

Georgia Department of Revenue

Audit Procedures Manual

Georgia Film Tax Credit

Contact: AUP.FilmAudits@dor.ga.gov
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I. Certification Process – Overview Effective January 1, 2021

Two Georgia state agencies are responsible for administration of the “Georgia Entertainment Industry Investment Act” that encompass the certification of eligible projects and the certification of the film tax credit. The Georgia Department of Economic Development (GDEcD) certifies that a project meets the qualifications for the film tax incentive. The Georgia Department of Revenue (GDOR) audits production expenditures and determines the film tax credit amounts.

Georgia Department of Economic Development (GDEcD)

A “state certified production” means a production engaged in qualified production activities which have been approved by the GDEcD. Upon certification, the production must spend a minimum of \$500,000 in base investment to be eligible for a 20% transferable tax credit. An additional 10% Georgia Entertainment Promotion (GEP) uplift can also be earned if certain Georgia promotion requirements are met. GDEcD will provide the production with one or multiple (when the project spans more than one tax year) Credit Certification Number(s) for each qualifying project. Beginning January 1, 2021 projects meeting certain criteria must undergo a mandatory audit that can be performed by the GDOR or a certified independent third-party accounting firm. A certified independent third-party accounting firm cannot audit GDEcD projects certified prior to January 1, 2021 as part of the mandatory audit process.

Georgia Department of Revenue (GDOR)

The GDOR certifies expenditures incurred that are directly used in a state certified production. The GDOR is responsible to promulgate such rules and regulations as are necessary to implement and administer the “Georgia Entertainment Industry Investment Act.” The GDOR is to provide definitions, require an audit prior to issuance of final certification, and provide certification of accountants as eligible auditors for conducting such audits.

Passage of Georgia House Bill 1037

Georgia House Bill 1037 was signed into law by the Georgia Governor on August 4, 2020. The bill amends Georgia Code Section O.C.G.A. § 48-7-40.26. This bill became effective on January 1, 2021.

The passage of Georgia House Bill 1037 also caused Georgia Rule 560-7-8-.45 to be amended. The amended Rule was adopted on February 23, 2021 with an effective date of January 1, 2021. Prior to the legislation changes, projects certified by the GDEcD could be utilized and/or transferred before the tax return was filed by the production company, provided the film tax credit was earned. Beginning January 1, 2021, projects meeting certain criteria must undergo a mandatory audit that can either be performed by the GDOR or a certified independent third-party accounting firm.

Mandatory Audit

The phase-in amounts of the mandatory audits are provided by statute. The statute requires a mandatory audit if the film tax credit meets the following parameters:

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- Projects certified by GDEcD on or after January 1, 2021 to a production company, if such tax credit sought for the project exceeds \$2.5 million
- Projects certified by GDEcD on or after January 1, 2022 to a production company, if such tax credit sought for the project exceeds \$1.25 million
- Any projects certified by GDEcD on or after January 1, 2023 to a production company

Productions must submit an application (via GDOR webpage at <https://dor.georgia.gov/film-tax-credit-audits>) for a mandatory audit of the project in the manner provided by GDOR within one year from the date of the completion of principal photography. Productions can either choose the GDOR or a GDOR certified independent third-party (Eligible Auditor) to conduct the audit. All audits performed by an Eligible Auditor are required to be reviewed by the GDOR prior to the issuance of the final audit certification letter. Independent third-party accounting firm audit fees are to be negotiated between the Eligible Auditor and the production. Audit fees for the film tax credit examination do not qualify for the credit.

Production companies must submit the Mandatory Audit Application, GDEcD Certification Letter and the required GDOR fees, with its application. Note that GDOR fees are required even if an Eligible Auditor conducts the audit. Fees for an Eligible Auditor will be paid directly to the independent third-party accounting firm by the production. Once the application is submitted, depending on the production company's selection, either a GDOR auditor or an Eligible Auditor will contact the designated individual from the production to begin the audit.

The auditor selected by the production company will submit a list of initial documents required to begin the audit. The production will have 60 days to provide the required documentation. All document requests must be in the form of sequentially numbered *Information Document Requests*. The auditor is expected to include the following standard information in *Information Document Request (IDR) #1*:

1. Executed Power of Attorney (POA) – Form RD-1061 (in PDF format) - for all designated point of contact individuals (in PDF format), including a POA for the Eligible Auditor and a POA(s) for the payroll provider(s)
2. Copy of the Mandatory Audit Application and proof of GDOR audit fee payment (PDF)
3. Copy of the DEcD Tax Certification Application and DEcD Certification Letter (PDF)
4. Audit Questionnaire (Excel) – See GDOR form.
5. Production Balance Sheet and Trial Balance (Excel)
6. Final Detailed General Ledger (GL) containing qualified and non-qualified expenditures (Excel format), the GL is to be formatted in the same layout as the *Audit Workbook Training (Excel)*. Refer to the *Audit Workbook Training (Excel)* for guidance.
7. All Payroll Reports (including all states where work was performed) from the Payroll Provider(s) in approved DOR format; refer to the *Audit Workbook Training (Excel)*. Reports must provide a detailed listing of all production company personnel (including loan-outs), social security numbers, Georgia wages (taxable and non-taxable payments), per diems, withholding, detailed fringes, etc. **A set of all Payroll Reports must also be submitted directly to the auditor from the Payroll Provider(s).** (Excel)
8. Upon request, copies of all 1099s issued by the production (PDF)
9. Copy of filed Georgia sales/use tax returns (PDF)
10. Assets and Improvements to Real Property List (Excel)

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11. Copy of the submitted Georgia Form G7-Film return(s) and account payment transcripts (PDF)
12. Contracts for all loan-out and non-employee personal service companies (PDF)
13. Loan-out Contract Allocation (Excel)– See GDOR example.
14. Source documents used to complete the Loan-out Contract Allocation (Excel) Days tabs – may include various loan-out reports and internal emails and correspondence
15. Producers – Detailed daily narrative of activities performed (PDF)
16. Final Days out of Days report, Shooting Schedules, Cast, Crew, and Vendor lists (PDF)
17. All Daily Production Reports (including pre-production and post-production) -Final & Signed (PDF)
18. Bank Statements & Reconciliations (PDF)
19. Script Supervisor's Lined Script (PDF)
20. All final Call Sheets (including pre-production) (PDF)
21. Other items upon request.

After the initial documentation is reviewed and the sample from the GL is selected, the following information will be requested as needed in IDR #2. The production will have 60 days to provide the requested documentation to the auditor that must be clearly labelled and referenced into PDF files (if documentation is not legible, properly labelled and referenced, it will be disqualified from consideration as a qualified expenditure). Refer to *Sample Selection - #12 and #13* of this manual on how to properly present and reference PDF files:

1. Vendor invoices for goods and services (PDF)
2. Contracts (full and complete) for goods and services (PDF)
3. W-9s for vendors as mandated by statute and as provided by GA Rule 560-7-8-.45 (PDF)
4. Business licenses (PDF)
5. Copies of sales tax permits or sales tax number verification printouts from the Georgia Tax Center's Sales Tax Accounts verification tool (PDF)
6. Box rental agreements (PDF)
7. Packing slips/shipping labels (PDF)
8. Verification of In-State Work (Excel) – See GDOR form.
9. Journal entry backup (PDF)
10. Related party bids and/or studio rate cards (PDF) – if applicable
11. Other items upon request.

Once documentation is received, the auditor will proceed with determining qualifying and non-qualifying costs based on GA Rule 560-7-8-.45 and *Expenditure Guidelines* and calculate the qualifying film tax credit. The information is to be submitted by the production in the GDOR prescribed format as set-forth in GDOR's *Audit Workbook Training (Excel)*.

