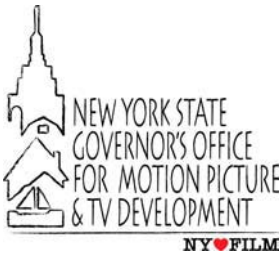
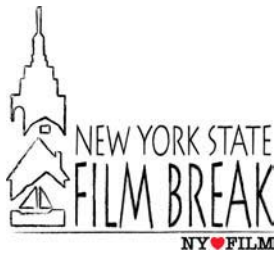

Appendix B: Instructions for Form A - Initial Application



THE CITY OF NEW YORK
MAYOR'S OFFICE
OF FILM, THEATRE,
AND BROADCASTING

New York State Empire State Film Production Credit
&
New York City Made In New York Film Production Tax Credit

Instructions for Initial Application
Form A

General Instructions

This is the initial application for the New York State “Empire State Film Production Credit” and for the New York City “Made In New York Film Production Tax Credit.” This application may be used for either or both programs. A complete Initial Application consists of the following documents:

FORM A – Initial Application for **New York State** *and/or* **New York City** with accompanying instructions. This is a combined application that can be used to apply for the State *and/or* City credits. An original copy of this application needs to be submitted separately to both offices.

FORM B – Schedule of Qualified Expenditures. This is a detailed chart of accounts that shows, line by line, which expenses in a standard film or television budget are qualified and which are not qualified to count towards the tax credit. Form B is informational only and does not need to be submitted with the application.

FORM C – Budget Cost Qualifier Detail Page and Summary Page. This form has two parts; both parts must be submitted with the application. The Budget Cost Qualifier is a summary of projected budget expenses, separated into columns identifying the expenses as either qualified or not qualified to count towards the tax credit or the threshold requirements. The Detail Page is the worksheet to be filled out. The Summary Page is automatically generated and does not require inputs. The completed FORM C provides the supporting detail for information requested on FORM A.

Project Budget – The most current version of the budget is a mandatory part of this application. The budget must be submitted with the Initial Application in order for the application to be complete.

FOIL Letter – To protect confidentiality, you may submit a letter along with the application requesting that application information be withheld from disclosure. See Section Nine for FOIL disclosure information.

These combined documents are the Initial application which leads to conditional approval of the project for the **New York State** *and/or* **New York City** film production tax credit. Receipt of a certificate of conditional eligibility does not guarantee availability of the credit, which is dependent on the final budget meeting the requirements of the credit. Please see the back page of this application for more information on “Next Steps”.

This application and its accompanying instructions are consistent with the New York City and New York State rules governing the administration of the tax incentive. However, should anything in the form or instructions be inconsistent with the final rules, the final rules will control.

When to apply:

Applications must be submitted prior to the start of principal photography but not more than 180 days prior to the start of principal and ongoing photography. Applications submitted more than 180 days prior to the scheduled start of principal photography will not be accepted.

Where to apply:

Please note that if you are applying for both the New York State and New York City programs, you need to submit a separate copy of the application with original signature pages to each office:

Please submit the completed FORM A, FORM C, and Budget in hardcopy. Form C must also be submitted in electronic format as an Excel document on CD, DVD or floppy disc. Please submit to:

THE NEW YORK STATE GOVERNOR’S OFFICE FOR
MOTION PICTURE & TELEVISION DEVELOPMENT
633 Third Avenue, 33rd Floor
New York, NY 10017
(212) 803.2330
www.nylovesfilm.com

THE CITY OF NEW YORK MAYOR’S OFFICE
OF FILM, THEATRE AND BROADCASTING
1697 Broadway, 6th Floor
New York, NY 10019
(212) 489.6710
www.nyc.gov/film

SECTION ONE: Applicant/Company Information

- 1-1** Check the appropriate box indicating the program(s) you are applying for.
- 1-2** Film or Program Title: The name of the qualified feature film or television program being produced. If the production does not yet have a name, please use the working title. You must notify the State and/or City offices in writing of any name changes.
- 1-3** Applicant: The applicant must be the corporation, partnership, limited partnership, or other entity or individual that is principally engaged in the production of the film or television program and that controls the film or television program during pre-production, production and post-production. The applicant is the entity that, upon final approval, will receive the tax credit certificate.

The applicant must be the entity that incurs and pays direct expenditures related to the physical production process and which is signatory to contracts with a payroll company, facility operators, vendors, etc. during the production.

New York City Applicants: The New York City Made in NY Film Production Tax Credit is only available to the applicant and only if the applicant is subject to the New York City General Corporation Tax or New York City Unincorporated Business Tax. The Credit is not assignable or transferable and may not be claimed by partners, members or shareholders in the applicant.

PLEASE CONSULT YOUR TAX ADVISOR TO DETERMINE THE TAX IMPLICATIONS FOR THE APPLICANT AND ANY PARTNERS, MEMBERS OR SHAREHOLDERS IN THE APPLICANT PRIOR TO FILLING OUT THIS FORM.

- 1-3-b** Indicate the Applicant's Employer Identification Number (EIN) or Social Security Number (SSN)

PRIVACY ACT NOTIFICATION: Individuals must provide their social security numbers pursuant to Tax Law § 658(b) or New York City Administrative Code § 11-102.1 and 42 USCS § 405(c)(2)(C)(i). Social security numbers will be used in administering the New York State and New York City film production tax credit programs as well as to establish and maintain a uniform system for identifying taxpayers entitled to claim the credits on their State or City tax returns, and for any other lawful purpose.

