

2021 Instructions for Form FTB 3541

California Motion Picture and Television Production Credit

What's New

A 4th Motion Picture Tax Credit – For taxable years beginning on or after January 1, 2022, California Revenue and Taxation Code (R&TC) Sections 17053.98 and 23698 would allow a 4th film credit against tax, in an amount equal to 20% or 25%, or as modified, of qualified expenditures for the production of a qualified motion picture in California at a certified studio construction project. For more information, go to the California Film Commission (CFC) website at film.ca.gov.

Important Information

Original California Motion Picture and Television Production Credit – For taxable years beginning on or after January 1, 2011, California R&TC Sections 17053.85 and 23685 allowed a qualified taxpayer a California motion picture and television production credit against the net tax (individuals) or tax (corporations) and/or qualified sales and use tax. The credit, as allocated and certified by the CFC, was 20% of expenditures attributable to a qualified motion picture or 25% of production expenditures attributable to an independent film or a television series that relocates to California.

New California Motion Picture and Television Production Credit – For taxable years beginning on or after January 1, 2016, a new film credit against tax is allowed. The new tax credit is allocated and certified by the CFC. The credit is:

- 25% of the qualified expenditures attributable to the production of either a television series that relocated to California in its first year of receiving a tax credit allocation or an independent film.
- 20% of the qualified expenditures attributable to the production of a qualified motion picture in California or a television series that relocated to California that is in its second or subsequent years of receiving a tax credit allocation.

Additional credits, not to exceed a total of 5% of qualified expenditures, may be allowed:

- 5% of qualified expenditures relating to music scoring or music track recording attributable to the production of a qualified motion picture in California.
- 5% of qualified expenditures relating to qualified visual effects attributable to the production of a qualified motion picture in California.
- 5% of qualified expenditures relating to original photography outside the “Los Angeles Zone”.

For taxable years beginning on or after January 1, 2020, the **New** California Motion Picture and Television Production Credit carryover has been extended to nine years or until exhausted.

Program 3.0 California Motion Picture and Television Production Credit – For taxable years beginning on or after January 1, 2020, R&TC Sections 17053.98 and 23698 allow a third film credit, **program 3.0**, against tax. The newest tax credit is allocated and certified by the CFC. The credit is:

- 25% of the qualified expenditures attributable to the production of a qualified motion picture in California where the qualified motion picture is a television series that relocated to California in its first year of receiving an allocation of this tax credit or an independent film.
 - An additional credit may be allowed in an amount equal to 5% of qualified wages paid for services performed relating to original photography outside of the Los Angeles zone to qualified individuals who reside in California but outside the Los Angeles zone for the production of a qualified motion picture.
- 20% of the qualified expenditures attributable to the production of a qualified motion picture in California including, but not limited to, a feature or a television series that relocated to California that is in its second or subsequent years of receiving an allocation for this tax credit.

Additional credits may be allowed for the following:

- 5% of qualified expenditures relating to original photography outside the Los Angeles zone, excluding qualified wages used to calculate the 10% credit listed below.
- 5% of qualified expenditures relating to qualified visual effects attributable to the production of a qualified motion picture in California.
- 10% of qualified wages paid for services performed relating to original photography outside of the Los Angeles zone to qualified individuals that reside in California but outside of the Los Angeles zone would be allowed for the production of a motion picture within California.

For more information, go to the CFC website at film.ca.gov and search for **incentives**.

The **Original** and **New** California Motion Picture and Television Production Credit can reduce tax below the tentative minimum tax (TMT) for corporations. For more information, see R&TC Section 23036 or get Schedule P (100), Alternative Minimum Tax and Credit Limitations – Corporations.

Credit Limitation – For taxable years beginning on or after January 1, 2020, and before January 1, 2023, there is a \$5,000,000 limitation on the application of business credits for taxpayers. The total of all business credits including the carryover of any business credit for the taxable year may not reduce the “net tax”, for personal income tax filers, or the “tax”, for corporate filers, by more than \$5,000,000. For taxpayers included in a combined report, the limitation is applied at the group level.

The business credits disallowed due to the limitation may be carried over. The carryover period for disallowed credits is extended by the number of taxable years the credit was not allowed. This limitation does not apply to all credits, get Schedule P (100, 100W, 540, 540NR, or 541), Alternative Minimum Tax and Credit Limitations, and Form 100S, S Corporation Tax Booklet for more information.

