

Film Tax Credit

Program Guidelines | October 2009

> ready > set > succeed



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Section I – Introduction

The Commonwealth of Pennsylvania, through the Department of Community and Economic Development (the “Department”) and the Pennsylvania Film Office, administers the Creativity in Focus Initiative, including the Film Tax Credit Program (the “Program”) authorized by Act 55 of July 25, 2007, a copy of which is attached as Appendix A, as amended by Act 48 of October 9, 2009.

Applicants should read and understand the requirements of the law (jointly, the “Law”) prior to submitting an application. Applicants are also strongly advised to consult with their legal and financial advisors prior to submitting an application.

Section II – Program Allocation and Project Eligibility

The aggregate amount of tax credits available for the fiscal year beginning July 1, 2009 and ending June 30, 2010 is \$42 Million. The aggregate amount of tax credits available for the fiscal year beginning July 1, 2010 and ending June 30, 2011 is \$60 Million.

Projects eligible for tax credits under the Program include: the production of 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 are NOT eligible projects: a production featuring news, current events, weather and market reports, or public programming, sports events, awards shows or other gala event, 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.

Section III – Program Requirements

A project is eligible if at least 60% of the project’s total production budget is used for Qualified Pennsylvania production expenses.

The amount of the tax credit available for an eligible project is equal to 25% of Qualified Pennsylvania production expenses for the project. The term “Qualified Pennsylvania production expenses” includes nearly all production (including pre- and post-production) expenses incurred in Pennsylvania, subject to certain limitations and exceptions.

The following costs ARE considered Qualified Pennsylvania production expenses:

- Salaries and wages earned in Pennsylvania if such amounts are subject to Pennsylvania taxation. However, there is a cap of \$15 million in aggregate payments for above the line services to be provided by performing artists, whether directly or through a “loan-out” company.

- Music and story rights only if the rights are acquired from a Pennsylvania resident or an entity subject to Pennsylvania taxation.
- The costs of production operations incurred in Pennsylvania such as:
 - construction;
 - photography;
 - visual effects;
 - lighting, editing, sound synchronization;
 - wardrobe and accessories;
 - food and lodging; and
 - fringe benefits.
- The cost of rental of facilities and equipment from a Pennsylvania taxpayer.
- The cost of insurance coverage purchased through an insurance agent based in Pennsylvania.
- Costs of travel and transportation to, from and within Pennsylvania, including overnight delivery services.

Fees for production services (including pre and post-production services) and production-related services such as legal and accounting fees are Qualified Pennsylvania production expenses only if such fees are paid to a Pennsylvania taxpayer and all or substantially all the services are actually performed in Pennsylvania. In order to promote and protect jobs in Pennsylvania, the Pennsylvania Film Office will not recognize as Qualified Pennsylvania production expenses:

1. fees paid for production services performed outside Pennsylvania, regardless of whether they were performed by a Pennsylvania taxpayer; or
2. 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 Tax credit applicants, regardless of whether such purchases or such vendors are subject to taxation in Pennsylvania.

Salaries, wages and fringe benefits paid to residents of jurisdictions with which Pennsylvania has a reciprocal taxation agreement MAY be Qualified Pennsylvania production expenses; applicants should seek guidance on this issue from their legal and accounting advisors prior to submitting an application.

The following costs are also NOT considered Qualified Pennsylvania production expenses:

- Development costs, financing costs, marketing costs and advertising costs.
- Costs incurred in connection with the sale or transfer of a tax credit.

Section IV – How to Apply

Applications may be filed no sooner than 90 days prior to the start date of principal photography in the Commonwealth.

Applicants must provide the following information and documentation to the Film Office:

- A completed Film Tax Credit Application as contained in Appendix B. The application is also available at <http://www.filminpa.com/filminpa/econIncentives.jsp>.
- A completed “Single Application” available at www.newPA.com. The “Single Application” must be submitted electronically. Refer to Appendix C for instructions on completing the “Single Application” online.
- Applicants should submit the budget top sheet in a format that provides a side-by-side comparison of total production expenses and Qualified Pennsylvania production expenses. Expenses not included in the budget will not be eligible for the award of tax credits.
- A statement indicating whether financing for the project has been secured or will be secured prior to the planned start date of principal photography in the Commonwealth. If financing is/will be in place, applicants must provide appropriate documentation and must notify the Pennsylvania Film Office of any change in financing prior to completion of the project.
- An interview is required with the Director of the Pennsylvania Film Office (in person or by telephone) to discuss the application prior to its submission. Interested applicants should request an appointment by calling 717-783-FILM.
- Any other information or documentation deemed appropriate by the Pennsylvania Film Office.
- Applications must be mailed, faxed or sent via email to:

Janice Collier
Director of Grants & Finance
Pennsylvania Film Office
Department of Community & Economic Development
Commonwealth Keystone Building
400 North Street, 4th Floor
Harrisburg, PA 17120-0225

Phone: (717) 720-1312
jacollier@state.pa.us

Section V – Special Circumstances

The Pennsylvania Film Office recognizes the dynamic nature of the entertainment industry and, to the extent permitted by the Law, will endeavor to address special circumstances as they arise. All tax credit awards are subject to the availability of funds.

- Applications may be filed no sooner than 90 days prior to the start date of principal photography in the Commonwealth.
- If a project is scheduled to be in production for more than 12 months the applicant may, at the time of application, make a written request that a film tax credit be issued on an annual basis rather than upon completion of production. The Pennsylvania Film Office may in its discretion grant such a request, subject to the following conditions:
 - The amount of the film tax credit to be issued shall be limited to 25% of Qualified Pennsylvania production expenses actually incurred in connection with the project during the relevant 12 month period specified in the request;
 - The applicant shall comply with the Financial Compliance Instructions for the Program with respect to **each** tax credit to be issued under this provision; and
 - The applicant shall deliver to the Department a completion bond or guarantee issued by an entity acceptable to the Department, in its sole discretion, in an amount equal to 100% of the aggregate amount of the tax credit specified in the application; such bond or guarantee must insure that 60% of the project's overall budget will be Qualified Pennsylvania production expenses.
 - If accepted by the Film Office, the request may not be withdrawn or changed.
- An applicant may submit a single application for a "slate" of projects, i.e., three or more film and television projects to be completed over a period of more than 12 months. Approval of such an application would be subject to the availability of funding at the time of commencement of principal photography in Pennsylvania for each project and other terms and conditions as may be specified in the contract between the Department and the applicant.
- The Pennsylvania Film Office reserves the right to limit a tax credit award to an amount not greater than 20% of the aggregate amount of tax credits available in any fiscal year, i.e., \$8.4 Million for the fiscal year ending June 30, 2010 and \$12.0 Million ending June 30, 2011. The Film Office will defer the excess amount to the next fiscal year, subject always to the availability of the tax credits and the 20% maximum. For example, a project with \$50 Million in Qualified Pennsylvania production expenses in Year 1 could receive \$7.5 Million in Year 1 and \$5 Million in Year 2.

