pennsylvania
DEPARTMENT OF COMMUNITY & ECONOMIC DEVELOPMENT

FILM PRODUCTION TAX CREDIT

Program Guidelines | December 2018

Commonwealth of Pennsylvania | Tom Wolf, Governor
PA Department of Community & Economic Development | dced.pa.gov

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Section I – Introduction

The Commonwealth of Pennsylvania (the "Commonwealth"), through the Department of Community and Economic Development (the "Department"), administers the Film Production Tax Credit Program (the "Program") authorized by Article XVII-D Subarticle B of the Tax Reform Code of 1971 (P.L. 6, No.2) (the "Act"), a copy of which is attached as Appendix A.

Act 84 of 2016 added a new, enhanced tax credit to the Program for postproduction expenses incurred at a Qualified Postproduction Facility. For explanation purposes only, certain sections of these guidelines separate the Program into two components as described below. It is important to note there are NOT separate allotments of tax credits set aside for each component. All applications will be evaluated on the same criteria as required by the Act.

- **Component A:** Film production – pre-production, production, and/or postproduction expenses incurred at a location in Pennsylvania other than one identified under Component B.
- **Component B:** Postproduction expenses incurred at a Qualified Postproduction Facility.

Applicants should read and understand the requirements of the Act prior to submitting an application. Applicants are also strongly encouraged to consult with their legal and financial advisors prior to submitting an application.

Section II – Eligibility

Component A – Film Production

Eligibility for a Film Production Tax Credit under Component A is determined by: (a) the type of production and (b) the amount of Pennsylvania Production Expenses relative to the amount of total Production Expenses.

> *Note: Total Production Expenses include the dollar amount spent for all pre-production, actual film production, and postproduction activities.*

The types of Film eligible for a Film Production Tax Credit under the Program are restricted to:

- a feature film
- a television film
- a television talk or game show series
- a television commercial
- a television pilot or each episode of a television series intended as programming for a national audience.

The following types of film production are NOT eligible for a tax credit: a production featuring news, current events, weather and market reports, public programming, sports events, awards shows or other gala events, a production that solicits funds, a production containing obscene material or performances as defined in 18 Pa.C.S. §5903(b) (relating to obscene and other sexual materials and performances), or a production primarily for private, political, industrial, corporate, or institutional purposes.

To be eligible for a Film Production Tax Credit under Component A, Pennsylvania Production Expenses must comprise at least 60 percent of a Film's total Production Expenses.

> *Note: The Qualified Postproduction Expenses incurred under Component B for Films that also incur expenses under Component A of the Program will be included in determining a Film's eligibility for a tax credit under Component A, but will only be approved for and awarded a tax credit under Component B. In other words, the Qualified Postproduction Expenses incurred at a Qualified Postproduction Facility will be eligible to receive a tax credit under Component B only – NOT UNDER BOTH COMPONENTS.*

Component B – Postproduction at a Qualified Postproduction Facility

Eligibility for a Film Production Tax Credit for Postproduction Expenses of original content for a Film is determined by the type(s) of postproduction activity and whether the Postproduction Expense(s) is incurred at a Qualified Postproduction Facility.

Eligible expenses for postproduction activities involving traditional, emerging and new work flow techniques used in postproduction include:

- picture, sound and music editorial, rerecording and mixing;
- visual effects;
- graphic design;
- original scoring;
- animation;
- musical composition;
- mastering;
- dubbing.

Only expenses incurred at a Qualified Postproduction Facility, either as part of the total production activities of a Film that qualifies for a tax credit under Component A or as a stand-alone postproduction project, are eligible for a tax credit under Component B of the Program.

> *Note: Postproduction Expenses incurred in Pennsylvania at a facility other than a Qualified Postproduction Facility may still be eligible under the Program. To be eligible, the Postproduction Expenses must be for and included in the Pennsylvania Production Expenses of a Film eligible for a tax credit under Component A.*

Expenses for editing previously produced content for a Film and/or expenses for news or current affairs, talk shows, instructional videos, and/or content containing obscene material or performances as defined in 18 Pa.C.S. § 5903(b) are NOT eligible for a tax credit.

Exclusions

Projects that have completed all phases of Film production or postproduction at the time of application are not eligible for a Film Production Tax Credit.

Projects with a Film Production Tax Credit Contract may not submit a revised or new application for additional tax credits for the same Film production or postproduction project.

Approval and award of all Film Production Tax Credits, on either an actual or conditional basis, are subject to the availability of tax credits in a fiscal year.

Tax Credit Levels

Component A – Film Production
Films with eligible expenses may receive a Film Production Tax Credit of up to 25 percent of their Qualified Film Production Expenses.

A Film with eligible expenses may receive an additional 5 percent tax credit for a total credit of 30 percent if the taxpayer films a feature film, television film, or television series intended as programming for a national audience that meets the minimum stage filming requirements at a Qualified Production Facility. (See Appendix N for a list of Qualified Production Facilities.)

Applicants for Films scheduled to be in production for more than 12 months may at the time of application make a written request for the Film Production Tax Credit to be issued on an annual basis rather than upon completion of production. The Department may, at its discretion, grant such request subject to the following conditions:

- The amount of Film Production Tax Credit to be issued will be limited to 25 percent of Qualified Production Expenses actually incurred in connection with the Film during the relevant 12 month period specified in the request.
- The applicant must comply with the Financial Compliance instructions for the Program (Section IX) with respect to each Film Production Tax Credit to be issued under this provision.

If granted by the Department, the request may not be withdrawn or changed.

Component B – Postproduction at a Qualified Postproduction Facility
Applicants with eligible Postproduction Expenses incurred at a Qualified Postproduction Facility, either as part of the total production activities of a Film that qualifies for a tax credit under Component A or as a stand-alone postproduction project, are eligible to receive a 30 percent Film Production Tax Credit for these Postproduction Expenses under Component B of the Program.

As noted above, Films that receive the 30 percent tax credit for their Qualified Postproduction Expenses under Component B will not receive a tax credit for these same expenses under Component A. However, these expenses will be included with the Film's preproduction and production expenses in determining the Film's eligibility for a tax credit under Component A (i.e., whether the Film's Pennsylvania Production Expenses comprise at least 60 percent of total Production Expenses). The amount of tax credit a Film is eligible to receive for its Qualified Postproduction Expenses under Component B will be determined separately and based solely on the amount of the Qualified Postproduction Expenses.

Please see the examples below for the way in which eligibility for and the amount of a Film Production Tax Credit will be calculated under various scenarios.

