

Application for New Film Production Tax Credit

The purpose of this form. This form may be used by a film production company that commences principal photography on or after July 1, 2023, for a film project as approved by the Film Office of the New Mexico Economic Development Department (EDD) to apply for a production tax credit. Submit this completed application with required documentation to the Taxation and Revenue Department (TRD). See the instructions for a complete description of the requirements. A film production company that commences prior to July 1, 2023 must use Form RPD-41391, *Application for New Film and Television Tax Credit (Productions starting July 1, 2019)*. For assistance, call (505) 795-1735 or send email to TRD-FilmCredit@state.nm.us.

Name of Film Production Company		FEIN/SSN	NMBTIN
Mailing Address		City, State and ZIP Code	
Name of Contact Person	Telephone Number	Email Address	
Enter the title of the eligible project as indicated on the New Mexico Film Office registration form.			

Section I:

	Column 1	Column 2
	Qualifying expenditures	Credit amount claimed
1. Total qualifying direct production expenditures (25%)		
2. Total direct and post production expenditures qualifying for an additional 5% for television pilots and series		
3. Total direct and post production expenditures qualifying for an additional 5% for qualifying production facilities		
4. Total direct production expenditures and postproduction expenditures qualifying for an additional 10% for expenditures made in certain areas of the state (rural)		
5. Total qualifying payments made for nonresident industry crew eligible for the 15% credit		
6. Total qualifying postproduction expenditures (25%)		
7. Total expenditures attributable to a production on which the film production company receives a tax credit pursuant to the federal new markets tax credit program (20%)		
8. Total film production tax credit claimed. Enter the sum of column 1 and 2, lines 1 through 7.		

Section II:

1. Does the taxpayer have Declaration of Residency (DOR) and valid NM Identification Cards for all NM residents claimed?	☐ Yes	☐ No
2. Was Gross Receipt Tax and withholding tax reported as required per Statute for all Super Loan Out's claimed?	☐ Yes	☐ No
3. Was withholding tax reported at the maximum rate per Statute for all Direct Hire performing artist?	☐ Yes	☐ No
4. Are the direct production expenditures claimed on this application subject to tax?	☐ Yes	☐ No

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5. Are the direct production expenditures claimed on this application purchased from a NM vendor?	☐ Yes	☐ No
6. Do the post production expenditures claimed meet the requirements of post production and were the services performed in NM?	☐ Yes	☐ No
7. If claiming expenditures for additional credit related to expenditures made in certain areas of the state; television pilots and series or qualified production facility do the expenditures claimed meet Statutory requirements and was the uplift approved by the NM Film Office?	☐ Yes	☐ No
8. I certify that the amounts identified as direct production and postproduction expenditures included in this application on line 8, column 1 and 2 are qualifying expenditures according to the provisions of the Film Production Tax Credit Act.	☐ Yes	☐ No
9. I declare I have examined this application, including accompanying invoices, schedules and/or statements, and to the best of my knowledge and belief this application is true, correct and complete.	☐ Yes	☐ No
Section III: This application must be signed by a corporate officer, partner, or fiduciary who has been previously identified as such to the Department or an authorized individual representative with the authority to receive Federal and State confidential information on behalf of the taxpayer.		
I declare that I have examined this application, and to the best of my knowledge and belief it is true, correct, and complete.		
Printed Name (First and Last Name)	Title	
Signature	Date	

T1. Required Supporting Documentation	
Application	RPD-41418, <i>Application for New Film Production Tax Credit</i>
Tax Credit Approval Memo	Approval Memo provided by The New Mexico Film Office
Account Ledger	Account Ledgers, in Excel format, for each expense account the taxpayer is claiming. This should tie back to the application.(NM Payroll, Accounts Payable, Petty Cash, NRCE, Journal Entries, Super Loan Outs (SLO)/Direct Hire Talent, NRCE, Post Production, Uplifts for Qualified Production Facility's, Qualified Television Pilots and Series or Rural)
Non-Resident Crew Exception (NRCE)	NM Film Office Approval
CPA Review Required	Completed CPA Report
TIA	If applicable- Tax Information Authorization Tax Disclosure (TIA). ACD-31102, <i>Tax Information Authorization Tax Disclosure</i> . Important: The Department will not discuss this account with anyone other than those listed on page 1 without a TIA.
Important: Additional documentation may be requested.	

