2016 Instructions for Form FTB 3541

California Motion Picture and Television Production Credit

What's New

For the 2016 taxable year, there are two movie credits available. A qualified taxpayer may claim either the **original** California Motion Picture Television Production Credit or the **New** California Motion Picture and Television Production Credit or both.

New California Motion Picture and Television Production Credit – For taxable years beginning on or after January 1, 2016, a **new** film credit against tax will be allowed. The new tax credit is allocated and certified by the California Film Commission (CFC). The credit is:

- 25% of the qualified expenditures attributable to the production of either a television series that relocated to California in its first year of receiving a tax credit allocation or an independent film.
- 20% of the qualified expenditures attributable to the production of a qualified motion picture in California or a television series that relocated to California that is in its second or subsequent years of receiving a tax credit allocation.

  Additional credits, not to exceed a total of 5% of qualified expenditures, may be allowed:

  - 5% of qualified expenditures relating to music scoring or music track recording attributable to the production of a qualified motion picture in California.
  - 5% of qualified expenditures relating to qualified visual effects attributable to the production of a qualified motion picture in California.
  - 5% of qualified expenditures relating to original photography outside the "Los Angeles Zone".

For more information, go to the CFC website at **film.ca.gov** and search for **incentives**.

Important Information

The Original California Motion Picture and Television Production Credit. For taxable years beginning on or after January 1, 2011, California Revenue and Taxation Code (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 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.

The **new** film credit and **original** film credit are both available for the 2016 taxable year. The credit can reduce tax below the tentative minimum tax (TMT) for corporations. For more information, see R&TC Section 23036 or get Schedule P (100), Alternative Minimum Tax and Credit Limitations – Corporations.

Write "CFC Credit"– If you claim the original credit and the new credit in the same year, you must complete a separate form FTB 3541 for each 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. When you claim the credit, use:
  - **Original**, credit code 223
  - **New**, credit code 237
- 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.

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 the California Film and Television Tax Credit Program Tax Credit Certificate (hereafter, CFC Tax Credit Certificate or credit certificate). The credit can only be sold by the qualified taxpayer that generated the credit (that is a corporation, a limited liability company (LLC) classified 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 the CFC Tax Credit Certificate, 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.

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.

Sales and Use Taxes – A qualified taxpayer who has been issued a certified CFC Tax Credit Certificate 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**.

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 on the CFC Tax Credit Certificate.
- Passed through from S corporations, estates, trusts, partnerships, or LLCs taxed as partnerships.
- Purchased from a qualified taxpayer.
- Assigned to or from an affiliated corporation under R&TC Section 23685(c)(1) or Section 23695(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, trusts, 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 tax credit 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 tax 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. Pass-through entity means any entity taxed as a partnership or S corporation. The credit is passed through to the shareholders, beneficiaries, partners, or members. For the **new** credit, a qualified taxpayer must also have participated in the Career Readiness requirement. For more information refer to R&TC Section 23685 and Section 23695.

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 17053.95, Section 23685, Section 23695, or go to **film.ca.gov.**

Independent film

For the **original** credit, an 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% of the producing company.

For the **new** credit, an independent film means a motion picture with a minimum budget of one million dollars ($1,000,000) that is produced by a company that is not publicly traded and publicly traded companies do not own, directly or indirectly, more than 25% of the producing company.

Television series

For the **original** credit, 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.

For **new** credit, television series means a television series, without regard to episode length or initial media exhibition, with a minimum production budget of one million dollars ($1,000,000) per episode, that filmed its most recent season outside of California or has filmed all 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

Both the **original** and **new** credit may be assigned to an eligible assignee. The original credit is assignable for taxable years beginning on or after January 1, 2011, under R&TC Section 23685(c)(1). The new credit is assignable for taxable years beginning on or after January 1, 2016, under R&TC Section 23695(c)(1). 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 or Section 23695. 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 or Section 23695. 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 **original** credit assigned under Section 23663 or Section 23685, or any portion of the **new** credit assigned under Section 23663 or Section 23695 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 the CFC Tax Credit Certificate. 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) or Section 23695(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% of the assignor's voting common stock.
- The assignor owns, directly or indirectly, 100% of the voting common stock.
- Is wholly owned by a corporation or individual owning 100% 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 TMT. For individual taxpayers, the credit **cannot** reduce regular tax below the TMT. 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 Section 17053.95(c), or assigned or sold under Section 23685(c) or Section 23695(c), this restriction does not apply.

E Carryover

If the available credit exceeds the current year tax liability or is limited by TMT (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. In no event can the credit be carried back and applied against a prior year's tax.

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

Specific Line Instructions

Owner of credit. Enter the name of the owner of the credit and the California Corporation no. or FEIN or the California Secretary of State (SOS) file number. If the name shown on the California return is the same as the owner of the credit, enter "Same".

Part I – Available Credit

Credit certificate numbers (Lines 1b, 2b, 3b, 7b, and 10b) – Provide the tax credit certificate number for the current year generated credit allocated to you from the CFC, passed through to you from a pass-through entity, purchased from a qualified taxpayer, assigned to you from an affiliated corporation, or applied against BOE sales and use taxes. If you reported multiple credits, list all tax credit certificate numbers on the respective lines or attach a schedule, if necessary. Failure to provide all tax credit certificate numbers may result in the disallowance of the credit.