Section VI – Review Process

Applications will be considered in the order in which they are received. All applications will be reviewed for completeness and compliance with the law and these Guidelines. The Pennsylvania Film Office may consider the following criteria in its review of applications:

- the amount of Qualifying Pennsylvania production expenses to be incurred;
- the number of jobs to be created by the project;
- the number of days of shooting in Pennsylvania;
- whether the project is or will be fully financed prior to the commencement of principal photography in Pennsylvania;
- whether distribution for the project has been secured;
- the number of job training opportunities to be generated by the project;
- whether post production activity will take place in Pennsylvania;
- whether the project will tend to foster a positive image of Pennsylvania; and
- such other factors as it may deem appropriate.

The Pennsylvania Film Office will endeavor to respond to applications within 30 days after receipt of the required information.

Section VII – The Tax Credit Contract

If an application for a tax credit is approved, the Pennsylvania Film Office will prepare and send a contract to the applicant. The contract will specify the maximum amount of eligible tax credits and the applicant's obligations including but not limited to the following:

- Provide evidence that:
 - the applicant has registered to do business in Pennsylvania prior to the commencement of principal photography in Pennsylvania; and
 - all personal service corporations or loan-out companies engaged by the applicant are incorporated in or have registered to do business in Pennsylvania prior to the commencement of principal photography in Pennsylvania or the date on which such company was engaged, whichever is later.

If an organization determines that it needs to register to do business in Pennsylvania, the link to the Forms section of the Department's Corporation Bureau website is

<http://www.dos.state.pa.us/corps/cwp/view.asp?a=1093&Q=431210&corpsNav=>

- Provide evidence that production 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 Law and these Guidelines.

In situations where the applicant is able to demonstrate to the satisfaction of the Pennsylvania Film Office that exigent circumstances have caused an unavoidable delay in the commencement of production, in its sole discretion, the Pennsylvania Film Office may agree to extend the start date by up to an additional 120 days upon receipt of satisfactory evidence that the production will commence within the time of the extension.

- Provide monthly progress reports and an Economic Impact Report to the Pennsylvania Film Office until completion of the production using the forms attached hereto as Appendix D & E. Projects with a duration of more than three months must submit a monthly report in addition to an Economic Impact Report. Projects of less than three months' duration only need to submit an Economic Impact Report. The Economic Impact Report must be submitted to the Pennsylvania Film Office within 60 days of completion of the production.
- Submit an independently audited report of all production expenses and all Qualifying Pennsylvania production expenses upon completion of the project i.e., delivery of the completed film to investors and ready for distribution. Each expense must be verifiable by an independent CPA, including the amount and date the expense was incurred, the identification of vendors and employees paid, and the tax ID or social security number of each payment recipient. The report shall be prepared in accordance with the Financial Compliance Instructions for the Program attached as Appendix F.
- Include with the end credits, in each print and electronic version of the project, an acknowledgement of the support provided by the Pennsylvania Film Office and any applicable regional film office(s) and the logo of the Pennsylvania Film Office and any applicable regional film office(s). The acknowledgement and logo to be used for the Pennsylvania Film Office may be found in Appendix G of these guidelines and are available at www.filminpa.com.
- Such other terms and conditions as the Pennsylvania Film Office deems appropriate.

Acceptance of the contract must be made by returning an original signed copy of the contract to the Pennsylvania Film Office within 14 days of the date it is issued by certified mail or other traceable form. Failure to return an original signed copy of the contract within 14 days may result in rescission of the award, at the discretion of the Pennsylvania Film Office.

Contracts must be returned to:

Janice Collier
Director of Grants & Finance
Pennsylvania Film Office
Department of Community & Economic Development
Commonwealth Keystone Building
400 North Street, 4th Floor
Harrisburg, PA 17120-0225

Section VIII – Issuance of Tax Credit Certificates

Tax credit certificates will be issued by the Department upon review and approval of the audit, the Economic Impact Report and any other information requested by the Pennsylvania Film Office. Provided the information supplied to the Film Office meets the financial reporting requirements of the Program, a tax credit certificate will be issued within 45 days of receipt of the information.

The amount of film tax credits issued may not exceed the amount requested in the application.

Film tax credits can only be issued to entities that have a Pennsylvania state tax ID number. All entities not incorporated in the Commonwealth of Pennsylvania must register to do business in Pennsylvania in order to obtain a state tax ID number.

Section IX – Use and Transfer of Tax Credits

Tax credits may be applied against tax liability under the following Pennsylvania taxes (under Articles III, IV or VI of the Tax Reform Code of 1971):

- Personal Income Tax (but not tax withheld by an employer from an employee)
- Corporate Net Income Tax
- Capital Stock and Franchise Tax

In addition to the information provided in these Guidelines, sellers and buyers of tax credits are encouraged to review Corporation Tax Bulletin 2008-02 issued by the Department of Revenue, available at http://www.revenue.state.pa.us/revenue/lib/revenue/ct_2008_02.pdf.

A. Tax Credit Applicant

The tax credit must first be applied to the applicant's tax liability for the applicant's tax year in which the credit is issued and the tax credit cannot be applied against such liability until the return for such year has been filed. If the applicant's tax liability is less than the tax credits issued to it, the applicant:

- May carry forward the unused portion of the tax credit for a period not to exceed three additional taxable years and may use the tax credit to offset eligible tax liabilities during those years; or
- May apply to the Pennsylvania Film Office for approval for the sale, transfer or assignment of all or a portion of the tax credit to another entity having such tax liabilities using the form attached as Appendix H.

An applicant may not carry back or obtain a refund of any unused Film Tax Credits.

An applicant must file all required state tax reports and returns for the years up to and including the date of the issuance of the certificate and pay any balance of state tax due as determined at settlement, assessment or determination by the Department of Revenue before the tax credit can be used and before an application for sale or assignment will be approved.

After submitting an application to transfer a Film Tax Credit, an applicant may no longer use that portion of the tax credit to offset an eligible tax liability unless the application is denied by the Pennsylvania Film Office or withdrawn by the applicant.

B. Transferring Tax Credits

Subject to the statutory requirements relating to the payment of all outstanding tax liability for the year in which the tax credit is issued, an applicant may transfer unused tax credits. The effective taxable year for the transferred tax credits will be the date of approval of the application for transfer by the Department of Revenue, the tax report filing date or the date the seller becomes compliant, whichever is latest.

The amount of the tax credit that a transferee may use against any one qualified tax liability may not exceed 50% of such qualified tax liability for the taxable year. A transferee may not carry back or obtain a refund of any unused Film Tax Credits. Instructions on how to complete the application to obtain approval of the sale or assignment of tax credits may be found in Appendix H or at www.filminpa.com/assignment.

Film tax credits can only be sold or assigned to entities that have a Pennsylvania state tax ID number. All entities not incorporated in the Commonwealth of Pennsylvania must register to do business in Pennsylvania in order to obtain a state tax ID number.

Applications for the transfer of all or a portion of the tax credit submitted to the Film Office will be reviewed within 15 days of receipt by the Film Office. If the application is complete in all respects, the Film Office will forward the application to the Pennsylvania Department of Revenue for review and processing.

The Department of Revenue may take up to 60 days to review the application and confirm compliance with all conditions before posting the transfer to the transferor and transferee's respective accounts with the Department of Revenue. Neither DCED nor the Department of Revenue issues written confirmation of the transfer. Transferors and transferees of tax credits may each 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.

