

California Motion Picture and Television Production Credit

2012

3541

Attach to your California tax return.

Name(s) as shown on your California tax return

SSN or ITIN Corporation no. FEIN

CA Secretary of State (SOS) file number

Part I Available Credit

1 a Current year generated credit. See instructions.	1a	00
b Credit certificate number _____		
2 Credit received from pass through entities. See instructions	2	00
3 Credit purchased from other entities. See instructions	3	00
4 Credit assigned from affiliated corporations from Part III, line 13. See instructions.	4	00
5 Credit carryover from prior year	5	00
6 Add line 1a, line 2, line 3, line 4, and line 5.	6	00
7 Credit sold to other entities. See instructions	7	00
8 Credit assigned to affiliated corporations from Part IV, line 19, column (d). See instructions	8	00
9 Credit applied against sales and use taxes. See instructions.	9	00
10 Total available credit. Add line 7, line 8, and line 9, subtract the result from line 6. See instructions	10	00

Part II Carryover Computation

11 a Credit amount claimed on the current year tax return (do not include any assigned credit claimed from form FTB 3544A). This amount may be less than the amount on line 10 if the credit is limited by the tax liability or tentative minimum tax (TMT). See instructions.	11a	00
b Credit assigned to other corporations within combined reporting group from FTB 3544, column (g). If you are not a corporation, enter -0-.	11b	00
12 Carryover to future years. Add line 11a and line 11b, subtract the result from line 10	12	00

Part III Assigned Credit from Affiliated Corporations Pursuant to R&TC Section 23685. See instructions.

(a) Assignor name	(b) Assignor corporation no., FEIN, or CA SOS no.	(c) Credit Certificate no.	(d) Assigned credit received

13 Total credit received. Add the amounts in column (d). Enter the total here and on Part 1, line 4.	13	
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Part IV Credit Assigned to Affiliated Corporations Pursuant to R&TC Section 23685. See instructions.

14	Add line 1a and line 2 from Side 1, Part I. See instructions if you have assignable credit carryovers from prior years.....	14	00
15	Tax liability. See instructions.....	15	00
16	Excess credit available for assigning to affiliated corporations. Subtract line 15 from line 14, enter the result here and on line 17, column (e). If the result is '0' or less, enter '0'. See instructions..... This is the maximum amount of credit that may be assigned to affiliated corporations.	16	00

Credit Assigned to Affiliated Corporations.

	(a) Assignee name	(b) Assignee corp. no., FEIN, or CA SOS no.	(c) Credit Certificate no.	(d) Amount of credit assigned	(e) Credit amount available for assignment
17					
18					
19	Add the amounts in column (d). Enter the total here and on Part I, line 8.....				19

Instructions for Form FTB 3541

California Motion Picture and Television Production Credit

What's New

For taxable years beginning on or after January 1, 2011, the California Motion Picture and Television Production Credit can reduce tax below the tentative minimum tax (TMT) for corporations. For more information, see Revenue & Taxation Code (R&TC) Section 23036 or get Schedule P (100), Alternative Minimum Tax and Credit Limitations – Corporations .

Important Information

California Motion Picture and Television Production Credit. For taxable years beginning on or after January 1, 2011, R&TC Section 17053.85 and Section 23685 allow a qualified taxpayer a California motion picture and television production credit against the net tax (individuals) or tax (corporations) and/or qualified sales and use tax. The credit, which is allocated and certified by the California Film Commission (CFC), is 20% of expenditures attributable to a qualified motion picture or 25% of production expenditures attributable to an independent film or a television series that relocates to California.

Write “CFC Credit”– Taxpayers **attaching** form FTB 3541, California Motion Picture and Television Production Credit, to the tax return should **write “CFC Credit” in red ink** at the top margin of their tax return.

Use of Credit – The credit can be used by the qualified taxpayer to:

- Offset franchise or income tax liability. Use credit code number **223** when claiming this credit.
- Sell to an unrelated party (independent films only).
- Assign to an affiliated corporation.
- Apply against qualified sales and use taxes.

This credit is not refundable.

Sales and Use Taxes – A qualified taxpayer who has been issued a certified Form M, Tax Credit Certificate, from the CFC may make an irrevocable election with the Board of Equalization (BOE) to apply the credit against qualified sales and use taxes. For more information, go to boe.ca.gov and search for **ca film**.

Credit Assignment – A qualified taxpayer that is a corporation or is taxed as a corporation and whose credit exceeds the tax may elect to assign the credit to an affiliated corporation(s). The election to assign the credit is **irrevocable**. For more information, see General Information C, Credit Assignment.

