from the exploitation of the production;
- (7) costs incurred in the purchase of real or tangible property for which a qualified expenditure has, at any time, been claimed.

Sec. 43.98.037. Recovery of film production tax credit.(a) The film production promotion program, in cooperation with the department, may review, audit, and bring legal proceedings to recover any amount of a tax credit awarded under AS 43.98.034 from a producer or production to which a credit was awarded if the film production promotion program determines that the film producer or production is liable for damages to the state, or any political subdivision of the state.

(b) Legal proceedings may not be brought under (a) of this section more than one year after the date the tax credit was awarded under AS 43.98.034.

Sec. 43.98.038. Definitions. In AS 43.98.031 - 43.98.038,

- (1) "Alaska business" means
 - (A) a person who holds a current Alaska business license;
 - (B) a person who provides goods or services under the name as appearing on the person's current Alaska business license;
 - (C) a person who has maintained a place of business within the state staffed by the person or an employee of the person for a period of six months immediately preceding the date the goods or services were provided;

(D) a person who is

- (i) incorporated or qualified to do business under the laws of the state;
 - (ii) a sole proprietorship, and the proprietor is a resident of the state;
 - (iii) a limited liability company organized under AS 10.50, and all members are residents of the state; or
 - (iv) a partnership under former AS 32.05, AS 32.06, or AS 32.11, and all partners are residents of the state; and
- (E) if the business is a joint venture, a joint venture composed entirely of ventures that qualify under (A) - (D) of this subsection;

(2) "department" means the Department of Revenue;

(3) "film" includes television, commercials, and videos;

(4) "film production promotion program" means the film production promotion program created under AS 44.33.231;

(5) "producer" means a person who arranges financing for or supervises the production of a film, video, commercial, or television production or pilot;

(6) "rural area" means a community with a population of 1,500 or less or a community with a population of 7,500 or less that is not connected by road or rail to Anchorage or Fairbanks.

* **Sec. 4.** AS 44.33.231(b) is amended to read:

(b) The purpose of the film production promotion program is to

(1) work with organizations in the private sector for the expansion and development of film production industries in the state;

(2) promote Alaska as an appropriate location for film production;

(3) provide production assistance through connecting film directors, makers, and producers with Alaska location scouts and contractors, including contractors providing assistance with permit applications; ~~AND~~

(4) certify Alaska film production internship training programs and promote the employment of program interns by eligible productions ; *and*

(5) in cooperation with the Department of Revenue, administer the Alaska film production promotion program.

* **Sec. 5.** AS 44.33.231 is amended by adding new subsections to read:

(d) Subject to appropriations for the purpose, the film production promotion program shall administer, in cooperation with the Department of Revenue, the Alaska film production promotion program to provide a tax credit under AS 43.98.031 for certain film production expenditures incurred in the state.

(e) The film production promotion program, in cooperation with the Department of Revenue, may adopt procedures and regulations to carry out its functions under this section.

* **Sec. 6.** AS 43.20.012(a)(5), 43.20.012(e), 43.20.012(f), 43.20.012(g), and 43.20.012(h) are repealed July 1, 2035.

* **Sec. 7.** The uncoded law of the State of Alaska is amended by adding a new section to read:

APPLICABILITY. AS 43.20.012(a), as amended by sec. 1 of this Act, and AS 43.20.012(e) - (h), enacted by sec. 2 of this Act, apply to the tax year of a corporation beginning on or after the effective date of this Act and before the repeal in sec. 6 of this Act.

* **Sec. 8.** The uncoded law of the State of Alaska is amended by adding a new section to read:

NOTIFICATION. When the number of tax credits provided under AS 43.98.031(f), enacted by sec. 3 of this Act, in the aggregate and the estimated amount of tax credits that could be claimed based on notices of qualification issued by the film production promotion program under AS 44.33.234(b), together equal \$20,000,000, the commissioner of revenue shall notify the presiding officers of each house of the legislature in writing.

* **Sec. 9.** This Act takes effect immediately under AS 01.10.070(c).