To finalize the tax credit, the Eligible Auditor firm will provide to the GDOR, through secure file transfer protocol, with a signed *Power of Attorney, Auditor Affidavit*, and all items listed in the *Final Audit Documentation Transmittal*. The documentation is to be organized utilizing folders and subfolders when submitting the documentation through the secure file transfer protocol. Create the following folders and subfolders when uploading the audit package for review:

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1. General Forms
 - a. POA
 - b. Mandatory Audit Application and Payment
 - c. GDEcD Certification Application and Letter
 - d. Auditor Affidavit
 - e. Final Audit Documentation Transmittal
2. General Audit Documentation
 - a. Audit Questionnaire
 - b. Production Balance Sheet and Trial Balance
 - c. Final Cost Report
 - d. Georgia G7-Film Returns
 - e. Georgia Sales and Use Tax Returns
 - f. Assets List
 - g. Final Days Out of Days
 - h. Shooting Schedules
 - i. Cast and Crew Lists
 - j. Vendor Lists
 - k. Daily Production Reports
 - l. Bank Statements and Reconciliations
 - m. Script Supervisor's Lined Script
 - n. Call Sheets
3. Audit Documentation
 - a. Final Audit Workbook
 - b. Payroll Report(s)
 - c. Loan-out Contracts – refer to *Sample Selection #13* for documentation requirements
 - d. Airfare – for d. and e. to k. below, refer to *Sample Selection #12* for documentation requirements
 - e. Lodging
 - f. Payments to Loan-outs
 - g. Assets
 - h. AP (Accounts Payable) & PC (Petty Cash) >\$100,000
 - i. AP≤\$100,000
 - j. PC≤\$100,000
 - k. JE (Journal Entry)
4. Other Requested Documentation

In the review process, GDOR may perform additional auditing (including requesting additional documentation), conducting the portions of the audit in which the Eligible Auditor firm is unable to access required information (due to confidentiality of information), and adjust the value of the tax credit as necessary. GDOR will issue a final list of exceptions to the CPA Firm for review. At the close of the audit, GDOR will issue a final certification letter validating the film tax credit amount. Once the production company receives the certification, the tax credit is considered earned in the taxable year in which final certification is issued, and the tax credit can be utilized or transferred. If the production company does not agree with the audit, the production company can file a written protest or appeal in accordance with the Taxpayer Bill of Rights.

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Voluntary Audit

Production companies that are not required to have an audit may request a voluntary audit and apply online (via GDOR website) by completing the Voluntary Film Tax Credit Audit Application and submitting the GDEcD Certification Letter. Upon notification of acceptance into the voluntary audit program, the production will be required to submit the audit fee. Voluntary audits will be conducted on a first come, first served basis based on auditor availability. Eligible Auditor firms are not allowed to conduct voluntary audits for the purpose of certification under the GDOR Certified Eligible Auditor Program.

II. Audit Procedures

Sample Selection

In order to begin auditing qualifying costs for the credit, the first step is to set up the audit workbook (Excel) by segregating the GL into various tabs for sample selection and testing. Follow the procedures contained within the section to properly segregate the GL. Refer to the *Audit Workbook Training* (Excel) regarding formatting/information required in each tab, and for an example of all tabs required in the full audit workbook.

1. Obtain a full General Ledger (GL) in Excel format from the production of both qualified and non-qualified costs. Make a copy of the General Ledger into a new tab and name it "Full GL-Auditor". Add two columns in "Full GL-Auditor" to become new columns A and B. Column A to be titled "Sequence Reference #" and column B is to be titled "Fiscal Year." In the Sequence # column (column A), number each line item sequentially (1,2,3...). This sequence number is important because it will be used to label documentation. In the Fiscal Year column, fill in the correct fiscal year for each line item. Filter by qualified costs, copy and paste the data onto a new worksheet and name it "GA GL-Auditor". The GA-GL Auditor tab will become the source document for all Georgia costs. Next, create a copy of the GA GL-Auditor tab and name it "Sample Selection". The "Sample Selection" tab will be used to build all subsequent tabs in the workbook.
2. From Sample Selection, segregate the following costs from all GL source codes:
 - a. Airfare Costs - all costs related to flights, including airfare, baggage fees, etc.
 - b. Lodging Costs - all lodging costs (including commercial and private lodging), and supplemental costs billed such as parking, cleaning, pet fees, and other ancillary costs billed by the vendor
 - c. Payments to loan-outs – per diems, relocation allowances, advances, etc. (i.e., all payments to loan-outs with the exception of reimbursed expenses).
 - d. Extras Payroll – if applicable
 - e. Assets and Improvements to Real Property
 - f. AP & PC > \$100,000
3. Segregate the *Airfare, Lodging, Payments to Loan-outs, Extras Payroll, Assets and Improvements to Real Property, and AP and PC > \$100,000* into six unique tabs. Check the tabs for the following:

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- a. Airfare – One round trip is allowed per episode or run of show per qualifying individual. Review qualified costs to verify only one qualifying roundtrip per episode or run of show is included. If more than 10 errors are identified, return all airfare costs to the production to identify the one qualifying airfare or provide an explanation for airfare costs that exceed one roundtrip per run of show. Intrastate airfare related to cast and crew transportation between filming locations does not have multiple airfare restrictions.
 - b. Lodging – Amounts up to the federal per diem rate (including prorated taxes) as set forth by the United States General Services Administration (GSA) is allowed per qualifying individual. Review qualified costs to verify the rates do not exceed GSA rates. If more than 10 errors are identified, return all lodging costs back to the production for the correct calculations. Refer to www.gsa.gov/travel-resources for applicable GSA rates.
 - c. Payments to Loan-outs – These costs will be reviewed during the *loan-out reconciliation*. See *Loan-Reconciliation* section.
 - d. Extras Payroll – These costs are to be used in the extras payroll reconciliation. See *Extras Payroll Reconciliation* section.
 - e. Assets and Improvements to Real Property – These costs are allowed at prorated depreciated amounts based upon the time the assets are used in qualified production activities in Georgia. Review qualified costs to verify the amounts have been depreciated and prorated. If any errors are found, return all asset costs back to the production for correct calculations. See *General Terms/Common Expenditures* on how to audit assets and improvements to real property.
 - f. AP & PC > \$100,000 - These are line-item amounts that exceed \$100,000 and all will be tested on an actual basis. There should be no assets in this data set. Likely costs include stage and office leases, and extended location leases.
4. Create a pivot table on the remaining qualified costs by source code. The pivot table will show AP (accounts payable), PC (petty cash), JE (journal entry) and PR (payroll) GL codes by total cost.
 5. Click on pivot table costs by source code to create the following tabs: AP, PC, JE and PR.
 6. AP Statistical Sample - These are line item amounts less than and equal to the ceiling of \$100,000 that will be tested on a sample basis. A statistical sample of four strata (150 invoices per stratum) will be selected from this population of data. A separate statistical sample workbook (refer to the *Statistical Sampling Training Workbook* (Excel) is created using Multistate Tax Commission (MTC) software and will be used for this portion of the audit. In the instance where any of the four strata contain fewer than 150 items, adjust the ceiling. Any items above the ceiling will be tested on an actual basis.
 - a. Statistical Sample Workbook