Sale of Credit Attributable to an Independent Film – A qualified taxpayer may sell a credit, attributable to an independent film, to an unrelated party once the taxpayer receives Form M from the CFC. The credit can only be sold by the qualified taxpayer that generated the credit (that is a corporation, a limited liability company (LLC) or partnership taxed as a corporation, or an individual) or by a shareholder, beneficiary, partner, or member who received the credit as their distributive or pro-rata share. For more information, get form FTB 3551, Sale of Credit Attributable to an Independent Film, or go to ftb.ca.gov and search for **motion picture**.

Seller – A qualified taxpayer that sells an independent film credit is required to report the gain on the sale of the credit in the amount of the sale price.

Buyer – If the credit was purchased for less than the credit amount stated on Form M, the buyer is required to report income in the amount of the difference between the credit amount claimed on its return and the purchase price.

General Information

A Purpose

Use form FTB 3541 to report the credit for the production of a qualified motion picture in California that was:

- Allocated from the CFC on Form M, Tax Credit Certificate.
- Passed through from S corporations, estates and trusts, partnerships, or limited liability companies (LLCs) taxed as partnerships.
- Purchased from a qualified taxpayer.
- Assigned to or from an affiliated corporation under R&TC Section 23865(c)(1). For more information, see General Information C, Credit Assignment.
- Applied or will be applied against BOE qualified sales and use taxes. For more information, go to boe.ca.gov and search for **ca film**.

Note: Each entity that received or assigned a motion picture and television production credit from or to another entity within a combined reporting group must complete a separate form FTB 3541.

S corporations, estates and trusts, and partnerships, or LLCs taxed as partnerships should complete form FTB 3541 to figure the amount of credit to pass-through to shareholders, beneficiaries, partners, or members. The credit is **not** allowed at the pass-through entity level. Attach this form to Form 100S, California S Corporation Franchise or Income Tax Return; Form 541, California Fiduciary Income Tax Return; Form 565, Partnership Return of Income; or Form 568, Limited Liability Company Return of Income. Show the pass-through credit for each shareholder, beneficiary, partner, or member on Schedules K-1 (100S, 541, 565, or 568), Share of Income, Deductions, Credits, etc.

Corporate taxpayers attach this form to Form 100, California Corporation Franchise or Income Tax Return, or Form 100W, California Corporation Franchise or Income Tax Return - Water's Edge Filers.

Individual taxpayers attach this form to Form 540, California Resident Income Tax Return, or Form 540NR, California Nonresident or Part-Year Resident Income Tax Return.

B Definitions

Credit certificate. Credit certificate means the certificate issued by the CFC for the allocation of the credit to a qualified taxpayer.

Qualified taxpayer. Qualified taxpayer means a taxpayer who has paid or incurred qualified expenditures and has been issued a credit certificate by the CFC. In the case of any pass-through entity, the determination of whether a taxpayer is a qualified taxpayer is made at the entity level. The credit is not allowed at the pass-through entity level. The credit is passed through to the shareholders, beneficiaries, partners, or members.

Qualified motion picture. Qualified motion picture means a motion picture that is produced for distribution to the general public, regardless of medium. For more information, refer to the R&TC Section 17053.85, Section 23685, or go to film.ca.gov.

Independent film. Independent film means a motion picture with a minimum budget of one million dollars (\$1,000,000) and a maximum budget of ten million dollars (\$10,000,000) that is produced by a company that is not publicly traded and publicly traded companies do not own, directly or indirectly, more than 25 percent of the producing company.

Television series. Television series means a television series that relocated to California, without regard to episode length or initial media exhibition, that filmed all of its prior season or seasons outside of California and for which the taxpayer certifies that this credit is the primary reason for relocating to California.

Affiliated corporation. Affiliated corporation has the meaning provided in R&TC Section 25110(b), except that “100 percent” is substituted for “more than 50 percent” wherever it appears in the section and “voting common stock” is substituted for “voting stock” wherever it appears in the section. For more information, see General Information C, Credit Assignment.

C Credit Assignment

For taxable years beginning on or after January 1, 2011, R&TC Section 23685(c)(1) allows a qualified taxpayer to assign a California motion picture and television production credit to an eligible assignee. The credit must first exceed the tax of the qualified taxpayer (the assignor) for the taxable year in which the credit is to be assigned.

