

REELING in the Money Financing Your Film

You have a great idea. You write a great script. You believe you are ready to produce the next blockbuster feature film. Although quality creative content will be instrumental to your success, it won't be enough. Funding will be needed for various aspects of the production (including pre- and post-production).

The need for financing often becomes one of the biggest obstacles to independent filmmakers. There are a variety of ways to finance a film. There are advantages and disadvantages to each option and not all methods work or are available for all filmmakers.

EQUITY FINANCING

In this type of financing arrangement, investors provide funding to the company in exchange for an interest in the company (such as shares of stock or membership interests). The investor expects to receive the money back but also expects (hopes) that there will be profit on the investment. If the company has been formed for the purpose of a single film production, the success of that film will determine whether the investor will receive any money back. Equity holders take a back seat to creditors. Because any return on the investment will depend upon the success of the company, an equity investment can be risky.

DEBT FINANCING

In a different type of financing, the company may borrow money from a bank or other lender. Loans are typically evidenced by promissory notes or similar instruments and entitle the lender to be repaid the amount of the loan plus interest on the maturity date. To obtain a bank loan, the borrower most likely will be required to provide collateral to secure repayment of the loan. Some loans are made on a recourse basis, which means that a guarantor (such as the producer) may become personally liable if the company defaults. This is a risky proposition for the producer because the film may not generate sufficient revenue to fully repay the loan. Non-recourse loans generally only look to the borrower (i.e., the company) and its assets for repayment.



PRE-SALES

A company may "pre-sell" certain rights in the film prior to its completion. A pre-sale is an advance sale or license of distribution rights in certain territories or media. A pre-sale agreement may be signed even prior to principal photography. Pre-sales don't necessarily provide advance payment but may provide a source of future revenue which may be used as collateral to support a loan.

TAX INCENTIVES

As banks and investors become more cautious in taking risks, filmmakers look to government subsidies and other incentives. Governments provide incentives to promote the growth of certain industries and the creation of additional jobs. The State of Michigan currently offers various tax incentives including the film production credit for up to 42% of expenditures in Michigan. These tax credits can be used as part of the financing through the sale or pledge of the credits.

There are other forms of financing including deferrals and product placements. Different forms of financing may be combined to fully fund the production.

A completion bond may be required in connection with certain financings.

Investors may come in different forms and from a variety of sources, but a company seeking financing must be careful to comply with applicable federal and state securities laws. Failure to comply can have dire consequences including personal liability on those seeking investor financing on behalf

of the company.

Financing a film is not easy—especially in these difficult economic times. In working through the process, filmmakers should be mindful of applicable legal restrictions and afford themselves of those options best suited under the circumstances.

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