- 1-3-c** In addition, if the Applicant is: (Attach additional sheets if necessary.)
- A single member LLC, indicate name of the single member and EIN or SSN
 - A multi-member LLC, list names of members and EINs or SSNs
 - A Partnership, list all partners (general and limited) and EINs or SSNs
 - An S Corporation, list all shareholders and EINs or SSNs

NOTE: New York City does not recognize a Federal or State "S" election. S Corporations are taxed in New York City as if they were C Corporations.

- 1-4-a** Indicate the Applicant's Business Address.

- 1-4-b** In addition, if the Applicant is: (Attach additional sheets if necessary.)
- A single member LLC, indicate the member's business address
 - A multi-member LLC, indicate the members' business addresses
 - A Partnership, list all partners' business addresses
 - An S Corporation, list all shareholders' business addresses

NOTE: New York City does not recognize a Federal or State "S" election. S Corporations are taxed in New York City as if they were C Corporations

1-5 Applicant's Primary Contact:

The name, address, telephone numbers and email address of the designated person *who will be signing this application* on behalf of the Applicant, and who will be primarily responsible for the supervision of the preparation of this and all future communication or correspondence with the NY State and/or NY City Offices on behalf of the Applicant in regards to this application.

The Applicant's Primary Contact should be a person of authority - i.e., a corporate officer, general partner, managing member, or sole proprietor – of the applicant that is seeking the tax credit(s), and who will be in this position of authority through the completion of the film and submission of the Final Application. In the case of a corporation, this would be an officer of the corporation. This person should have authority to provide such additional documents and information about the Applicant and the qualified film as may be required by the NY State or NY City Office(s) through the completion of the Final Application.

1-6 Applicant's Secondary Contact:

The name, address, telephone numbers and email address of a person who works closely with the Applicant's Primary Contact and who can provide additional documents and information about the Applicant and the qualified film as may be required by the Office(s) through the completion of the Final Application

SECTION TWO: Production Information

2-1 Type of Production: Indicate the type of production to which this application applies

Feature Film means a production intended for commercial distribution to a motion picture theater or directly to the home video or DVD market that has a running time of at least seventy-five (75) minutes in length.

Television Pilot means the initial episode produced for a proposed television series. This category will include shorter formats which are known as "television presentation," a production of at least fifteen (15) minutes in length, produced for the purposes of selling a proposed television series, but not intended for broadcast.

Television Series, which may also be known as "episodic television series," means a regularly occurring production intended in its initial run for broadcast no more than once weekly, on television, whether free or via subscription-based service, that has a running time of at least thirty (30) minutes in length (inclusive of commercial advertisement and interstitial programming).

NOTE: Television Series/episodic programs should apply per production season, i.e., one application should be filled out for the total of all episodes being produced for that show's broadcast season. The production season will be considered complete when post production on the final episode of the season is completed and the entire season is ready for delivery. Indicate the number of episodes included in the current season being applied for.

Television Film, which may also be known as "movie-of-the-week," "mow," "made for television movie," or "mini-series," means a production intended for broadcast on television, whether free or via a subscription-based service, that has a running time of at least ninety (90) minutes in length (inclusive of commercial advertisement and interstitial programming).

2-2 Presentation Credits:

List here additional production company partners, financial partners, or other companies participating in the production of the qualified film that are anticipated to appear in the opening or closing credits as producers or presenters of the completed production.

2-3 Total Projected Budget:

Indicate the total budget for all expenses, whether Qualified or Non-Qualified, within or without New York State and/or City, including pre-production, shooting period and post-production. For television series, this should be the total budget for all episodes in the current season.

2-4 Production Schedule:

Indicate the key dates for each major phase of the production process as accurately as possible.

NOTE: While it is understood that start dates may change, the Applicant MUST be scheduled to begin principal and ongoing photography on the qualified film no more than one hundred eighty (180) days after submitting this application. Applications submitted more than 180 days prior to the scheduled start of principal photography will not be accepted.

2-4-a Prep or “pre-production” means the process of preparation for actual physical production and is considered to begin with the establishment of a dedicated production office, the hiring of key crew members such as a Unit Production Manager and Line Producer, and includes, but is not limited to, activities such as location scouting, hiring of crew, construction of sets, etc. Pre-production does NOT include the process of development.

2-4-b Principal Photography Start Date means the first date of principal and ongoing filming of major and significant portions of a qualified film that involves the main lead actors. “Ongoing” means that once the process of principal photography begins it continues with no significant breaks or delays in an industry standard work schedule for the majority of the total days scheduled for principal photography. Principal Photography End Date means the date principal and ongoing photography that involves the main lead actors is concluded

NOTE: Re: Television Series: It is understood that under certain industry practices episodic television production seasons can include planned, reasonable interruptions of “ongoing” production. If the project being applied for in this Initial Application is a production season of an episodic television program series, and such an interruption is anticipated, notify the NY State and/or NY City Office(s).

2-4-c Additional Photography/Reshoots Start Date means the first date after the Principal Photography End Date on which either 2nd Unit or other additional photography which does not include the main actors begins, or when the lead actors are reconvened for 'reshoots' or additional scenes that were not a part of the initial phase of principal and ongoing photography described in 2-4-b.

2-4-d Post Production End Date means the date post production on the qualified film has been finished and the project is ready for delivery to a distributor. Post production does NOT include activities related to marketing, promotion or distribution. In the case of a film with a planned theatrical release or a television project with a broadcast or cable release, post production does NOT include any activity specifically related to DVD or home video distribution,. In the case of a Television Series, the production season will be considered complete when post production on the final episode of the season is completed and the entire season is ready for delivery.

2-4-e Projected Release/Air Date. If there is no distribution agreement in place, and no tentative projected release or air date, indicate the date the production will be ready for release or broadcast.