The election to assign any credit is **irrevocable**. The assignor shall make the election and report the credit assignment by completing Part IV, Credit Assigned to Affiliated Corporations Pursuant to R&TC Section 23685. Once a credit is assigned to an eligible assignee, it cannot be reassigned. The assignor will reduce the credit amount available for assignment by the amount of the credit assigned.

After assignment of an eligible credit, the eligible assignee may use the credit against income tax liability, or apply it against BOE qualified sales and use taxes. Also, the restrictions and limitations that applied to the assignor (entity that originally generated the credit) may apply to the eligible assignee.

There is no requirement of payment or other consideration for assignment of the credit by an eligible assignee to an assignor.

The assignor and the eligible assignee shall maintain the information necessary to substantiate any credit assigned and to verify the assignment and subsequent use of the credit assigned. Lack of substantiation may result in the disallowance of the assignment. The assignor and the eligible assignee shall each be liable for the full amount of any tax, addition to tax, or penalty that results from any disallowance of the credit assigned under R&TC Section 23685. The Franchise Tax Board may collect such amount in full from either the assignor or the eligible assignee.

Note: This credit may also be assigned under the credit assignment rules of R&TC Section 23663. Any portion of the credit assigned under either Section 23663 or 23685 may not be subsequently assigned under either statute. For more information on credit assignment under R&TC Section 23663, get form FTB 3544, Election to Assign Credit Within Combined Reporting Group, and form FTB 3544A, List of Assigned Credit Received and/or Claimed by Assignee.

Assignor. An assignor is the qualified taxpayer that receives Form M from the CFC. The following rules must be met before a credit can be assigned:

- The assignor must be taxed as a corporation.
- The credit must first exceed the “tax” of the assignor for the taxable year in which the credit is to be assigned.
- The eligible assignee must be an affiliated corporation as defined by R&TC Section 23685(c)(1).

Eligible assignee. An eligible assignee is any affiliated corporation, which includes a corporation where one of the following applies:

- Owns, directly or indirectly, 100 percent of the assignor’s voting common stock.
- The assignor owns, directly or indirectly, 100 percent of the voting common stock.
- Is wholly owned by a corporation or individual owning 100 percent of the voting common stock of the assignor, or
- Is a stapled entity as defined in R&TC Section 25105.

D Limitations

The credit cannot reduce the S corporation 1.5% entity-level tax (3.5% for financial S corporations), the minimum franchise tax (corporations and S corporations), the annual tax (limited partnerships, limited liability partnerships, and LLCs taxed as partnerships), the alternative minimum tax (corporations, exempt organizations, individuals, and fiduciaries), the built-in gains tax (S corporations), or the excess net passive income tax (S corporations).

For corporate taxpayers, the credit **can** reduce the regular tax below the tentative minimum tax. For individual taxpayers, the credit **cannot** reduce regular tax below the tentative minimum tax. For more information, get Schedule P (100, 100W, 540, 540NR, or 541), Alternative Minimum Tax and Credit Limitations.

S corporation. If a C corporation has unused credit carryovers when it elects S corporation status, the credit carryovers may not be passed through to the S corporation or the shareholders. For more information, get Schedule C (100S), S Corporation Tax Credits.

Disregarded business entity. If a taxpayer owns an interest in a disregarded business entity [for example, a single member limited liability company (SMLLC), which for tax purposes is treated as a sole proprietorship if owned by an individual or a division if owned by a corporation], the credit amount received from the disregarded entity is limited to the difference between the taxpayer’s regular tax figured with the income of the disregarded entity, and the taxpayer’s regular tax figured without the income of the disregarded entity. If the credit is sold under Section 17053.85(c) or assigned or sold under Section 23685(c) this restriction does not apply.

E Carryover

If the available credit exceeds the current year tax liability or is limited by tentative minimum tax (individual taxpayers only), the unused credit may be carried over for six years or until the credit is exhausted, whichever occurs first. Apply the credit carryover to the earliest taxable year(s) possible. In no event can the credit be carried back and applied against a prior year’s tax.

Retain all records that document this credit and carryover used in prior years. The FTB may require access to these records.

Specific Line Instructions

Part I – Available Credit

Line 1a – Current year generated credit. If you received Form M from CFC, enter the full amount of credit allocated to you by the CFC as shown on Form M. If you received more than one Form M during the taxable year, add the credit amounts from all Form Ms and enter the total on this line. If you received the credit from a pass through entity, purchased the credit from a qualified taxpayer, or received the credit through an assignment from another corporation pursuant to R&TC Section 23685, do not enter the amounts on this line. Instead, enter these amounts on line 2, line 3, or line 4, respectively.