Line 1a – Current year generated credit. If you received a tax credit certificate from the CFC, enter the full amount of credit allocated to you as shown on the CFC Tax Credit Certificate. If you received more than one tax credit certificate during the taxable year, add the credit amounts from all credit certificates 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 or Section 23695, do not enter the amounts on this line. Instead, enter these amounts on line 2a, line 3a, or line 4, respectively.

Line 2a – Credit received from pass–through entities. Add the pass-through credit amounts received from S corporations, estates, trusts, partnerships, or LLCs taxed as a partnership, and enter the total on this line. Attach a schedule showing the name, address, tax identification number, and percentage of ownership for the flow-through entity from which you received the credit.

Line 3a – 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 received from affiliated corporations. If you received an assigned credit from an affiliated corporation pursuant to R&TC Section 23685 or Section 23695, complete Part III, Credit Received from Affiliated Corporations Pursuant to R&TC Section 23685 or Section 23695. Enter the amount from Part III, line 16 on this line.

Line 5b – Assignable credit carryover from prior year
Complete this line **only if** you are a member of a combined reporting group. This is the assignable portion of line 5a, Credit carryover from prior year. Enter the prior year credit allocated to you by the CFC plus the credit you received from pass-through entities, less any credit amounts in prior years that were:

- Used to reduce your franchise or income tax liability
- Assigned to affiliated corporations
- Sold to unrelated parties (if the credit was attributable to an independent film)
- Applied against sales and use tax

Do not include any prior year credit amounts that you purchased or were assigned to you by an affiliated corporation.

Line 7a – 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 or Section 23695, complete Part IV, Credit Assigned to Affiliated Corporations Pursuant to R&TC Section 23685 or Section 23695. Enter the amount from Part IV, line 22(d), on this line.

Line 9 – Credit passed through on Schedule K-1. Enter the amount of credit passed through to shareholders, partners, or members on Schedule K-1, on this line.

Line 10a – 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 13a – Credit claimed
Do not include assigned credits claimed on form FTB 3544A.

This amount may be less than the amount on line 12 if your credit is limited by your tax liability. For more information, see General Information D, Limitations, and refer to the credit instructions in your tax booklet. When you claim the credit, use credit code **223** for the original credit or code **237** for the new credit.

Note: If you enter an amount on line 13a, complete the table, Part V, Credit Claimed.

Line 13b – Total credit assigned
Corporations that assign credit to other corporations within combined reporting group under R&TC Section 23663 must complete form FTB 3544. Enter the total amount of credit assigned from form FTB 3544, column (g) on this line.

Part III – Assigned Credit from Affiliated Corporations Pursuant to R&TC Section 23685 or Section 23695.

Complete this table if you **received** credits assigned from an affiliated corporation pursuant to R&TC Section 23685 or Section 23695.

Line 15, column (a) – Assignor name. Enter the name of the corporation that assigned the credit.

Line 15, 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.

Line 15, column (c) – Credit certificate number. Enter the credit certificate number from the qualified taxpayer's (assignor's) tax credit certificate issued by the CFC.

Line 15, column (d) – Credit received. Enter the amount of the credit received from the assignor.

Part IV – Credit Assigned to Affiliated Corporations Pursuant to R&TC Section 23685 or Section 23695.

Line 18 – Tax. Enter 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 23.

Line 19 – Excess credit available for assigning to affiliated corporations. Subtract line 18 from line 17. 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.

Complete the table **Credit Assigned to Affiliated Corporations** if you have a balance on line 19 and will assign credits to affiliated corporations pursuant to R&TC Section 23685 or Section 23695.

Line 20, column (e) – Excess credit available for assignment. Enter the amount of excess credit, if any, from line 19.

Line 21, column (a) – Assignee name. Enter the name of the corporation that is receiving a credit assignment from the assignor.

Line 21, 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).

Line 21, column (c) – Credit certificate number. Enter the credit certificate number from the CFC Tax Credit Certificate.

Line 21, column (d) – Amount of credit assigned. Enter the amount of credit that is being assigned to an assignee.

Line 21, column (e) – Excess credit available for assignment. Subtract the amount in column (d) from the amount in previous line column (e).

Part V – Credit Claimed

Complete this table if you claimed an amount on line 13a. Do not include assigned credits claimed on form FTB 3544A.

Line 23, column (a) – Year certificate issued. Enter the year the CFC issued the certificate.

Line 23, column (b) – Certificate number. Enter the number on the certificate issued by the CFC.

Line 23, column (c) – Credit amount available for use. Enter the amount available for use in the current year. Do not include any amount previously claimed, assigned, sold, or applied against sales and use tax.

Line 23, column (d) – Credit claimed. Enter the amount claimed in the current year for each certificate listed. Do not include amounts claimed on form FTB 3544A.

Note: If the credit was generated by a pass-through entity, the entity must provide the year the credit was generated, the certificate number, and the amount that was passed through to the shareholder, partner, or member.