EXAMPLE SET 1
FILM PRODUCTION AT A *NON-QUALIFIED* FILM PRODUCTION FACILITY

Example 1A. Film Production, but No Postproduction Expenses, Incurred in Pennsylvania

Determination of Eligibility

Total Production Expenses $75,000

Pennsylvania Production Expenses:

Pre-Production $10,000
Production $35,000
Postproduction $0

Pennsylvania Production Expenses $45,000

Production Qualifies: $45,000 ÷ $75,000 = 60%

Amount of Tax Credit

Pre-Production . . . . . .$10,000 x 25% = $2,500

Production . . . . . .$35,000 x 25% = $8,750

Postproduction $0

TOTAL TAX CREDIT $11,250

Example 1B. Postproduction Expenses Incurred in PA, but at Non-Qualified Postproduction Facility

Determination of Eligibility

Total Production Expenses $100,000

Pennsylvania Production Expenses:

Pre-Production $10,000
Production $35,000
Postproduction $15,000

Pennsylvania Production Expenses $60,000

Production Qualifies: $60,000 ÷ $100,000 = 60%

Amount of Tax Credit

Pre-Production . . . . . .$10,000 x 25% = $2,500

Production . . . . . .$35,000 x 25% = $8,750

Postproduction . . . . . .$15,000 x 25% = $3,750

TOTAL TAX CREDIT $15,000

Example 1C. All Postproduction Expenses Incurred at a Qualified Postproduction Facility

Determination of Eligibility

Total Production Expenses $100,000

Pennsylvania Production Expenses:

Pre-Production $10,000
Production $35,000
Postproduction $15,000

Pennsylvania Production Expenses $60,000

Production Qualifies: $60,000 ÷ $100,000 = 60%

Amount of Tax Credit

Pre-Production . . . . . .$10,000 x 25% = $2,500

Production . . . . . .$35,000 x 25% = $8,750

Postproduction . . . . . .$15,000 x 30% = $4,500

TOTAL TAX CREDIT $15,750

Example 1D. Postproduction Expenses Incurred at a Qualified Postproduction Facility and Elsewhere in Pennsylvania

Determination of Eligibility

Total Production Expenses $100,000

Pennsylvania Production Expenses:

Pre-Production $10,000
Production $35,000
Postproduction . . . . . .$7,500 *(incurred at Qualified Postproduction Facility)*
Postproduction . . . . . .$7,500 *(incurred elsewhere in Pennsylvania)*

Pennsylvania Production Expenses $60,000

Production Qualifies: $60,000 ÷ $100,000 = 60%

Amount of Tax Credit

Pre-Production . . . . . .$10,000 x 25% = $2,500

Production . . . . . .$35,000 x 25% = $8,750

Postproduction . . . . . .$ 7,500 x 30% = $2,250 *(Qualified Postproduction Facility)*

Postproduction . . . . . .$ 7,500 x 25% = $1,875 *(elsewhere in Pennsylvania)*

TOTAL TAX CREDIT $15,375

EXAMPLE SET 2
PA FILM PRODUCTION AT *PA QUALIFIED PRODUCTION FACILITY*

Example 2A. Film Production, but No Postproduction Expenses, Incurred in Pennsylvania

Determination of Eligibility

Total Production Expenses $75,000

Pennsylvania Production Expenses:

Pre-Production $10,000
Production $35,000
Postproduction $0

Pennsylvania Production Expenses $45,000

Production Qualifies: $45,000 ÷ $75,000 = 60%

Amount of Tax Credit

Pre-Production . . . . . .$10,000 x 30% = $3,000

Production . . . . . .$35,000 x 30% = $10,500

Postproduction $0

TOTAL TAX CREDIT $13,500

Example 2B. Postproduction Expenses Incurred in PA, but at Non-Qualified Postproduction Facility

Determination of Eligibility

Total Production Expenses $100,000

Pennsylvania Production Expenses:

Pre-Production $10,000
Production $35,000
Postproduction $15,000

Pennsylvania Production Expenses $60,000

Production Qualifies: $60,000 ÷ $100,000 = 60%

Amount of Tax Credit

Pre-Production . . . . . .$10,000 x 30% = $3,000

Production . . . . . .$35,000 x 30% = $10,500

Postproduction . . . . . .$15,000 x 30% = $4,500

TOTAL TAX CREDIT $18,000

Example 2C. Postproduction Expenses Incurred at PA Qualified Postproduction Facility

Determination of Eligibility

Total Production Expenses $100,000

Pennsylvania Production Expenses:

Pre-Production $10,000
Production $35,000
Postproduction $15,000

Pennsylvania Production Expenses $60,000

Production Qualifies: $60,000 ÷ $100,000 = 60%

Amount of Tax Credit

Pre-Production . . . . . .$10,000 x 30% = $3,000

Production . . . . . .$35,000 x 30% = $10,500

Postproduction . . . . . .$15,000 x 30% = $4,500

TOTAL TAX CREDIT $18,000

Example 2D. Postproduction Expenses Incurred at Both PA Qualified Facility and Elsewhere in PA

Determination of Eligibility

Total Production Expenses $100,000

Pennsylvania Production Expenses: . . . . . .

Pre-Production $10,000
Production $35,000
Postproduction . . . . . .$7,500 *(incurred at NON-Qualified Postproduction Facility)*
Postproduction . . . . . .$7,500 *(incurred at Qualified Postproduction Facility)*

Pennsylvania Production Expenses $60,000

Production Qualifies: $60,000 ÷ $100,000 = 60%

Amount of Tax Credit

Pre-Production . . . . . .$10,000 x 30% = $3,000

Production . . . . . .$35,000 x 30% = $10,500

Postproduction . . . . . .$7,500 x 30% = $ 2,250 *(NON-Qualified Postproduction Facility)*

Postproduction . . . . . .$ 7,500 x 30% = $ 2,250 *(Qualified Postproduction Facility)*

TOTAL TAX CREDIT $18,000

EXAMPLE 3
POSTPRODUCTION ONLY IN PA *(i.e., No Other Film Production Expenses)*

Qualified Postproduction Expenses Only

Determination of Eligibility

Pre-Production $0
Production $0
Postproduction . . . . . .$15,000 *(all incurred at Qualified Postproduction Facility)*

Project qualifies since 100% of Postproduction Expenses are for eligible activities incurred at Qualified Postproduction Facility.

Amount of Tax Credit

Pre-Production $0

Production $0

Postproduction . . . . . .$15,000 x 30% = $4,500

TOTAL TAX CREDIT $4,500

Note: No project will receive a Film Production Tax Credit award greater than 20 percent of the total amount of Film Production Tax Credits available in a fiscal year.

Section III – Marketing Requirements

Recipients of a Film Production Tax Credit are required to:

- Include the logo and official acknowledgement of the support provided by the commonwealth and the regional film office(s), if any, in the Film's end credits. The logos and language for the official acknowledgement of Pennsylvania support are provided in Appendix B of these Guidelines and available at filminpa.com. The commonwealth reserves the right to refuse the use of Pennsylvania's name in the credits of a Film produced in the commonwealth. Such refusal will be indicated in the Film Production Tax Credit Contract or in writing at a later time.
- Place the Pennsylvania logo on all packaging material and hard media, unless such placement is prohibited by licensing or other contractual obligations.
- Provide confirmation to the Department that the logo(s) were placed as end credit.