Write “CFC Credit” – If you claim more than one motion picture and television production credit in the same year, you must complete a separate form FTB 3541, California Motion Picture and Television Production Credit for each credit. Taxpayers attaching form FTB 3541 to the tax return should **write** “CFC Credit” in **black or blue** ink at the top margin of their tax return.

Use of Credit – The credit can be used by the qualified taxpayer to:

- Offset franchise or income tax liability. When you claim the credit, use:
 - **Original**, credit code 223
 - **New**, credit code 237
 - **Program 3.0**, credit code 239
- Sell to an unrelated party (independent films only).
- Assign to an affiliated corporation.
- Apply against qualified sales and use taxes.

This credit is not refundable.

Sale of Credit Attributable to an Independent Film – A qualified taxpayer may sell a credit, attributable to an independent film, to an unrelated party once the taxpayer receives the California Film and Television Tax Credit Program Tax Credit Certificate (hereafter, CFC Tax Credit Certificate or credit certificate). The credit can only be sold by the qualified taxpayer that generated the credit (that is a corporation, a limited liability company (LLC) classified as a corporation, or an individual) or by a shareholder, beneficiary, partner, or member who received the credit as their distributive or pro-rata share. For more information, get form FTB 3551, Sale of Credit Attributable to an Independent Film, or go to ftb.ca.gov and search for **motion picture**.

Seller – A qualified taxpayer that sells an independent film credit is required to report the gain on the sale of the credit in the amount of the sale price.

Buyer – If the credit was purchased for less than the credit amount stated on the CFC Tax Credit Certificate, the buyer is required to report

income in the amount of the difference between the credit amount claimed on its return and the purchase price.

Credit Assignment – A qualified taxpayer that is a corporation or is taxed as a corporation and whose credit exceeds the tax may elect to assign the credit to an affiliated corporation(s) under R&TC Section 23685(c)(1), Section 23695(c)(1), or Section 23698(c)(1). The election to assign the credit is **irrevocable**. For more information, see General Information C, Assignment of Credits.

Sales and Use Taxes – A qualified taxpayer who has been issued a certified CFC Tax Credit Certificate may make an irrevocable election with the California Department of Tax and Fee Administration (CDTFA) to apply the credit against qualified sales and use taxes. For more information, go to cdtfa.ca.gov and search for **ca film**.

For taxable years beginning on or after January 1, 2020, and before January 1, 2022, a taxpayer who has made an irrevocable election with the CDTFA to apply a qualified motion picture tax credit against qualified sales and use taxes for amounts in excess of \$5,000,000, may elect to obtain a refund, subject to specified limitations, of the qualified sales and use taxes paid or offset that excess credit amount, or assigned portion against the qualified sales and use taxes imposed, during the reporting periods that occur during the 2021 calendar year. A taxpayer may make that election for refund, or use the credit amount, or assigned portion, that exceeds \$5,000,000 against the qualified sales and use tax imposed during the reporting periods in the five years following, including the reporting period beginning on and after January 1, 2022. This option does not apply to irrevocable elections made prior to January 1, 2020.

General Information

A Purpose

Use form FTB 3541 to report the credit for the production of a qualified motion picture in California that was:

- Allocated on the CFC Tax Credit Certificate.
- Passed through from S corporations, estates, trusts, partnerships, or LLCs taxed as partnerships.
- Purchased from a qualified taxpayer.
- Assigned to or from an affiliated corporation under R&TC Section 23685(c)(1), Section 23695(c)(1), or Section 23698(c)(1). For more information, see General Information C, Assignment of Credits.
- Applied or will be applied against CDTFA qualified sales and use taxes. For more information, go to cdtfa.ca.gov and search for **ca film**.

Note: Each entity that received or assigned a motion picture and television production credit from or to another affiliated corporation, as specified under R&TC Sections 23685, 23695, and 23698, must complete a separate form FTB 3541.

S corporations, estates, trusts, partnerships, or LLCs taxed as partnerships should complete form FTB 3541 to figure the amount of credit to pass through to shareholders, beneficiaries, partners, or members. The credit is **not** allowed at the pass-through entity level. Attach this form to Form 100S, California S Corporation Franchise or Income Tax Return; Form 541, California Fiduciary Income Tax Return; Form 565, Partnership Return of Income; or Form 568, Limited Liability Company Return of Income. Show the pass-through credit for each shareholder, beneficiary, partner, or member on Schedules K-1 (100S, 541, 565, or 568), Share of Income, Deductions, Credits, etc.