Line 1b – Enter the credit certificate number from Form M for the current year generated credit entered on line 1a. If you reported multiple credits on line 1a, list all credit certificate numbers on this line.

Line 2 – Credit received from pass through entities. Add the pass-through credit amounts received from S corporations, estates and trusts, partnerships, or LLCs taxed as a partnership, and enter the total on this line. Attach a schedule showing the taxpayer names and identification numbers of the entities from which the credits were passed through to you, the credit certificate number from the original certificate issued by the CFC, and the ownership percentage from the pass-through entity.

Line 3 – Credit purchased from other entities. Enter the amount of credit purchased from a qualified taxpayer. **Do not** enter the consideration amount paid for the credit.

Line 4 – Credit assigned from affiliated corporations. If you received an assigned credit from an affiliated corporation pursuant to R&TC Section 23685, complete Part III, Assigned Credit from Affiliated Corporations Pursuant to R&TC Section 23685, and enter the amount from Part III, line 13 on this line.

Line 7 – Credit sold to other entities. Enter the amount of credit sold to an unrelated party from form FTB 3551, box 7 (Total amount of credit being sold).

Line 8 – Credit assigned to affiliated corporations. If you assigned a credit to an affiliated corporation pursuant to R&TC Section 23685, complete Part IV, Credit Assigned to Affiliated Corporations Pursuant to R&TC Section 23685. Enter the amount from Part IV, line 19, on this line.

Line 9 – Credit applied against sales and use taxes. If you applied any portion of the credit against qualified sales and use taxes, enter the amount on this line.

Part II – Carryover Computation

Line 11a – Credit amount claimed on the current year tax return. The credit amount you can claim on your tax return may be limited. Refer to the credit instructions in your tax booklet for more information. These instructions also explain how to claim this credit on your tax return. Use credit code number **223** when you claim this credit. Also see General Information D, Limitations.

Line 11b – Credit assigned to other corporations within combined reporting group. If you assigned a credit to an affiliated corporation pursuant to R&TC Section 23663, enter the total credit assigned from form FTB 3544, column (g) on this line.

Part III – Assigned Credit from Affiliated Corporations Pursuant to R&TC Section 23685.

Complete this table if you **received** credits assigned from an affiliated corporation pursuant to R&TC Section 23685.

Column (a) – Assignor name. Enter the name of the corporation that assigned the credit.

Column (b) – Assignor corporation number, FEIN, or CA SOS number. Enter the California corporation number, FEIN, or CA SOS number of the corporation that assigned the credit.

Column (c) – Credit Certificate number. Enter the credit certificate number from the qualified taxpayer's (assignor's) tax credit certificate issued by the CFC.

Column (d) – Assigned credit received. Enter the assigned credit received from the assignor.

Part IV – Credit Assigned to Affiliated Corporations Pursuant to R&TC Section 23685.

Line 14 – If the amount on Part I, line 5 includes assignable credit carryovers, ADD the assignable carryover amount to the line 14 total.

Line 15 – Tax liability. Enter on this line the amount from Form 100, California Corporation Franchise or Income Tax Return, or Form 100W, California Corporation Franchise or Income Tax Return — Water's-Edge Filers, line 24.

Line 16 – Excess credit available for assigning to affiliated corporations. Subtract line 15 from line 14. If the result is:

- '0' or less, enter '0'. Do not complete the Credit Assigned to Affiliated Corporations table. You do not have available credit to assign.
- More than zero, this is the maximum amount of credit that may be assigned to affiliated corporations. Enter the amount on Line 17, column (e).

Complete the Credit Assigned to Affiliated Corporations table under Part IV if you have a balance on line 16 and will assign credits to affiliated corporations pursuant to R&TC Section 23685.

The following instructions are for completing line 18:

Column (a) – Assignee name. Enter the name of the corporation that is receiving a credit assignment from the assignor.

Column (b) – Assignee California corporation number, FEIN, or CA SOS number. Enter the California corporation number, FEIN, or CA SOS number of the corporation that is receiving the credit assignment. If the corporation has applied for but not yet received the California corporation number or FEIN, enter "Applied For" in column (b). If the corporation is a non-U.S. foreign corporation, enter "Foreign" in column (b).

Column (c) – Credit Certificate number. Enter the credit certificate number from Form M issued to you by the CFC.

Column (d) – Amount of credit assigned. Enter the amount of credit that is being assigned to an assignee.

Column (e) – Credit Amount available for assignment. Subtract the amount in column (d) from the amount in previous line column (e).