Section X – Confidentiality

Materials submitted to the Pennsylvania Film Office and the Department of Community and Economic Development may be subject to public release under 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
- Marketing information
- Intellectual property

Under the Right to Know Law all applications received by the Department will become available to the public upon request from the time of their receipt.

If an applicant believes a document or a specific piece of information in the documents should be confidential, the Pennsylvania Film Office advises that the applicant stamp or otherwise make the material "CONFIDENTIAL."

If the Department receives a request for information under the Right to Know Law, the applicant will be notified. The applicant will have five business days from the receipt of the notification to provide an opinion regarding the request to the Department. Whether or not the applicant has responded, the Department will respond to the record request within 10 days of the request and will notify the applicant of its decision.

Applicants should consult with their legal advisors on the terms of and applicability of the Right to Know Law and the Public Record Exception to the Right to Know Law that protects “financial statements, business plans and marketing information” before submitting an application or other materials to the Department.

The Pennsylvania Film Office may share information with the applicant’s regional film office to help the applicant forge local connections and to enhance the quality of services offered to the applicant.

Appendix A: Enabling Legislation – Act 55 of July 25, 2007

**PENNSYLVANIA STATUTES
TITLE 72. TAXATION AND FISCAL AFFAIRS
CHAPTER 5. TAX REFORM CODE OF 1971
ARTICLE XVII-D. FILM PRODUCTION TAX CREDIT**

72 P.S. § 8701-D (2007)

§ 8701-D. Scope of article

This article relates to film production tax credits.

§ 8702-D. Definitions

The following words and phrases when used in this article shall have the meanings given to them in this section unless the context clearly indicates otherwise:

"DEPARTMENT." The Department of Community and Economic Development of the Commonwealth.

"FILM." A feature film, a television film, a television talk or game show series, a television commercial or a television pilot or each episode of a television series which is intended as programming for a national audience. The term does not include 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.

"PASS-THROUGH ENTITY." A partnership as defined in section 301(n.0) or a Pennsylvania S corporation as defined in section 301(n.1).

"PENNSYLVANIA PRODUCTION EXPENSE." Production expense incurred in this Commonwealth. The term includes:

- (1) Compensation paid to an individual on which the tax imposed by Article III will be paid or accrued.
- (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 if the tax imposed by Article III will be paid or accrued by all of the partners, members or shareholders of the pass-through entity for the taxable year.
- (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:
 - (i) The purchase is from a resident of this Commonwealth.
 - (ii) 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.
- (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.

"PRODUCTION EXPENSE." As follows:

- (1) The term includes all of the following:
 - (i) Compensation paid to an individual employed in the production of the film.
 - (ii) Payment to a personal service corporation representing individual talent.
 - (iii) Payment to a pass-through entity representing individual talent.
 - (iv) The costs of construction, operations, editing, photography, sound synchronization, lighting, wardrobe and accessories.
 - (v) The cost of leasing vehicles.
 - (vi) The cost of transportation to or from a train station, bus depot or airport.
 - (vii) The cost of insurance coverage.
 - (viii) The costs of food and lodging.
 - (ix) The purchase of music or story rights.
 - (x) The cost of rental of facilities and equipment.
- (2) The term does not include any of the following:
 - (i) Deferred, leveraged or profit participation paid or 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.
 - (ii) Development cost.
 - (iii) Expense incurred in marketing or advertising a film.
 - (iv) Cost related to the sale or assignment of a film production tax credit under section 1705-D(e)

"QUALIFIED FILM PRODUCTION EXPENSE." All Pennsylvania production expenses if Pennsylvania production expenses comprise at least 60% of the film's total production expenses. The term shall not include more than \$ 15,000,000 in the aggregate of compensation paid to individuals or payment made to entities representing an individual for services provided in the production of the film.

"QUALIFIED TAX LIABILITY." The liability for taxes imposed under Article III, IV or VI. The term shall not include any tax withheld by an employer from an employee under Article III.

"START DATE." The first day of principal photography in this Commonwealth.

"TAX CREDIT." The film production tax credit provided under this article.

"TAXPAYER." A film production company subject to tax under Article III, IV or VI. The term does not include contractors or subcontractors of a film production company.

§ 8703-D. Credit for qualified film production expenses

- (a) **APPLICATION.--** A taxpayer may apply to the department for a tax credit under this section. The application shall be on the form required by the department.
- (b) **REVIEW AND APPROVAL.--** The department shall review and approve or disapprove the applications in the order in which they are received. Upon determining the taxpayer has incurred or will incur qualified film production expenses, the department may approve the taxpayer for a tax credit.
- (c) **CONTRACT.--** If the department approves the taxpayer's application under subsection (b), the department and the taxpayer shall enter into a contract containing the following:
 - (1) An itemized list of production expenses incurred or to be incurred for the film.
 - (2) An itemized list of Pennsylvania production expenses incurred or to be incurred for the film.
 - (3) With respect to a contract entered into prior to completion of production, a commitment by the taxpayer to incur the qualified film production expenses as itemized.
 - (4) The start date.
 - (5) Any other information the department deems appropriate.
- (d) **CERTIFICATE.--** Upon execution of the contract required by subsection (c), the department shall award the taxpayer a film production tax credit and issue the taxpayer a film production tax credit certificate.

§ 8704-D. Film production tax credits

A taxpayer may claim a tax credit against the qualified tax liability of the taxpayer.

§ 8705-D. Carryover, carryback and assignment of credit

- (a) **GENERAL RULE.--** If the taxpayer cannot use the entire amount of the tax credit for the taxable year in which the tax credit is first approved, then the excess may be carried over to succeeding taxable years and used as a credit against the qualified tax liability of the taxpayer for those taxable years. Each time the tax credit is carried over to a succeeding taxable year, it shall be reduced by the amount that was used as a credit during the immediately preceding taxable year. The tax credit provided by this article may be carried over and applied to succeeding taxable years for no more than three taxable years following the first taxable year for which the taxpayer was entitled to claim the credit.
- (b) **APPLICATION.--** A tax credit approved by the department in a taxable year first shall be applied against the taxpayer's qualified tax liability for the current taxable year as of the date on which the credit was approved before the tax credit can be applied against any tax liability under subsection (a).
- (c) **NO CARRYBACK OR REFUND.--** A taxpayer is not entitled to carry back or obtain a refund of all or any portion of an unused tax credit granted to the taxpayer under this article.

- (d) (Reserved).
- (e) **SALE OR ASSIGNMENT.**-- The following shall apply:
 - (1) A taxpayer, upon application to and approval by the department, may sell or assign, in whole or in part, a tax credit granted to the taxpayer under this article.
 - (2) The department and the Department of Revenue shall jointly promulgate regulations for the approval of applications under this subsection.
 - (3) Before an application is approved, the Department of Revenue must make a finding that the applicant has filed all required State tax reports and returns for all applicable taxable years and paid any balance of State tax due as determined at settlement, assessment or determination by the Department of Revenue.
 - (4) Notwithstanding any other provision of law, the Department of Revenue shall settle, assess or determine the tax of an applicant under this subsection within 90 days of the filing of all required final returns or reports in accordance with section 806.1(a)(5) of the act of April 9, 1929 (P.L. 343, No. 176), known as The Fiscal Code.
- (f) **PURCHASERS AND ASSIGNEES.**-- The purchaser or assignee of all or a portion of a tax credit under subsection (e) shall immediately claim the credit in the taxable year in which the purchase or assignment is made. The amount of the tax credit that a purchaser or assignee may use against any one qualified tax liability may not exceed 50% of such qualified tax liability for the taxable year. The purchaser or assignee may not carry forward, carry back or obtain a refund of or sell or assign the tax credit. The purchaser or assignee shall notify the Department of Revenue of the seller or assignor of the tax credit in compliance with procedures specified by the Department of Revenue.