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- i. Create a tab and copy the AP GL data of line items less than and equal to \$100,000.
 1. The statistical sample data must first be cleaned up before running the data through the MTC statistical sample software.
 - a. Cancel out matching positive and negative amounts. For any unmatched negatives, segregate the unmatched negatives into another tab. The unmatched negatives will not be a part of the statistical sample population but will be brought back to the Sampling Summary Tab in the end.
 2. The remaining AP transactions are the Statistical Sample Population. Double check the data to confirm that there are no negative amounts in the population.
 3. Refer to *MTC Statistical Sampling Procedures* on how to generate the sample of line items to be tested.
 4. Certain tabs from the Statistical Sample Workbook will be carried forward to the Final Audit Workbook after determining the qualifying and non-qualifying expenditures. Refer to the *Audit Workbook Training (Excel)* for workpapers to be carried forward.
7. PC Statistical Sample – These transactions will be tested on a sample basis of three strata (50 invoices per stratum); refer to #6(a) above for procedures. The same \$100,000 ceiling will also be applied. In the instance where the top stratum contains fewer than 50 items, adjust the ceiling. Any items above the ceiling will be tested on an actual basis.
8. JE – Create a pivot table by journal entry number. Identify and review all journal entries that are not internal transfers between accounts. All JEs that bring costs into the ledger are examined on an actual basis.
9. PR – Various tabs will be created for the payroll reconciliation, loan-out reconciliation, and loan-out contract review. Refer to the *Audit Workbook Training (Excel)* for tabs/workpapers to be created and the *Payroll Reconciliation, Loan-out Reconciliation and Loan-out Contract Review* sections of this manual for auditing procedures.
10. Once the GL has been segregated into the required tabs, documentation will need to be requested to verify the tagged costs (those items chosen to be examined) are qualified.
11. Create a new Excel workbook containing the selected sample line items and send the production the workbook and IDR #2 to request supporting documentation. The Excel workbook will include:
 - a. Airfare (Tab 1) – all costs related to qualifying flights

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- b. Lodging (Tab 2) – all lodging costs at the General Services Administration (GSA) prescribed rate
 - c. Payments to Loan-outs (Tab 3) – all selected line items
 - d. Assets and Improvements to Real Property (Tab 4) – all line items
 - e. AP & PC > \$100,000 (Tab 5) – all line items
 - f. $AP \leq \$100,000$ (Tab 6) – 600 line items (4 strata of 150 items) per statistical sampling software
 - g. $PC \leq \$100,000$ (Tab 7) - 150 line items (3 strata of 50 items) per statistical sampling software
 - h. JE – (Tab 8) all line items that are not internal transfers between accounts
12. Supporting documentation for AP, PC and JE must be properly labelled and presented in PDF file packets.
- a. File Name Format – Name of the PDF file in the following format [Sequence Reference Number_Vendor Name]
 - i. Example – 23_Creative Media Services
 - b. PDF File – Include all documentation related to the expenditure in one scanned file. Documentation in general consists of the following for each source code (additional documentation may be requested):
 - i. AP and PC (tangible personal property) – copy of vendor invoice(s), all pages of vendor contracts (e.g., rental/lease agreements), W-9, business license, sales tax permit or sales tax number verification printout from Georgia Tax Center's (GTC) Sales Tax Accounts verification tool, packing slips/shipping labels and related party comparison bids and/or studio rate cards (if applicable).
 - ii. AP and PC (services) – copy of vendor invoice(s), loan-out contract/non-employee personal service company contract, W-9, business license, 1099, box rental agreement (if applicable), *Verification of In-State Work* (form), and related party comparison bids and/or studio rate cards (if applicable).
 - iii. JE – Depending on the nature of the JE, documentation may consist of documents listed above in i. and ii. or may be related to payroll. Journal entry accounting printouts are not sufficient. Documentation must consist of source documents.
13. Supporting documentation for all loan-outs must be properly labelled and presented in PDF file packets.
- a. File Name Format – Name the PDF file by loan-out name
 - b. PDF File – Include complete, signed, unredacted loan-out contract, and, for all producers, a detailed daily narrative describing activities performed.

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- c. Loan-out Contract Allocation – include the *Loan-out Allocation Summary* and *Days (Excel)* detail for each loan-out.
 - d. For each loan-out, include the source documents used to calculate the qualifying and non qualifying days on each *Days* detail tab. Source documents may include loan-out reports, airline tickets, internal emails, etc.
14. Once documentation is received, refer to GA Code Section O.C.G.A. § 48-7-40.26, GA Rule 560-7-8-.45 and, *Expenditure Guidelines* to determine which expenditures qualify in the calculation of credits. Follow the *Audit Workbook Training (Excel)* on how to record allowances and disallowances. The audit workbook must follow the format of the template before submission to the GDOR. The audit may be returned to the auditor for correction of formatting, content, error corrections or other items that do not meet the standards set forth by the GDOR. The auditor must attest that all necessary documents have been reviewed and presented for review by the GDOR in the mandated format.

Expenditure Guidelines

There are three conditions that must be met before analyzing invoices to determine whether the expenditure qualifies for the credit. First, all expenditures must be directly incurred by the production to qualify. However, expenditures paid by a “for-hire” entity, such as a production services company, may qualify, but must be supported by a production services agreement and reimbursement. Expenditures invoiced to and paid by such entity must be supported by the agreement and evidence of reimbursement. Second, purchases, rentals and services must be used/performed during the qualifying period in Georgia. Third, the expenditure must be directly used in a qualified production activity (i.e. wrap party gifts, publicity services do not qualify). If the three conditions are met, the next step is to determine whether the expenditure was a purchase/rental of tangible personal property or a service. This distinction is made because of the Georgia vendor rules. Purchases of tangible personal property and services performed off set must be from a qualified Georgia vendor. Whereas, services on set do not need to meet the Georgia vendor requirement but are subject to service allocation and possible withholding requirements.

Expenditures Summary Decision Guide

Does the expenditure meet all 3 preliminary conditions?

1. Directly incurred by the production; and
2. Used/performed during qualifying period; and
3. Directly used in a qualified production activity

If no, the cost does not qualify. If yes, obtain supporting documentation.

Georgia Vendor Rules

Qualifying purchases of tangible personal property or services not at the filming site must be purchased from a Georgia Vendor to qualify for the credit. A Georgia vendor is a one that meets the following

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standards:

1. 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.
 - a. Example A - A vendor is in the business of selling widgets and has locations in Georgia and California. The production orders 100 widgets from the vendor, but the vendor only has 90 widgets in inventory in Georgia. The remaining 10 widgets are shipped from the Georgia vendor's inventory in California to fulfill the order. All 100 widgets would qualify for the credit assuming all other requirements of a Georgia vendor are met.
 - b. Example B - A vendor is in the business of selling props and has locations in Georgia and California. The production orders 50 top hats and 50 white tuxedos. The Georgia location carries top hats in inventory, but not white tuxedos. The white tuxedos are held in California inventory. The vendor ships the white tuxedos from California inventory to the production. The purchase of the top hats would qualify, but the purchase of the white tuxedos would not qualify since the white tuxedos are not held in Georgia inventory in the ordinary course of business.
2. For services not performed at the filming site, the service should be of a type offered in the service provider's ordinary course of business. Therefore, if the service provider is only offering services to a single production and no one else, these services require close examination in order to determine if they are arms-length transactions. If the service provider offers the services to others in the ordinary course of business, then the services can qualify. IRS Form 1099-NEC must be issued to the service provider in accordance with IRS requirements as part of the qualification standards.
 - a. Example A – If a service provider's ordinary course of business is providing gardening services and the service provider provides casting services for a production, the casting services would not qualify.
 - b. Example B - If an entity only provides casting services to one specific production and does not avail its services to unrelated third parties, the services should be examined to determine if they are at arm's length.
3. A vendor that acts as a conduit for a non-Georgia vendor in making sales, rentals or services will not qualify.
 - a. Example A – The Georgia vendor's ordinary course of business is selling furniture. The production puts in a purchase order for the purchase of costumes. The GA vendor purchases the costumes from a California vendor to sell to the production. The Georgia

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vendor would be considered a conduit and the purchase of the costumes by the production would not qualify.

