

STATE OF CONNECTICUT
REGULATION
OF
Connecticut Commission on Culture and Tourism
Concerning
Digital Animation Production Company Tax Credit Program
Section 3 of Public Act 07-236
As Amended by Section 71 of Public Act 07-04
(June Special Session) and
Section 15 of Public Act 07-05 (June Special Session)
SUBJECT MATTER OF REGULATION

The regulations of Connecticut State Agencies are amended by adding Sections 12-217ll-1 to 12-217ll-12, inclusive, as follows:

(NEW) Sec. 12-217ll-1. Statement of purpose

These rules and regulations have been adopted to implement and are intended to be applied so as to accomplish the purposes of the digital animation production company tax credit program as established by section 3 of Public Act 07-236, as amended by section 71 of Public Act 07-04 (June special session) and section 15 of Public Act 07-05 (June Special Session). The digital animation production company tax program is administered by the Connecticut Commission on Culture and Tourism in consultation with the Commissioner of the Department of Revenue Services and provides corporation business and insurance premium tax credits in order to encourage the development of strong digital animation production activity within the State so as to increase employment and foster a more productive state economy.

(NEW) Sec. 12-217ll-2. Definitions

As used in sections 12-217ll-1 to 12-217ll-12 inclusive, of the Regulations of Connecticut State Agencies:

- (1) “Act” or “the act” shall mean section 3 of Public Act 07-236 as amended by section 71 of Public Act 07-04 (June Special Session).
- (2) “American Institute of Certified Public Accountants (AICPA)” shall mean the national organization which establishes financial, accounting and auditing procedures to which certified public accountants (CPA’s) must adhere.

- (3) “Applicant” or “the applicant” shall mean, as the context of these regulations shall require:
- (a) A digital animation production company which applies to the Commission for certification as a state-certified digital animation production company; or,
 - (b) A state-certified digital animation production company which applies to the Commission for a digital animation tax credit voucher.
- (4) “Commission” shall mean the Connecticut Commission on Culture and Tourism.
- (5) “Commissioner” shall mean the Commissioner of the Connecticut Department of Revenue Services.
- (6) “Detailed cost report” or “cost report” shall mean the itemized expenses or costs report filed with the Commission by an applicant for a tax credit voucher.
- (7) “Digital animation production activity” shall have the same meaning as provided in subsection 3(a)(5) of the act.
- (8) “Digital animation production company” shall have the same meaning as provided in subsection 3(a)(3) of the act.
- (9) “Financial Accounting Standards Board (FASB)” shall mean the board designated by the AICPA to have the authority to set and specify generally accepted accounting principals (GAAP).
- (10) “Full-time employee” shall have the same meaning as provided in subsection 3(a)(6) of the act.
- (11) “Income year” shall mean the period established by an applicant for federal income tax purposes.
- (12) “Production expenses or costs” shall have the same meaning as provided

in subsection 3(a)(8) of the act.

- (13) “State” shall mean the State of Connecticut;
- (14) “State-certified digital animation production company” shall have the same meaning as provided in subsection 3(a)(4) of the act.
- (15) "Taxpayer" means "taxpayer" as defined in section 12-201(3) of the Connecticut General Statutes and/or section 12-213(a)(1) of the Connecticut General Statutes.

(NEW) Sec. 12-217ll-3. Application for certification as state-certified digital animation production company

- (a) An applicant shall file a written application for certification with the Commission under oath on such forms and in such manner as the Commission may prescribe.
- (b) An applicant seeking certification shall provide the Commission with information including, but not limited to, the following:
 - (1) Legal name, address and telephone number;
 - (2) Name, title and telephone number of primary contact person and other persons associated with the applicant whom the Commission may contact to discuss the application information;
 - (3) Type of business entity (i.e., proprietorship, partnership, corporation, etc.);
 - (4) Satisfactory evidence from the Secretary of the State and the Commissioner that the applicant is qualified to do business in the State and is registered as a taxpayer;
 - (5) Federal Employer Identification Number (FEIN) or Tax Identification Number (TIN);
 - (6) Detailed description of digital animation production activity

engaged in by the applicant;

- (7) Detailed description of digital animation production activity conducted by the applicant in this state;
 - (8) Detailed description of business activity other than digital animation production activity engaged in by the applicant;
 - (9) Detailed description of all locations where the applicant maintains facilities at which digital animation production activity is conducted and description of that activity;
 - (10) Listing of the total number of the applicant's full time employees and facility where employed;
 - (11) Actual or estimated total annual production expenses or costs incurred in the state;
 - (12) The applicant's certification that it will at all times maintain its books and records in accordance with generally accepted accounting principles (GAAP) consistently applied in connection with the conduct of its digital animation production activity in this state;
 - (13) The applicant's certification that it does not and will not engage in digital animation production activity which requires the maintenance of records pursuant to 18 U.S.C. §2257;
 - (14) Date that the applicant began, or will begin, conducting digital animation production activities at facilities in this state;
 - (15) The applicant's income year;
 - (16) Such additional pertinent application information concerning the applicant, its officers and directors or its digital animation production activity as the Commission may request.
- (c) Upon the Commission's written request, the applicant shall provide any necessary written authorization for the release of information concerning

the applicant or its digital animation production activity from any federal, state or local governmental agency including financial reports and records relating to the applicant or its activity.