2-5 Production Contacts:

2-5-a Producer or Line Producer: Provide phone, address, and email for the Producer or Line Producer who will be the primary production-related contact with the Office through at least the pre-production and production process. This person needs to be directly involved with the day-to-day operations of the production and have access to current budgets, schedules, and similar documents that will be updated as the production progresses.

2-5 (b-e) Production Contacts: Provide phone, address, email and, where appropriate, contact names for each category

2-6 Additional Key Personnel: Indicate key creative and administrative personnel.

2-7 Distributor : (List all—for TV, list network, cable channel, etc.)

If there are any contractual distribution agreements in place, list all distributors for all domestic and foreign markets and territories, beginning with US domestic theatrical, broadcast, cable and/or satellite television and home video.

If there are memorandums of understanding or other similar nonbinding agreements, list here and attach copies.

If there are no distribution agreements or memos in place, indicate the primary target markets, and the plan for acquiring a distributor, including anticipated timetable (e.g., which markets, festivals, etc.)

SECTION THREE: Preliminary Calculation of Qualified Production Costs

The purpose of this section is to help you calculate which of the costs your production will incur can be considered “qualified production costs” for the Empire State Film Production Credit and/or the Made In NY Film Production Tax Credit program(s). Only qualified costs can be applied to

- (a) meeting the programs’ threshold requirements, and
- (b) calculation of the tax credit itself

In order to complete this section, you will need to refer to two additional forms: Schedule of Qualified Expenditures (Form B) and Budget Cost Qualifier (Form C).

Threshold Requirements

Because this application can be used for either or both the Empire State Film Production Credit (the State program) and the New York City Made In New York Film Production Tax Credit (the City program), it is important to understand certain distinctions between the two programs as regards the definition of Qualified production costs.

The two programs are similar and have similar qualifying thresholds. The difference is that for the City program, the measurement of thresholds—whether in dollars, for the facility threshold, or days, for the Location/Other threshold—is based upon costs incurred or shooting days within the five boroughs of New York City; while for the State program, the threshold is based upon costs incurred or shooting days anywhere within New York State, including the City. New York City consists of the five boroughs of Bronx, Queens, Brooklyn, Staten Island and Manhattan.

Days and costs which qualify for the New York City thresholds will also qualify for the New York State program. However, work or costs incurred in New York State but outside the City are eligible only for the State 10% credit.

Continued next page

Section Three continued:

Facility Threshold

For a feature film or television project to be eligible for the New York State and/or New York City credits, the production must 1) shoot on a set built expressly for the production, on a stage located in a qualified production facility in New York State and/or New York City; AND 2) at least 75% of the total of all expenses related to work (excluding post-production) done at all facilities anywhere utilized by the production must be related to work done at the qualified facility. Productions which meet this 75% threshold will qualify for the respective tax credits for all costs related to work done at the facility. **Note:** To be eligible for the State credit the qualified facility must be within New York State. To be eligible for *both* the State and City credits, the qualified facility must be within New York City. Facilities within the City are automatically within the State.

In order to participate in any part of either program, a production must first meet this facility threshold.

Location/Other Threshold

For location work, post-production, and any costs of other work done in New York outside the facility to be eligible, either 1) at least 75% of the location shooting days must be in New York State and/or New York City, OR 2) the production must spend at least \$3 million on work incurred at the qualified facility (including post-production if done at the facility). **Note:** If less than \$3 million of work is incurred at the qualified facility, then to be eligible for the State credit for location and other work, 75% of the location days must be within New York State. To be eligible for *both* the State and City credit, 75% of the location days must be within New York City. Days in the City are automatically within the State. Location days are all days of principal photography that do not occur at the qualified facility.

It is possible to meet the facility requirement of both programs, but not one or both location thresholds. For example, a film may use a qualified stage within New York City, but decide to shoot 50% of its location days in the City and 50% outside the City *but in New York State*. If this film spends less than \$3mm at the stage in the City, its stage costs would be eligible for both the State 10% and City 5% credit, however its location costs or other non-stage costs would only be eligible for the 10% State credit, because it has not met the location threshold for the City program. Costs incurred in the City would still be eligible for the State credit since all days/costs in the City are automatically in the State.

If this film spends more than \$3mm at the stage in the City, it would not need to meet the location threshold, and any location days or other qualified non-stage costs in the City would be eligible for both the State 10% and City 5% credit; however, its location days or other qualified expenses outside the city but in New York State would only be eligible for the 10% State credit.

If this film instead shoots 50% of its location days in the City and 50% outside the State altogether, then if this film spends less than \$3mm at the stage, its stage costs would be eligible for the credit, however, none of its location or other non-stage costs would be eligible for either program. If this film spend more than \$3mm at the stage, then the film would not need to meet the location threshold, and the costs of any location days or other work such as post-production that occurs in the City would be eligible for both programs.

Qualified Costs

For applicants to the Empire State Film Production Credit: “Qualified production costs” means production costs ONLY to the extent such costs are attributable to the use of tangible property or the performance of services within **New York State, including New York City**, directly and predominantly in the production (including pre-production and post production) of a qualified film. For the purpose of this definition, “attributable to the use of tangible property or the performance of services within New York State” shall only include costs and their pro rata portions which are incurred directly in New York State. NO cost or salary which is incurred OUTSIDE New York State can be considered Qualified, and goods and services purchased or contracted outside New York State can be Qualified ONLY to the degree and for the time they are specifically used or employed in New York State.

Continued next page

Section Three continued:

For applicants to the New York City Made In New York Film Production Tax Credit: “Qualified production costs” means production costs ONLY to the extent such costs are attributable to the use of tangible property or the performance of services within **New York City**, directly and predominantly in the production (including pre-production and post production) of a qualified film. For the purpose of this definition, “attributable to the use of tangible property or the performance of services within New York City” shall only include costs and their pro rata portions which are incurred directly in New York City. NO cost or salary which is incurred OUTSIDE New York City can be considered Qualified, and goods and services purchased or contracted outside New York City can be Qualified ONLY to the degree and for the time they are specifically used or employed in New York City. **New York City** consists of the five boroughs of Bronx, Queens, Brooklyn, Staten Island, and Manhattan.