- b. Example B -The Georgia vendor's ordinary course of business is renting/selling costumes. The production puts in a purchase order for a custom-made costume. The Georgia vendor then outsources the custom order to a supplier located outside the state. The Georgia vendor invoices the production directly for the cost of the custom costume. Although the vendor supplies costumes in their ordinary course of business, the custom costume would not be allowed because it was not in the vendor's regular inventory. The Georgia vendor would be considered a conduit for the sale of the custom-made costume and the purchase by the production would not be an eligible expenditure.
 - c. Example C – A car service company's website advertises that it provides car services in Georgia and California. The company is headquartered in California and uses the vehicles and storefront of an unrelated Georgia vendor. The purchase of car services by the production would not qualify.
- 4. The vendor must have a physical location in Georgia, with at least one person working at the business location on a regular basis, including home-based businesses that otherwise meet the requirements of a Georgia vendor. Physical location is not established by use of a P.O. box, short term lease of virtual office space, short term (hourly, daily or week to week) leases of office space, leasing of storage facilities or a space that is leased or owned by a related entity, or other facilities that are used as a conduit for purposes of qualifying as a Georgia vendor.
 - a. Registering with the Georgia Secretary of State or appointing a Georgia registered agent does not establish a physical location in Georgia and should not be used as a criterion for determining vendor qualifications.
- 5. Vendors selling or leasing tangible personal property are required to be registered with the Georgia Department of Revenue for the reporting of sales and the collection of sales and use tax. The vendor must be registered and reporting at the time of the transaction to qualify.
 - a. To verify a vendor's sales and use tax registration, utilize the Sales Tax Accounts verification tool available through the Georgia Tax Center website. This step should have been conducted by the production company when the vendor submits a W-9, or no later than at the time of purchase. Purchases from a vendor whose registration begin date is after the purchase date will not qualify.
 - i. Example – A vendor sells costumes on March 31, 2019. The start date of sales tax registration is May 31, 2019. The vendor would not be considered a Georgia vendor until May 31, 2019 provided the other vendor requirements are met. Therefore, the cost of the costumes would be disqualified.
 - b. If a vendor is registered for the collection of sales and use tax and meets the other requirements of a Georgia vendor, but does not charge sales tax on a sale/rental of

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taxable goods, the production is required to accrue and remit use tax to qualify the expenditure as direct use for the film tax credit. The use tax must be legally reported and paid in a timely manner as statutorily required for the purchase to qualify. This does not apply to vendors that sell/lease non-taxable goods.

- c. Sales and use tax applicable to a purchase must be timely reported and remitted.
- 6. The vendor must have a valid local Georgia business license in effect during the production window, with its business address clearly listed.
- 7. For services performed at the filming site directly related to qualified production activities, the Georgia vendor requirements do not apply. Any services performed not at a filming site require the Georgia vendor qualifications be met. For services at the filming site, the vendor providing the services is required to:
 - a. Be listed on the Daily Production Report, and
 - b. Provide the services by the vendor's employees. It is the production's responsibility to obtain *Verification of In-State Work* from its vendors substantiating the amount of qualified services.
 - c. The production shall also collect and report the statutorily required withholding amount from vendors meeting the definition of a loan-out company. The withholding is reported on the G7-F using the vendor's FEIN and Withholding ID number.
 - d. Complete the *Verification of In-State Work* (form) – the vendor must complete the form and indicate the job location and percentage of work done in Georgia and outside Georgia.
 - i. Example A – A service provider is on set providing film capture services. The service provider sends 60% of the work back to the vendor's California office. 40% of the services will qualify for the credit if satisfying requirements a. to c. above.

General Vendor Summary Decision Guide

Vendor of Goods

- 1. Was sales tax charged on the invoice?
 - a. If No, was use tax remitted and paid timely on the production's sales/use tax return?
 - i. If No, then no further action and do not qualify the cost.
 - ii. If Yes, proceed with applying the GA vendor rules and other requirements of GA Rule 560-7-8-.45.
 - b. If Yes, does the vendor have a valid sales and use tax number?
 - i. If No, then no further action and do not qualify the cost.
 - ii. If Yes, was the invoice dated on or after the start date of the vendor's sales and sales and use tax number:
 - a) If No, then no further action and do not qualify the cost.

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- b) If Yes, proceed with applying the GA vendor rules and other requirements of GA Rule 560-7-8-.45.

Service Provider at Filming Site (performing services directly related to the production)

1. Does individual appear by name and vendor name on the Daily Production Report?
 - a. If No, then no further action and do not qualify the cost.
 - b. If Yes, was withholding at the prescribed rate reported on the production's G7-Film and paid timely if the company is a loan-out company?
 - i. If No, then no further action and do not qualify the cost.
 - ii. If Yes, proceed with applying the GA vendor rules and other requirements of GA Rule 560-7-8-.45.

Service Provider not at Filming Site (performing services directly related to the production)

1. Was withholding at the prescribed rate reported on the production's G7-Film and paid timely if the company is a loan-out company?
 - a. If No, then no further action and do not qualify the cost.
 - b. If Yes, then proceed with applying the GA vendor rules and other requirements of GA Rule 560-7-8-.45.

General Terms/Common Expenditures

The following provides the definition of terms and guidelines regarding the qualification of common expenditures (not all inclusive) incurred during the production of a project in Georgia. This guideline assumes that the three conditions in *Expenditure Guidelines* have been met. Please refer to GA Code Section O.C.G.A. § 48-7-40.26 and GA Rule 560-7-8-.45 for terms and expenditures not included below.

1. Qualifying Individual – Includes the following individuals performing a qualified production activity per GA Rule 560-7-8-.45(6)(c) (e.g., excluding publicity, marketing, and distribution services): an employee and loan-out earning wages on the payroll report (must be on payroll report); an individual on the "Crew List" paid through AP (e.g., extras, escrow payments to an actors account); an employee of a qualifying vendor; an employee of a vendor providing services at the filming site that appears on the Daily Production Report (disqualified if the individual identified by name and vendor name is not on the Daily Production Report); a minor's parent/guardian.
 - a. All costs related to other individuals (e.g., executives, companions, assistants to actors, private security) that do not fall under any of the above categories, do not qualify; including but not limited to expenditures for airfare, car rentals, per diems, and insurance.

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- b. Producers and other loan-out (e.g., director) services not related to direct production activities do not qualify for the film tax credit. These include but are not limited to financial, publicity, promotion, community relations, employee relations and training activities. Individuals providing valid qualified production activities are required to appear on the Daily Production Report. For producers, the loan-out contracts, *Loan-out Allocation* and a detailed daily narrative of the activities performed by the producers shall be submitted.
- 2. Qualifying Vendor – Refer to *Georgia Vendor Rules* for vendors selling goods and services off set, and for services provided on set.
- 3. At Filming Site – Includes the production stage and remote filming locations; all other locations considered off set.
- 4. Qualifying Service Provider at Filming Site – GA vendor rules not required.
 - a. Loan-out company (i.e. individuals performing services directly related to the production such as special effects, video production, etc.) – service provider must appear on the Daily Production Report. If the company is a loan-out, withholding is to be reported on G7-Film and paid timely at the prescribed rate to qualify. *Verification of In-State Work* (form) must be completed. Amounts paid to a loan-out company where the loan-out company is not providing services used in a qualified production activity are not subject to withholding. If the vendor is a sole-proprietor or single member LLC, IRS Form 1099 - NEC guidelines are applicable and loan-out withholding may apply.
 - b. Exception to loan-out company withholding rules include vendors providing ancillary services by Georgia licensed medical personnel, electricians, plumbers, and handymen. These services qualify provided the service provider meets the definition of a Georgia vendor.
- 5. Qualifying Service Provider Not at Filming Site – GA vendor requirements must be met. If a Georgia vendor, then:
 - a. Loan-out company (i.e. individuals performing services directly related to the production such as special effects, video production, etc.) – withholding is to be reported on G7-Film and paid timely at the prescribed rate to qualify, and *Verification of In-State Work* (form) must be completed.
 - b. Other service providers qualify such as security, fabrication or sewing services directly related to the production. IRS Form 1099 -NEC filing requirements are to be taken into consideration for qualification of the service costs.
- 6. Qualifying Service – Refer to GA Rule 560-7-8-.45 for qualifying services. Some non-qualifying services include activities such as publicity, marketing, and distribution. All payment forms for services are deemed qualified when services are provided and not when payment is made unless the production is on a cash basis.