- (d) An applicant is responsible for the accuracy of all data, information and documentation included with the application. The applicant shall be responsible for updating application data, information and documentation as soon as practicable after material changes in said information. All applications, information and documentation shall become the property of the Commission upon submission.
- (e) If the Commission determines after review that an application is incomplete, it may request in writing that the applicant submit additional pertinent application information which shall be submitted within fifteen (15) days after the applicant's receipt of the Commission's request. If the Commission determines that the application remains incomplete after such additional time period, no further processing of said application shall take place.

(NEW) Sec. 12-217ll-4. Disposition of application for certification

- (a) The Commission shall review all complete applications submitted pursuant to section 12-217ll-3 of these regulations and determine whether the criteria for certification as a state-certified digital animation production company under the act and these regulations have been met.
- (b) If the Commission finds that such criteria have been met it shall issue written notice of such certification to applicant and provide applicant with a unique identification number which shall be referenced on all future correspondence and notices filed with the Commission.
- (c) The Commission's written notice that the applicant is a state-certified digital animation production company shall not grant or convey any state tax credits or benefits and signifies only that the Commission has determined that the criteria for such certification have been met at the time of the Commission's review of the application.

(NEW) Sec. 12-217ll-5. Fiscal and accounting requirements

- (a) Each state-certified digital animation production company shall utilize an accounting system which conforms to generally accepted accounting

principles (GAAP) in accounting for the production expenses or costs to be included in the detailed cost report which shall accompany an application for issuance of a digital animation production company tax credit voucher.

- (1) The following accounting records and documentation, at a minimum, shall be made and maintained by a state-certified digital animation production company:
 - (a) Invoices, purchase orders, vouchers, paid bills, and production reports;
 - (b) Individual payroll records for all employees;
 - (c) Individual employee attendance records;
 - (d) Records relating to refunds, rebates, invoicing errors, purchase returns, sales of equipment or other tangible property or other production assets and insurance claims;
 - (e) Records relating to costs and expenses regarding the ownership or lease of any real property;
 - (f) Records relating to costs and expenses regarding the purchase of any tangible personal property;
 - (g) Records relating to any related party transaction sufficient to permit the independent auditor to provide the information required pursuant to subsection xx-xxx-9(c)(5) of these regulations;
 - (h) Records relating to production expenditures or costs for optioning or purchasing intellectual property as such costs are described and permitted under subsection 3(a)(8)(A) of the act.

(NEW) Sec. 12-217ll-6. Application for issuance of a digital animation production company tax credit voucher; independent audit

- (a) A state-certified digital animation production company may apply to the Commission for issuance of a tax credit voucher not more than twice in any income year on such forms as the Commission may prescribe. Upon the Commission's determination that the applicant has satisfied all the criteria for issuance of a tax credit voucher, the Commission shall certify the total production expenses or costs incurred during the period encompassed by the cost report and the actual amount of the tax credit

awarded to the applicant. The Commission shall not award digital animation production company tax credits which exceed in the aggregate the state fiscal year cap as provided in subsection 3(g) of the act.

- (b) With each application for a tax credit voucher the applicant shall file with the Commission the detailed cost report together with an audit report of such cost report. The audit shall be performed by an independent certified public accountant licensed in this state at the applicant's sole cost and expense. Such auditor shall have no direct or indirect financial interest in the applicant or the applicant's digital animation production activity.

(NEW) Sec. 12-217ll-7. Detailed cost report

- (a) Each applicant for a tax credit voucher shall file with the Commission, under oath, a detailed cost report on such forms as the Commission may prescribe.
- (b) The detailed cost report shall classify costs and expenditures actually incurred by the applicant under one of the categories specified below:
 - (1) Talent costs;
 - (2) Payroll;
 - (3) Overhead;
 - (4) Post production;
 - (5) Other.
- (c) Within the foregoing general expense or cost categories, the Commission may prescribe such sub-categories as it deems necessary to facilitate applicant's reporting of its production expenses or costs and the Commission's review of such production expenses and costs.

(NEW) Sec. 12-217ll-8. Limitations on allowable production expenses or costs

- (a) An applicant may include only actual, paid production expenses or costs in the detailed cost report. The cost report must provide sufficient information so that an independent auditor can verify the production expenses or costs and determine whether such costs are allowed pursuant to the act and these regulations.
- (b) Refunds, rebates, insurance claim recoveries, discounts, invoicing errors, returns and other such credits must be credited against the expenses or costs itemized in the cost report.

- (c) When an applicant incurs related party transaction costs, the costs allowable shall be limited to the fair market value of the services, goods or other tangible property provided to applicant by the related party.
- (d) Production expenses or costs which have been included in any prior application for a tax credit voucher or included in an application for a tax credit under section 1 or 2 of Public Act 07-236 or any other section of the Connecticut General Statutes shall not be allowable.
- (e) Expenses or costs related to the transfer of any tax credit shall not be allowable.