§ 8706-D. Determination of Pennsylvania production expenses

In prescribing standards for determining which production expenses are considered Pennsylvania production expenses for purposes of computing the credit provided by this article, the department shall consider:

- (1) The location where services are performed.
- (2) The location where supplies are consumed.
- (3) Other factors the department determines are relevant.

§ 8707-D. Limitations

- (a) **CAP.**-- In no case shall the aggregate amount of tax credits awarded in any fiscal year under this article exceed \$ 75,000,000.*
- (b) **INDIVIDUAL LIMITATIONS.**-- The following shall apply:
 - (1) The aggregate amount of film production tax credits awarded by the department under section 1703-D(d) to a taxpayer for a film may not exceed 25% of the qualified film production expenses to be incurred.
 - (2) A taxpayer that has received a grant under *12 Pa.C.S. § 4106* (relating to approval) shall not be eligible for a film production tax credit under this act for the same film.

* Act 48 of 2009 reduced the aggregate amount of tax credits awarded to \$42 million in fiscal year 2009-10 and \$60 million in fiscal year 2010-11.

§ 8708-D. Penalty

A taxpayer which claims a tax credit and fails to incur the amount of qualified film production expenses agreed to in section 1703-D(c)(3) for a film in that taxable year shall repay to the Commonwealth the amount of the film production tax credit claimed under this article for the film.

§ 8709-D. Pass-through entity

- (a) **GENERAL RULE.--** If a pass-through entity has any unused tax credit under section 1705-D, it may elect in writing, according to procedures established by the Department of Revenue, to transfer all or a portion of the credit to shareholders, members or partners in proportion to the share of the entity's distributive income to which the shareholder, member or partner is entitled.
- (b) **LIMITATION.--** A pass-through entity and a shareholder, member or partner of a pass-through entity shall not claim the credit under subsection (a) for the same qualified film production expense.
- (c) **APPLICATION.--** A shareholder, member or partner of a pass-through entity to whom a credit is transferred under subsection (a) shall immediately claim the credit in the taxable year in which the transfer is made. The shareholder, member or partner may not carry forward, carry back, obtain a refund of or sell or assign the credit.

§ 8710-D. Department guidelines and regulations

The department shall develop written guidelines for the implementation of the provisions of this article. The guidelines shall be in effect until such time as the department promulgates regulations for the implementation of the provisions of this article. The department shall promulgate regulations for the implementation of this article within two years of the effective date of this section.

§ 8711-D. Report to General Assembly

- (a) **GENERAL RULE.--** No later than June 1, 2008, and September 1 of each year thereafter, the Secretary of Community and Economic Development shall submit a report to the General Assembly summarizing the effectiveness of the tax credit provided by this article. The report shall include the name of the film produced, the names of all taxpayers utilizing the credit as of the date of the report and the amount of credits approved for, utilized by or sold or assigned by each taxpayer. The report may also include any recommendations for changes in the calculation or administration of the tax credit. The report shall be submitted to the chairman and minority chairman of the Appropriations and Finance Committees of the Senate and the chairman and minority chairman of the Appropriations and Finance Committees of the House of Representatives. In addition to the information set forth above, the report shall include the following information, which shall be separated by geographic location within this Commonwealth:
 - (1) The amount of credits claimed during the fiscal year by film.
 - (2) The total amount spent in this Commonwealth during the fiscal year by film.
 - (3) The total amount of tax revenues generated by this Commonwealth during the fiscal year by film.
 - (4) The total number of jobs created during the fiscal year by film, including the duration of the jobs.
- (b) **PUBLIC INFORMATION.--** Notwithstanding any law providing for the confidentiality of tax records, the information in the report shall be public information, and all report information shall be posted on the department's Internet website.

§ 8712-D. Film Advisory Board

- (a) **COMPOSITION.**-- A Film Advisory Board is established. The board shall work with the Pennsylvania Film Office and the regional film offices to promote the film industry throughout this Commonwealth and to examine and file a written report on the effectiveness of the tax credit and grant programs. The report shall be included in the department's report required under section 1711-D. The board shall consist of the following members:
- (1) The Secretary of Community and Economic Development, or a designee.
 - (2) A member appointed by the Governor.
 - (3) A member appointed by the President pro tempore of the Senate.
 - (4) A member appointed by the Minority Leader of the Senate.
 - (5) A member appointed by the Majority Leader of the House of Representatives.
 - (6) A member appointed by the Minority Leader of the House of Representatives.
- (b) **COMPENSATION.**-- Members of the board shall not be compensated for their service as board members, but shall be compensated for their reasonable expenses. The department shall provide administrative support for the board.
- (c) **MEETINGS.**-- The board shall meet no less than twice each year.
- (d) **CHAIRMAN.**-- The members of the board shall elect the chairman.



FILM TAX CREDIT APPLICATION

COMMONWEALTH OF PENNSYLVANIA
 PENNSYLVANIA FILM OFFICE
 Commonwealth Keystone Building
 400 North Street, 4th Floor
 Harrisburg, PA 17120-0225
 1-800-237-4363

INSTRUCTIONS: Please complete and submit this form to the Pennsylvania Film Office. Completed forms should be sent by mail or email to:

Janice Collier, Director of Grants & Finance
 Department of Community and Economic Development
 Commonwealth Keystone Building
 400 North Street, 4th Floor
 Harrisburg, PA 17120-0225
 Email: jacollier@state.pa.us

ENTITY INFORMATION <i>(PLEASE PRINT OR TYPE)</i>	Federal Taxpayer ID (EIN)	PA Corp Tax Acct ID (Box #)
Project Title	Single Application #	Department Use Only DATE RECEIVED:
Entity Name		

Permanent Address (Street Address) *All correspondence will be sent to this address unless otherwise specified in writing by this applicant.*

(City or Town, State, and ZIP)

Name of Corporate Parent

PART I DESCRIPTION OF PROJECT

Type of Project: <input type="checkbox"/> Feature Film <input type="checkbox"/> TV Movie <input type="checkbox"/> TV Pilot or Episodic TV Show <input type="checkbox"/> Documentary <input type="checkbox"/> Commercial <input type="checkbox"/> Other <i>(describe)</i>	Start Date of Principal Photography in PA:
In which counties in PA are you planning to film?	Anticipated Date of Project Completion: (including post-production)

Is the project fully funded or will it be fully funded prior to commencement of principal photography in PA? Yes No *Attach documentation of funding*

Has the project been greenlit / applicant received all necessary internal approvals to begin principal photography? Yes No

Attach a summary of all distribution agreements in place and any other plans for distribution.

