

PART GG

Sec. GG-1.5 MRSA §13090-L is enacted to read:

§13090-L. Media production certification

1. Generally. A media production company that intends to undertake a media production in this State may apply to the department to have the production, or a portion of the production, certified under subsection 3 for purposes of media production reimbursement pursuant to Title 36, chapter 919-A and the credit under Title 36, section 5219-Y.

2. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Media production" means a single-medium or multimedia feature film, television show or series, video, commercial, photographic project, interactive computer or video game or other program intended for a national audience and fixed on film, video tape, computer disk, laser disc or other delivery medium that can be viewed or reproduced and that is exhibited in theaters or by individual television stations or groups of stations, television networks or cable television stations or via other means or licensed for home viewing or use.

"Media production" does not include:

- (1) A news, current events or public programming show or a program that includes weather or market reports;
- (2) A talk show;
- (3) A sports event or activity;
- (4) A gala presentation or awards show;
- (5) A finished production that solicits funds; or
- (6) A production produced by a media production company if records, as required by 18 United States Code, Section 2257, are to be maintained by that media production company with respect to any performer portrayed in that production.

B. "Media production company" means a person engaged in the business of producing a media production.

C. "Media production expense" means an expense directly incurred during the creation of a media production. This term includes wages and salaries of individuals employed in the production on which taxes have been paid or accrued; the cost of construction, operations, editing and related services, still and motion photography, sound recording and synchronization, lighting, wardrobe and accessories; and the rental of facilities and equipment, including location fees. The term does not include expenses incurred in marketing and advertising a media production or in printing or otherwise disseminating a media production.

D. "Person" has the same meaning as in Title 36, section 111, subsection 3.

3. Requirements for media production certificate.

Applications for a media production certificate must be made on a

form prescribed and furnished by the department. The applicant must:

- A. Provide the names of the principals involved in the media production and contact information for them;
 - B. Provide a certificate of insurance for the media production;
 - C. Provide financial information that demonstrates that the media production is economically sound and that at least \$250,000 of media production expense will be incurred in Maine during a period of 12 consecutive months;
 - D. Provide data demonstrating that the media production will benefit the people of the State by increasing opportunities for employment and will strengthen the economy of the State;
 - E. Agree to include, in all certified media productions, an on-screen credit for the State of Maine. The exact wording and size of that credit must be determined in rules adopted by the Maine State Film Office and the department. The Maine State Film Office or the department may, at its discretion, exempt media productions from this requirement. Rules adopted pursuant to this paragraph are routine technical rules as defined in chapter 375, subchapter 2-A;
 - F. Provide evidence that the media production company is not owned by, affiliated with or controlled by, in whole or in part, a person that is in default on a loan made by the State or a loan guaranteed by the State; and
 - G. Provide any other information required by the department.
- To qualify for a media production certificate, a media production company must demonstrate to the satisfaction of the commissioner that the media production company has met, or will meet, the expectations and requirements under paragraphs B, C, D, E, F and G. If the department determines that the applicant does not qualify for a media production certificate, it must inform the applicant of that determination in writing within 4 weeks of receiving the application. As soon as practicable, the department shall issue a media production certificate for a media production that qualifies. The department shall include with the certificate information regarding qualification for a tax reimbursement and credit certificate pursuant to subsection 4 and procedures for claiming reimbursement under Title 36, chapter 919-A and the credit under Title 36, section 5219-Y.

4. Tax reimbursement and credit certificate. Within 4 weeks of completion of a certified media production, the media production company shall confirm its compliance with the requirements of subsection 3 with respect to the certified media production. Upon determining compliance by the media production company, the department shall issue to the company a tax reimbursement and credit certificate. The tax reimbursement and credit certificate entitle the media production company to claim the reimbursement provided by Title 36, chapter 919-A and the credit under Title 36, section 5219-Y.

5. Department to provide information to State Tax Assessor.

The department shall provide to the State Tax Assessor copies of

tax reimbursement and credit certificates issued in accordance with subsection 4, together with any other information reasonably required by the State Tax Assessor for the administration of media production reimbursement under Title 36, chapter 919-A and the credit under Title 36, section 5219-Y.

6. Rulemaking. The department shall develop rules as necessary to administer this section in cooperation with the State Tax Assessor. Rules adopted pursuant to this section are routine technical rules as defined in chapter 375, subchapter 2-A.