Application for New Film Production Tax Credit Instructions

These instructions and definitions reflect the laws applicable for film projects that begin principal photography on or after July 1, 2023. For film production companies that commence principal photography on or after to January 1, 2016, but prior to July 1, 2019, use Form RPD-41381, *Application for Film and Television Tax Credit*. A film production company that commences prior to July 1, 2023 must use Form RPD-41391, *Application for New Film and Television Tax Credit (Productions starting July 1, 2019)*.

About This Credit

The new film production tax credit provides a tax credit for an eligible film production company and its corresponding project. The amount of the credit is equal to 25% of eligible direct production and postproduction expenditures made in New Mexico. See Important Definitions for the definitions of direct production and postproduction expenditures.

For taxpayers who receive a new markets tax credit from the federal government for expenditures that also qualify for the New Mexico film and television tax credit, the percentage used for calculating the New Mexico credit is limited to 20%, including productions that would otherwise qualify for any additional credit.

Additional information regarding this credit can be located in **FYI-370, Information Regarding Film Production Tax Credits**. Visit the TRD Forms and Publications web page, <https://www.tax.newmexico.gov/forms-publications/>.

To Apply for the New Film Production Tax Credit

A film production company must first register the project with the Film Office of the New Mexico Economic Development Department (EDD) for verification of eligibility, as defined in statute. The film production company may apply for the credit by completing Form RPD-41418, *Application for New Film Production Tax Credit (July 1, 2023)*, and submitting the application to EDD. After EDD has confirmed all obligations have been met by the company, the application is submitted to the Taxation and Revenue Department (TRD) who reviews the credit application and supporting documentation and issues a document granting it. The credit application and supporting documentation must be submitted within one year of the date of the last direct production expenditure in New Mexico or the last postproduction expenditure in New Mexico for the registered project and that are included in the credit claim.

TRD will make a determination within 120 days of the date on which the completed application is filed. You may call 505-795-1735 or send an email to check the status. If approved, the applicant will be issued a document granting the credit.

Qualifying direct production and postproduction expenditures must:

- be made in New Mexico,
- be directly attributable to the production in New Mexico of

- a film or commercial audiovisual product;
- be subject to taxation by the state of New Mexico;
- exclude direct production and postproduction expenditures for which another taxpayer claims the film production tax credit, and
- not exceed the usual and customary cost of the goods or services acquired when purchased by unrelated parties.*

*The TRD Secretary may determine the value of the goods or services acquired when the buyer and seller are affiliated persons or the sale or purchase is not an arm's length transaction.

Important: Expenditures must be directly attributable to film production in New Mexico and subject to taxation by the State of New Mexico.

Additional Credits Allowed

In addition to the percentage of direct production expenditures and postproduction expenditures.

Additional 10% Allowed For Expenditures Made in Certain Areas of the State

In addition to the percentage of direct production expenditure and postproduction expenditure an additional 10% shall be applied for work, services or items provided on location for a production that is located in New Mexico but at least 60 miles from the city hall of the county seat of certain counties. Section 7-2F-14(A)(1) NMSA 1978. "Certain counties" means Class A counties with a net taxable value of property for property taxation purposes of greater than \$7,500,000,000.

Additional 5% Allowed for Television Pilots and Series

An additional 5%, is applied in calculating the film and television tax credit to direct production expenditures on (Section 7-2F-14(A)(2)(a) NMSA 1978):

- a standalone pilot intended for series television in New Mexico or on series television productions intended for commercial distribution with an order for at least six episodes in a single season; provided that the New Mexico budget for each of those six episodes is fifty thousand dollars (\$50,000) or more;

A film production company applying for the additional credit allowed for Television Pilots and Series is **not eligible** for the additional credit for Qualified Production Facilities, below.

Additional 5% Allowed for Qualified Production Facilities

An additional 5% shall be applied to productions that utilize a production facility sound stage or standing set, qualified by NMFO (Section 7-2F-14(A)(2)(b) NMSA 1978):

- Only expenses incurred on a production in a qualified production facility are eligible for the additional 5%. If something is purchased at a store or another location and brought back to the qualified production facility it would not qualify.

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- If the additional 5% credit is granted for a qualified production facility, an additional 5% credit cannot be allowed for a television pilots and series.