Attach a list of key personnel including director, producer, principal cast and script for this project.

Attach a copy of the script and provide the log line for project:

Total Number Shoot Days (all locations, domestic and foreign):

Total Number Shoot Days in PA:	_____ % of Total Days
Total Number Shoot Days in PA outside Philadelphia Region (<i>Bucks, Chester, Delaware, Montgomery & Philadelphia Counties</i>) & Pittsburgh Region (<i>Allegheny, Armstrong, Beaver, Butler, Fayette, Greene, Mercer, Lawrence, Washington & Westmoreland Counties</i>):	_____ % of Days in PA

How many hires are anticipated for this project? F/T: _____ P/T: _____ Paid Trainees: _____ Unpaid Trainees: _____

PART II PRODUCTION EXPENSES AND CREDIT CALCULATION

Attach the Budget Top Sheet for the project and create a new column indicating Qualified PA Expenses.

Total Production Budget	\$
Qualified PA Expenses	\$
Qualified PA Expenses as % of Total Production Budget	%
Tax Credit Requested	\$

SIGNATURE, VERIFICATION AND SUBMISSION

Under penalties of perjury, I declare that I have examined this application, including all the attachments, and to the best of my knowledge and belief it is true, correct and complete. THIS FORM MUST BE SIGNED BY A CORPORATE OFFICER.

Signature of Officer of Company	Title	Date
Print Officer's Name and Title	Telephone # ()	E-mail Address
Name and Title of Preparer	Email Address	Telephone # ()
Preparer's Address	City	State ZIP

Appendix C: Instructions on Completing the Single Application

To complete the online single application, visit www.newPA.com, select “Single Application Sign In” then click “Go to Single Application”. You will need a login and password (if you have completed a Single Application in the past you should be able to use the same login name and password). **NOTE:** *All fields indicated with a red diamond must be completed.*

I. Complete Account Information

II. Begin a New Application

Project Name: Feature Film - indicate name of project

Do you need help selecting your program - No

Click “create a new application”

III. Select Program

Program Name: Film Tax Program

Click on “search”

Click on “apply”

IV. Company Information

Click on “use account info” and complete other required fields

V. Project Overview

VI. Project Site Location(s)

Provide your complete address, municipality, PA House and Senate # and US Congressional #.

VII. Project Narrative

Provide a brief description in response to the questions asked.

VIII. Program Budget

Click on “Spreadsheet”

Indicate the total amount requested in the total line under column headed “Film Tax Credit Program”

IX. Basis of Cost

Select budget justification

X. Budget Narrative

XI. Program Addendum

Click on box

XII. Submit Application



FILM TAX CREDIT MONTHLY REPORTING FORM

COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA FILM OFFICE
Commonwealth Keystone Building
400 North Street, 4th Floor
Harrisburg, PA 17120-0225
1-800-237-4363

INSTRUCTIONS: Please complete and submit this form within five business days after the end of each month following applicant's acceptance of a Film Tax Credit offer letter, from pre-production to completion of post-production. Monthly Reporting Forms should be sent by mail or email to:

Janice Collier, Director of Grants & Finance
Department of Community and Economic Development
Commonwealth Keystone Building
400 North Street, 4th Floor
Harrisburg, PA 17120-0225
Email: jacollier@state.pa.us

Name of Preparer:	Department Use Only DATE RECEIVED:
Name of FTC Applicant:	
Title:	Name of Project as stated in Application:

Report for the Month Ending:

1a. Has there been a change in the project schedule and budget provided as part of the Film Tax Credit application submitted to the Pennsylvania Film Office that has not been previously reported? <i>If yes, please provide details under Supplemental Information below.</i>	<input type="checkbox"/> Yes <input type="checkbox"/> No
1b. Where is the project in the production cycle? <input type="checkbox"/> Pre-production <input type="checkbox"/> Principal Photography <input type="checkbox"/> Post-production <input type="checkbox"/> Post-completion/Reporting	
1c. Has there been a change to the duration of the project, number of days filming, the date of commencement of principal filming in PA and/or date of completion of the project since the Film Tax Credit application was submitted to the Pennsylvania Film Office or the last monthly report, whichever is later? <i>If yes, indicate new dates and check yes in response to question 1d.</i>	<input type="checkbox"/> Yes <input type="checkbox"/> No
1d. Does the applicant wish to request an amendment to the Film Tax Credit Contract? <i>If yes, state the reason and the requested changes under Supplemental Information below. All requests for an amendment to the Film Tax Credit Contract will be reviewed by the Pennsylvania Film Office and the applicant will be notified if the request is approved or denied.</i>	<input type="checkbox"/> Yes <input type="checkbox"/> No
2a. Has there been any significant change in financing for the project described in the in the Film Tax Credit application submitted to the Pennsylvania Film Office that has not been previously reported? <i>If yes, please provide details under Supplemental Information below.</i>	<input type="checkbox"/> Yes <input type="checkbox"/> No
2b. Will changes in financing impact the duration of the project, number of days of filming, the date of commencement of principal filming in PA or date of completion of the project? <i>If yes, indicate new dates and check yes in response to question 2c.</i>	<input type="checkbox"/> Yes <input type="checkbox"/> No
2c. Does the applicant wish to request an amendment to the Film Tax Credit Contract to reflect these changes? <i>If yes, state the reason and the requested change under Supplemental Information below. All requests for an amendment to the Film Tax Credit Contract will be reviewed by the Film Office and the applicant will be notified if the request is approved or denied.</i>	<input type="checkbox"/> Yes <input type="checkbox"/> No
3. Have there been any other significant changes to information concerning the project supplied in the Film Tax Credit application submitted to the Pennsylvania Film Office that have not been previously reported? <i>If yes, please describe the changes and the impact on the Project and/or the Film Tax Credit for the Project under Supplemental Information below.</i>	<input type="checkbox"/> Yes <input type="checkbox"/> No

4. Attach a crew list, reflecting the name, permanent address and job title for all crew members who worked on the project at any time during the month for which this report is submitted (list only new crew members not previously reported). The final monthly list should also include a comprehensive list for the entire project.

SUPPLEMENTAL INFORMATION

SIGNATURE, VERIFICATION AND SUBMISSION

Under penalties of perjury, I declare that I have examined this application, including all the attachments, and to the best of my knowledge and belief it is true, correct and complete. THIS FORM MUST BE SIGNED BY A CORPORATE OFFICER.

Signature of Officer of Company	Title	Date
Print Officer's Name and Title	Telephone # ()	E-mail Address
Name and Title of Preparer	Email Address	Telephone # ()
Preparer's Address	City	State ZIP



FILM TAX CREDIT FINAL PRODUCTION & ECONOMIC IMPACT REPORT

COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA FILM OFFICE
Commonwealth Keystone Building
400 North Street, 4th Floor
Harrisburg, PA 17120-0225
1-800-237-4363

INSTRUCTIONS: Please complete and submit this form to the Pennsylvania Film Office simultaneously with your audit after project completion. Tax credit certificates will not be issued until this form is submitted and approved. Completed forms should be sent by mail or email to:

Janice Collier, Director of Grants & Finance
Department of Community and Economic Development
Commonwealth Keystone Building
400 North Street, 4th Floor
Harrisburg, PA 17120-0225
Email: jacollier@state.pa.us

APPLICANT INFORMATION	
PROJECT TITLE:	Department Use Only DATE RECEIVED:
APPLICANT:	
PERMANENT ADDRESS, STREET ADDRESS, CITY, STATE, ZIP CODE AND COUNTRY IF OTHER THAN USA	
ATTACH EVIDENCE THAT THE COMPANY WAS INCORPORATED OR REGISTERED TO DO BUSINESS IN PENNSYLVANIA ON THE DATE OF COMMENCEMENT OF PRINCIPAL PHOTOGRAPHY IN PA.	

