

# ARKANSAS REGISTER



## Transmittal Sheet

W.J. "Bill" McCuen  
Secretary of State  
State Capitol  
Little Rock, Arkansas 72201-1094

For Office  
Use Only:

Effective Date 09/26/91 Code Number 006.05.91--014

Name of Agency Department of Finance & Administration

Department Division of Revenue

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Statutory Authority for Promulgating Rules Ark.Code Ann. 26-4-201

Intended Effective Date		Date
	Legal Notice Published	<u>7/28, 8/8 &amp; 8/15/91</u>
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<input checked="" type="checkbox"/> 20 Days After Filing	Filed With Legislative Council	<u>8/13/91</u>
	Reviewed by Legislative Council	<u>9/5/91</u>
<input type="checkbox"/> Other	Adopted by State Agency	<u>9/26/91</u>

### CERTIFICATION OF AUTHORIZED OFFICER

I Hereby Certify That The Attached Rules Were Adopted  
In Compliance With Act 434 of 1967 As Amended.

Cora L. Gentry

SIGNATURE  
Attorney

TITLE  
9/6/91  
DATE

FILED  
AR. REGISTER DIV.  
91 SEP -6 PM 2:44  
LITTLE ROCK, ARKANSAS  
WILLIAM J. MCCUEN  
SECRETARY OF STATE

MOTION PICTURE TAX INCENTIVE REGULATION 1991-9

Pursuant to the authority vested in the Commissioner of Revenues by Ark. Code Ann. § 26-4-201 et seq., the Commissioner of Revenues of the Arkansas Department of Finance and Administration promulgates the following rules and regulations:

1. **Effective Date.** This regulation shall be effective 20 days after filing with the Secretary of State.
2. **Purpose.** This regulation is promulgated to implement and clarify Ark. Code Ann. § 26-4-201 et seq. All persons should read this regulation in its entirety because the meaning of the provisions of one regulation may depend upon the provisions contained in another regulation.
3. **Definitions.** For purposes of this regulation, the following definitions apply:
  - A. "Revenue Division" means the Revenue Division of the Arkansas Department of Finance and Administration.
  - B. "Motion Picture Production Company" means a company engaged in the business of producing motion pictures intended for a theatrical release or for television viewing.
  - C. "Motion Picture Office" means the division of the Arkansas Industrial Development Commission charged with the responsibility of promoting and assisting the motion picture industry in Arkansas.
  - D. "Resident" means a natural person and includes for the purpose of determining eligibility for the tax incentive provided by Act 276 of 1983, as amended, any person domiciled in the state of Arkansas and any other person who maintains a permanent place of abode within the state and spends in the aggregate more than six months of the taxable year within the state.
  - E. "Financial Institution" means any bank or savings and loan in the state of Arkansas which carries FDIC insurance.
  - F. "Principal Photography" means actual filming.
4. Any motion picture production company which films or produces all or parts of a motion picture in the state of Arkansas shall, upon meeting the requirements prescribed in this regulation and in Ark. Code Ann. § 26-4-201 et

seq., be entitled to a tax incentive benefit of five percent (5%) of the funds expended in the state of Arkansas in connection with the filming or production of a motion picture.

5. To be eligible for the tax incentive, a motion picture production company must:

- a. first register with the Motion Picture Office and the Manager of the Central Audit District, Office of Field Audit, Revenue Division; and
- b. spend in excess of \$500,000 within six (6) months in connection with the filming or producing of one motion picture in Arkansas; or,
- c. spend in excess of \$1,000,000 within twelve (12) months in connection with the filming or producing of at least one motion picture in Arkansas.