For applicants to both the State and City programs: Production costs incurred for tangible property or the performance of services used or employed in New York State but outside New York City are NOT considered qualified costs for the New York City film production tax credit and cannot be applied to either the program’s threshold requirements or to the 5% city tax credit. In order to qualify for both parts (QPF and Location) of both programs, a production must first meet the threshold requirements for the New York City Made In New York tax credit program.

3-1 (a-e) Current estimated total budget: Indicate as accurately as possible the total estimated cost for each phase of production. Include both qualified and non-qualified costs. Understanding that pre-production costs are not directly isolated in a standard budget format, please make a best estimate of the portion of costs expected to occur, not including development costs, prior to the start of principal photography. Line (e) should tie to line 2-3 Total Projected Budget.

3-2 Schedule of Qualified Expenditures (Form B) and Budget Cost Qualifier (Form C).

Schedule of Qualified Expenditures (Form B)

Form B is an industry standard detailed budget form that indicates, line by line, if a particular budget line item is or is not considered a Qualified production cost eligible for the calculation of thresholds and for the tax credit. You will need to refer to this document to determine if a particular cost can be considered a Qualified production cost when filling out the Budget Cost Qualifier (Form C).

Qualified production costs generally include most ‘below the line’ expenditures that are incurred in New York State, or, for applicants seeking the New York City tax credit, within the five boroughs of New York City, such as costs for technical and crew production, use of film production facilities, props, makeup, wardrobe, non speaking background extras, film processing, camera, sound recording, set construction, lighting, shooting, editing and meals.

Form C is designed to assist you in determining which costs are eligible to be applied to which program; note that all costs that qualify for the city program and 5% tax credit will automatically be included as qualified in the calculation of the State program thresholds and 10% tax credit.

Certain types of costs have been specifically excluded from eligibility to be considered Qualified production costs. Qualified production costs shall NOT include (i) costs for a story, script or scenario to be used for a qualified film and (ii) wages or salaries or other compensation for writers, directors, including music directors, producers, actors and performers (other than background actors or other performers with no scripted lines).

Certain other commonly encountered production costs may require a further qualifying step to determine if or when they can be considered Qualified production costs. Please note the comments provided on the Schedule of Qualified Expenditures (Form B) alongside certain line items, or call the NY State or NY City film offices for further clarification.

Continued next page

Section Three continued:

General Travel Costs are costs related to travel into or out of **New York State, including New York City**, from outside the State, such as airfare, hotels, travel related per diem, extra meals, etc. paid to individuals who are brought into New York State to work on the qualified film. General Travel costs are NOT qualified costs. For example, if the production brings a technician from out of state to work on the qualified film, the costs associated with that individual's plane tickets traveling to/from New York State, hotel/ housing while in New York State, travel related per diems, etc. are NOT qualified. However, all normal costs associated with the individual's work on the qualified film while in New York State, including New York City, as part of the New York based crew/production, including his/her salary, transportation to and from the set, regular production sponsored meals, etc., are eligible as long as they are incurred in New York State and, for applicants to the New York City program, within the five boroughs of New York City.

New York State Distant Location Travel: Applicants to the Empire State Film Production Credit ONLY can apply for the credit on costs incurred for intrastate travel --i.e., travel between two points within NY State--to a location in NY State that is contractually considered outside the various unions' 'report to zone' for either location or facility shooting on the qualified film. Costs for NYS Distant Location Travel, including transportation to the distant location from a point of origin within NY State, hotels, meals and travel-related per diems, are Qualified for all qualified individuals working on the film. HOWEVER, the maximum dollar amount allowed to be considered Qualified for each type of travel-related expense (transportation, hotel, meals, per diem, etc.) for any individual member of the production may NOT EXCEED the amount contractually set for the IATSE NY local union crew members. For example, if an actor or technician is flown from NY City for two weeks of location shooting in Buffalo, the amount of the costs of that actor's airfare, hotel room, meals, etc., which can be claimed as a Qualified expense may not exceed the cost allotted by contract for an individual IATSE Local 52 grip.

For the purposes of the **New York City Made In NY Film Production Tax Credit** program, distant location travel costs that are otherwise eligible for the New York State program are not eligible for the New York City program, as these costs are incurred outside New York City.

Budget Cost Qualifier (Form C)

Form C has two parts: The Detail Page, which you must fill out, and the Summary Page, which is automatically generated from the Detail Page; both parts must be submitted with the application. The two parts of the completed FORM C provide the supporting information requested in Sections 3 and 4 of this application.

Detail Page

The Detail Page is an industry standard two page budget summary or 'top sheet' which has been adapted to help you identify which costs within your specific budget qualify and can be applied to the New York State and City tax credit programs and to the threshold requirements for each program.

The Detail Page breaks costs into 3 general types of costs:

- In New York City** costs (i.e., only costs incurred within the five boroughs of New York City))
- In New York State** costs (i.e., costs incurred in New York State but OUTSIDE New York City)
- Outside New York State** costs (i.e., costs incurred OUTSIDE New York State)

These three general types of costs are then further divided into subcategories.

In New York Costs consists of five subcategories:

1. **Qualified Facility NYC Costs** - means all Qualified costs related to all activity / days at a New York City Qualified Production Facility (QPF). *These costs qualify for both the NYC and NYS programs.*
2. **Qualified Facility NYS Costs** are costs related to activity at a qualified facility in New York State but OUTSIDE New York City. These costs qualify for the NYS program (but not the NYC program). Do not double count or include NYC costs in this column.

