

Sec. 12-217kk. Tax credit for infrastructure projects in the entertainment industry. Regulations.

(a) As used in this section:

(1) "Commissioner" means the Commissioner of Revenue Services.

(2) "Department" means the Department of Economic and Community Development.

(3) "Infrastructure project" means a capital project to provide basic buildings, facilities or installations needed for the functioning of the digital media and motion picture industry in this state.

(4) "State-certified project" means an infrastructure project undertaken in this state by an entity that (A) is in compliance with regulations adopted pursuant to subsection (e) of this section, (B) is authorized to conduct business in this state, (C) is not in default on a loan made by the state or a loan guaranteed by the state, nor has ever declared bankruptcy under which an obligation of the entity to pay or repay public funds was discharged as a part of such bankruptcy, and (D) has been approved by the department as qualifying for an infrastructure tax credit under this section.

(5) "Post-certification remedy" means the recapture, disallowance, recovery, reduction, repayment, forfeiture, decertification or any other remedy that would have the effect of reducing or otherwise limiting the use of a tax credit provided by this section.

(b) (1) (A) For income years commencing prior to January 1, 2010, there shall be allowed a state-certified project credit against the tax imposed under chapter 207 or this chapter to any taxpayer that invests in a state-certified project. Such credit may be in the following amounts: (i) For state-certified projects costing greater than fifteen thousand dollars and less than one hundred fifty thousand dollars, each taxpayer may be allowed a tax credit of ten per cent of the investment made by such taxpayer; (ii) for state-certified projects costing one hundred fifty thousand dollars or more, but less than one million dollars, each taxpayer may be allowed a tax credit of fifteen per cent of the investment made by such taxpayer; and (iii) for state-certified projects costing one million dollars or more, each taxpayer may be allowed a tax credit of twenty per cent of the investment made by such taxpayer.

(B) For income years commencing on or after January 1, 2010, there shall be allowed a state-certified project credit against the tax imposed under chapter 207 or this chapter to any taxpayer that invests three million dollars or more in a state-certified project in an amount equal to twenty per cent of the investment made by such taxpayer.

(2) Eligible expenditures pursuant to this section shall include the following: All expenditures for a capital project to provide buildings, facilities or installations, whether a capital lease or purchase, together with necessary equipment for a film, video, television, digital production facility or digital animation production facility; project development, including design, professional consulting fees and transaction costs; development, preproduction, production, post-production and distribution equipment and system access; and fixtures and other equipment.

(3) Any credit allowed pursuant to this section may be sold, assigned or otherwise transferred, in whole or in part, to one or more taxpayers, and such taxpayers may sell, assign or otherwise transfer, in whole or in part, such credit.

(4) All or part of any credit allowed pursuant to this section shall be claimed against the tax imposed under chapter 207 or this chapter for the income year in which expenditures were made for the infrastructure project, or in the three immediately succeeding income years.

(5) Any tax credit earned under this section shall be nonrefundable.

(c) (1) An entity undertaking an infrastructure project shall apply to the department for an eligibility certificate not later than ninety days after the first expenses or costs are incurred, and shall provide with such application such information as the department may require to determine such infrastructure project's eligibility as a state-certified project.

(2) Each application for an eligibility certificate shall include: (A) A detailed description of the infrastructure project; (B) a preliminary budget; (C) estimated completion date; and (D) such other information as the department may require. The department may require an independent audit of all project costs and expenditures prior to certification. If the department determines that such project is eligible to be a state-certified project, the department shall indicate the amount of costs or expenditures that has been established to the satisfaction of the department, and issue to such entity a tax credit certification letter for investors indicating the amount of tax credits available under this section. The department shall provide a copy of such letter to the commissioner, upon request.

(3) Prior to the issuance of a state-certified project tax credit voucher to a taxpayer based upon the tax credit certification letter issued pursuant to subdivision (2) of this subdivision, the entity undertaking such infrastructure project shall provide the department with a description of the progress on such project and an estimated completion date. The department may require an independent audit of all project costs and expenditures prior to issuance of such tax credit voucher to a taxpayer. No such tax credit voucher may be issued prior to such time as such state-certified project is shown to be one hundred per cent complete.

(4) The department shall charge a reasonable administrative fee sufficient to cover the department's costs to analyze applications submitted under this section.

(d) If a taxpayer sells, assigns or otherwise transfers a credit under this section to another taxpayer, the transferor and transferee shall jointly submit written notification of such transfer to the department not later than thirty days after such transfer. The notification shall include the credit certificate number, the date of transfer, the amount of such credit transferred, the tax credit balance before and after the transfer, the tax identification numbers for both the transferor and the transferee and any other information required by the commissioner. After the initial issuance of a tax credit, such credit may be sold, assigned or otherwise transferred not more than three times. Failure to comply with this subsection will result in a disallowance of the tax credit until there is full compliance on both the part of the transferor and the transferee, and all subsequent transferors and transferees. The department shall provide a copy of the notification of assignment to the commissioner upon request.

(e) No tax credits transferred pursuant to this section shall be subject to a post-certification remedy, and the department and the commissioner shall have no right, except in the case of possible material misrepresentation or fraud, to conduct any further or additional review, examination or audit of the expenditures or costs for which such tax credits were issued. The sole and exclusive remedy of the department and the commissioner shall be to seek collection of the amount of such tax credits from the entity that committed the fraud or misrepresentation.

(f) The department, in consultation with the commissioner, shall adopt regulations, in accordance with the provisions of chapter 54, as may be necessary for the administration of this section.