Corporate taxpayers attach this form to Form 100, California Corporation Franchise or Income Tax Return, or Form 100W, California Corporation Franchise or Income Tax Return – Water's Edge Filers.

Individual taxpayers attach this form to Form 540, California Resident Income Tax Return, or Form 540NR, California Nonresident or Part-Year Resident Income Tax Return.

B Definitions

Credit certificate. Credit certificate means the tax credit certificate issued by the CFC for the allocation of the credit to a qualified taxpayer.

Copyright registration number. Copyright registration number means the registration number, as reflected on the certificate of registration issued

under the authority of Section 410 of Title 17 of the United States Code. For more information, refer to RT&C Sections 23685, 23695, and 23698.

Qualified taxpayer. For the **original** credit, a qualified taxpayer means a taxpayer who has paid or incurred qualified expenditures and has been **issued a tax credit certificate by the CFC**. For the **new and program 3.0** credit, a qualified taxpayer must also have participated in the Career Readiness requirement. In the case of any pass-through entity, the determination of whether a taxpayer is a qualified taxpayer is made at the entity level. The credit is not allowed at the pass-through entity level. Pass-through entity means any entity taxed as a partnership or S corporation. The credit is passed through to the shareholders, beneficiaries, partners, or members. For more information, refer to R&TC Sections 23685, 23695 and 23698.

Qualified motion picture. Qualified motion picture means a motion picture that is produced for distribution to the general public, regardless of medium. For more information, refer to the R&TC Sections 17053.85, 17053.95, 17053.98, 23685, 23695, 23698, or go to film.ca.gov.

Independent film. For the **original** credit, an independent film means a motion picture with a minimum budget of one million dollars (\$1,000,000) and a maximum budget of ten million dollars (\$10,000,000) that is produced by a company that is not publicly traded and publicly traded companies do not own, directly or indirectly, more than 25% of the producing company.

For the **new and program 3.0** credit, an independent film means a motion picture with a minimum budget of one million dollars (\$1,000,000), and no maximum budget, that is produced by a company that is not publicly traded and publicly traded companies do not own, directly, or indirectly, more than 25% of the producing company.

Television series. For the **original** credit, television series means a television series that relocated to California, without regard to episode length or initial media exhibition, that filmed all of its prior season or seasons outside of California and for which the taxpayer certifies that this credit is the primary reason for relocating to California.

For the **new and program 3.0** credit, television series means a television series, without regard to episode length or initial media exhibition, with a minimum production budget of one million dollars (\$1,000,000) per episode, that filmed its most recent season outside of California or has filmed all seasons outside of California and for which the taxpayer certifies that this credit is the primary reason for relocating to California.

C Assignment of Credits

The **original, new and program 3.0** credit may be assigned to an eligible assignee. The original credit is assignable for taxable years beginning on or after January 1, 2011, under R&TC Section 23685(c)(1). The new credit is assignable for taxable years beginning on or after January 1, 2016, under R&TC Section 23695(c)(1). The program 3.0 credit is assignable for taxable years beginning on or after January 1, 2020, under R&TC Section 23698(c)(1). The credit must first exceed the tax of the qualified taxpayer (the assignor) for the taxable year in which the credit is to be assigned.

The election to assign any credit is **irrevocable**. The assignor shall make the election and report the credit assignment by completing Part IV, Credit Assigned to Affiliated Corporations Pursuant to R&TC Section 23685, Section 23695, or Section 23698. Once a credit is assigned to an eligible assignee, it cannot be reassigned. The assignor will reduce the credit amount available for assignment by the amount of the credit assigned.

After assignment of an eligible credit, the eligible assignee may use the credit against income tax liability, or apply it against CDTFA qualified sales and use taxes. Also, the restrictions and limitations that applied to the assignor (entity that originally generated the credit) may apply to the eligible assignee.

There is no requirement of payment or other consideration for assignment of the credit by an eligible assignee to an assignor.