3. **Location/Other NYC costs** - means all Qualified costs incurred anywhere within New York City OTHER THAN at a Qualified production facility. Include location and other costs. Again, *these costs qualify for both the NYC and NYS programs.*
4. **Location/Other NYS costs** - means all Qualified location and other costs incurred in New York State but OUTSIDE New York City. These costs qualify for the NYS program (but not the NYC program). Do not double count or include NYC costs in this column.
5. **NON Qualified Costs in New York** – means those costs that are NOT eligible to qualify even though they are incurred within New York City or New York State, such as directors fees, stars’ salaries, General Travel, etc.

Outside New York costs contains two subcategories:

4. **Facility** – means costs incurred at any production facility that is NOT in New York State
5. **Location/Other** – means any location or other costs incurred outside of New York State but not at a production facility.

NOTE Cells containing subtotals and totals contain formulas that will automatically calculate the appropriate amounts. Do not attempt to adjust these amounts. The subtotals for Above the Line, Production, Post Production and Other found in Column h) (the far right column of the spreadsheet) should match the subtotals indicated in your project budget. The last cell in Column h) (bottom right) should equal the grand total of your project budget.

Because it is a summary or ‘top sheet’ of a more extensive budget form, Form C Detail Page will collapse or combine a number of lines from the more detailed Form B, Schedule of Qualified Expenditures, and/or your own detail budget, into larger departmental totals. Both Qualified and non-qualified costs will be subsumed within departments. For example, in the Above the Line department of Director & Staff, while the salary and some costs associated with the Director are NOT qualified, the salaries and expenses related to the Director’s assistant, secretary, office needs, etc. are Qualified when they are incurred in New York (as noted above, NO salaries or costs are Qualified if they occur OUTSIDE New York). When filling out the form, simply place the appropriate totals in the appropriate columns.

In determining which costs should go into the facility columns (New York City or New York State Qualified Facility and the Outside New York Facility columns), you should include all costs related to work done at the facility, including production activity (i.e., not just the facility cost, but costs of the construction and crew & equipment costs for production days). This includes but is not limited to the License or Operating agreement, power, HVAC, waste removal, materials for set construction, *also* salaries of crew working at the facility, meals at the facility, transportation related to the facility activity, services at the facility, set operations, camera and equipment rentals pro-rated for facility days, pre-production office rental if at the facility (including office equipment and staff salaries), telephone charges, etc.

NOTE: If you are shooting any days on a production facility anywhere within New York City or State that does not include a stage of at least 7000 square feet and hence is considered a Non-Qualified production facility, you must contact the State and/or City Offices for an amended Form C. Please do not attempt to fill out the standard Form C without first consulting the film office(s) as you will be unable to answer the threshold questions correctly and your application will be considered incomplete.

Summary Page

The Summary Page of Form C is automatically generated when you fill in the Detail Page. Do not attempt to alter or fill in cells on the Summary Page, simply print it out and use it to help you fill in the appropriate sections of Form A.

- 3-3** Referring to the Schedule of Qualified Expenditures (Form B) and the completed Summary Page of Form C, calculate projected New York State and/or New York City QUALIFIED production costs:

- 3-3 (a–b)** On the completed Form C Summary Page, find Row (A) *Qualified Facility Threshold Calculation* and Row (B) *% of Total* and fill in the corresponding boxes on Form A 3-3-a & 3-3-b

3-3 (c-h) On the completed Form C Summary Page, find Row (C) Total Facility; Row (D) Total Location; Row (E) Total Facility + Location; and in the last row GRAND TOTAL Column (F) NON-Qualified NY, Column (G) Outside NY and Column (H) Total Budget; and fill in the corresponding boxes on Form A 3-3-c through 3-3-h

SECTION FOUR: Thresholds

The purpose of this section is to determine if your film production meets the Facility Expenditures Threshold which is required for participation in the Empire State Film Production Credit and the New York City Made In New York Film Production Tax Credit programs, and the Location Days Threshold, which allows you to realize the full benefit of the programs.

Applicants to the New York City Made In New York program: please note that production costs or location days in New York State but outside New York City are NOT qualified costs or days for purposes of meeting the thresholds of the New York City film production tax credit. New York City consists of the five boroughs of Bronx, Queens, Brooklyn, Staten Island, and Manhattan. Such costs ARE qualified in all respects for the Empire State Film Production Credit program.

Projected Facility Expenditures

Please Note: Because this application can be used for either or both the Empire State Film Production Credit and the New York City Made In New York Film Production Tax Credit, it is important to understand the following distinction between the two programs as regards the definition of Qualified Production Facility:

In order to be considered Qualified for the Empire State Film Production Credit, a production facility must be located in New York State, including New York City. In order to be considered Qualified for the New York City Made In New York Film Production Tax Credit, a production facility must be located in New York City. New York City consists of the five boroughs of Bronx, Queens, Brooklyn, Staten Island, and Manhattan, For purposes of the City credit, any production facility in New York State outside the five boroughs is considered to be not qualified. Such a facility would still be considered qualified in all respects for the State credit purposes.

It is also important to note that in order to be considered Qualified for either program, a production facility must have at least one stage of 7000 square feet or larger. In calculating compliance with this threshold you will need to separate out any costs related to work at any film production facility that does not have a stage of 7000 sq ft or larger and therefore is not considered a Qualified Production Facility. Costs related to work at that non-qualified facility must be included in the total of all facility related costs, but must NOT be included in the total of New York State and/or New York City QPF costs.