A film production company applying for the additional credit allowed for Qualified Production Facilities is **not eligible** for the additional credit for Television Pilots and Series Qualified Production Facilities, above.

Nonresident Below-the-Line-Crew Credit (NRCE)

An additional 15% may be allowed on the payment of wages for below-the-line crew who are not New Mexico residents, that are directly attributable to the production in New Mexico of a film or commercial audiovisual production for which the film production company is claiming a new film production tax credit provided that:

- (A) the service for which payment is made is rendered in New Mexico,
- (B) the payment of wages excludes payments;
 - (1) for below-the-line crew who are producers, directors, screenwriters, cast and production assistants; and
 - (2) made to a personal services business;
- (C) prior to July 1, 2028, for a film production company that is a New Mexico film partner, the total amount of wages applied toward the additional credit allowed pursuant to this section may be up to one hundred percent of the amount of wages of resident below-the-line wages claimed; provided that the film production company provides a seventy-two-hour notice of the opportunity to be hired to resident below-the-line crew, which may be through a collective bargaining unit that represents resident below-the-line crew; and
- (D) for a film production company that is not a New Mexico film partner and, beginning July 1, 2028, for a film production company that is a New Mexico film partner:
 - (1) the total eligible wages for below-the-line crew who are not New Mexico residents are not more than fifteen percent of the production's total New Mexico budget for below-the-line crew wages; and
 - (2) the film production company may claim the nonresident below-the-line crew credit for employing up to the following numbers of nonresident below-the-line crew in New Mexico and shall be as calculated by the division upon application for certification pursuant to Subsection A of Section 7-2F-12 NMSA 1978; provided that the total number shall not exceed twenty positions:
 - (a) five positions if the production's final New Mexico budget is up to two million seven hundred fifty thousand dollars (\$2,750,000);
 - (b) ten positions if the production's final New Mexico budget is greater than two million seven hundred fifty thousand dollars (\$2,750,000) and up to seven million five hundred thousand dollars (\$7,500,000);
 - (c) fifteen positions if the production's final New Mexico budget is greater than seven million five hundred thousand dollars (\$7,500,000) and up to eleven

million dollars (\$11,000,000);

- (d) one position in addition to the number of positions provided in Subparagraph (c) of this paragraph for every ten million dollars (\$10,000,000) over eleven million dollars (\$11,000,000) of the production's final New Mexico budget; and
- (e) five positions in addition to the number of positions provided in Subparagraphs (a) through (d) of this paragraph for a television pilot episode that has been ordered to series; provided that the film production company certifies to the division that the series is intended to be produced in New Mexico.

INSTRUCTIONS

Name/Address Block

Complete all information requested. If the contact for the permanent records is different, also attach the contact information for the person in charge of the permanent records for the application.

Enter the Project Title as indicated on the New Mexico Film Office's Film Production Company Registration Form.

Section I:

Line 1.

In column 1, enter the total qualifying direct production expenditures made in New Mexico directly attributable to the production in New Mexico of the film project, for which this credit is claimed. Multiply the qualifying expenditures in column 1 by 0.25 (25%), and enter the product in column 2.

Line 2.

In column 1, enter the qualifying direct or post production expenditures from line 1 which qualify for the additional 5% for television pilots and series. For qualifications, see *An Additional 5% Allowed For Television Pilots and Series*, on page 1 of the instructions. Multiply the qualifying expenditures in column 1 by 0.05 (5%), and enter the product in column 2.

Line 3.

In column 1, enter the qualifying direct or post production expenditures which qualify for the additional 5% for qualifying production facilities. For qualifications, see *An Additional 5% Allowed For Qualifying Production Facilities*, on page 1 of the instructions. Multiply the qualifying expenditures in column 1 by 0.05 (5%), and enter the product in column 2.

Line 4.

In column 1, enter the qualifying direct or post production expenditures from line 1 which qualify for the additional 10% for expenditure made in certain areas of the state. For qualifications, see *An Additional 10% Allowed For Expenditures Made In Certain Areas Of The State*, on page 1 of instructions. Multiply the qualifying expenditures in column 1 by 0.10 (10%), and enter the product in column 2.

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Line 5.

In column 1, enter the total qualifying payments made for nonresident industry crew eligible for an additional 15% credit. For qualifying payments, see An Additional 15% Allowed for Nonresident Industry Crew, on page 2 of instructions. Multiply the qualifying payments in column 1 by 0.15 (15%), and enter the product in column 2.