The assignor and the eligible assignee shall maintain the information necessary to substantiate any credit assigned and to verify the assignment and subsequent use of the credit assigned. Lack of substantiation may result in the disallowance of the assignment. The assignor and the eligible assignee shall each be liable for the full amount

of any tax, addition to tax, or penalty that results from any disallowance of the credit assigned under R&TC Section 23685, Section 23695, or Section 23698. The Franchise Tax Board (FTB) may collect such amount in full from either the assignor or the eligible assignee.

Note: This credit may also be assigned under the credit assignment rules of R&TC Section 23663. Any portion of the **original** credit assigned under R&TC Section 23663 or Section 23685, any portion of the **new** credit assigned under R&TC Section 23663 or Section 23695, or any portion of the **program 3.0** credit assigned under R&TC Section 23663 or Section 23698 may not be subsequently assigned under either statute. For more information on credit assignment under R&TC Section 23663, get form FTB 3544, Assignment of Credit.

Assignor. An assignor is the qualified taxpayer that receives the CFC Tax Credit Certificate. The following rules must be met before a credit can be assigned:

- The assignor must be taxed as a corporation.
- The credit must first exceed the “tax” of the assignor for the taxable year in which the credit is to be assigned.
- The eligible assignee must be an affiliated corporation as defined by R&TC Section 23685(c)(1), Section 23695(c)(1), or Section 23698(c)(1).

Eligible assignee. An eligible assignee is any affiliated corporation as defined by R&TC Section 23685(c)(1), Section 23695(c)(1), or Section 23698(c)(1).

D Limitations

For taxable years beginning on or after January 1, 2020, and before January 1, 2023, there is a \$5,000,000 limitation on the application of business credits for taxpayers. The total of all business credits including the carryover of any business credit for the taxable year may not reduce the “net tax”, for personal income tax filers, or the “tax”, for corporate filers, by more than \$5,000,000. For taxpayers included in a combined report, the limitation is applied at the group level.

The business credits disallowed due to the limitation may be carried over. The carryover period for disallowed credits is extended by the number of taxable years the credit was not allowed. This limitation does not apply to all credits, get Schedule P (100, 100W, 540, 540NR, or 541), and Form 100S Booklet for more information.

The credit cannot reduce the S corporation 1.5% entity-level tax (3.5% for financial S corporations), the minimum franchise tax (corporations and S corporations), the annual tax (limited partnerships, limited liability partnerships, and LLCs taxed as partnerships), the alternative minimum tax (corporations, exempt organizations, individuals, and fiduciaries), the built-in gains tax (S corporations), or the excess net passive income tax (S corporations).

For corporate taxpayers, the **new** and **original** credit **can** reduce the regular tax below the TMT. The **program 3.0** credit **cannot** reduce the regular tax below the TMT for corporate taxpayers. For individual taxpayers, the credits **cannot** reduce regular tax below TMT. For more information, get Schedule P (100, 100W, 540, 540NR, or 541).

S corporation. If a C corporation has unused credit carryovers when it elects S corporation status, the credit carryovers may not be passed through to the S corporation or the shareholders. For more information, get Schedule C (100S), S Corporation Tax Credits.

Disregarded business entity. If a taxpayer owns an interest in a disregarded business entity [for example, a single member limited liability company (SMLLC), which for tax purposes is treated as a sole proprietorship if owned by an individual or a division if owned by a corporation], the credit amount received from the disregarded entity is limited to the difference between the taxpayer’s regular tax figured with the income of the disregarded entity, and the taxpayer’s regular tax figured without the income of the disregarded entity. If the credit is sold under R&TC Section 17053.85(c), Section 17053.95(c), or Section 17053.98(c), or assigned or sold under R&TC Section 23685(c), Section 23695(c), or Section 23698(c), this restriction does not apply.

E Carryover

If the available credit exceeds the current year tax liability or is limited by TMT (individual taxpayers only), the unused credit may be carried over for six years for the **original** credit, and nine years for the **new** and **program 3.0** credit, or until the credit is exhausted, whichever occurs first. Apply the credit carryover to the earliest taxable year. In no event can the credit be carried back and applied against a prior year’s tax.

Retain all records that document the credit and carryover used in prior years. The FTB may require access to these records.