According to the statute and regulations governing this program, in order to qualify for any tax credit, a qualified film's qualified production costs (excluding post-production costs) incurred at a New York State or, for New York City applicants, New York City Qualified Production Facility (QPF) must equal or exceed seventy-five percent of the total production costs (excluding post production costs) incurred at any film production facility within or without the state, or, for city applicants, within or without the city.. Thus it is necessary to determine the total amount of all of costs related to production activity at all production facilities, qualified or not, in New York State or City or not, so that amount can be compared to the total amount of **qualified** costs related only to New York State and/or New York City QPFs, and then to determine if in fact the total of the New York State and/or New York City QPF qualified expenses equal or exceed 75% of the total of all facility expenses.

As noted in Section 3-2 above, facility expenditures can include all costs related to days and activity at a production facility, including but not limited to the License or Operating agreement, power, hvac, waste removal, materials for set construction, salaries of crew working at the facility, meals at the facility, transportation related to the facility activity, services at the facility, set operations, camera and

equipment rentals pro rated for facility days, pre-production office rental if at the facility (including office equipment and staff salaries), telephone charges, etc.

However, post-production costs are not included in calculating this threshold; do not include post production costs anywhere in this section.

4-1 Primary New York State or New York City Qualified Production Facility (QPF)

4-1 (a) Name and address of the primary New York State or New York City Qualified Production Facility. A “qualified film production facility” means a film production facility in New York State or City, which contains at least one sound stage having a minimum of seven thousand square feet of contiguous production space. If you do not yet have a signed license or operating agreement with a New York City QPF, indicate which facilities you are talking to and level/degree of commitment.

NOTE: If you fail to secure a signed license or operating agreement with a New York State or City Qualified Production Facility you will NOT qualify for the program and your final application will be denied regardless of the prior approval of this preliminary Initial Application.

4-1 (b) The name of your contact at the New York State or City QPF.

New York State or City Qualified Production Facility Schedule

4-1 (c) QPF License or Operating Agreement start and end date: If you do not have a signed license or operating agreement with a New York State or City QPF, indicate dates you anticipate for each question.

4-1 (d) QPF Construction start date: Indicate the date you anticipate to begin construction.

4-1 (e) QPF Stage shooting begins: The date on which principal and ongoing photography at the New York City QPF begins.

4-1 (f) QPF Stage shooting ends: The date on which principal and ongoing photography at the New York State or City QPF ends.

4-1 (g) QPF Wrap stages date: Indicate date you anticipate to wrap.

4-2-(a-f) Additional New York State or New York City Qualified Production Facilities

If you are also shooting at one or more other New York State or City Qualified Production Facilities in addition to the one documented in 4-1 above, attach additional copies of section 4-1 with all the same information requested in 4-1 a through h above for each of the additional New York State or City QPFs.

4-3-(a-f) NON-Qualified Production Facility

If you are shooting at any production facility, within or without New York State, other than any of the New York State or City QPFs listed in 4-1 or 4-2 above, indicate names and dates as requested here. **NOTE: You MUST indicate ALL film production facilities at which you plan to work within or without New York State. Failure to disclose work at all facilities will be grounds for disqualifying this application. For example, if you work at a film production facility in New York State that does not have a soundstage of 7000 sq ft or larger, you must include that facility here.**

4-4-(a-f) Additional New York State or City NON-Qualified Production Facilities

If you are also shooting at one or more other facilities that is NOT a New York State QPF in addition to any documented in 4-3 above, attach copies of section 4-3 with all the same information requested in 4-3-a through h, above for each additional facility.

4-5 Post Production Facility - List the name and address of all post-production facilities whether within or without New York State or New York City.

4- 6 Production Schedule--Shooting Days

4-6 (a-d) Indicate the number of days cameras roll for principal photography at any film production facility or facilities, whether qualified or not, in New York City, New York State (outside the City) and outside New York State.

4-6 (e-h) Indicate the number of days cameras roll for principal photography on any location that is NOT part of a film production facility, in New York City, New York State and outside New York State. New York State days are for work incurred in NY State but outside the City limits.

NOTE: Shoot days at a film production facility in New York State that does NOT have a stage of 7000 square feet or larger CAN count here as New York State or, if in the City, as New York City Location Days (as noted above, they CANNOT count in Section 4-5 as NYS/NYC QPF threshold days).

4-6 (i) Calculate the total number of principal photography shoot days.

4-6 (j) Calculate the percentage of the total number of location days that were shot in New York City.

4-6 (k) Calculate the percentage of the total number of location days that were shot in New York State including New York City.

4-7 Calculating Qualified Production Facility Expenditure projections

The tables below ask you to break your facility days and expenditures into further detail in several ways. Understanding that a standard budget does not separate facility costs by the three phases of production--construction/prep, camera roll and wrap--please use your best estimates to attribute costs as requested.

REMINDER: Post production costs are NOT included in the calculation of the facility expenditures threshold. Do NOT include any costs related to post production activities anywhere in this section regardless of where post production occurs.

NOTE: Although post production costs are not included in the calculation of the facility expenditures threshold measured in this section, most post production costs *incurred in New York* do qualify for the tax credit for both the State and/or City programs (see Form B). Furthermore, if you are doing post production at a New York State or New York City qualified production facility, those costs can be applied towards the optional \$3 million facility spend threshold which would qualify the production for the full benefit of the program regardless of the number or percentage of location days shot in New York. If your production will be doing post production at a New York QPF, please call the film offices to discuss.

Expenditures at the facility could include:

Facility lease/licensing cost: indicate cost of the License or Operating agreement with the facility. If the agreement includes bundled costs directly related to use of the stage itself (as opposed to set operations), such as power, HVAC, waste removal, etc, include here.