Recipients of a Film Production Tax Credit will also be required to provide the Department:

- One copy of the full-size poster for the Film prior to its public distribution.
- One copy of the electronic press kit for the Film at the time it is made available to the press, if one is created.

Section IV – Expenses

The following is a list of expenses eligible for a Film Production Tax Credit for Films that qualify. The dollar amount of the tax credit for a Film is based on the dollar amount of qualified expenses incurred in the commonwealth.

Component A – Film Production Expenses

The following expenses apply to a Film's Qualified Film Production Expenses and the total Production Expenses used to calculate a Film's eligibility for the Program.

- Compensation paid to an individual employed in the production of a Film.
- Compensation paid to a personal service corporation or pass-through entity representing individual talent.
- The cost of production operations incurred in Pennsylvania including, but not limited to, the following:
  - Construction
  - Operations
  - Editing
  - Photography
  - Visual effects
  - Lighting
  - Sound synchronization
  - Wardrobe and accessories.

- Vehicle leasing.
- Transportation to or from a train station, bus depot or airport.
- Food and lodging.
- Insurance coverage.
- Purchase of music or story rights.
- Rental of facilities and equipment.
- Fees for production services (including pre- and postproduction services). The Department strongly encourages that postproduction occurs in Pennsylvania.
- Shipping and delivery costs.
- The following postproduction activities, including the use of traditional, emerging and new work flow postproduction techniques:
  - Picture, sound and music editorial, rerecording and mixing.
  - Visual effects.
  - Graphic design.
  - Original scoring.
  - Animation.
  - Musical composition.
  - Mastering.
  - Dubbing

Costs for editing previously produced content for a Film, or for news or current affairs, talk shows, instructional videos, or for content which contains obscene material or performance as defined in 18 Pa.C.S. §5903(b) are explicitly excluded as eligible postproduction expenses.

> *Note: The expenses for any production activity incurred outside the U.S. must be included as part of the Film's total Production Expenses.*

Requirements for Certain Expenses
The following stipulations apply to certain Production Expenses in order for these expenses to be considered Qualified Film Production Expenses.

- Transportation must be to or from a train station, bus depot or airport located in Pennsylvania.
- Insurance coverage must be purchased from a Pennsylvania-based insurance agent.
- Music and story rights must be purchased from a Pennsylvania resident or from an entity subject to Pennsylvania taxation under Article III, IV, or VI of the Act.
- Only shipping costs to, from, and within Pennsylvania (including overnight delivery services).
- Production-related services, such as legal and accounting fees, must be paid to a Pennsylvania taxpayer and all, or substantially all, of the services are performed in Pennsylvania.
- Wage and Salary Payments
  1. Only payments made to persons from which withholding of taxes under Part VII of Article III (Pennsylvania Personal Income Tax) of the Tax Reform Code of 1971 has been made.
  2. Only payments to a personal service corporation representing individual talent from which taxes imposed by Article IV will be paid or accrued on the net income of the corporation for the taxable year.

3. Only payments to a pass-through entity representing individual talent from which withholding of taxes under Part VII or VII-A of Article III (pertaining to withholding of Pennsylvania Personal Income Tax) has been made.

Note: For questions pertaining to the state's withholding requirements, please refer to the Department of Revenue informational notice entitled, Employer Withholding Requirements and the Film Production Tax Credit that can be downloaded at: revenue.pa.gov/GeneralTaxInformation/IncentivesCreditsPrograms/Pages/Tax-Credits.aspx#.WIjBfrEo6Ul. More detailed information on the withholding process, in general, can be found in the Employer Withholding Information Guide available at: revenue.pa.gov/FormsandPublications.

The cost of rental of facilities and equipment rented from or through a resident of this commonwealth or an entity subject to taxation in this commonwealth.

Costs for the development, financing, marketing, and/or advertising of a Film, as well as any costs incurred in connection with the sale or transfer of a tax credit, are explicitly excluded as eligible expenses. Also excluded is deferred, leveraged or profit participation paid or to be paid to individuals employed in a Film's production or to entities representing an individual for services provided.

Note: There is a $15 million cap on the aggregate amount of payments eligible for a tax credit for "above the line" services provided by principal actors in the production of a Film, whether directly or through a "loan-out" company.

Component B – Postproduction Expenses

Only Postproduction Expenses incurred at a Qualified Postproduction Facility are eligible for a 30 percent tax credit under Component B. Eligible postproduction activities, including the use of traditional, emerging and new work flow postproduction techniques, are as follows:

- Picture, sound and music editorial, rerecording and mixing.
- Visual effects.
- Graphic design.
- Original scoring.
- Animation.
- Musical composition.
- Mastering.
- Dubbing

Costs for editing previously produced content for a Film, or for news or current affairs, talk shows, instructional videos, or for content which contains obscene material or performance as defined in 18 Pa.C.S. §5903(b) are explicitly excluded as eligible postproduction expenses.

Non-Qualified Film Production and Postproduction Expenses
In order to promote jobs in Pennsylvania, the Department does not recognize the following as Qualified Film Production Expenses or Qualified Postproduction Expenses:

- Fees paid for production services or postproduction services performed outside of Pennsylvania, regardless of whether they were performed by a Pennsylvania taxpayer.

- Purchases of products or services made through a person or entity not routinely engaged in the business of providing such products or services to businesses other than Pennsylvania Film Production Tax Credit Applicants, regardless of whether such purchases or such vendors are subject to taxation in Pennsylvania.

A Pass Through Expense, as defined in Section XII, does not qualify as a Qualified Production Expense or Qualified Postproduction Expense. A company established to exist as a Pass Through will be required to provide documentation that all vendors utilized are Pennsylvania companies unless documentation is provided that shows no Pennsylvania company is available. Goods ordered from companies in the business of purchasing from out of state that do not operate a rental or sales business and do not maintain inventory will not qualify as a Qualified Film Production Expense or Qualified Postproduction Expense.

Refer to Appendix C for a list of qualifying and non-qualifying expenses.

Section V – How to Apply

Applicants for a Film Production Tax Credit must provide a complete application package consisting of the following to the Department.

- A non-refundable application fee equal to 0.2 percent (two-tenths percent) of the anticipated amount of Film Production Tax Credits the Applicant is applying for (i.e., 25 percent or 30 percent, as applicable, of the estimated Qualified Film Production Expenses and/or Qualified Postproduction Expenses that will be incurred), up to a maximum of $10,000. Payment must be in the form of a check made payable to the *"Commonwealth of Pennsylvania."* Amendments to an application otherwise denied constitute a new application and require a new application fee. The application fee may be refunded for applications denied solely due to a lack of available tax credits.