Specific Line Instructions

Name(s) as shown on your California tax return. Enter the name of the individual or business and the social security number (SSN), California corporation number, federal employer identification number (FEIN), or the California Secretary of State (SOS) file number as shown on your tax return. If you are a business filing a combined report enter the name of the key corporation. Get FTB Pub. 1061, Guidelines for Corporations Filing a Combined Report, for information regarding key corporations.

Owner of credit. Enter the name of the owner of the credit and the California corporation number, FEIN, or the CA SOS file number. If the name shown on the California return is the same as the owner of the credit, enter “Same”.

Part I – Available Credit

Credit certificate numbers (Lines 1b, 2b, 3b, 7b, and 10b) – Provide the tax credit certificate number for the current year generated credit allocated to you from the CFC, passed through to you from a pass-through entity, purchased from a qualified taxpayer, assigned to you from an affiliated corporation, or applied against CDTFA sales and use taxes. If you reported multiple credits, list all tax credit certificate numbers on the respective lines or attach a schedule, if necessary. Failure to provide all tax credit certificate numbers may result in the disallowance of the credit.

Copyright registration numbers (Lines 1c, 2c, 3c, 7c, and 10c) – Provide the copyright registration number issued under the authority of Section 410 of Title 17 of the United States Code. Failure to provide the copyright registration number may result in the disallowance, assessment, and collection of the credit. For more information, see R&TC Section 23698 (f).

Line 1a – Current year generated credit. Enter the full amount of credit allocated to you as shown on the CFC Tax Credit Certificate. If you received more than one tax credit certificate, for the same film credit, during the taxable year, add the credit amounts from all credit certificates and enter the total on this line. If you received the credit from a pass-through entity, purchased the credit from a qualified taxpayer, or received the credit through an assignment from another corporation pursuant to R&TC Section 23685, Section 23695, or Section 23698 **do not** enter the amounts on this line. Instead, enter these amounts on line 2a, line 3a, or line 4, respectively.

Line 2a – Credit received from pass-through entities. Add the pass-through credit amounts received from S corporations, estates, trusts, partnerships, or LLCs taxed as a partnership, and enter the total on this line. Attach a schedule showing the name, address, tax identification number, and percentage of ownership for the flow-through entity from which you received the credit.

Line 3a – Credit purchased from other entities. Enter the amount of credit purchased from a qualified taxpayer. **Do not** enter the consideration amount paid for the credit.

Line 4 – Credit received from affiliated corporations. If you received an assigned credit from an affiliated corporation pursuant to R&TC Section 23685, Section 23695, or Section 23698, complete Part III, Credit Received from Affiliated Corporations Pursuant to R&TC Section 23685, Section 23695, or Section 23698. Enter the amount from Part III, line 16 on this line.

Line 5b – Assignable credit carryover from prior year. Complete this line **only if** you are an entity with affiliates that qualify to receive assignments per the specifications under R&TC Sections 23685, 23695, and 23698. This is the assignable portion of line 5a, Credit carryover from prior year. Enter the prior year credit allocated to you by the CFC plus the credit you received from pass-through entities, less any credit amounts in prior years that were:

- Used to reduce your franchise or income tax liability
- Assigned to affiliated corporations
- Sold to unrelated parties (if the credit was attributable to an independent firm)
- Applied against sales and use tax

Do not include any prior year credit amounts that you purchased or were assigned to you by an affiliated corporation.

Line 7a – Credit sold to other entities. Enter the amount of credit sold to an unrelated party from form FTB 3551, box 7 (Total amount of credit being sold).

Line 8 – Credit assigned to affiliated corporations. If you assigned a credit to an affiliated corporation pursuant to R&TC Section 23685, Section 23695, or Section 23698, complete Part IV. Enter the amount from Part IV, line 22(d), on this line.

Line 9 – Credit passed through on Schedule K-1. Enter the amount of credit passed through to shareholders, partners, or members on Schedule K-1, on this line.

Line 10a – Credit applied against sales and use taxes. If you applied any portion of the credit against qualified sales and use taxes, enter the amount on this line.

Part II – Carryover Computation

Line 13a – Credit claimed. **Do not** include assigned credits claimed on form FTB 3544, Part B, List of Assigned Credit Received and/or Claimed by Assignee.

This amount may be less than the amount on line 12 if your credit is limited by your tax liability. For more information, see General Information D, Limitations, and refer to the credit instructions in your tax booklet. When you claim the credit, use credit code **223** for the original credit, code **237** for the new credit, or code **239** for the program 3.0 credit.

