



THE STATE
of **ALASKA**
GOVERNOR SEAN PARNELL

Department of Revenue

COMMISSIONER'S OFFICE
Angela Rodell, Commissioner

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March 7, 2014

Representative Bill Stoltze
State Capitol Room 515
Juneau, AK 99801

Dear Representative Stoltze,

This letter is in response to the March 6th, 2014 email from your office regarding questions from House Finance on HB112 Film Credit. For ease of reference, and to ensure we have answered all questions raised, we have included excerpts from Joe Michel's email with our responses detailed below:

Attached are two documents regarding the first round of questions the House Finance Committee had regarding HB112.

The first is a document that I can't find online outlining all the projects up through 2012. I would like to have an updated sheet on that reflecting the same information through 2013.

Under the authority of Alaska Statute 43.05.230 it is unlawful to divulge the particulars set out or discussed in any report or return made under this title, without a statutory exception. Therefore, because of the confidentiality rules that are in place for the Department of Revenue (Revenue), information obtained through the Alaska Film Office is considered confidential and will not be disclosed, unless in aggregate. In addition, AS 44.25.130(c) states that information submitted in an application for qualification is confidential and is not subject to inspection or copying under AS 40.25.110 - 40.25.125.

The one exception is noted in AS 43.98.030(a) which is amended to read: The department shall publish the name and contact information for each person (film producer) provided a transferable tax credit certificate. The department will publish the producer's name and contact information as a credit certificate is awarded. As of March 6, 2014, no final film tax credits have been awarded wholly under the new program.

The former film production incentive program was under the Department of Commerce, Community and Economic Development (Commerce) through June 30, 2013 and the former film office did not have any statutory limitations in publishing information obtained; therefore they were able to make everything public.
<http://film.alaska.gov/reports/>

The second attachment is a checklist of required items that should be in the report to the legislature for 2014. Some of the required items are not found in the report. I understand that the calendar year for the attachment begins 7/1/13 so we don't have a full year to report but there were questions from the committee that normally would have been reported. The document does not have a date on it so I don't know when the #'s from the document were produced.

Under Sec. 44.25.105 (a) the film office shall make available to the legislature, within 30 days after the start of each session, a report of the activities conducted by the film office under AS 44.25.100 – AS 44.25.190 and dictated in paragraphs 1 – 11 of this section. The film office was moved to Revenue effective July 1, 2013 and the film office reported on each statutory subsection as required. As a department standard, the annual report information is reported by fiscal year but due to the film office having nothing to report because of the July 1, 2013 effective date to Revenue, the film office provided calendar year data as well. Commerce included all of the data from fiscal year 2013 in its annual report. The film office calendar year-end data will have the same results regardless of what date the report is prepared (assuming the preparation date is after the year-end). The film office prepared the annual report (after December 31, 2013) that was due to the legislature by February 19, 2014 and included the information that Revenue was able to collect.

To the extent available the committee would like the current list of all approved projects. (\$60 million of pre-approved projects)

As previously outlined, the former film production incentive program was under Commerce through June 30, 2013 and the former film office did not have any statutory limitations in publishing information obtained, therefore they made everything public on their website. Commerce has reported a total of \$86 million in estimated credits to productions applying for qualification (pre-approved) through June 30, 2013.

In order to estimate the amount of film tax credits that were qualified (pre-approved) under Commerce but will later receive a film tax credit under Revenue, please subtract the total amount of final tax credits awarded (\$38 million) from the total amount of all pre-approved projects (\$86 million). The remaining balance is approximately \$48 million. This only applies to projects that qualified under Commerce but will later be awarded a tax credit under Revenue.

The new film office under Revenue has pre-approved an additional \$8 million in estimated credits between July 1, 2013 and December 31, 2013. If this amount is included with the \$48 million pre-approved and pending final tax credits, the total combined balance (Commerce and Revenue) is \$56 million.

Current list of Credits approved by the Alaska Film Office (see attached report from 2/12/13) (\$40 million)

The former film production incentive program operated under Commerce through June 30, 2013 and the former film office did not have any statutory limitations in publishing information obtained, therefore they made everything public on their website at film.alaska.gov/reports. Commerce has reported a total of \$38 million in final tax credits awarded to the productions through June 30, 2013.

The new film office under Revenue has awarded an additional \$4 million in final tax credits between July 1, 2013 and December 31, 2013. These tax credits were qualified (pre-approved) under Commerce but awarded under Revenue. If this amount is included with the \$38 million awarded in final tax credits, the total combined balance (Commerce and Revenue) is \$42 million. As of March 6, 2014, no final film tax credits have been wholly awarded (pre-approved and issued) under the new program.

Can we get any idea of the breakdown of the Tax Credits?

Now that out of state above the line worker credit is 5%, what % of credits is now going to out of State above the line workers? Before 2013 the credit was 30% regardless above or below the line and the ratio of out of state to instate was 5:1.

Revenue has not yet awarded any final tax credits for productions that qualified under AS 44.25.120. It is important to remember that the productions that qualify under the new program effective July 1, 2013 have 36 months to incur expenses and apply for a final tax credit.

Gara question: What if any taxes has the Dept. of Revenue collected from actual receivers of the Film production tax credit. If most of the credit recipients are LLC's then please explain.

As of March 6, 2014, Revenue has issued 85 film tax credits. The production companies/producers who received the tax credits are almost exclusively structured as partnerships, LLCs or S-corporations. These entity types do not have tax liabilities in the state because the state only taxes C-corporations on net income. If we had an individual income tax structure in the state, these entities would owe tax. Partnerships, LLCs treated as partnerships and S-corporations are all pass-through entities, meaning the income earned "passes through" to its owners individually and the tax is owed at that individual income tax level.

We have identified approximately 10% of the 85 film tax credits issued as production companies/producers who are incorporated as C-corporations and who received a film tax credit. Some of these are non-profits, some are correctly paying a tax (less than \$8000) and two corporations could potentially owe a tax to the state, however we do not expect their tax returns until late in 2014, for the 2013 tax year.

The state corporate net income tax is based on apportionment (sales, payroll and property). Because the film producers/production companies have such a minimal presence in Alaska, their apportionment factor would be small. The bottom line is that the amount of tax collected from the production companies/producers is de minimus.

Sincerely,

A handwritten signature in blue ink that reads "Angela Rodell". The signature is fluid and cursive, with the first name and last name clearly distinguishable.

Angela Rodell
Commissioner