PROJECT INFORMATION					
PRODUCTION TYPE	<input type="checkbox"/> Feature Film <input type="checkbox"/> TV Movie <input type="checkbox"/> TV Pilot or Episodic TV Show <input type="checkbox"/> Documentary <input type="checkbox"/> Commercial <input type="checkbox"/> Other (<i>describe</i>)				
PRODUCTION SCHEDULE	DATE OF COMMENCEMENT OF PRINCIPAL PHOTOGRAPHY IN PA (MM/DD/YYYY): PROJECT COMPLETION DATE (INCLUDING POST PRODUCTION) (MM/DD/YYYY): TOTAL DAYS OF PRODUCTION IN ALL LOCATIONS (IN PA AND ELSEWHERE): <table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 50%; border-right: 1px solid black; padding: 5px;">A. NUMBER OF PRE-PRODUCTION DAYS IN PA:</td> <td style="padding: 5px;">B. NUMBER OF PRIMARY PRODUCTION DAYS IN PA:</td> </tr> <tr> <td style="border-right: 1px solid black; padding: 5px;">C. NUMBER OF POST-PRODUCTION DAYS IN PA:</td> <td style="padding: 5px;">D. TOTAL DAYS OF PRODUCTION IN PA (A+B+C):</td> </tr> </table>	A. NUMBER OF PRE -PRODUCTION DAYS IN PA:	B. NUMBER OF PRIMARY PRODUCTION DAYS IN PA:	C. NUMBER OF POST -PRODUCTION DAYS IN PA:	D. TOTAL DAYS OF PRODUCTION IN PA (A+B+C):
A. NUMBER OF PRE -PRODUCTION DAYS IN PA:	B. NUMBER OF PRIMARY PRODUCTION DAYS IN PA:				
C. NUMBER OF POST -PRODUCTION DAYS IN PA:	D. TOTAL DAYS OF PRODUCTION IN PA (A+B+C):				
PRODUCTION LOCATION	PRODUCTION OFFICE ADDRESS (INCLUDE STREET ADDRESS, CITY, STATE, ZIP CODE AND COUNTRY IF OTHER THAN USA): POST-PRODUCTION OFFICE ADDRESS (INCLUDE STREET ADDRESS, CITY, STATE, ZIP CODE AND COUNTRY IF OTHER THAN USA): LIST PRIMARY PRODUCTION LOCATION(S) IN PA (INCLUDE STREET ADDRESS, CITY, STATE, ZIP CODE) LIST PRE-PRODUCTION LOCATION(S) IN PA (INCLUDE STREET ADDRESS, CITY, STATE, ZIP CODE) LIST POST-PRODUCTION LOCATION(S) IN PA (INCLUDE STREET ADDRESS, CITY, STATE, ZIP CODE)				

PRODUCTION LOCATION	MAJOR LANDMARKS, INSTITUTIONS AND SITES IN PA USED IN PRODUCTION:
ROOM NIGHTS	TOTAL NUMBER OF ROOM NIGHTS IN PA:
	ATTACH A LIST OF VENDORS IN PA THAT SUPPLIED LODGING (HOTELS OR OTHER ACCOMODATIONS) FOR THE PROJECT (INCLUDE STREET ADDRESS, CITY, STATE, ZIP CODE).

FINANCIAL INFORMATION			
	Budget	Actual	Budget v. Actual Variance
			\$ %
Total Expenses			
PA Qualified Expenses			

EMPLOYMENT & TRAINING IN PENNSYLVANIA			
PAID WORKERS			
	TOTAL	PA Residents	Non-PA Residents
Number			
Salary & Wages Paid			
Number of Hours Worked			
TRAINEES/VOLUNTEERS			
	TOTAL	PA Residents	Non-PA Residents
Number			
Amount Paid			
Number of Hours Worked			
<p>Provide the following information for all personnel hired (including job trainees), preferably by attaching payroll records:</p> <ul style="list-style-type: none"> <li style="display: inline-block; width: 45%;">> Name <li style="display: inline-block; width: 45%;">> Social Security Number (last four digits only) <li style="display: inline-block; width: 45%;">> Permanent Residence (Street Address) <li style="display: inline-block; width: 45%;">> Date of hire <li style="display: inline-block; width: 45%;">> Permanent Residence (City, State, Zip Code) <li style="display: inline-block; width: 45%;">> Date of termination of employment 			

Did any person hired to provide services do so through a loan-out company? Yes No

If yes, please complete the chart on page 3. Attach evidence that the loan-out company was incorporated or registered to do business in Pennsylvania on the date of commencement of principal photography in PA or the date of engagement, whichever is later. Please be sure to provide information for (1) all work performed through the loan-out, and (2) that portion of the work done in Pennsylvania.

Name of Loan-Out Company	Permanent Address of Loan-Out Company	Principal's Name	Start Date of Engagement	End Date of Engagement	# of Hours Worked (in PA only)	Compensation (in PA only)
TOTAL COMPENSATION & HOURS						

NOTES AND COMMENTS *(optional; attach separate sheets)*

SIGNATURE, VERIFICATION AND SUBMISSION

Under penalties of perjury, I declare that I have examined this application, including all the attachments, and to the best of my knowledge and belief it is true, correct and complete.
THIS FORM MUST BE SIGNED BY A CORPORATE OFFICER.

Signature of Officer of Company	Title	Date
Print Officer's Name and Title	Telephone # ()	E-mail Address
Name and Title of Preparer	Email Address	Telephone # ()
Preparer's Address	City	State ZIP

Appendix F: Financial Compliance Instructions

I. Introduction

The following procedures relate to the financial compliance requirements of the Pennsylvania Film Tax Credit Law and Guidelines and the Contract between the Production Company and the Department of Community and Economic Development (the “Department”). The Production Company may submit, through an Independent Certified Public Accountant (the “CPA”), an audit or a report on agreed upon procedures to fulfill its financial compliance requirements. The audit or report on agreed upon procedures must be submitted within 120 days after completion of production unless a written request for an extension has been submitted to and approved by the Film Office.

II. Guidelines for Project Audits

A. Selection of an Independent Certified Public Accountant:

The audit must be performed by a properly licensed CPA. The Department encourages a competitive bid process in selecting a CPA. Further, the Commonwealth encourages the use of small firms and firms owned and controlled by socially and economically disadvantaged individuals.

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

B. Scope of the Project Audit:

The Project Audit must include all funds expended on the Project under the Department contract, and must encompass the entire contract period.

Other periods may also be specified at the discretion of the Department and the Department reserves the right to designate additional compliance factors.