Sec. GG-2. 36 MRSA §5219-Y is enacted to read:

§5219-Y. Certified media production credit

1. Credit allowed. A media production company, as defined in section 6901, subsection 5, is allowed a credit against the taxes imposed by this Part in an amount equal to the Maine income tax imposed on income directly related to a certified media production as defined in section 6901, subsection 1.

If the media production company realizes income from a certified media production and also has Maine-source income from other sources, the credit allowed under this section is based on a fraction of the media production company's entire Maine income tax liability for the year. The fraction is equal to the media production company's compensation paid during the tax year related to the certified media production divided by the media production company's total Maine compensation paid. For purposes of this paragraph, "compensation" has the same meaning as in section 5210, subsection 3. If the calculation provided by this paragraph does not fairly reflect the tax liability associated with the media production company's certified media production, the media production company may petition for, or the State Tax Assessor may require, the employment of another reasonable method to make an equitable determination of the Maine tax associated with the media production company's certified media production.

2. Limitation. The credit allowed by this section may not reduce the tax otherwise due under this Part below zero and may be used only in the year in which the certified media production income is generated. Taxpayers claiming a credit under section 5219-W are not eligible for this credit.

Sec. GG-3. 36 MRSA c. 919-A is enacted to read:

CHAPTER 919-A

MEDIA PRODUCTION REIMBURSEMENT

§6901. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.

1. Certified media production. "Certified media production" means a media production that has been certified by the Department of Economic and Community Development for eligibility for reimbursement under this chapter in accordance with Title 5, section 13090-L.

2. Certified production wages. "Certified production wages" means wages that are paid during the project period by a media production company that has been issued a tax reimbursement

certificate in accordance with Title 5, section 13090-L and that are subject to withholding pursuant to chapter 827. "Certified production wages" does not include any wages in excess of \$1,000,000 paid to a single individual for personal services rendered in connection with a particular certified media production.

3. Commissioner. "Commissioner" means the Commissioner of Administrative and Financial Services.

4. Media production. "Media production" has the same meaning as in Title 5, section 13090-L, subsection 2, paragraph A.

5. Media production company. "Media production company" has the same meaning as in Title 5, section 13090-L, subsection 2, paragraph B.

6. Project period. "Project period" means the period of time, not to exceed 12 consecutive months, that a media production company is engaged in the business of producing a media production or productions.

7. Resident of Maine. "Resident of Maine" means a person who:

A. Filed as a resident individual under Part 8 on that person's most recently filed Maine income tax return;

B. If no income tax return was required, who could have filed as a resident individual under Part 8 if a return had been required; or

C. Was claimed, or could have been claimed, as a dependent on the Maine income tax return of an individual who filed as a resident individual under Part 8 on the filer's most recently filed Maine income tax return.

§6902. Reimbursement allowed; procedure; audits

1. Generally. A media production company certified pursuant to Title 5, section 13090-L is allowed a reimbursement equal to 12% of certified production wages paid to employees who are residents of Maine and 10% of certified production wages paid to other employees.

2. Procedure for reimbursement. On or before the 15th day of the month immediately following receipt of a tax reimbursement certificate pursuant to Title 5, section 13090-L, subsection 4, a media production company shall report to the State Tax Assessor and to the Department of Economic and Community Development that portion of certified production wages paid during the project period, together with any additional information the assessor may reasonably require. The assessor shall report to the commissioner the reimbursement amount to which a media production company is entitled. The commissioner shall deposit the reported amounts on or before June 30th of each year in a media production reimbursement account established, maintained and administered by the commissioner and shall pay the reported amounts to each certified media production company on or before July 31st of each year.

3. Audit process. This chapter may not be construed to limit the authority of the State Tax Assessor to conduct an audit of any media production company certified pursuant to Title 5, section 13090-L. When the assessor determines that a

distribution larger than that authorized by this chapter has been received by any person, the assessor may enforce repayment of the overpayment by assessment pursuant to the provisions of chapter 7 or may apply the overpayment against subsequent reimbursements made pursuant to this chapter. If the assessor determines that an overpayment is the result of fraud on the part of a media production company, the assessor may disqualify that company from receiving any future distributions pursuant to this chapter.