(NEW) Sec. 12-217ll-9. Scope of and procedures for audit

- (a) The purpose of the independent audit is to provide assurances to the Commission that the production expenses or costs set forth in the detailed cost report have in fact been expended and are otherwise accurate and reasonable.
- (b) The audit shall be completed in accordance with generally accepted auditing standards as established by the AICPA and FASB and shall be at the sole cost and expense of the applicant. The audit shall be performed by a certified public accountant licensed in this state, unrelated to the applicant and having no direct or indirect financial interest in the applicant or applicant's digital animation production activity.
- (c) The auditor's report shall state that the audit was conducted in accordance with this section and shall include the following:
 - (1) An opinion or disclaimer of opinion as to whether the production expenses or costs listed by applicant in the detailed cost report are presented in all material respects in conformity with generally accepted accounting principles;
 - (2) A report on the applicant's compliance with the applicable laws, regulations, provisions of contracts or other agreements which could have a material effect on the expenses or costs reported in the detailed cost report;
 - (3) A report on internal control exercised by the applicant in the reporting of the costs listed in the detailed cost report with a description of the scope of testing of internal control and the results of such testing;
 - (4) A report on all sources of funds used by the applicant to finance

the digital animation production activity including any non-cash or barter transactions included in the detailed cost report;

- (5) A report on all related party transactions as such are defined, specified and explained by the Financial Accounting Standards Board (FASB) in Statement No. 57 and which are encompassed in the detailed cost report to include:
 - (A) The name of the related party;
 - (B) The nature of the relationship between the related party and the applicant;
 - (C) A description of the nature of the transaction and the amount; and,
 - (D) Citation to an independent source which provides a fair market value estimate of the transaction.
- (6) The auditor's opinion shall be dated as of the date that audit fieldwork was completed and shall be addressed to the applicant;
- (7) The auditor shall have demonstrated knowledge and familiarity with the accounting practices generally recognized in the digital animation or other media production industry; and,
- (8) The audit work papers must be maintained by the auditor for a period of six (6) years from the date that the audit was submitted to the Commission and shall be made available to the Commission upon written request.

(NEW) Sec. 12-217ll-10. Disposition of application for tax credit vouchers

- (a) The Commission shall review the application and the independent audit and evaluate whether the applicant has met the criteria set forth under the act and these regulations for issuance of a digital animation tax credit voucher. If the Commission determines that the applicant has met such criteria, it shall thereupon issue the written tax credit voucher which shall certify the total production expenses or costs substantiated to the satisfaction of the Commission and the amount of the tax credit awarded.
- (b) If the Commission determines after its evaluation that the applicant has not met the established criteria for issuance of a tax credit voucher, it shall notify the applicant in writing of the deficiencies in the application or audit and the remedial action, if any, that is required of the applicant before the Commission can act on the application for a tax credit voucher.

(NEW) Sec. 12-217ll-11. Confidentiality of application information and documents

When an applicant submits information it considers to be of a proprietary or confidential nature in connection with its applications for eligibility certification or tax credit voucher, such information shall be clearly marked or labeled “CONFIDENTIAL” in capital letters. The applicant shall also submit a statement briefly setting forth the grounds on which the information should be treated as confidential. Upon the Commission’s determination that such information may be lawfully maintained by it as confidential, it shall maintain such portions of the application as confidential to the extent permitted by law.

(NEW) Sec. 12-217ll-12. Transfers of tax credits

- (a) Tax credit vouchers may be sold, assigned or otherwise transferred by the applicant to one or more taxpayers, in whole or in part, up to a maximum of three (3) times and to the extent the tax credit has not previously been claimed. Any taxpayer assigned a tax credit must claim such assigned credit in the same income year that the applicant was eligible to claim the tax credit. Any assignee or transferee that does not fully utilize the tax credit in the income year in which it is claimed may carry such credit forward as permitted by section 12-217ll (b)(3) of the Connecticut General Statutes.
- (b) Each tax credit voucher transferor and transferee shall jointly provide written notice of such transfer to the Commission on such forms as may be prescribed by the Commission, not later than thirty (30) days after the transfer.
- (c) The written notice to the Commission of transfer shall include, but may not be limited to, the following:
 - (1) The tax credit voucher number;
 - (2) The date of transfer;
 - (3) The total amount of credit transferred;
 - (4) The tax credit voucher balance before and after the transfer;
 - (5) The transferor’s and transferee’s federal tax identification numbers;
 - (6) Consideration paid by the transferee for the transfer;
 - (7) Such other information as the Commission may require.

- (d) Failure to comply with all transfer notification requirements contained in subsection (c) of this section and section 1 of the Act shall result in the disallowance of the tax credit until such time as the Commission determines that the transferor and transferee are in full compliance.
- (e) Failure to comply with the time limitation for notice to the Commission of such transfer in subsection (b) of this section and section 3(d) of the act shall result in the disallowance of such tax credit unless the Commission determines that such failure was for good cause shown.