C. Components of the Project Audit:

The Project Audit must be done in accordance with the standards set forth in the Government Auditing Standards (GAS), current revision, and must include, *as a minimum*, the following:

1. Accountant’s Report
2. Financial Statements, including:
 - Statement of Total Qualifying Pennsylvania Expenses and Total Production Expenses
 - Notes to the Financial Statements
3. Report of Estimated Pennsylvania Sales Tax and total Pennsylvania individual gross income taxes withheld related to the Project
4. Internal Control Report
5. Compliance Report: including all findings (i.e., instances of non-compliance or deficiencies in the internal control structure), along with all attendant costs.

D. Submission of the Project Audit Report and Technical Assistance:

Three (3) copies of the audit, application, engagement letter and award letter or contract are required to be submitted to the Film Office within 120 days after the completion of the production unless a written request for an extension has been submitted to and approved by the Film Office.

Janice Collier
Director of Grants & Finance
Pennsylvania Film Office
Department of Community and Economic Development
Commonwealth Keystone Building
400 North Street, 4th Floor
Harrisburg, PA 17120

Questions regarding the performance or submission of the Project Audit should be referred to the Audits & Compliance Office at (717)720-7348.

III. Guidelines for Agreed Upon Procedures Engagements

If the Production Company chooses a CPA to perform a Report on Agreed Upon Procedures, the engagement letter between the Production Company, the Department and the CPA must include the procedures detailed in subsection C below. A draft engagement letter outlining sample sizes and percentages must be approved and signed by the Department before the Report on Agreed Upon Procedures is submitted to the Pennsylvania Film Office. Any changes in procedure must be approved in writing by the Audits & Compliance Office.

A. Selection of an Independent Certified Public Accountant:

The Report on Agreed Upon Procedures must be performed by a properly licensed CPA. The Department encourages a competitive bid process in selecting a CPA. Further, the Commonwealth encourages the use of small firms and firms owned and controlled by socially and economically disadvantaged individuals.

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

B. Scope of the Agreed Upon Procedures Engagement:

The Agreed Upon Procedures Engagement must include all funds expended on the Project under the Department contract, and must encompass the entire contract period.

Other periods may also be specified at the discretion of the Department and the Department reserves the right to designate additional compliance factors.

C. Components of the Agreed Upon Procedures Engagement:

The Agreed Upon Procedures Engagement must be done in accordance with the attestation standards established by the American Institute of Certified Public Accountants, and must include, *at a minimum*, the following:

1. Accountant's Report on Agreed Upon Procedures
2. Statement of Total Qualifying Pennsylvania Expenses and Total Production Expenses and computation of Pennsylvania Film Tax Credit.
3. Report of Estimated Pennsylvania Sales Tax and total Pennsylvania individual gross income taxes withheld related to the Project.
4. Report containing an attestation that the Production Company met the conditions set forth in the Pennsylvania Film Tax Credit Law, Guidelines and the Award Letter.

D. Submission of the Report of Agreed Upon Procedures:

Three (3) copies of the report, application, engagement letter and award letter or contract are required to be submitted to the Film Office within 120 days after the completion of the production unless a written request for an extension has been submitted to and approved by the Film Office.

Janice Collier
Director of Grants & Finance
Pennsylvania Film Office
Department of Community and Economic Development
Commonwealth Keystone Building
400 North Street, 4th Floor
Harrisburg, PA 17120

Questions regarding the performance or submission of the Report on Agreed Upon Procedures should be referred to the Audits & Compliance Office at (717)720-7348.

E. Sample Agreed Upon Procedures (fill in and include in draft engagement letter)

1. Engagement Purpose

The CPA will apply the agreed-upon procedures noted below to the expense accounts of the Production Company for the pre-production, production and post-production periods of the Project in accordance with the standards established by the American Institute of Certified Public Accountants.

2. Agreed-Upon Procedures

- a. The CPA will read the Film Tax Credit Law and Guidelines and any other materials provided by the Film Office.
- b. The CPA will test, on a sample basis, payments to individual talent, whether they were made to an individual or a loan-out company, and verify the agreement of: the date the expense was incurred, the vendor/individual and the amount of the expense. The CPA will also inspect the invoice/documentation for evidence of the expense being incurred in Pennsylvania if such invoice has been included in the report as a Qualified Pennsylvania Expense in accordance with the Film Tax Credit Law and Guidelines.

The criteria for determining the sample size for this procedure will be as follows: The CPA will select all individuals whose total earnings were in excess of \$100,000.

The CPA will randomly select _____ individuals whose total earnings were less than or equal to \$100,000. Total individual expenses selected amount to _____% of all production expenses.

- c. The CPA will ascertain that all loan-out companies are registered to do business in the Commonwealth of Pennsylvania.
- d. The CPA will test, on a sample basis, all expenses other than payments to individual talent from the list included in the Report of All Production Expenses and All Qualifying Pennsylvania Expenses of the Project and compare to the supporting invoices and verify agreement of: the date the expense was incurred, the vendor and the amount of the expense. The CPA will also inspect the invoice/documentation for evidence of the expense being incurred in Pennsylvania if such invoice has been included in the report as a Qualified Pennsylvania Expense in accordance with the Film Tax Credit Law and Guidelines.

The criteria for determining the sample size for this procedure will be as follows: The CPA will select all expenditures in excess of \$20,000. The CPA will randomly select _____ expenditures less than or equal to \$20,000. Total vendor expenses selected amount to _____% of all production expenses.

- e. In the event that through the agreed upon procedures, outlined in the steps above, the CPA finds a high rate of misclassified expenses (i.e., non-qualified expenses categorized as qualified), the CPA will notify the Department and request that Production Company carefully review and revise the schedules of Qualified Expenses. The CPA will then select a new sample, as outlined above, and perform the above agreed upon procedures again.
- f. "High rate of misclassified expenses" - If the extrapolated error for all sample strata is equal to or greater than the greater of \$50,000 or 1% of total Qualified Expenses submitted, the Production Company will have the option to submit the expense classification again and the CPA will create a new sample selection and perform the testing process again or as an alternative, the Production Company can elect to accept the results of the initial testing and accept the resulting Film Credit reduction adjustments as calculated by the CPA as a result of extrapolating the errors initially identified.
 - i. For example, if the total Qualified Expenses submitted equals \$2,000,000 and, as a result of the sample testing, \$100,000 of expenses, after extrapolating errors, were determined to be non-qualified, the Production Company can either:
 - a.) perform the Qualified Expense analysis again and the CPA will then select an entirely new sample selection, or
 - b.) opt to accept the findings of the initial sampling errors and agree to submit a request for a reduced credit for a net credit of \$475,000 as detailed in the following equation:
[(25% x \$2,000,000 = \$500,000) - (25% x \$100,000 = \$25,000)= \$475,000].
 - ii. To the extent that errors of non-compliance are found that are not subject to a reclassification as discussed above, the errors found in each sample strata will be extrapolated to arrive at a revised amount for Pennsylvania Qualified Expenses.
- g. The CPA will calculate the amount of the credit at 25% of the Qualified Pennsylvania Expenses.
- h. The CPA will review categories of expenses and payroll reports and prepare an estimate of sales taxes and individual gross income taxes related to the Project.

