

# GA Tax Credit Class

## 1. General Overview of GA Tax Incentive- what it's worth

- The GA Tax Credit Incentive is worth 20% of qualifying GA Expenses
- An extra 10% uplift can be applied for adding the GA Film Office logo to the credits of the film in the appropriate spot
- The minimum GA qualified spend is \$500,000 to qualify for the tax credit

## 2. What were the old requirements?

- For 2022 and previous, most GA spend qualified
- The audit process consisted of about 60 'samples' provided to prove AP and PR transactions
- The general audit cost ranged from \$1,500 - \$5,000 depending on the size of the film

## 3. What are the new requirements?

- In 2023, GA has changed both what qualifies and the audit process and has introduced several new documents that need to be provided for each transaction
- Note: for the purpose of this explanation, vendors will be divided into 2 categories:
  - Service Vendors— those who provide a service ie. Consultants, production services, etc
  - Product vendors— those who provide materials ie. Trailer rentals, camera package, etc

## **New Documentation:**

### **A. The GL Audit Template**

- This is a new general Ledger Template provided by GA that separates out transactions into categories for their review. The coding on this is very specific and required to provide for the audit.

### **B. The Verification of In-State Work for Service Providers**

- This is a form that must be completed for all service providers. A service provider is specifically a company that provides a service ie. Production services or sfx services. Any rental or purchase (tangible or not) is considered a product vendor.
- This is used to demonstrate how much of a vendor's work for your production was performed inside Georgia.
- For example, if you hire Feder Than You Productions for Production Services, but you then need me to attend a budgeting meeting in LA, the % of time I spend in LA must be notated on this form.

### **C. Sales Tax Account Verification for Product Vendors**

- For all product vendors you must now provided one of the following:
  - The vendor's sales tax permit OR
  - The vendor's sales tax number verification printout from the GTC Sales Tax Accounts Verification tool
  - This is in addition to the contract, lease agreement, w-9, packing slips/ shipping labels, and invoices that still need to be provided

### **D. Local Business Licenses**

- A Local Business License is required for any vendor that provides \$10,000 of products or more to the production
- This is something that must be obtained by the business. Cost and requirement for obtaining one vary by city as these are local not state licenses.
- It is worth noting an example: if your Stedicam operator who is based in CA is also renting you their gear, their payroll will qualify for the GA Tax Credit but the rental of their gear will NOT. We'll go over this more in the qualifications section.
- An exception to the need for a business license from a business would be large, national businesses such as Delta, Target, Walmart, etc

### **E. Loan-out Contract Allocation Form**

- For anyone paid as a loan-out (through payroll or otherwise), you will need to fill out this form
- Exception: You do not generally have to fill out a form for a GA resident who did ALL of their work for the production in GA who you paid less than \$100,000 (for example your trusty production accountant)

- This form, similar to the verification of in-state work for service providers, details how much time a loan-out employee worked in state (especially relevant for producers, line producers, directors, etc who have significant work time out of state)

#### **F. Changes to Qualifications & Things to note**

- There are several changes to qualifications
  - Any flight that is not to or from the resident state of the person flying does not qualify
  - Travel days only count as half days form form E
  - GA is cracking down on paying crew as 1099 vendors (Indie features) and will disqualify all crew paid as 1099 if there is not enough proof of Employee crew paid through payroll
  - Shipping charges for shipping things to or from outside Georgia do not qualify
  - California SUI does not qualify
  - Payroll Handling fees will most likely not qualify
  - COVID costs do not qualify (though payroll for COVID officers still may)
  - Expenses that have not been paid do not qualify
  - The auditor will be reconciling loan out payments x 5.75% to amount on the G-7s. The G-7s and withholdings must be submitted timely for the costs to qualify (within the same quarter)
- Only purchases from Georgia vendors will qualify for the tax credit, but what qualifies as a GA Vendor has changed
  - “For purchases or rentals of goods, the vendor must have inventory in the state that is being purchased or rented by the production. The goods purchased or rented should be of the same type regularly held in the vendor’s Georgia inventory in their ordinary course of business. Goods are not considered purchased or rented in Georgia if the goods are shipped or delivered from the Georgia vendor’s location outside of Georgia unless more than a de minimis amount of the same type of goods shipped or delivered from outside of Georgia are normally held in inventory in Georgia by the Georgia vendor.”
  - What that statement means is that gear rented from out of state employees (owner/operator) will not qualify
  - This also means that any invoice that includes shipping, you will have to provide shipping labels/receipts, and if the shipping was from out of state, you will also have to provide proof that the rental house USUALLY houses that type of inventory for it to qualify (think rental houses like PRG, Panavision, etc)