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7. Qualifying Period – Documentation such as rental contracts, shooting schedules, days out of days reports and daily production reports, etc. will be used to validate the information. The qualifying period consists of:
- a. Four weeks prior to the opening date of the production office,
 - i. Costs four weeks prior to the date of the production office opening are considered as pre-production costs and can qualify. Costs prior to this are considered non-qualified planning and development. The production can request exceptions to the four week rule, but must provide detailed supporting documentation to support such exception.
 - b. The production period,
 - c. The reshoot period (if applicable) and period between the production period and reshoot period, if the reshoot occurred, and
 - d. Six weeks after close of the production office.
 - i. Allow costs six weeks after the production office is closed. These costs are usually for production tear-down (e.g. wrap and set strike costs) and storage (e.g. for wardrobe, sets, etc.). An exception would be if storing items for a reshoot or, if episodic television, the following season, in which case the costs would qualify beyond the four weeks only if the filming does occur within the taxable year certified by the GDEcD. A continuation certification from the GDEcD is required for the project's qualified expenditures that occur in the production's subsequent taxable year. Qualified Georgia post-production services not performed at the filming site after the production office has closed shall only qualify if the vendor is a Georgia vendor within the tax filing year listed on the Department of Economic Development certificate.
8. Commercial Airfare and Private Jet – Must be purchased through a Georgia travel agency or travel company to qualify.
- a. Feature Films – One roundtrip allowed per qualifying individual; flight to GA must originate from qualifying individual's home state; return flight must originate in GA and conclude uninterrupted in qualifying individual's home state; first flight in to GA and last flight out of GA are the qualifying flights. The one roundtrip restriction does not apply to intrastate flights for transportation to filming locations.
 - b. Episodic Series – Same rules as Feature Films except one roundtrip per episode is allowed. Travel must occur upon conclusion of the individuals work on the episode, and the individual must return prior to commencement of the individuals subsequent work on the show. The roundtrips cannot be "banked" and used upon discretion.
9. Travel Related Costs – Such as baggage fees and transportation to/from Georgia airport only qualify if related to a qualifying flight.

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10. Per Diem – Allowed for qualifying individuals

- a. Qualifying Individuals Other Than Loan-outs - Allow amounts up to the federal per diem rate as set forth by United States General Services Administration (varies by Georgia location and year); prorated federal taxes also qualify; disallow all per diems that are not properly calculated. The production can be provided the opportunity to properly correct the calculation. Also allow any excess that is included in the individual's income.
- b. Qualifying Loan-outs –Allow if withholding on per diems is reported on G7-Film and paid timely at the prescribed rate and included in the loan-out's income. See *Additional Loan-out Costs* section for further explanation.

11. Meals and Incidentals Reimbursements – For meal and incidental reimbursements, only allow up to the federal per diem rate as set forth by United States General Services Administration (varies by location and year) and only allow meal reimbursements if qualifying individuals did not receive a meal per diem or craft services. Costs for alcohol and tips are disallowed. Collaborative meals (for production staff, producers, directors, etc.) taken off set are limited to federal per diem rates for each meal and subject to the meal reimbursement rules stated above. Payments to loan-outs for meals are allowed if withholding is reported on G7-Film and paid timely. See *Additional Loan-out Costs* section for further explanation.

12. Lodging – Includes a hotel room, corporate housing, private housing, short-term rental agency or Airbnb - allow amounts up to the federal per diem rate as set forth by United States General Services Administration (varies by location and year) for qualifying individuals; prorated federal taxes also qualify; production calculation errors shall be returned to the production for correction when amounts exceed the GSA rates. Limited to one hotel room per individual per day. However, excess can be allowed if included in the individual's income and for loan-outs, if withholding occurs.

13. Lodging Reimbursements / Living Allowances – Same rules as *Lodging* with the exception of loan-outs; any payments directly to loan-outs require withholding reported on G7-Film and at the prescribed rate. See *Additional Loan-out Costs* section for further explanation.

14. Car Rentals – Only allowed for qualifying individuals and loan-outs. Limited to one rental car per individual per day.

15. Box Rentals – Only allowed for qualifying employees and loan-outs. The box rentals paid to employees can be paid through payroll provided the costs are included on the W-2 or through AP if the employee is issued an IRS Form 1099-NEC.

- a. Employee and 1099 individual– must have box rental contract and an applicable IRS Form 1099-NEC to qualify.
- b. Loan-out – must have withholding reported on a timely submitted G7-F and be timely remitted for the reporting period.

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- c. Vendor box rentals excluding employee or loan-outs– considered a rental of goods and must qualify as a Georgia vendor.
16. Insurance – Coverage in Georgia qualifies if purchased through a GA insurance agency but only to the extent the service is performed in GA by the insurance agency and company; insurance coverage in Georgia must be allocated (the complete insurance agreement/contract and allocation calculation must be provided to qualify).
- a. Cost allocation – various allocation methods can be used to determine qualifying coverage in Georgia:
 - i. Total Georgia Costs vs. Net Insurable Production Costs
 - ii. Total Georgia Costs vs. Total Budgeted Production Cost
 - iii. Number of Days in Georgia vs. Outside Georgia
 - b. Errors/Omissions and Completion Bonds – Do not qualify.
 - c. Insurance Claims/Proceeds – Must be included after the allocation calculation in the GL as a reduction of qualified GA GL costs. Any insurance company adjustments to the claims/proceeds for the film tax credit shall be included as an offset to qualified GA GL costs and reduce eligible costs.
17. Assets and Improvements to Real Property –
- i. For tangible personal property, the allowable amount is based on number of days of use in production over 1,825 days (5-year life). Spot check that the allocation was done for the correct fixed assets and that the calculations are correct. Return to the production for corrections if errors are found.
 - ii. Improvements to real property shall be deemed a capital lease if the lease term exceeds 75% of the life of the asset, or if there is a transfer of the asset to the lessee at the end of the lease, or there is an option for the lessee to purchase the asset for a bargain purchase price, or the lease payments exceeds 90% of the fair market value of the asset.
 - iii. If the production abandons the asset upon termination of the lease, the asset shall be subject to a 50% depreciation expense cap.
 - iv. For tangible personal assets – Verify that any proceeds from sales of assets were netted from the cost. Not a qualified cost and return to the production for correction as needed.
18. Shipping Charges – Intrastate shipping costs for qualified items purchased or rented in Georgia from Georgia vendors qualify. Documents such as packing slips, shipping labels, or return address labels establishing the goods were purchased in Georgia can be used to demonstrate the goods are shipped intrastate. The origination and destination points must be within Georgia to qualify.