Appendix G: Acknowledgements and Logos

All projects that receive a film tax credit award must include the following statement and the Pennsylvania Film Office logo:

This project was made possible with the support of the Commonwealth of Pennsylvania and the Pennsylvania Film Office.



Projects that receive support from a regional film office in Pennsylvania must also acknowledge such support and include the logo of the relevant film office.



High res images of the logo for the Pennsylvania Film Office and other regional film offices can be found at www.filminpa.com.

Appendix H: Film Tax Credit Sale or Assignment Application and Instructions

I. Use or Sale of the Tax Credit

A tax credit may be applied to tax liability under the following state taxes (under Articles III, IV or VI of the Tax Reform Code of 1971):

- Personal Income Tax (but not tax withheld by an employer from an employee)
- Corporate Net Income Tax
- Capital Stock and Franchise Tax

A production company may not carry back or obtain a refund of any unused Film Tax Credits. If the production company's tax liability is less than the tax credits awarded to it:

- The company may carry forward the unused portion of the tax credit for a period not to exceed three additional taxable years and may use the tax credit to offset eligible tax liabilities during those years; or
- The production company may apply to the Pennsylvania Film Office for approval for the sale, transfer or assignment of all or a portion of the tax credit to another entity having such tax liabilities.

A production company must file all required state tax reports and returns for all applicable tax years and pay any balance of state tax due as determined at settlement, assessment or determination by the Department of Revenue before an application for sale or assignment is approved.

When the production company submits an application to sell the Film Tax Credit, the production company may no longer use that tax credit to offset an eligible tax liability unless the application for the sale is denied by the Pennsylvania Film Office or the application is withdrawn by the production company.

The production company must identify the buyer company or individual, and the buyer must sign off on the application to sell the Film Tax Credits.

II. Film Tax Credit Buyer

The buyer must be identified in the application for the sale of the Film Tax Credits submitted by the production company. A separate application must be submitted for each buyer. The buyer must claim the full amount of the purchased Film Tax Credit in the taxable year in which the application for the sale of the tax credit is approved by the Pennsylvania Film Office. The purchased or assigned Film Tax Credits may be used against the following state taxes (under Articles III, IV or VI of the Tax Reform Code of 1971):

- Personal Income Tax (but not tax withheld by an employer from an employee)
- Corporate Net Income Tax
- Capital Stock and Franchise Tax

Any portion of the tax credit not used by the buyer in the year of the purchase is lost and may not be used in any other tax year. The amount of the purchased credit may not be used to offset more than 50% of the

buyer's tax liability in that year. The buyer may not carry-over, carry back, obtain a refund of, or assign the Film Tax Credit. Film Tax Credits may be sold only once. The transfer of Film Tax Credits will be closely coordinated between the Pennsylvania Film Office and the PA Department of Revenue.

Film tax credits can only be sold or assigned to entities that have a Pennsylvania state tax ID number. All entities not incorporated in the Commonwealth of Pennsylvania must register to do business in Pennsylvania in order to obtain a state tax ID number.

III. Application

Prospective applicants must submit applications on the forms included in these instructions. Completed applications, including all required signatures and attachments, must be submitted to:

Janice Collier
Director of Grants & Finance
Pennsylvania Film Office
Department of Community and Economic Development
Commonwealth Keystone Building
400 North Street, 4th Floor
Harrisburg, PA 17120-0225

For specific questions on this program, contact the Pennsylvania Film Office at 717-783-FILM.



FILM TAX CREDIT ASSIGNMENT APPLICATION

COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA FILM OFFICE
Commonwealth Keystone Building
400 North Street, 4th Floor
Harrisburg, PA 17120-0225
1-800-237-4363

***Attach a copy of the Film Tax Credit certificate or approval letter to this application.
Please use separate applications if Tax Credits issued on different dates are to be sold.***

Definitions:

Seller – Film business to which the Film Tax Credits were originally issued or approved, and which may be applying to sell, transfer or assign those credits.

Buyer – Entity that is purchasing the Film Tax Credit from the business of issue, and to which the tax credit is to be sold, transferred or assigned.

Business of Issue – Film Company to which the Film Tax Credits were originally issued or approved.

DEPARTMENT USE ONLY	
DATE RECEIVED:	APPLICATION NUMBER:

I. Prospective SELLER Identification and Information	
<i>Please use the name and address that is on record with the PA Department of Revenue unless that on-file information has been changed and is no longer valid.</i>	
NAME:	
ADDRESS:	
TELEPHONE:	FAX:
E-MAIL ADDRESS:	TAXPAYER IDENTIFICATION (SSN, FEIN OR BOX NUMBER OF SELLER):
DATE OF ISSUE OR APPROVAL OF FILM TAX CREDITS TO BE SOLD:	
HAS ANY PORTION OF THE APPROVED FILM TAX CREDIT BEEN USED AGAINST A TAX LIABILITY OF THE PRODUCTION COMPANY, AND IF SO HOW MUCH?	
AMOUNT OF UNUSED APPROVED FILM TAX CREDIT TO BE SOLD FROM THE LISTED ISSUE OR APPROVAL DATE:	
SIGNATURE OF PROSPECTIVE SELLER:	
PRINTED NAME:	
PRINTED TITLE OR AFFILIATION TO THE BUSINESS:	

II. Prospective Film Tax Credit BUYER Identification and Information

Please use the name and address that is on record with the PA Department of Revenue unless that on-file information has been changed and is no longer valid.

NAME:

ADDRESS:

TELEPHONE:

FAX:

E-MAIL ADDRESS:

TAXPAYER IDENTIFICATION (SSN, FEIN OR BOX NUMBER OF SELLER):

DATE OF ISSUE OR APPROVAL OF FILM TAX CREDITS TO BE SOLD:

HAS ANY PORTION OF THE APPROVED FILM TAX CREDIT BEEN USED AGAINST A TAX LIABILITY OF THE PRODUCTION COMPANY, AND IF SO HOW MUCH?

AMOUNT OF UNUSED APPROVED FILM TAX CREDIT TO BE SOLD FROM THE LISTED ISSUE OR APPROVAL DATE:

INDICATE TO WHICH ACCOUNT THE TAX CREDIT SHOULD BE APPLIED (CHECK ONE):

(If more than one amount specify dollar amount to be applied in each case)

CS/FF CNI NRC PI

SIGNATURE OF PROSPECTIVE BUYER:

PRINTED NAME:

PRINTED TITLE OR AFFILIATION TO THE BUSINESS:

III. Information on the Film Tax Credit Sale

DOLLAR AMOUNT AGREED UPON TO COMPLETE THE SALE:

WERE THE SERVICES OF ANY AGENT(S) OR FACILITATOR(S) USED TO ARRANGE THIS PROSPECTIVE FILM TAX CREDIT SALE?

IF THE SERVICES OF ANY AGENT(S) OR FACILITATOR(S) WERE USED, PLEASE IDENTIFY THE AGENT(S) OR FACILITATOR(S).

WHAT, IF ANY, FEE OR COMMISSION WAS, OR IS BEING, PAID TO EACH AGENT(S) OR FACILITATOR(S) LISTED ABOVE (PLEASE ITEMIZE)?