Line 6.

In column 1, enter the total qualifying postproduction expenditures made in New Mexico directly attributable to the production in New Mexico for which this credit is claimed. Multiply the postproduction expenditures in column 1 by 0.25 (25%), and enter the product in column 2.

Line 7.

In column 1, enter the total expenditures (direct production expenditures and postproduction expenditures) attributable to the production for which the film production company receives a tax credit pursuant to the federal new markets tax credit program. Multiply the qualifying expenditures in column 1 by 0.20 (20%), and enter the product in column 2.

For taxpayers who receive a new markets tax credit from the federal government for expenditures that also qualify for the New Mexico new film production tax credit, the percentage used for calculating the New Mexico credit is limited to 20%, including productions that would otherwise qualify for any additional credit.

Line 8.

Enter the total film production tax credit claimed. Add the sum of column 2, lines 1 through 7.

Section II:

For questions 1 through 9 answer either yes or no.

Section III:

Signature

Sign the application, enter your title and the date of signature. By signing the application, you certify that the amounts identified as direct production and postproduction expenditures included in the application are qualifying expenditures according to the provisions of the Film Production Tax Credit Act.

Important: All required documentation must be submitted for an application to be considered complete. See *Table T1. Required Supporting Documentation*, on page 2.

Wages, fringe benefits or fees for talent, management and labor are eligible for the film production tax credit **only when** paid to individuals who are New Mexico residents during the time that they work on the project. Form RPD-41271, *Declaration of Residency*, must be completed by the New Mexico resident and retained in the records of the film production company.

To Claim the New Film Production Tax Credit

Once the approved film production company is determined to be eligible by the Film Office and has been approved by TRD, a completed Form RPD-41228, *Film-Related Tax Credit Claim Form, including Schedule A*, must be attached to a completed New Mexico return (Form PIT-1, CIT-1, S-Corp, or FID-1) filed after the close of the tax year for authorization for payment.

Subject to certain limitations, the amount of the tax credit authorized for payment may be applied to the tax due on the return, or if the amount of the new film production tax credit exceeds the film production company's income tax liability for the tax year, the excess may be refunded.

Limitations on Receiving the Credit Claimed on a Return.

The aggregate film-related tax credits (*film production tax credit and film and television tax credit*) that may be paid out in any fiscal year is limited to \$110 million. Section 7-2F-12 NMSA 1978 allows for the credit limit to be increased as follows: from fiscal year 2024 through fiscal year 2028, the amount shall be increased by ten million dollars (\$10,000,000) in each of those fiscal years; and for fiscal year 2029 and subsequent fiscal years, one hundred sixty million dollars (\$160,000,000).

A claimed film-related tax credit claimed that is unable to be paid because total claims paid during the current fiscal year, based on the limitations above, shall be placed at the front of the queue for the next fiscal year.

The date a credit claim is received by TRD determines the order that a credit claim is authorized for payment.

When credit claims are authorized by TRD, the new film production tax credits are paid pursuant to the Tax Administration Act.

Any amount of a credit claim that is carried forward as described above, is also subject to the total aggregate film-related tax credit limit paid in any fiscal year. However, the portion of the amount of credit that is carried forward is placed in front of the queue in the next fiscal year. If a partial payment is made because the tax credit limit has been met in a fiscal year, then the difference owed shall retain its original position in the queue.

For purposes of determining the payment of credit claims that are required to be paid out, the TRD Secretary may require that credit claims of affiliated persons be combined into one claim, if necessary, to accurately reflect closely integrated activities of affiliated persons.

Note: No interest shall be paid on any amount refunded under the Film Production Tax Credit Act.

Completing the Income Tax Return:

Complete the income tax return, based on the federal return that you are required to file.

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If you are required to file:	File New Mexico form:
Federal Form 1040	PIT-1 return*
Federal Form 1041	FID-1 return*
Federal Form 1120	CIT-1 return*
Federal Form 1120S	S-Corp return*

*You also need to complete the tax credit schedule, CIT-CR, PIT-CR, S-Corp-CR, or FID-CR.

Enter the total new film production tax credit approved and the amount of the credit that you want applied to the tax liability due and refunded on the Schedule CR for business related tax credits. TRD will compare the amounts entered and determine how and when the credit will be paid.