- Note: Registering with the Georgia Secretary of State or acquiring a Registered Agent in Georgia does NOT for these purposes qualify a business as a GA Vendor. To qualify as a GA Vendor, the business must have a permanent location in Georgia
- “A vendor that acts as a conduit for a non-Georgia vendor in making sales, rentals or services does not qualify.”
  - Passthrough of any kind no longer qualify
  - The GA Film Office examples include:
    - A prop house that is paid to provide costumes and sources the costumes from an out-of-state vendor— the costumes will not qualify
    - A costume house commissioned for a custom costume, but the costume is made by an out-of-state employee— the custom costume would no longer qualify
  - Note: Registering with the Georgia Secretary of State or acquiring a Registered Agent in Georgia does NOT for these purposes qualify a business as a GA Vendor. To qualify as a GA Vendor, the business must have a permanent location in Georgia
- Be sure to speak with your auditor about other potential changes and things that do not qualify.

## 4. The Audit Process

- The Audit process is now significantly more rigorous than the previous 60 items of proof. Submitting for the audit now includes:
  - ALL lodging transactions
  - ALL airfare transactions
  - ALL loan-out transactions
  - ALL transactions (or vendors) over \$100,000
  - FULL Payroll Documentation
- Additionally, the samples requested for the audit include:
  - 150 PC Samples
  - 600 AP Samples
    - These samples need to include copies of invoices, contracts, lease/rental agreements, w-9, business license (if applicable), 1099, box rental agreement (if applicable), and related party comparison bids and/or studio rate cards (if applicable) for each samples
- Note: There are no longer Payroll samples requested because ALL payroll is evaluated in this process.

## 5. Audit Timeline & Fees

- Due to the amount of work the auditors have to do on this process, once you recruit them to perform the audit, you have 60 days to get them the items listed on page 2 and 3 of the Film Audit Procedures Manual
- Once they do their assessment and provide the list of sample to the production, the production then has 60 days to return the samples to them.
- When the auditor is done performing their procedure sthey will submit their audit workpapers and all support (invoices, W-9's, business licenses, G-7s, production reports, payroll reports, timecards, etc.) to the DOR for their review.
- The DOR will come back with follow up questions. The auditor may come back to the production company for further information to answer these questions. Once the DOR approves the credit amount, then the auditor can provide you with a report.
- Once the audit workpapers are submitted to the DOR, it may take about 6 months for the DOR to review and approve the credit. Then the credit can be sold.
- Forgoing an auditor and performing this process with GA is the same process, but turn around for completion and the funds is approximately 2 years
- Forgoing a comfort letter and performing this process with GA is the same process, but turn around for completion and the funds is approximately 2 years

- From the auditors I've spoken with, audit costs now range between \$13,000 - \$20,000
- Additionally there is an application fee owed to GA. With a comfort letter, this ranges from \$5,000 - \$10,000 depending on the size of production; without one it is between \$7,500 - \$15,000

## 6. What do the new requirements mean for you (and your production)?

- It means this process starts EARLY
  - Use pre-production time to get systems in place to organize and file the additional paperwork
  - If you are working with an accounting system that allows you additional free fields for coding, set it up with the GA codes required by their new general ledger
  - We all know what a pain it can be chasing down W9's after production— if you think a business will be paid more than \$10,000, start the business license conversation early.
- It means more labor
  - This is essentially a full time job. If your production can support an extra clerk to track and file these extra forms , that's a potential avenue.
  - For the post-production part of this, a small team is necessary. It would take a single accountant weeks if not months to assemble all of this information (especially if there is still significant outstanding spend when shooting wraps).
- It means organization is key
  - In addition to the above, Georgia is requiring each sample be provided in 1 file in a specific order ie the contract and invoice cannot be submitted separately
  - They have also instituted file naming conventions; these will be easier to follow if you are using the same naming convention within your production files from the start

## 7. What is the point of these changes?

- According to GA, this was an act taken due to fraud that was committed in the filing last year that they would like to prevent moving forward.
- The amount of work involved will both disqualify fraudulent applications but also deter those who would attempt to commit fraud
- In reality, this not only disqualifies fraudulent productions but also most indie productions. Small budgets are finding themselves unable to support the fees

and workload and that the payoff is significantly smaller than what was anticipated based on last year

## **8. In conclusion**

- Other than the basic structure of submitting documentation and then pulling samples for an auditor, everything about this process has changed.
- If you can have someone on your team who has dealt with the new process in any capacity (shameless self-promotion) it will make the process significantly easier
- It is worth talking to your producers and Production Accountant about the plan to tackle this from the beginning— if none of the extra work is done to organize things during production, you are looking at significant time spent on the back end reformatting your documentation

## **9. Q&A**