Construction and Wrap: During days spent in the processes of construction and wrap of sets at any facility, this would include all costs incurred for activity at the facility, including the cost of materials for set construction, salaries of crew working at the facility, meals at the facility, transportation related to the facility activity, services at the facility, etc.

Camera Roll Days: During the days filming is actually taking place at a facility, all costs related to production activity at the facility, including set operations, crew salaries, meals, camera and equipment rentals, transportation, etc.

Other Facility Expenditures: Indicate here all costs that are incurred at any facilities that do not relate specifically to days prepping, shooting or wrapping on a stage, including, for example, preproduction office rental if at the facility (including office equipment and staff salaries), telephone charges, etc.

Continued next page

Section 4-7 continued:

If you have more than one qualified facility in New York City or New York State, please complete a separate copy of section 4-7 for each facility. New York City consists of the five boroughs of Bronx, Queens, Brooklyn, Staten Island and Manhattan.

- 4-7 (a-b)** Total all New York City Qualified Facility Days/Costs. Indicate the total of all days and qualified costs on a QPF (or QPFs, if more than one) located within the five boroughs of New York City. The cost (b) should tie to Line 3-3-a /NYC Column above.
- 4-7 (c-d)** Total all NY State Qualified Facility Days/Costs. Indicate the total of all days and qualified costs on a QPF (or QPFs, if more than one) located in New York State OUTSIDE the five boroughs of New York City. The cost (d) should tie to Line 3-3-a/NYS Column above.
- 4-7 (e-f)** Total all Non-Qualified Facility Days/Costs. Indicate the total of all days and costs on any facility, within or without New York City or State, that is not qualified for the tax credit. REMINDER: any facility that does not include at least one soundstage of 7000 sq feet or more does NOT qualify for either the State or City program regardless of where it is located. The cost (e) should tie to Line 3-3-a/Outside NYS Column above.
- 4-7 (g)** Total All Facilities. Add the New York City (b) + New York State (d) + Non-Qualified (f) facility costs to calculate the total costs at all facilities and enter the result here
- 4-7 (h)** Divide the total qualified costs for New York City qualified facility (b) by the total costs for all facilities (g). Enter the result here. This is the % of the total of all facility costs that are New York City QPF costs.
- 4-7 (i)** First add the New York City (b) + New York State (d) total costs to determine the total qualified costs for all qualified facilities in New York State (including NYC). Next divide this by the total costs for all facilities (g). Enter the result here. This is the % of the total of all facility costs that are New York State QPF costs.

SECTION FIVE: New York Employment Information

New York Production Employees are ALL employees assigned to work on the film in New York City or New York State (regardless of their personal residency or point of origin).

New York City Resident Employees are employees whose home address given by the employee for all employment purposes is within the City of New York.

New York Wages are ALL wages and compensation paid to all Production Employees (regardless of their personal residency or point of origin) for work performed in New York City or New York State.

New York City Resident Wages are wages paid to employees whose home address given by the employee for all employment purposes is within the city of New York.

NOTE: **New York City** consists of the five boroughs of Bronx, Queens, Brooklyn, Staten Island, and Manhattan.

To determine which NY Production Employees are Qualified, and which are considered to be Above or Below the Line, please refer to Schedule of Qualified Expenditures (Form B).

- 5-1-a** Above the Line – Qualified NY Production Employees ONLY
Indicate the number of Above the Line New York Production Employees whose wages or salaries are Qualified and their total Qualified New York Wages and Compensation, whether resident or not.

- 5-1-c** Above the Line NON-Qualified – NY Production Employees who are NOT Qualified
Indicate the number of Above the Line New York Production Employees who are NOT Qualified (Director, Producer, Talent, etc.) and their total New York Wages and Compensation, whether resident or not.
- 5-1-e** Production Employees (includes pre-production and production, but NOT post production) - Indicate the number of Below the Line NY Production Employees engaged in the pre-production and production (shooting) process who are Qualified and their total Qualified New York Wages and Compensation. Do not include post-production employees here. If an employee is significantly employed in both production and post-production processes, include here, but not in post-production (i.e., do not double count Below the Line employees).
- 5-1-f** Background actors – Indicate the number of background actors (extras), number of man days, and total wages. “Number of man days” are the total number of days which all background actors are scheduled to work. For example, if you have 20 background actors each working for 10 days, there are 200 total man days.
- 5-1-i** Post-production Employees - Indicate the number of Below the Line NY Production Employees engaged in ONLY in the post- production process who are Qualified and their total Qualified NY Wages and Compensation.
- 5-1 (b, d, g, h, & j) NYC Resident Employees**– For each of the categories immediately above, indicate the # of and wages of those employees who are **resident** in New York City. If you have information about resident employees this at this point, please provide. Otherwise, please note that this information will be requested again on the final application.
- 5-2 Total Production NY employees** – This is the total of all employees and wages assigned to work on the film in NY, including background actors. Include qualified and non-qualified, resident and non-resident employees/wages. This total should equal the sum of 5-1 a + c + e + f + i above.
- 5-3 (a-d) Diversity information** – Include information here about # minority employees and wages, and minority employees and wages as a % of total employees and wages, for the relevant above-the-line and below-the-line categories. Include both qualified and non-qualified employees/wages. "Minority" refers to Blacks, Hispanics (non-European), Asians and Native Americans (American Indians, Eskimos, Aleuts).
- If you have information about minority employees at this point, please provide. Include extras. Otherwise, please note that this information will be requested again on the final application. The final application will also request a list of the production positions filled by minority employees.

SECTION SIX: Budget Cost Qualifier (FORM C)

Please attach the completed Budget Cost Qualifier FORM C in both a hard copy and electronic version.