Note: If you enter an amount on line 13a, complete the table, Part V, Credit Claimed.

Line 13b – Total credit assigned. Corporations that assign credit to other corporations within the same combined reporting group under R&TC Section 23663 must complete form FTB 3544, Part A, Election to Assign Credit Within Combined Reporting Group. Enter the total amount of credit assigned from form FTB 3544, Part A, column (g) on this line.

Part III – Credit Received from Affiliated Corporations Pursuant to R&TC Section 23685, Section 23695, or Section 23698.

Complete this table if you **received** credits assigned from an affiliated corporation pursuant to R&TC Section 23685, Section 23695, or Section 23698.

Line 15, column (a) – Assignor name. Enter the name of the corporation that assigned the credit.

Line 15, column (b) – Assignor California corporation number, FEIN, or CA SOS number. Enter the California corporation number, FEIN, or CA SOS number of the corporation that assigned the credit.

Line 15, column (c) – Credit certificate number. Enter the credit certificate number from the qualified taxpayer's (assignor's) tax credit certificate issued by the CFC.

Line 15, column (d) – Credit received. Enter the amount of the credit received from the assignor.

Part IV – Credit Assigned to Affiliated Corporations Pursuant to R&TC Section 23685, Section 23695, or Section 23698.

Line 18 – Tax. Enter the amount from Form 100, or Form 100W, line 23.

Line 19 – Excess credit available for assigning to affiliated corporations. Subtract line 18 from line 17. If the result is:

- '0' or less, enter '0'. Do not complete the Credit Assigned to Affiliated Corporations table. You do not have available credit to assign.
- More than zero, this is the maximum amount of credit that may be assigned to affiliated corporations.

Complete the **Credit Assigned to Affiliated Corporations** table if you have a balance on line 19 and will assign credits to affiliated corporations pursuant to R&TC Section 23685, Section 23695, or Section 23698.

Line 20, column (e) – Excess credit available for assignment. Enter the amount of excess credit, if any, from line 19.

Line 21, column (a) – Assignee name. Enter the name of the corporation that is receiving a credit assignment from the assignor.

Line 21, column (b) – Assignee California corporation number, FEIN, or CA SOS number. Enter the California corporation number, FEIN, or CA SOS number of the corporation that is receiving the credit assignment. If the corporation has applied for but not yet received the California corporation number or FEIN, enter "Applied For" in column (b). If the corporation is a non-U.S. foreign corporation, enter "Foreign" in column (b).

Line 21, column (c) – Credit certificate number. Enter the credit certificate number from the CFC Tax Credit Certificate.

Line 21, column (d) – Amount of credit assigned. Enter the amount of credit that is being assigned to an assignee.

Line 21, column (e) – Excess credit available for assignment. Subtract the amount in column (d) from the amount in previous line column (e).

Part V – Credit Claimed

Complete this table if you claimed an amount on line 13a. Do not include assigned credits claimed on form FTB 3544, Part B.

Line 23, column (a) – Year certificate issued. Enter the year the CFC issued the certificate.

Line 23, column (b) – Certificate number. Enter the number on the certificate issued by the CFC.

Line 23, column (c) – Copyright registration number. Enter the copyright registration number issued under the authority of Section 410 of Title 17 of the United States Code.

Line 23, column (d) – Credit amount available for use. Enter the amount available for use in the current year. Do not include any amount previously claimed, assigned, sold, or applied against sales and use tax.

Line 23, column (e) – Credit claimed. Enter the amount claimed in the current year for each certificate listed. Do not include amounts claimed on form FTB 3544, Part B.

Note: If the credit was generated by a pass-through entity, the entity must provide the year the credit was generated, the certificate number, and the amount that was passed through to the shareholder, partner, or member.

Line 23, column (f) – Credit carryover. Subtract column (e) from column (d).

Franchise Tax Board Privacy Notice on Collection

Our privacy notice can be found in annual tax booklets or online. Go to ftb.ca.gov/privacy to learn about our privacy policy statement, or go to ftb.ca.gov/forms and search for **1131** to locate FTB 1131 EN-SP, Franchise Tax Board Privacy Notice on Collection. To request this notice by mail, call 800.338.0505 and enter form code **948** when instructed.