Note: The fee is waived for projects with a total production budget of $1 million or below.

- Evidence the Applicant is registered to do business in Pennsylvania prior to the start of principal photography in the Commonwealth. Out-of-state applicants are required to file a Foreign Registration Statement with the Pennsylvania Department of State, Bureau of Corporations and Charitable Organizations. For more information, please see dos.pa.gov/corps or contact:

  email: RA-corps@pa.gov
  phone: 1-888-659-9962 or 717-787-1057.

- Evidence the Applicant has a valid state tax ID number. Applicants may obtain a state tax ID number by submitting a *Pennsylvania Enterprise Registration Form* (PA-100) to the Department of Revenue. Information on completing the form online can be found at: www.pa100.state.pa.us/about_Online_pa100.htm.

- Evidence that all personal service corporations or loan-out companies that will be engaged by the Applicant are incorporated, or formed in Pennsylvania, or have registered to do business in Pennsylvania prior to the commencement of principal photography in the commonwealth or postproduction activity under Component B of the program, as applicable, or are in the process of obtaining a *Certificate of Authority*. For more information, please see: dos.pa.gov/BusinessCharities/Business/Resources/Pages/Foreign-Business-Corporations-.aspx

- A completed Film Production Tax Credit Application form (Appendix D).

- A completed Budget Top Sheet listing the projected total and Qualified Film Production Expenses and/or Qualified Postproduction Expenses at a Qualified Postproduction Facility, as applicable (Appendix E), to be incurred. (Refer to Appendix C for a list of Qualified and Non-Qualified Expenses.)

  Applicants requesting the additional 5 percent tax credit for producing a Film at a Qualified Production Facility must submit a separate Budget Top Sheet report listing the projected eligible expenses to be incurred at the facility and that meet the minimum spend requirement (i.e., total at least $1.5 million or $5.0 million, as applicable).

  Applicants requesting the 30 percent tax credit for Postproduction Expenses incurred at a Qualified Postproduction Facility and that meet the postproduction requirements specified in the Act must submit a separate Budget Top Sheet report listing the projected eligible expenses to be incurred at the facility.

  Note: Separate Budget Top Sheet reports are also required upon ***completion*** *of the project listing the* ***ACTUAL*** *total and Qualified Film Production Expenses that were incurred under Component A and/or at a Qualified Production Facility, and/or for Qualified Postproduction Expenses incurred under Component B.*

- A completed "Single Application for Assistance" submitted electronically and available at www.esa.dced.state.pa.us/Login.aspx. Please refer to Appendix F for Instructions on Completing the Single Application for Assistance online.
- A copy of the script or storyboards (commercials only).
- Applicants must provide verifiable documentation that at least 70 percent of the financing for the Film project has been secured and the remaining amount will be secured prior to the planned start date of principal photography or postproduction at a Qualified Postproduction Facility, as applicable, in the commonwealth. Applicants must provide appropriate documentation and notify the Department of any change in financing prior to completion of the project. A Film Production Tax Credit Contract will NOT be issued for projects that have not secured financing and provided proof thereof.
- Any other documentation deemed necessary by the Department.

Completion and submission of the items listed above constitute a completed application package. Incomplete applications will be rejected and the application fee retained by the commonwealth.

Complete application packages may not be submitted sooner than 90 days prior to the start date of principal photography, or postproduction activity for those applying for a tax credit under Component B only, in the commonwealth or an earlier date approved by the Department. Upon request for an earlier date, the Department may require the Applicant to submit additional information.

For questions pertaining to the application or application process, contact Janice Collier by phone or email.

Phone: (717) 720-1312
Email: jacollier@pa.gov

Mail Completed Applications to:

Janice Collier
Entertainment Production Tax Credit Program Manager
Department of Community & Economic Development
Commonwealth Keystone Building
400 North Street, 4th Floor
Harrisburg, PA 17120-225

Within 15 business days of submitting a completed application package, a telephone interview will be conducted with the Applicant to discuss the Film production or postproduction project, as applicable. The Director of the Regional Film Office will be invited to participate in the interview for projects expected to film in the region.

Section VI – Application Evaluation

All applications will be reviewed for completeness and compliance with the Act and these Guidelines. Applicants will be notified by email of missing information and/or non-compliance with the Act or these Guidelines. An Applicant will have the opportunity to correct the application; however, the application will not be considered until all required information is received by the Department.

Completed applications will be reviewed and approved or disapproved during one of the following 90-day periods: July 1 through September 30; October 1 through December 31; January 1 through March 31; April 1 through June 30. Completed applications that qualify for the Film Production Tax Credit Program but are not approved for a tax credit during the initial application period may be reviewed and considered in a subsequent period.

Applications are evaluated based on the following criteria as specified in the Act.

1. The anticipated number of production days in a Qualified Production Facility.
2. The anticipated number of Pennsylvania employees.
3. The anticipated number of preproduction through postproduction days in Pennsylvania.
4. The anticipated total number of room nights in Pennsylvania hotels.
5. The anticipated proportion of total Pennsylvania Production Expenses in comparison to the total production budget.
6. The use of studio resources.
7. If the application includes a Qualified Postproduction Expense:
    a. The Qualified Postproduction Facility where the activity will occur.
    b. The anticipated type of postproduction activity that will be conducted.
8. State Tax Compliance: All applicants must be in compliance with the laws and regulations of the Commonwealth of Pennsylvania, to the satisfaction of the Department of Revenue. Should an applicant be found to be out of compliance, notices will be sent to the applicant with instructions on how to rectify any compliance issues. The applicant must resolve non-compliance issues within the required time period in order to be eligible for the program.
9. Other criteria the Department deems appropriate to ensure maximum employment and benefit within the Commonwealth of Pennsylvania.

Section VII – Film Production Tax Credit Contract

Unless specified otherwise, this section applies to both Component A (film production) and Component B (postproduction at a Qualified Postproduction Facility) of the Program.

Upon approval of an Applicant's Film Production Tax Credit application, the Department will issue a Film Production Tax Credit Contract to the Applicant specifying the maximum amount of tax credit the Applicant may receive upon completion of the contract terms and the Applicant's obligations including, but not limited to, the following:

- The production or postproduction activity, as applicable, has commenced or will commence in Pennsylvania (e.g., a production report) in accordance with the terms of the application submitted by the Applicant, the Act, and these Guidelines.
- Submission of monthly progress reports until completion of the production and/or postproduction activity, as applicable, using the form in Appendix G. Monthly Reports are due within five business days after the end of each month following the Applicant's acceptance of the Film Production Tax Credit Contract.
- Submission of a Final Production & Economic Impact Report within 180 days of the project's completion date (i.e., completed Film has been delivered to investors and is ready for distribution) using the form in Appendix H.
- Submission of an independently audited Examination Report of total Production Expenses and Qualified Production Expenses, and/or Postproduction Expenses and Qualified Postproduction Expenses, if applicable, upon the project's completion, with the report prepared in accordance with the Financial Compliance instructions for the Program as stated in Section IX.
- Confirmation of the marketing requirements as outlined in Section III.
- Any other terms and conditions the Department deems appropriate.
- Submission of a request for tax clearance with the Department of Revenue upon completion of the project.