Caution: If the amount you request to be applied to the tax liability due on the return is not eligible to be paid immediately, you will be billed for the tax liability not paid, and you may be subject to interest on the unpaid tax due.

For all tax programs, you must attach Form RPD-41228, *Film-Related Tax Credit Claim Form*, including Schedule A, to your return. Failure to attach this form will result in denial of your claim for the credit.

Please submit your complete return with all required documents through the Taxpayer Access Point (TAP), <https://tap.state.nm.us> or by mail.

Mail: New Mexico Taxation and Revenue Department
Attn: Business Credit Claim Unit
P.O. Box 630
Santa Fe, NM 87502-0630

If you have questions or need to provide supporting documentation you can email the Business Credit Unit at: BusinessCredit.Mgr@tax.nm.gov.

IMPORTANT DEFINITIONS

Affiliated Person means a person who directly or indirectly owns or controls, is owned or controlled by or is under common ownership or control with another person through ownership of voting securities or other ownership interests representing a majority of the total voting power of the entity.

Background Artist means a person who is not a performing artist but is a person of atmospheric business whose work includes atmospheric noise, normal actions, gestures and facial expressions of that person's assignment; or a person of atmospheric business whose work includes special abilities that are not stunts; or a substitute for another actor, whether photographed as a double or acting as a stand-in.

Below-the-Line Crew means a person in a position that is

off-camera and who provides technical services during the physical production of a film. "Below-the-line crew" does not include a person who is a writer, director, producer or background artist or performing artist for the film.

Commercial Audiovisual Product means a film or a video game intended for commercial exploitation.

Direct Production Expenditure means a transaction that is subject to taxation in New Mexico and is certified pursuant to Subsection A of Section 7-2F-12 NMSA 1978:

(1) including an expenditure for:

- (a) payment of wages, fringe benefits or fees for talent, management or labor to a person who is a New Mexico resident;
- (b) payment for standard industry craft inventory when provided by a below-the-line crew that is a New Mexico resident in addition to its below-the-line crew services;
- (c) payment for wages and per diem for a performing artist who is not a New Mexico resident and who is directly employed by the film production company; provided that the film production company deducts and remits, or causes to be deducted and remitted, income tax from the first day of services rendered in New Mexico at the maximum rate pursuant to the Withholding Tax Act;
- (d) payment to a personal services business for the services of a performing artist if: 1) the personal services business pays gross receipts tax in New Mexico on the portion of those payments qualifying for the tax credit; and 2) the film production company deducts and remits, or causes to be deducted and remitted, income tax at the maximum rate in New Mexico pursuant to Subsection H of Section 7-3A-3 NMSA 1978 on the portion of those payments qualifying for the tax credit paid to a personal services business where the performing artist is a full or part owner of that business or subcontracts with a personal services business where the performing artist is a full or part owner of that business; and
- (e) any of the following provided by a vendor: 1) the story and scenario to be used for a film; 2) set construction and operations, wardrobe, accessories and related services; 3) photography, sound synchronization, lighting and related services; 4) editing and related services; 5) rental of facilities and equipment; 6) the first one hundred fifty dollars (\$150) of the daily expense of leasing of vehicles, not including the chartering of aircraft for out-of-state transportation; however, New Mexico-based chartered aircraft for in-state transportation directly attributable to the production shall be considered a direct production expenditure; 7) food; 8) the first three hundred dollars (\$300) of lodging per individual, per day; 9) commercial airfare if purchased through a New Mexico-based travel agency or travel company for travel to and from New Mexico or within New Mexico that is directly attributable to the production; 10) insurance coverage and bonding if purchased

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through a New Mexico-based insurance agent, broker or bonding agent; 11) subcontracted goods and services from businesses; provided that the ordinary course of business of the vendor procuring the goods and services from the subcontractor directly relates to standard film industry goods and services; and 12) other direct costs of producing a film in accordance with generally accepted entertainment industry practice; and

(2) does not include an expenditure for:

- (a) a gift with a value greater than one hundred dollars (\$100);
- (b) artwork or jewelry, except that a work of art or a piece of jewelry may be a direct production expenditure if: 1) it is used in the film production; and 2) the expenditure is less than two thousand five hundred dollars (\$2,500);
- (c) entertainment, amusement or recreation;
- (d) subcontracted goods or services provided by a vendor when the subcontractors providing those goods or services to the vendor are not subject to state taxation, such as equipment and locations provided by the military, government and organizations that demonstrate to the taxation and revenue department that they have been granted exemption from the federal income tax by the United States commissioner of internal revenue as organizations described in Section 501(c)(3) of the United States Internal Revenue Code of 1986, as amended or renumbered;
- (e) subcontracted services provided by a vendor when the subcontracted services are provided by a person who is below-the-line crew and is not a New Mexico resident;
- (f) hidden or other indirect service fees, costs, commissions or other remuneration received by third parties and that are not directly paid by the film production company or expressly enumerated on a film production company's filing to claim a new film production tax credit;
- (g) wages for a person who is not a New Mexico resident and who falsely claims to be a New Mexico resident. The wages of such person shall not be considered an eligible expense for two years from the date in which the person is determined by the taxation and revenue department as having made a false claim, regardless of whether the person becomes a New Mexico resident within that time frame; or
- (h) which the film production company receives funding pursuant to Section 21-19-7.1 NMSA 1978;

Direct production and postproduction expenditures **exclude**:

- (1) expenditures that are not subject to tax by New Mexico; and
- (2) expenditures for which another taxpayer claims the film production tax credit.

Film means a single medium or multimedia program, excluding advertising messages other than national or regional advertising messages intended for exhibition, that:

- (1) is fixed on film, digital medium, videotape, computer disc, laser disc or other similar delivery medium;
- (2) can be viewed or reproduced;

(3) is not intended to and does not include sexually oriented material harmful to minors or does not otherwise violate a provision of Chapter 30, Article 37 NMSA 1978, and

(4) is intended for reasonable commercial exploitation for the delivery medium used.

Film Production Company means a person that produces one or more films or commercial audiovisual products or any part of a film or commercial audiovisual product.

New Mexico Film Partner means a film production company that has made a commitment to produce films or commercial audiovisual products in New Mexico and has purchased or executed a ten-year contract to lease a qualified production facility.

New Mexico Resident means an individual who is domiciled in this state during any part of the tax year or an individual who is physically present in this state for 185 days or more during the tax year; but any individual, other than someone who was physically present in the state for 185 days or more during the tax year and who, on or before the last day of the tax year, changed the individual's place of abode to a place outside New Mexico with the bona fide intention of continuing actually to abide permanently outside New Mexico is not a resident for the purposes of the Film Production Tax Credit Act for periods after that change of abode.

Performing Artist means an actor, on-camera stunt person, puppeteer, pilot who is a stunt person or actor, specialty foreground performer or narrator, and who speaks a line of dialogue, is identified with the product or reacts to narration as assigned. Performing artist does not include a background artist.

Personal Services Business means a business organization, with or without physical presence, that receives payments pursuant to the Film Production Tax Credit Act for the services of a performing artist.

Physical Presence means a physical address in New Mexico from which a vendor conducts business, stores inventory, or otherwise creates, assembles, or offers for sale the product purchased or leased by a film production company and the business owner or an employee of the business is a New Mexico resident.

Postproduction Expenditure means an expenditure for editing, Foley recording, automatic dialogue replacement, sound editing, special effects, including computer-generated imagery or other effects, scoring and music editing, beginning and end credits, negative cutting, sound track production, dubbing, subtitling or addition of sound or visual effects; but not including an expenditure for advertising, marketing, distribution, or expense payments.

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Principal Photography means the production of a film during which the main visual elements are created.

Qualified Production Facility means a building, or complex of buildings, building improvements and associated back-lot facilities in which films are or are intended to be regularly produced and that contain at least one:

- (1) sound stage with contiguous floor space of at least seven thousand square feet and a ceiling height of no less than eighteen feet; **or**
- (2) standing set that includes at least one interior, and at least five exteriors, built or re-purposed for film production use on a continual basis and is located on at least fifty acres of contiguous space designated for film production use;

Vendor means a person who sells or leases goods or services that are related to standard industry craft inventory, who has a physical presence in New Mexico and is subject to gross receipts tax pursuant to the Gross Receipts and Compensating Tax Act or income tax pursuant to the Income Tax Act or corporate income tax pursuant to the Corporate Income and Franchise Tax Act but excludes a personal services business and services provided by nonresidents hired or subcontracted if the tasks and responsibilities are associated with the standard industry job position of director, writer or producer.