The Budget Cost Qualifier (FORM C) is a mandatory part of this Initial Application; it must be submitted with this application form in order for this application to be considered complete. Please include both the summary worksheet and the detail worksheet.

SECTION SEVEN: Detailed Budget

Please attach a copy of your most current detailed budget.

The most current version of your projected budget is a mandatory part of this Initial Application; it must be submitted with this application form in order for this application to be considered complete. You will also need to submit a copy of the final (sign-off) budget with an updated FORM C at the start of principal photography.

SECTION EIGHT: Signature

The individual who signs the application should be the person listed as the primary contact in Section 1-3 above.

The signature on the Initial Application must be provided by the corporate officer, general partner, managing member, or sole proprietor of the applicant seeking the New York State and the New York City production tax credits. Please indicate the signer's title and relationship to the applicant.

All other information requested by the application should be provided by the corporate officer, general partner, managing member, or sole proprietor of applicant seeking the film production tax credit.

The signer of the application attests, under penalties of perjury, that they have examined the application and accompanying documents and, to the best of their knowledge and belief, they are true, correct and complete.

SECTION EIGHT: FOIL Disclosure (New York City & New York State)

IMPORTANT— HOW TO PROTECT YOUR INFORMATION

Please note that in order to protect this application from being subject to Freedom of Information Law (FOIL) disclosure, you must send separate letters to the City and the State regarding the following:

Both the New York State Governor's Office for Motion Picture & Television Development, as part of the New York State Department of Economic Development, and the Mayor's Office of Film, Theatre and Broadcasting of the City of New York are subject to the New York State Freedom of Information Law ("FOIL"), which governs public access to the records of government agencies (see Public Officers Law sections 84 through 90).

You should be aware that applicants who submit information to either Office may request that the information be exempted from public disclosure, pursuant to section 87(2)(a-d) on the grounds that the information constitutes trade secrets, proprietary information or that the information, if disclosed, would cause substantial injury to the competitive position of the applicant. Such a request must be in made in writing separately to each Office, must specify the information to be withheld and must state the reasons for the requested exception.

Each Office separately reserves the right to determine whether the information submitted by the applicant will be withheld from disclosure. Each Office will notify the applicant of any requests for disclosure of applicants' information and notify the applicant as to whether the information will be disclosed.

Applicants may submit their request for non-disclosure of information with the application submitted to each Office.

Next Steps: What happens after you submit this Initial Application?

1. **Interview** – You must call either the The New York State Governor's Office of Motion Picture Development (NYS Office) at (212) 803-2330 or The City of New York Mayor's Office of Film, Theatre and Broadcasting (NYC Office) at (212) 489 – 6710 or the to schedule an appointment to discuss the application. This meeting must be attended by a producer and either the line producer, unit production manager, production accountant or their designee, subject to approval of the NYC and NYS Offices. If possible, this meeting may be held in conjunction with both offices.



2. **Approval** – If the initial application is approved, the NYS Office and/or NYC Office shall issue a certificate of conditional eligibility to the authorized applicant. The NYS Office shall provide a copy of such certificate to the New York State Department of Taxation and Finance. The NYC Office shall provide a copy of such certificate to the New York City Department of Finance. If the Initial application is disapproved, the NYS or NYC Office shall provide the applicant with a notice of disapproval which shall state the reasons therefore. Such disapproval shall be a rejection of the applicant's initial application. An authorized applicant that disagrees with the disapproval or the amount of the credit may appeal pursuant to the process as set forth in the regulations of the New York City Made In New York Film Production Tax Credit Program and the New York State Empire State Film Production Tax Credit Program. For a copy of the regulations please visit the websites listed below. Receipt of the certificate of conditional eligibility does not guarantee availability of the credit or amount of the credit, which is dependent on the final budget meeting the requirements of the credit.
3. **Notification of Start of Principal and Ongoing Photography** – If the Initial Application is approved, the production will be required to notify both the NYS and NYC Offices, in writing, on the date principal and ongoing photography begins on the qualified film. At that time, the production is required to provide the NYS and NYC office with:
 - Written notice of start of principal and ongoing photography
 - Crew call sheet for the first day of production
 - Production shooting schedule,
 - Current "sign off" budget
 - Updated FORM C that ties to the current budget
 - Additional documents as may be requested by either Office.
4. **Final Application** – No more than 60 days after the completion of post production on the qualified film, the production must submit a completed Final Application (FORMS D & E) and all the supporting documents, including but not limited to a final budget, general ledger, payroll report, cast & crew list, production shooting schedule, daily production reports and any other documents required to accompany that Final Application. Failure to provide the final information may result in a loss of the credit.
5. **Record Retention** - Each authorized and approved applicant must maintain records, in paper or electronic form, of any qualified production costs used to calculate its potential or actual benefit(s) under this program for a minimum of three years from the date of filing of the tax return on which the applicant claims the tax credit. The NYS Office and the NYC Office shall have the right to request such records upon reasonable notice.

Thank you for bringing your project to **New York** and for applying for the **New York City Made In New York** and the **New York State Empire State Film Break** tax incentive programs. If you have further questions, please contact us at:

THE NEW YORK STATE GOVERNOR'S OFFICE FOR
MOTION PICTURE & TELEVISION DEVELOPMENT
633 Third Avenue, 33rd Floor
New York, NY 10017
(212) 803.2330
www.nylovesfilm.com

GEORGE E PATAKI GOVERNOR

CHARLES A GARGANO, CHAIRMAN
EMPIRE STATE DEVELOPMENT

PAT SWINNEY KAUFMAN, EXECUTIVE DIRECTOR
NYS GOVERNOR'S OFFICE FOR MOTION PICTURE
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DANIEL L DOCTOROFF, DEPUTY MAYOR
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