Applicants must return the signed, **original** Film Production Tax Credit Contract within 30 days of the contract's issuance date to:

Janice Collier
Entertainment Production Tax Credit Program Manager
Department of Community & Economic Development
Commonwealth Keystone Building
400 North Street, 4th Floor
Harrisburg, PA 17120-0225

Revocation of Film Production Tax Credit Contract

A Film Production Tax Credit Contract that has been issued to an Applicant **WILL BE REVOKED** for failure to:

- Return the original, signed copy of the Film Production Tax Credit Contract with the original signatures within 30 days of the contract date.
- Notify the Department if and when the start date of principal photography or postproduction, as applicable, has changed from the date indicated in the application and the Film Production Tax Credit Contract.
- Maintain state tax compliance during the entire project.

Section VIII – Issuance of Film Production Tax Credit Certificate

Unless specified otherwise, this section applies to both Component A (Film production) and Component B (postproduction at a Qualified Postproduction Facility) of the program.

The Department will issue a Film Production Tax Credit Certificate upon review and approval of the following documents:

- Final Production & Economic Impact Report (Appendix H).
- Final Budget Top Sheet report listing the actual total and Qualified Film Production Expenses and/or total and Qualified Postproduction Expenses, as applicable, incurred (Appendix E).
- Final Budget Top Sheet report for productions that used a Qualified Production Facility and/or Qualified Postproduction Facility (Appendix E).
- Final Pennsylvania Vendor/Subcontractors Report (Appendix I).
- Final Cast & Crew Form (Appendix J).
- Examination Report. Please refer to the following section (Section IX) for specific information on the Financial Compliance requirements.
- All marketing materials as outlined in Section III.
- Confirmation of state tax compliance requirements from the Department of Revenue.
- Any other information requested by the Department.

Note: Reports on forms other than the official state forms will be rejected and the Applicant required to resubmit the data and information on the official form(s) before a tax credit certificate will be issued.

The Department will issue a Film Production Tax Credit Certificate to the Applicant within 45 days of the receipt of the finalized, complete and accurate forms and reports with the required data and information.

The amount of Film Production Tax Credits awarded will **not** exceed the amount offered in the contract, but may be less if the audited Qualified Film Production Expenses are below the amount stated in the Application.

Section IX – Financial Compliance

The following procedures pertain to the financial compliance requirements of the Pennsylvania Film Production Tax Credit program and the Film Production Tax Credit Contract issued between the Applicant and the Department.

> *Note: The requirements of this section pertain to both components of the program (i.e., Component A – Film Production and Component B – Postproduction at a Qualified Postproduction Facility) unless specifically stated otherwise. Pennsylvania Qualified Expenses are defined in this section only as Qualified Film Production Expenses and/or Qualified Postproduction Expenses.*

Applicants for a Film Production Tax Credit must submit an **Examination Report** for all projects within 180 days of the project's completion date, i.e., the date when the Film is deemed complete and ready for distribution for applicants of a tax credit under Component A or all postproduction activity is completed for those applying for a tax credit under Component B only, as applicable.

Requirements for the Independent Certified Public Accountant

The Examination must be performed by a Certified Public Accountant (CPA) licensed in Pennsylvania or a reciprocal CPA qualified to perform audits or Examinations in the commonwealth. The Department encourages a competitive bidding process in selecting an independent auditor and the use of small audit firms, as well as those owned and controlled by socially and economically disadvantaged individuals.

Prior Department approval of the CPA selection is not required unless the Applicant is specifically notified in writing.

Examination Engagement

The Examination Engagement must be performed in accordance with the attestation standards established by the American Institute of Certified Public Accountants (AT-C Section 205, Examination Engagements). The Department must be listed as a specified party in the engagement letter and specifically granted access to any work performed by the auditor.

The Examination Engagement subject matter and criteria are as follows:

1. Subject Matter:
   a. The Statement of Total Production Expenses, Qualified Film Production Expenses, and Non-Qualified Film Production Expenses. For productions utilizing a Qualified Production Facility, the Qualified Film Production Expenses incurred at the facility. [See Sample Schedule in Appendix E.]
   b. The Statement of Total Postproduction Expenses, Qualified Postproduction Expenses, and Non-Qualified Postproduction Expenses. For productions utilizing a Qualified Postproduction Facility, the Qualified Postproduction Expenses incurred at the facility. [See Sample Schedule in Appendix E].
   c. Computation of the Film Production Tax Credit.
2. Criteria:
   a. The Eligibility Criteria in Section II. of the Pennsylvania Department of Economic Development Film Production Tax Credit Program Guidelines
   b. The Expense Guidance in Section IV of the Pennsylvania Department of Economic Development Film Production Tax Credit Program Guidelines
   c. The Film Production Tax Credit Contract
   d. Article XVII-D Subarticle B of the Tax Reform Code of 1971 (P.L. 6, No.2) (the "Act"), a copy of which is attached as Appendix A.
   e. Appendix O - Frequently Asked Questions (FAQs)

Applicant Responsibilities
The Applicant will submit two copies of the examination report, engagement letter and Film Production Tax Credit Contract, and a Report of the Pennsylvania Sales Tax and total Pennsylvania individual gross income tax withheld related to the project to the Department within 180 days of the Film's completion date to:

Janice Collier
Entertainment Production Tax Credit Manager
Department of Community & Economic Development
Commonwealth Keystone Building
400 North Street, 4th Floor
Harrisburg, PA 17120-0225

Questions regarding the performance or submission of the examination engagement should be directed to the Compliance Monitoring Division at 717-346-9023 or ra-audits@pa.gov.

Section X – Use, Sale, Assignment, and Transfer of Film Production Tax Credits

This section applies to both Component A (Film Production) and Component B (Postproduction at a Pennsylvania Qualified Postproduction Facility) of the Program.

Recipients of a Film Production Tax Credit may use the tax credit to offset their Pennsylvania state tax liability or sell, assign or transfer the credits to another entity.

Recipients must file all required state tax reports and returns for the tax years up to and including that of the issuance date of the Film Production Tax Credit Certificate and must pay any balance of state taxes owed as determined at settlement, assessment or determination by the Pennsylvania Department of Revenue before the Film Production Tax Credit can be used, sold, assigned or transferred.