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19. Goods Shipped from a GA Vendor's Location Outside Georgia – Do not qualify if goods are normally not held in the vendor's GA inventory; not qualified if documentation cannot support the intrastate transportation requirement.
20. Internet purchases from online vendors – In accordance with and subject to the standards outlined above in #19, allow if purchased from a qualified vendor that has a physical location in GA (e.g., Nordstrom, Office Max), shipped from a GA warehouse and sales tax was charged on the invoice; purchases from Amazon allowed if goods are shipped from a GA warehouse and sales tax was charged. Packing slips or labels are required to show shipment from a GA warehouse. When purchasing items online, the goods must be shipped from the vendor's Georgia warehouse location.
21. Sales Tax/Use Tax – Sales tax must be paid on expenditures directly used in a qualified production activity and be subject to sales tax pursuant to Chapter 8 of Title 48 of the Official Code of Georgia in order for the expenditure to qualify. If purchased from a vendor that meets the GA vendor requirements (this rule does not apply if purchased from a non-GA vendor) and the vendor does not charge tax on the sale of goods, the production is governed by the requirement to submit the use tax in a timely manner to qualify the expenditure. Production sales/use tax returns and supporting detail will be required to support use tax payments.
22. Withholding – Must be reported and paid timely to qualify. Per Georgia Rule 560-7-8-.45 (6)(d)(6.), if the production company does not timely remit the loan out withholding for the calendar withholding quarters included in the taxable year specified on the Department of Economic Development certification, then the expenditure(s) does not qualify for the film tax credit, unless the Department determines there was reasonable cause for such delay; provided, however, the mere failure to withhold and remit the required loan out withholding would not by itself be considered reasonable cause.
 - a. For example, the production period is October and November of 2020. The calendar withholding quarter runs from October through December of 2020. All amounts must be remitted no later than the January 31, 2021 due date for such quarter for the payment(s) to the loan out to qualify.
23. Related Party Transactions – The term "related parties" is a related person or related member as defined in O.C.G.A. § 48-7-28.3:

"(8) "Related member" means a person, with respect to the taxpayer during all or any portion of the tax year:

 - (A) That is a related person;
 - (B) That is a component member as defined in Section 1563(b) of the Internal Revenue Code of 1986;
 - (C) To or from whom there would be required an attribution of stock ownership in accordance with Section 1563(e) of the Internal Revenue Code of 1986; or
 - (D) That, notwithstanding its form of organization, bears the same relationship to the taxpayer as a person described in subparagraphs (A) through (C) of this paragraph.

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(7) "Related person" means:

(A) A stockholder who is an individual or a member of the stockholder's family enumerated in Section 318 of the Internal Revenue Code of 1986 if the stockholder and the members of the stockholder's family own, directly or indirectly, beneficially or constructively, in the aggregate at least 50 percent of the value of the taxpayer's outstanding stock;

(B) A stockholder, or a stockholder's partnerships, estate, trusts, or corporations, if the stockholder and the stockholder's partnerships, estate, trusts, and corporations own, directly or indirectly, beneficially or constructively, in the aggregate at least 50 percent of the value of the taxpayer's outstanding stock; or

(C) A corporation, or a person related to the corporation in a manner that would require an attribution of stock from the corporation to the person or from the person to the corporation under the attribution rules of Section 318 of the Internal Revenue Code of 1986, if the taxpayer owns, directly or indirectly, beneficially or constructively, at least 50 percent of the value of the corporation's outstanding stock.

(D) The attribution rules of Section 318 of the Internal Revenue Code of 1986 apply for purposes of determining whether the ownership requirements in subparagraphs (A) through (C) of this paragraph have been met.

(E) A limited liability company treated as a partnership for federal income tax purposes shall be considered a partnership for purposes of this paragraph and paragraph (8) of this subsection."

All related party transactions must be in accordance with an "arms-length" standard. The production company must disclose all related party transactions in the audit questionnaire. A minimum of three comparison bids and/or studio rate cards will be required to be provided.

24. Production Receipts from Sales of Qualified Purchases, Insurance Claims/Proceeds, Rebates (e.g., cash back from credit cards, fuel cards, vendors, workers compensation), Returns or Any Other Credits/Reimbursements – must be included in the cost ledger and reduce eligible costs.
25. Credit Card Service Charges – Disallow service fees if not a GA vendor. The underlying supplier accepting the credit card payment will qualify if a Georgia vendor.
26. Miscellaneous Non-Qualifying Expenditures – Wrap party costs, certain location rehabilitation costs, gym equipment, off set trainer, publicity costs, gifts, most fees (such as audit fees, legal fees, bank fees), finance costs are not considered "direct costs" for the film tax credit.
27. Loss and Damage (L&D) – Does not qualify.
28. Medical – Allow costs for medical physicals and doctor visits for qualifying individuals; preventive inoculations do not qualify. See special rules relating to COVID-19.
29. COVID-19 Related Costs – Please refer to Covid FAQ's at <https://dor.georgia.gov/coronavirus-tax-relief-information>.

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Payroll

Payroll is normally the largest cost of any production. Payroll is segmented into Above the Line (ABL) and Below the Line (BTL) costs and requires a distinct auditing approach for each segment. ABL costs are attributed to loan-out companies that provide the services of key individuals, such as actors, directors, and producers. These individuals are paid a fee based on the agreed upon terms of a loan-out contract. See *Loan-out Reconciliation* and *Loan-out Contract Review* on how to audit ABL costs. The BTL costs are for individuals paid through payroll. Audit methodology for payroll costs are as follows:

Payroll Reconciliation (General Ledger to Payroll Report)

To validate the general ledger (GL) for costs coded as GA "PR" (payroll), an employee by employee (in this case, employee means employee and loan-out) comparison between the GL PR costs to the payroll report costs is required. This comparison ensures the wages submitted for credit were earned for services provided in Georgia. Non-qualifying differences include wages paid for pre- or post-production services, and publicity and promotional services performed outside Georgia, and the tagging of fringes associated with non-Georgia earnings. The reconciliation of the GL to the payroll report is performed by obtaining employee wages/fringes from each source and combining the data onto one schedule for a side by side comparison.

General Ledger "PR" Source Code:

1. Create a pivot table by employee name and qualifying payroll (which includes total taxable/non-taxable wages (gross wages), ER (employer payroll) taxes, WC (workman's compensation), PHW (pension, health and welfare), and excludes payroll handling fees; Payroll from AP, JE, and PC will be included in the Employee by Employee Comparison schedule.

Payroll Report:

1. Sort Payroll Report by work state GA and exclude any non-GA states.
2. Create a pivot table by employee name and qualifying payroll (which includes total taxable/non-taxable wages (gross wages), ER taxes, WC, PHW, and excludes payroll handling fees).

Employee by Employee PR:

1. Compare the corresponding employee and qualifying payroll amounts from the payroll report and the general ledger for a side by side comparison by employee name. Match up by employee name.
 - a. If applicable, add payroll from AP, JE and PC to GL PR payments for Total GL payroll payments.
2. Add a column for differences and subtract the qualifying payroll per the Total GL payroll payments from the qualifying payroll per the payroll report for each employee. Ideally, the two amounts will be equal. For employees in which the Total GL payroll payment exceeds the Payroll Report, the difference is entered into the disallowed column. For employees in which payroll per GL is less than or equal to the Payroll Report, no further action is necessary.

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Refer to the *Audit Workbook Training* on how the reconciliation of the general ledger to the payroll report should be presented in the final audit workbook.