6. Allowable expenditures for the purpose of determining eligibility for the tax incentive shall be limited to the following:

- A. Payments for goods or services made to a business located within and operated in Arkansas from a permanent business location in Arkansas, if such goods or services are actually provided by such Arkansas business;
- B. Payments for goods or services made to residents of the state of Arkansas; and
- C. Payments for salaries or wages made to residents of the state of Arkansas who filed an Arkansas income tax return in the previous tax year or who would have been required to file a return if they had earned enough income to require the filing of such a return.
- D. Payments for pre-production expenses made in the state of Arkansas prior to the opening of an account with an Arkansas financial institution. Pre-production expenses shall include, but are not limited to, meals, lodging and transportation-related expenses.

Provided, however, that payments for penalties or fines, payments to non-profit organizations, and payments to state and federal

entities that do not pay state taxes shall not be allowable expenditures.

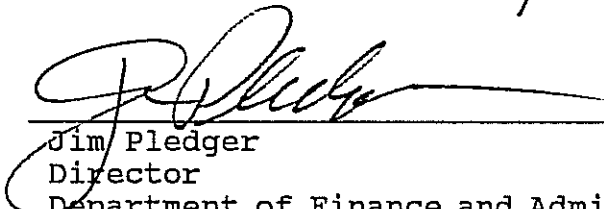
7. A motion picture company must, prior to the commencement of filming in Arkansas, file with the manager of the Central Audit District, an estimate of total expenditures to be made in Arkansas in connection with the filming or production of a motion picture. The motion picture production company must also, prior to the commencement of filming in Arkansas, designate a member or representative of such company who shall be responsible for coordinating accounting with the Central Audit District.
8. A motion picture production company must, within two (2) weeks after principal photography begins, commence filing weekly expenditure reports with the manager of the Central Audit District. All recaps and expenditures must be completed on forms prescribed or approved by the Revenue Division. Failure to timely file weekly expenditure reports shall result in forfeiture of any rebates allowed by Ark. Code Ann § 26-4-201 et seq.
9. For purposes of determining eligibility for the tax incentive, only those expenditures which are paid by checks drawn upon an Arkansas financial institution will be allowed, provided, however, that:
  - A. Direct cash payments by the production company to Arkansas vendors, businesses, or citizens hired as cast or crew, which are accompanied by receipts shall be allowed if the sum of the cash payments does not exceed 40 percent (40%) of the total verifiable expenditures; and
  - B. Per diem expenditures by the cast or crew for lodging, only when accompanied by receipts, shall be eligible expenditures; and
  - C. Pre-production expenses incurred prior to the opening of an account with an Arkansas financial institution will be allowed if these expenses otherwise meet the requirements of these regulations.
10. Each weekly expenditure report shall separately list each check number, date of payment, name of payee, amount paid, address of payee, name of Arkansas financial institution upon which the check is drawn, a description of each item for which payment is made, social security number of payees to whom salaries or wages are paid, and such other information as may be required by the Revenue


Division to ensure compliance with this regulation and Ark. Code Ann. § 26-4-201 et seq.

11. Upon completion of filming or production in Arkansas, the motion picture production company must file with the manager of the Central Audit District the final expenditure report. The report should include a total accounting of all eligible expenditures made in Arkansas. Source documents shall be made available for inspection within the state of Arkansas for a period of sixty (60) days immediately following the date upon which the application for tax incentive was filed.
12. Every application for the tax incentive shall be subject to an audit by the Revenue Division to verify expenditures.
13. Any motion picture production company which knowingly or willfully violates or fails to comply with any of the provisions of this regulation shall be denied any tax incentive to which it would otherwise be entitled and shall be prohibited from applying for any future tax incentive.

We hereby certify that the foregoing is a true and correct copy of the original Motion Picture Tax Incentive Emergency Regulations to be effective 20 days after filing with the Secretary of State.

Witness our hands this 22<sup>ND</sup> day of July, 1991.

  
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Jim Pledger  
Director  
Department of Finance and Administration  
State of Arkansas

  
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Timothy J. Leathers  
Commissioner of Revenues  
Department of Finance and Administration  
State of Arkansas