Film Production Tax Credits may be applied by the recipient or by an entity to whom the tax credit has been sold, assigned or transferred, against the tax liability for the following Pennsylvania taxes under Articles III, IV, VI, VII, VIII, IX or XV of the Tax Reform Code of 1971.

- Personal Income Tax (Article III) - (excluding any tax withheld from a person employed on a film production and/or postproduction project)
- Corporate Net Income Tax (Article IV)
- Capital Stock - Franchise Tax (Article VI)
- Bank & Trust Company Shares Tax (Article VII)
- Title Insurance Companies Shares Tax (Article VIII)
- Insurance Premiums Tax (Article IX)
- Mutual Thrift Institution Tax (Article XV)

Note: Film Production Tax Credits cannot be carried back or used to obtain a refund of any unused tax credits by the recipient, buyer, assignee, or transferee.

Effective immediately, entities that are no longer subject to filing the RCT-101 Corporate Tax Report as per the phase out of the Capital Stock & Foreign Franchise Tax are required to file the PA- 20S/PA-65, S Corporation/ Partnership Information return prior to selling a restricted credit. Every domestic or foreign PA S corporation (72 P.S. § 7330.1), partnership (72 P.S § 7335(c)), or entity formed as a limited liability company that is classified as a partnership or S corporation for federal income tax purposes, must file the PA- 20S/PA-65 Information Return. **Single Member Limited Liability Companies with an individual, partnership or corporation as the single member are required to file the specified returns: An individual as the single member, must file a PA-40 Individual Tax Return. If the single member is a corporation or partnership the return of the owner (RCT-101 Corporate Tax Report or PA 20S/65 Information Return) must be filed.**

For education and outreach on this topic, please see the Department of Revenue tax credit webpage: www.revenue.pa.gov and select the menu for general tax information followed by selection of the incentives, credits and programs option. For specific questions, please contact 717-772-3896 or ra-btftrevkoz@pa.gov.

Use of Film Production Tax Credit by Recipient

Recipients who elect to use the Film Production Tax Credit to offset their Pennsylvania state tax liability must first apply the credit to the Pennsylvania state taxes owed by the recipient for the tax year in which the tax credit is issued. If a recipient's tax liability is less than the amount of tax credits awarded, the recipient may carry forward any or all of the unused portion of the credit to offset the recipient's tax liability for up to three additional tax years.

> *Note: The tax credits cannot be applied against a recipient's tax liability until the tax return for the applicable tax year has been filed with the Department of Revenue.*

Sale or Assignment of Film Production Tax Credit by Recipient

Recipients of a Film Production Tax Credit with no Pennsylvania tax liability or with unused tax credits may sell or assign all or a portion of the tax credit to one or more entities at any time in the initial tax year or in the three subsequent tax years.

The recipient must apply to the Department for approval of the sale or assignment of all or a portion of the recipient's Film Production Tax Credit to another entity by submitting an official Assignment Application (Appendix K), identifying the buyer company or individual and signed by both the seller and buyer of the tax credit(s). NOTE: A separate Assignment Application must be submitted for each buyer.

Prospective sellers and buyers must submit the completed Assignment Application with all required signatures, a copy of the Film Production Tax Credit Certificate, and any attachments to:

> Janice Collier
> Entertainment Production Tax Credit Program Manager
> Department of Community & Economic Development
> Commonwealth Keystone Building
> 400 North Street, 4th Floor
> Harrisburg, PA 17120-0225
>
> For specific questions, please contact Janice Collier at 717-720-1312 or jacollier@pa.gov.

> *Note: Film Production Tax Credits can only be sold or assigned to entities with a valid Pennsylvania state tax ID number. Entities not incorporated or formed within Pennsylvania must first register to do business in Pennsylvania and obtain a valid state tax ID number.*

Upon submission of an Assignment Application, a recipient may no longer use that portion of the Film Production Tax Credit to offset any qualifying tax liability unless the Assignment Application is denied by the Department or withdrawn by the recipient.

Effective immediately:

- All sales and assignment transactions that are rejected by the Department of Revenue for State Tax Non-Compliance Issues or Corporation Tax Non-Compliance Issues will require the submission of a new Assignment Application (Appendix K) by the buyer and seller for the Department of Revenue to process. **The new Assignment Application will begin a new 60-day review period.**
- Assignment Applications marked non-compliant will require the Department to contact the parties involved in transaction and notify the parties that the Assignment Application has been rejected by the Department of Revenue and will require the non-compliant issue to be resolved prior to resubmitting a new application for sale. When the Assignment Application is rejected, the Department can instruct the applicant or broker (if they have POA), to contact the Compliance Unit at 717-787-3911 option 5, to resolve the issue, prior to submitting the new Assignment Application.
- No Assignment Applications will be processed by the Department of Revenue that have been marked Non-Compliant.
- When the new Assignment Application is submitted for review, the Compliance and Corporate Taxing Unit will be going off of the new 60-day period from the new date of submission.

Note: *This Assignment Application is considered closed and will not receive a Compliant as of (date) on any Assignment Application which has been rejected. These Assignment Applications are effectively dead.*

The Department of Revenue will not be providing early clearances to ensure a sale and all Assignment Applications will be worked on first in, first out.

Film Production Tax Credit Buyer

A buyer of a Film Production Tax Credit must be identified in the Assignment Application for the sale of the Film Production Tax Credits submitted by the recipient. The buyer must claim the full amount of the purchased tax credits in the taxable year in which the Assignment Application for the sale of the Film Production Tax Credit is approved by the Department. The amount of the purchased tax credit may be used to offset no more than 50 percent of the buyer's tax liability for that taxable year.

Any portion of a purchased Film Production Tax Credit that is not used by a buyer in the year of purchase is forfeited and may not be used in any other tax year.

A buyer may **not** carry back, obtain a refund of, sell or assign the Film Production Tax Credit to another entity. A buyer or assignee of a tax credit may carry forward all or any unused portion of a tax credit <u>only</u> for tax credits purchased or assigned in:

1. Calendar Year 2010 – against qualified tax liabilities incurred in taxable years 2011 and 2012.
2. Calendar Year 2013 – against qualified tax liabilities incurred in taxable year 2014.
3. Calendar Year 2014 – against qualified tax liabilities incurred in taxable year 2015.

The process for the sale and assignment of Film Production Tax Credits is closely coordinated between the Department and the Department of Revenue.

Assignment Applications submitted to the Department for the sale or assignment of all or a portion of a Film Production Tax Credit will be reviewed within 15 business days of receipt by the Department. If the Assignment Application is determined complete and accurate, the Department will forward the Assignment Application to the Department of Revenue for review and processing.

The Department of Revenue may take up to 60 days to review the Assignment Application and confirm compliance with the Act, these Guidelines, and all conditions before posting the transfer to the sellers' and buyers' respective accounts with the Department of Revenue. The Department of Revenue will issue a written confirmation of the transfer to both the seller and buyer. Sellers and buyers of Film Production Tax Credits can confirm the completion of all transfers by calling 1-888-728-2937 (Option 1, 2, 5) with the Corporate Tax Account ID number in hand.