Additional Payroll Auditing Procedures

1. W-2 Employee Wages Over \$500,000 - W-2 Georgia employee wages exceeding \$500,000 do not qualify for the credit. Return to the *Employee by Employee PR* tab that was previously created. Highlight ALL employees that exceed this threshold. If the individual is a loan-out, no further action is needed. If the individual is a W-2 employee, disallow any wages that exceed \$500,000 and the portion of fringes associated with the disallowed wages. Note that all payments to a single employee and any legal entity in which the employee has any direct or indirect ownership interest, shall be considered as having been paid to the employee and aggregated as wages regardless of the means of payment or distribution. This means if the individual received any other payments (e.g. payments for box rentals through AP, salary and fringes paid through JE, etc.), these amounts must be considered and included in the test of wages over \$500,000.
2. Wages in Qualifying Period - Georgia payroll costs are considered qualified if they are incurred during the pre-production period which starts four weeks before the opening of the production office and ends six weeks after the closing of the production office. Any wages paid outside this timeline will be disqualified. Wages associated with planning continue to be disqualified.
 - a. Example: If the production office opened December 1, 2019, any wages that were paid prior to November 1, 2019 are non-qualifying wages. If the production office closed on February 1, 2020, any wages for work performed after March 14, 2020 would be disqualified.
3. Exclusion of California SUI ER – For wages starting January 1, 2020, the SUI/SDI California resident employee fringes do not qualify for the film tax credit. (Starting January 1, 2020, SUI ER for California residents is paid to CA and not GA). Disallow SUI ER payments for California residents.
4. Handling Fees - Exclude payroll handling fees for payroll companies that are not GA vendors. For GA vendors only, costs based on services rendered in GA are to be supported by a cost analysis provided by the vendor and accepted by the GDOR.

Refer to the *Audit Workbook Training* (Excel) on how the additional payroll auditing procedures should be presented in the audit workbook.

Extras Payroll Reconciliation

Extras payroll is typically paid via AP and will need to be reconciled against the extras payroll report to validate the costs. The extras payroll reconciliation is conducted on an overall basis rather than employee by employee. In general, the procedures are as follows:

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1. Sort the extras payroll report by work state GA and exclude any non-GA states.
2. Calculate the total extras payroll cost, including gross wages and all applicable fringes.
3. Compare the total extras payroll cost to the GL extras payroll cost.
4. If the GL extras payroll cost is greater than the extras payroll report, disallow the difference.
5. In all cases, any handling fees from non-qualifying payroll providers, included in the GL, must be disqualified.

The auditor should be aware of work location and Georgia state income tax withholdings on the extras payroll report. If needed, the auditor can request copies of the W-2 statements to confirm attributed Georgia wages match the payroll report.

Refer to the *Audit Workbook Training* (Excel) on how the extras payroll reconciliation should be presented in the audit workbook.

Loan-out Reconciliation

Withholding at the prescribed rate must be withheld and paid on qualified loan-out compensation in order to qualify for the film tax credit. The purpose of the loan-out reconciliation is to determine if the correct amount of withholding was paid on total payments to the loan-out. This is verified by completing the following steps:

1. Create a pivot table from the payroll report that contains the loan-out's name and total GA taxable/non-taxable payments by loan-out.
2. Review the GL for any additional payments to the loan-out from source codes AP, JE and PC. Review supporting documentation for these costs and determine the non-qualifying and qualifying payments. The disallowed costs will flow to the *Disallowed Lead* in the audit workbook. The qualifying amounts will be added to taxable/non-taxable payments to arrive at total payments to the loan-out. The segregation of these costs should have already been completed in *Sample Selection* section 3.c.
 - a. Additional payments to loan-outs include per diems, relocation allowances, advances, etc. (i.e. all payments to loan-out with the exception of reimburse expenses).
3. Once total payments to the loan-out is determined, calculate the withholding amount due. This is the amount of withholding that should have been reported on the G7-F and paid by the production.
 - a. Calculation: **Total Payments x Withholding Rate**
4. Compare the calculated withholding amount to the amount reported on the G7-Film (also verify all amounts reported on the G7-Film were paid in full by reviewing a copy of the account payment transcript). If the amount is less than what was reported this shows that withholding was underpaid. This amount equals disallowed withholding.

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- a. To convert the disallowed withholding amount to the disallowed payment, the calculation is as follows – **Disallowed Withholding / Withholding Rate**

Refer to the *Audit Workbook Training* (Excel) on how the loan-out reconciliation should be presented in the audit workbook.

Loan-out Contract Review

A Loan-out Company (“loan-out”) is contracted by the production company for the performance of services used directly in a production. However, not all services provided by a loan-out meet the definition of a direct expense. Services rendered outside of Georgia, services rendered in Georgia not at the filming site when the loan-out is not a qualified GA vendor, services prior to the contract start date, or certain services related to non-qualified production activities do not qualify for the credit.

The purpose of the loan-out contract review is to analyze each service component of the contract and determine if an allocation is required for services performed outside of Georgia or not at the filming site (if the loan-out is not a qualified GA vendor) and/or for non-qualifying services, as defined in Georgia Rule 560-7-8-.45. In general, the following guidelines provide the common components of a loan-out contract and allocation method to determine non-qualifying services.

Typical services/components of a loan-out contract include:

- a. Planning and Development Services (e.g., scouting, writing, script edits, acquisition rights, financing) – Services related to planning and development listed or implied in the contract will be disallowed, since, by definition, they are not direct production costs. Services performed more than four weeks prior to the office opening will be considered non-qualifying development.
- b. Pre-Production Services (e.g., wardrobe, voice work, fittings, hair, makeup, camera tests, auditions, rehearsals, pre-recordings, pre-shoots, and certain consultations) - These services qualify if they are performed in Georgia at the filming location within **four weeks** prior to the opening of the production office. Pre-production services that are performed in Georgia, but not at the filming location, will not qualify unless the loan-out is a qualified Georgia vendor. Pre-production services are usually performed before the start date of principal photography.
- c. Principal Photography Services – These services include shooting days, hold days (non-working days on location), travel days and “free” days or weeks. These services qualify for the credit if performed in Georgia at the filming location.
- d. Post-Production Services (e.g., retakes, added scenes, looping, dubbing, post-synching, voice recording, motion capture performance or scanning, tech days, pre-screening, “free” days or weeks) - These services qualify if they are performed in Georgia at the filming location. Post-production services that are performed in Georgia, but not at the filming location, will not qualify unless the loan-out is a qualified Georgia vendor. These

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services are normally performed after principal photography has ended.

- e. Promotional Activity Services (e.g., publicity interviews, press junkets, premieres, personal appearances, still photography, promotional films, trailers, electronic media and press kits) - Publicity and promotion days do not qualify for the credit.
- f. Residuals, Pre-payment of Distribution and Like-Kind Fees - Advanced payment of residuals included in the total compensation do not qualify for the credit. Residuals are non-qualified costs which are not related to production and must be excluded from qualified costs.
- g. Services not performed at the filming location by a non-GA vendor do not qualify.

Loan-out Contract Allocation Procedures

1. Obtain a full, signed and dated, unredacted copy of the contract/agreement for each loan-out and personal service company. Review the contract and confirm the following:
 - a. Loan-out company and individual names match the payroll report.
 - b. Job description of the loan-out matches all listed titles in the payroll report. For example, if the loan-out was paid in the payroll report as a Director, Producer and Writer, then the services of each role should be stated in the contract.
 - c. Contract is between the loan-out and the production company. The contract cannot be between any other entities.
 - d. If any of the details above are missing or not accurate and complete, then all costs related to the loan-out will be disallowed.
2. Loan-out Contract Days Detail – For each loan-out, prepare a schedule (following the format of *Loan-out Contract Allocation “Days”* tabs in the *Loan-out Contract Allocation Workbook* (Excel)) that details and accounts for **every** day of activity or non-activity (e.g., hold days, on call days) performed by the loan-out. Refer to and follow the sample *Loan-out Contract Allocation* (Excel) Days tabs as the various components are discussed below (assume the loan-out is not a qualified GA vendor):
 - a. In the header of each loan-out *Days* tab, complete the loan-out information shown (name, job title, start date, etc.), including the contract payment terms.
 - b. In general, unless specifically stated in the contract, any allocation of compensation will be based on a percentage method determined by a calculation of time spent in GA at the filming location (“GA Days”) on qualifying activities (the numerator) divided by total time spent on all activities (“Total Days”) listed in the contract (the denominator). Time spent is computed using days or half days (see GA Rule 560-7-8-.45 for more information). If the loan-out contract contains specific language on allocation, default to the language of the contract if it is reasonable.
 - i. Calculation: **GA Qualifying Days / Total Days of Service = Allowed GA%**