Expediting the Application Process

The Department of Revenue encourages Applicants to adhere to the following steps to ensure expeditious processing of the use or sale of the Film Production Tax Credit:

- Properly complete the Corporate Tax Report (including authorized signatures).
- Provide all required supporting documentation. (See pages 1-3 of CT-1 Rev 1200 Corporate Tax Booklet for more details).
- Accurately identify the federal forms included with the corporate tax return (See page 1 of the RCT-101).
- Sellers of Film Production Tax Credits must be compliant across all taxes for which the entity is subject to. Forms and instructions are available on the Department of Revenue website at revenue.pa.gov.
- Adhere to the requirements of selling Film Production Tax Credits. (See Corporation Tax Bulletin 2014-04)

Agents or facilitators engaged to assist in the use or sale of Film Production Tax Credits must complete, sign and submit a Third Party Agent Consent Form (Appendix L) with the Film Production Tax Credit Assignment Application.

Note: *The Third Party Agent Concent Form, is not a substitute for the Department of Revenue Power of Attorney and Declaration of Representative Form. Agents or facilitators must obtain a completed REV-677 form from the seller to obtain confidential tax information regarding the sale or assignment of the credit.*

Transfer of Film Production Tax Credits

The transfer of unused Film Production Tax Credits is authorized only for pass-through entities (as defined in the Act), which may transfer all or a portion of unused credits to shareholders, members, or partners. The amount of tax credit each individual may receive is based on the proportionate share of the entity's distributive income to which the individual is entitled. The transfer must be authorized in writing by the pass-through entity according to procedures established by the Department of Revenue.

A shareholder, member, or partner can only use the credit in the taxable year in which the transfer is made. A pass-through entity and the individual(s) to whom the tax credit is transferred may NOT claim the credit for the same Qualified Film Production Expense.

Transferred credits cannot be carried forward, carried back, sold, assigned, and/or used to obtain a refund of the credit.

Section XI – Confidentiality

Materials submitted to the Department are subject to the Pennsylvania Right to Know Law (65 P.S. § 67.101 et seq.). Safeguards provided by this and other Pennsylvania laws will protect applicants from disclosure of:

- Confidential proprietary information;
- Financial statements;
- Business plans;
- Intellectual property.

Under the Right to Know Law, all applications received by the Department at the date of receipt will become available to the public upon request.

The Department may share information with the Applicant's regional film office to help the Applicant forge local connections and enhance the quality of services offered to the Applicant.

Section XII – Nondiscrimination

No assistance shall be awarded to a Qualified Taxpayer under this program unless the Qualified Taxpayer certifies that the Qualified Taxpayer shall not discriminate against any employee or against any person seeking employment by reason of race, gender, creed, color, sexual orientation, gender identity or expression, or in violation of the Pennsylvania Human Relations Act, which prohibits discrimination on the basis of race, color, religious creed, ancestry, age, sex, national origin, handicap or disability, or in violation of any applicable federal laws.

Section XIII – Definitions

Applicant – A business entity or individual that is principally engaged in the production and has control of a Film during pre-production, production and postproduction. The Applicant is the qualified taxpayer that upon final approval will receive the Film Production Tax Credit Certificate.

Completed Film – A Film ready for distribution.

Department – The Department of Community and Economic Development (DCED) responsible for administering the Film Production Tax Credit program.

Direct Expenditure – A qualifying direct expenditure (as referenced in "minimum stage filming requirements") that satisfies the following three criteria:

1. An expenditure from a Pennsylvania-based company or compensation paid to an individual employed in the production of the Film,
2. Directly attributable to the production at the Qualified Production Facility, and
3. Subject to taxation in Pennsylvania.

Direct expenditures include those paid or incurred for the use of tangible property or performance of services at a Qualified Production Facility, as well as costs associated with the facility's expenses, set construction, electric and physical facilities that are required by the Applicant.

Such budget categories, which will constitute eligible expenses at a Qualified Production Facility, may include, but are not limited to, the following:

1. **Facility Expenses –** Stage use/Licensing Agreement, Stage Rental, Stage (including power/security), Set Security, Power, Utilities, Prep/Strike, Shoot, backlot rental, dressing room rental, parking space rental, prep parking, shoot parking, dumpster, cleaning, telephone, copiers (and use charges for same), office rental, internet access, office equipment rentals, utilities, fee and administrative charges for production services performed by a Qualified Production Facility, catered meals and craft services;

2. **Set Construction –** scissor lifts/forklift, cranes, condors, heavy equipment, lumber, construction coordinator, foreman and set labor;

3. **Set Operations –** heating/air conditioning, grip expendable, grip package, camera and dolly rentals, cranes/condors;

4. **Electric –** rentals, set lightning packages, state package, rigging package, expendable;

5. **Physical Facilities –** production offices, construction mill, set sec/props warehouse, cleaning, office space, installed phone system, phone charges, office equipment and furniture rental.

Film Production Tax Credit <u>Certificate</u> – The certificate issued by the Department upon completion of a Film stating the Film Production Tax Credit amount awarded after the Qualified Production and/or Qualified Postproduction Expenses have been verified and approved.

Film Production Tax Credit <u>Contract</u> – The document entered into between the Department and the Applicant indicating the maximum amount of Film Production Tax Credits an Applicant may receive for a Film based on the Applicant's estimate of Qualified Production Expenses and/or Qualified Postproduction Expenses.

Minimum Stage Filming Requirements for Production at a Qualified Production Facility

1. Taxpayers with a Pennsylvania production expense of less than $30,000,000 per production must:

   a. Build at least one set at a Qualified Production Facility;

   b. Shoot for a minimum of ten days at a Qualified Production Facility; and

   c. Spend or incur a minimum of $1,500,000 in direct expenditures related to the use or rental of tangible property or for the performance of services provided by a Qualified Production Facility.

2. Taxpayers with a Pennsylvania production expense of at least $30,000,000 per production must:

   a. Build at least two sets at a Qualified Production Facility;

   b. Shoot for a minimum of 15 days at a Qualified Production Facility; and

   c. Spend or incur a minimum of $5,000,000 in direct expenditures related to the use or rental of tangible property at or for the performance of services provided by a Qualified Production Facility.

Pass Through Expense – An expense for products or services provided to an Applicant by a company that does not regularly provide those types of goods or services and is not regularly engaged in that business. Goods ordered from companies in the business of purchasing from out-of-state vendors and that do not operate a rental or sales business and do not maintain an inventory do not qualify as a Qualified Production Expense.
For example: A production company contracts with a Pennsylvania food services company to provide audio post-

production services to a Film. While the company is a Pennsylvania taxpayer, this expense would be deemed a pass through transaction and would not qualify since the company is not in the business of, nor has the capability of, providing audio post-production services to the Film.