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- c. **Start date** – Payments for services in advance are only qualified when the services are rendered in Georgia at the filming location and to the extent that they are qualifying activities (e.g., escrow payments - when the actor must be fully paid before they arrive on set per contract language).
- d. **Planning and Development** – Not qualified; include number of days performed for this service in the denominator only.
- e. **Pre-Production Services** – Allowed if performed in Georgia at the filming location within four weeks prior to opening of the production office; include number of qualifying days performed for this service in the numerator and all days performed for this service in the denominator.
- f. **Travel Days** – Travel from out-of-state home state to the Georgia set qualifies as a half day and travel from the Georgia set to the out-of-state home state qualifies as a half day. If there is one round trip allowed, then one day would be in the numerator and two days would be in the denominator. For episodic television or reshoots, there may be more travel days allowed that will need to be included in the computation.
- g. **Principal Photography** – These services, including any hold days and “free” days, qualify for the credit if performed in Georgia at the filming location and are included in the numerator and denominator.
 - i. Obtain the Final DOOD report showing total GA filming days and total GA days for each actor. Obtain listing of days spent on out-of-state shoots. Total filming days in the denominator will equal GA days plus out-of-state days and total GA days will be in the numerator. Any relevant documentation establishing the value of qualified services performed in Georgia can be taken into account.
 - ii. For producers, directors, and other non-actor loan-out companies, use the total DOOD days, if applicable to the loan-out, or use the daily production reports to determine the total GA and non-GA days.
 - iii. Hold days and service days that do not begin and end in Georgia are not used to calculate the GA days, but remain in the denominator.
- h. **Post-Production Services and “Free” Days** - These services qualify if they are performed in Georgia at the filming location. All qualifying post-production days are included in the numerator and total days are included in the denominator.
- i. **Promotional Activities** – Publicity and promotion obligations do not qualify for the credit. Account for these days in the denominator only.
- j. **Residuals** - Advanced payment of residuals and distribution fees (or like-kind costs) are often included in the total compensation. These types of payments are non-qualified costs.
- k. For each service date entered on the loan-out tab, input additional information as shown on the spreadsheet, such as the service type, the location of the services,

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whether the service was performed at the GA filming location, the description of the services performed and the source document used to determine qualifying days. If a qualifying service was not performed at the GA filming location, but was performed in GA, the day will only qualify to the extent the loan-out is a GA vendor. For any non-qualifying compensation listed separately in the contract, list the compensation as **Actual Payments Disallowed per Contract**. Do not allocate Days to these services as they are computed on an actual basis.

- l. The **Allowed GA %** and the **Actual Payments Disallowed per Contract** for each loan-out will flow forward to the *Loan-out Allocation Summary* tab for further computation.
- m. Retain all back up documentation used to calculate the qualifying and non-qualifying days for each loan-out. This documentation is to be submitted to the DOR as part of IDR #1 and may include reports, emails, loan-out folders, etc.

3. Loan-out Contract Allocation Summary

- a. After determining the **Allowable GA%** for each of the loan-outs in the individual *Days* tabs, prepare the *Loan-out Allocation Summary* schedule to calculate **Disallowed Loan-out Payments**. There are two calculations needed before determining the disallowed loan-out payments. The first calculation determines **Total GA Calculated Payments** and the second calculation determines **Total GA Allowed Payments**.
 - i. Refer to the *Loan-out Contract Allocation Summary* in the *Audit Workbook Training* on how the loan-out allocation should be presented.
- b. Calculation #1: Subtract **Actual Payments Disallowed per Contract** (if any) from **Total Payments** to loan-outs from all states (includes all states wages and fringes from the payroll report) to arrive at **Total Payments Less Actual Disallowed**. Then apply **Allowed GA%** to **Total Payments Less Actual Disallowed** to arrive at **Total GA Calculated Payments**.
 - i. **Total Payments** will be calculated on a separate tab and flow forward to the Loan-out Allocation Summary.
- c. Calculation #2: Subtract **Actual GA Payments Disallowed per Contract** (e.g. residuals) from **Total GA Payments** (GA wages and fringes from the payroll report) to arrive at **Total GA Allowed Payments**.
 - i. **Total GA Payments** will be calculated on a separate tab and flow forward to the Loan-out Allocation Summary.
- d. Subtract **Total GA Calculated Payments** from **Total GA Allowed Payments**.
 - i. If the difference is negative (total calculated payments is less than total allowed payments) or zero, no further action is necessary.
 - ii. If the difference is positive (total calculated payments is less than total allowed payments), disallow the difference and enter the disallowed amount in **Disallowed Loan-out Payments**. This is the total loan-out contract amount that

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will not be qualified and the amount will flow forward to the Disallowed Lead in the Audit Workpapers.

1. Note – withholding recorded on the payroll report should never be greater than withholding reported/paid on the G7-Film return for a loan-out. If this occurs, the auditor is to request a copy of the G2-FL (Allocated Withholding on Employees of Loan-out Company) to verify withholding reported to the loan-out.
- e. There may be modifications and exceptions to the loan-out calculations based on the terms of each contract and the facts related to each loan-out company. The *Loan-out Contract Allocation Summary* and related loan-out days tabs are an example of how a contract would generally be allocated, but there can be exceptions.
4. Supporting documentation for all loan-outs must be properly labelled and presented in PDF file packets. See *Sample Selection #13* for required documentation.

Additional Loan-out Costs

Loan-out contracts typically contain perks and other compensation which may include additional airfare, luxury housing and transportation, companion costs, personal staff costs (not employees of the production), sundries and other specific items expressively or implicitly required by the loan-out. Perks paid through Accounts Payable will be reviewed and tested to comply with the rules as stated in GA Rule 560-7-8-.45 and *Expenditure Guidelines*. Below are some perks commonly included in loan-out contracts:

1. **Per Diems, Allowances and Box Rentals** – In general, payments made to the loan-out through accounts payable for living allowances, meals, per diems and box rentals are considered additional compensation and will be disallowed unless withholding is paid on these payments.
2. **Stipend / Additional Perk Payment** – These types of payments to a loan-out will be allowed if withholding is reported and paid timely at the prescribed rate. If filming was done both in and outside Georgia, then the amount that qualifies will be prorated. The amount of the stipend and/or perk payment must be stated in the contract.
3. **Perks Paid by the Production** – Perks paid by the production directly to the vendor generally are not qualified costs. The costs will be reviewed in accordance with the sampling methodology employed during the audit.
 - a. **Example 1:** An actor's contract states that the production will pay \$10,000 for the rental of a private residence during production. In this scenario, any amount exceeding the applicable GSA lodging rate would be disqualified unless it is included in the loan-out's income and withholding occurs. This is considered a non-qualifying perk.
 - b. **Example 2:** The production pays travel, rental car and lodging costs for both the loan-out's companion and personal assistant (not an employee of the production). These

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costs are non-qualifying perks unless it is included in the loan-out's income and withholding occurs.

- c. **Example 3:** Actor requests special sheets and pillows for their hotel room. Production purchases these items for the actor. These costs are non-qualifying perks unless it is included in the loan-outs income and withholding occurs.

See *Expenditure Guidelines* #10 – 15 for additional information related to loan-out payments.