Pass-Through Entity – Any of the following:

1. A partnership as defined in section 301 (n.0) of the Tax Reform Code of 1971.
2. A Pennsylvania S corporation as defined in section 301 (n.1).
3. An unincorporated entity subject to section 307.21 of the Tax Reform Code of 1971.

Pennsylvania-based Company – A company, including a sole proprietorship, registered with the Pennsylvania Department of State to do business in the commonwealth.

Pennsylvania Production Expense – A Production Expense incurred in this commonwealth. The term includes:

1. A payment made by a taxpayer to a person upon which withholding will be made on the payment by the taxpayer as required under Part VII of Article III.
2. Payment to a personal service corporation representing individual talent if the tax imposed by Article IV will be paid or accrued on the net income of the corporation for the taxable year.
3. Payment to a pass-through entity representing individual talent for which withholding will be made by the pass-through entity on the payment as required under Part VII or VII-A of Article III.
4. The cost of transportation incurred while transporting to or from a train station, bus depot or airport, located in this commonwealth.
5. The cost of insurance coverage purchased through an insurance agent based in this commonwealth.
6. The purchase of music or story rights if any of the following subparagraphs apply:
   a. The purchase is from a resident of this commonwealth.
   b. The purchase is from an entity subject to taxation in this commonwealth, and the transaction is subject to taxation under Article III, IV or VI of the Tax Reform Code of 1971.
7. The cost of rental of facilities and equipment rented from or through a resident of this commonwealth or an entity subject to taxation in this commonwealth.
8. A Qualified Postproduction Expense.

Postproduction Expense – An expense for postproduction of original content for a Film as follows:

1. The term includes traditional, emerging and new work flow techniques used in postproduction for any of the following:
   a. Picture, sound and music editorial, rerecording and mixing.
   b. Visual effects.
   c. Graphic design.
   d. Original scoring.
   e. Animation.
   f. Musical composition.
   g. Mastering.
   h. Dubbing.
2. The term does **NOT** include any of the following:
   a. Editing previously produced content for a Film.
   b. News or current affairs.

c. Talk shows.
d. Instructional videos.
e. Content which contains obscene material or performance as defined in 18 Pa.C.S. §5903(b).

Pre-production – The phase of film production that begins after a Film has received a firm, substantial, and sound financial commitment allowing the Film to commence production activities. Pre-production customarily includes, but is not limited to, activities such as location scouting, hiring of key crew members, and establishment of a dedicated production office.

Principal Photography – The phase of production during which a Film is actually shot, as distinguished from pre-production and postproduction. Principal photography days refer to the number of days shot by the principal unit with the director and lead actors usually present.

Production Expense – As follows:

1. The term includes all of the following;
   a. Compensation paid to an individual employed in the production of the Film.
   b. Payment to a personal service corporation representing individual talent.
   c. Payment to a pass-through entity representing individual talent.
   d. The costs of construction, operations, editing, photography, sound synchronization, lighting, wardrobe and accessories.
   e. The cost of leasing vehicles.
   f. The cost of transportation to or from a train station, bus depot or airport.
   g. The cost of insurance coverage.
   h. The costs of food and lodging.
   i. The purchase of music or story rights.
   j. The cost of rental of facilities and equipment.
2. The term does **not** include any of the following:
   a. Deferred, leveraged or profit participation paid to be paid to individuals employed in the production of the Film or paid to entities representing an individual for services provided in the production of the Film.
   b. Development cost.
   c. Expense incurred in marketing or advertising a Film.
   d. Cost related to the sale or assignment of the Film Production Tax Credit under section 1714-D (e).

Qualified Film Production Expense – All Pennsylvania Production Expenses if Pennsylvania Production Expenses comprise at least 60 percent of a Film's total production expenses, with the aggregate amount of compensation paid to individuals or payment made to entities representing an individual for services provided in the production of the Film capped at $15,000,000.

Qualified Postproduction Expense – A Postproduction Expense incurred at a Qualified Postproduction Facility.

Qualified Postproduction Facility – A permanent facility where Pennsylvania postproduction activities are conducted and expenses are incurred to which all of the following apply:

1. The facility is located in the commonwealth.
2. The facility is approved by the Department.

3. The facility employs at least ten full-time employees who reside in the commonwealth.
4. There is at least $500,000 of capital investment in the facility.

Qualified Production Facility – A film production facility located within this commonwealth that contains at least one sound stage with a column-free, unobstructed floor space and meets either of the following criteria:

1. Has had a minimum of $10,000,000 invested in the film production facility in land or structure purchased or ground-up, purpose-built new construction or renovation of existing improvement.
2. Meets at least three of the following criteria:
   a. A sound stage having an industry standard noise criteria rating of 25 or better.
   b. A permanent grid with a minimum point load capacity of no less than 1,000 pounds at a minimum of 25 points.
   c. Built-in power supply available at a minimum of 4,000 amps per sound stage without the need for supplemental generators.
   d. A height from sound stage floor to permanent grid of a minimum of 20 feet.
   e. A sound stage with a sliding or roll-up access door with a minimum height of 14 feet.
   f. A built-in HVAC capacity during shoot days with a minimum of 50 tons of cooling capacity available per sound stage.
   g. Perimeter security that includes a 24-hour, seven-days-a-week security presence and use of access control identification badges.
   h. On-site lighting and grip department with an available inventory stored at the film production facility with a minimum cost of investment of $500,000.
   i. A sound stage with contiguous production offices with a minimum of 5,000 square feet per sound stage.

Qualified Tax Liability – The liability for taxes imposed under Article III, IV, VI, VII, VIII, IV or XVA of the Tax Reform Code of 1971. The term does not include any tax withheld by an employer from an employee under Article III.

Start Date – As follows:

1. For a Film:
   a. The first day of principal photography in this commonwealth; or
   b. An earlier date approved by the Pennsylvania Film Office
2. For a postproduction project, a date approved by the Pennsylvania Film Office

Tax Credit – The Film Production Tax Credit provided under Subarticle B.

Taxpayer – A film production company subject to tax under Article III, IV or VI of the Tax Reform Code of 1971. The term does not include contractors or subcontractors of a film production company.

Total Production Budget – The budget for all pre-production, production, and postproduction expenses for wages, goods, and services incurred or to be incurred at all locations, including locations outside Pennsylvania. A Film's Total Production Budget includes, but is not limited to, "above the line" costs including wages and "below the line" costs including postproduction, insurance, rights and music and clip licensing fees. Excluded are costs not directly associated with a Film's pre-production, production or postproduction, such as distribution prints and advertising, marketing, film festival participation, financing or distribution costs, e.g., theater rentals and DVD manufacturing.