

Regulatory Analysis Form

(Completed by Promulgating Agency)



IRRC

Independent Regulatory Review Commission

SECTION I: PROFILE

(1) Agency:

Department of Community and Economic Development

(2) Agency Number: 04

Identification Number: 92

IRRC Number: 2876

200 SEP 23 A 11: 25

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(3) Short Title:

72 P.S. §8710-D

(4) PA Code Cite:

Title 12, Part 1, Subpart F, Chapter 36

(5) Agency Contacts (List Telephone Number, Address, Fax Number and Email Address):

Primary Contact: Andrew Tanzer, Assistant Counsel
Office of Chief Counsel
Department of Community and Economic Development
Commonwealth Keystone Building
400 North Street, Plaza Level
Harrisburg, PA 17120
(717) 783-8452

Secondary Contact: Jane Saul, Executive Director
Pennsylvania Film Office
Commonwealth Keystone Building
400 North Street, 4th Floor
Harrisburg, PA 17120
(717) 783-3456

(6) Primary Contact for Public Comments (List Telephone Number, Address, Fax Number and Email Address) – Complete if different from #5:

(All Comments will appear on IRRC'S website)

Regulatory Analysis Form

(7) Type of Rulemaking (check applicable box):

- Proposed Regulation
- Final Regulation
- Final Omitted Regulation
- Emergency Certification Regulation;
 - Certification by the Governor
 - Certification by the Attorney General

(8) Briefly explain the regulation in clear and nontechnical language. (100 words or less)

The purpose of this regulation is to implement the provisions of the Act 55 of July 25, 2007, 72 P.S. § 8701-D. The regulation delineates actions necessary for financial compliance with the Film Production Tax Credit requirements and the use and transfer of tax credits.

(9) Include a schedule for review of the regulation including:

- A. The date by which the agency must receive public comments: 11/1/2010
- B. The date or dates on which public meetings or hearings will be held: 12/1/2010
- C. The expected date of promulgation of the proposed regulation as a final-form regulation: 3/1/2011
- D. The expected effective date of the final-form regulation: 3/1/2011
- E. The date by which compliance with the final-form regulation will be required: 3/1/2011
- F. The date by which required permits, licenses or other approvals must be obtained: N/A

(10) Provide the schedule for continual review of the regulation.

The regulation shall be reviewed no later than October 1 of each year.

Regulatory Analysis Form

SECTION II: STATEMENT OF NEED

(11) State the statutory authority for the regulation. Include specific statutory citation.

This regulation is promulgated pursuant to the authority in Article 17(d) of the Tax Reform Code of 1971 (P.L. 6, No. 2) and Section 306 of the act of June 27, 1996 (P.L. 403, No. 58) (71 Pa. Stat. Ann. § 1709.306), known as the Community and Economic Development Enhancement Act.

(12) Is the regulation mandated by any federal or state law or court order, or federal regulation? Are there any relevant state or federal court decisions? If yes, cite the specific law, case or regulation as well as, any deadlines for action.

The regulation is mandated by the Act 55 of July 25, 2007, 72 P.S. § 8701-D.

(13) State why the regulation is needed. Explain the compelling public interest that justifies the regulation. Describe who will benefit from the regulation. Quantify the benefits as completely as possible and approximate the number of people who will benefit.

The regulation is needed to fulfill mandatory requirements of the Act 55 of July 25, 2007, 72 P.S. § 8701-D, to promulgate regulations for the implementation of the Pennsylvania Film Production Tax Credit within two years of the effective date of the Act.

The regulation will delineate important guidance and compliance requirements to applicants, agencies, groups or entities for the effective administration of the Pennsylvania Film Production Tax Credit.

(14) If scientific data, studies, references are used to justify this regulation, please submit material with the regulatory package. Please provide full citation and/or links to internet source.

Not applicable.

(15) Describe who and how many will be adversely affected by the regulation. How are they affected?

It is not anticipated that any person, group, or entity will be adversely affected.

Regulatory Analysis Form

(16) List the persons, groups or entities that will be required to comply with the regulation. Approximate the number of people who will be required to comply.

Applicants for the Pennsylvania Film Production Tax Credit
The Department of Community and Economic Development
The Pennsylvania Film Office
Certified Public Accountants

SECTION III: COST AND IMPACT ANALYSIS

(17) Provide a specific estimate of the costs and/or savings to the **regulated community** associated with compliance, including any legal, accounting or consulting procedures which may be required. Explain how the dollar estimates were derived.

The costs and /or savings to the regulated community resulting from this regulation cannot be calculated with any precision.

The regulated community will benefit from reduction in errors, greater compliance, and more efficiency in the administration of the Pennsylvania Film Production Tax Credit as a result of the regulation's clarification of compliance and process requirements.

(18) Provide a specific estimate of the costs and/or savings to **local governments** associated with compliance, including any legal, accounting or consulting procedures which may be required. Explain how the dollar estimates were derived.

There should be no costs and/or savings to local governments resulting from these amendments to the regulation.

(19) Provide a specific estimate of the costs and/or savings to **state government** associated with the implementation of the regulation, including any legal, accounting, or consulting procedures which may be required. Explain how the dollar estimates were derived.

The costs and /or savings to state government resulting from this regulation cannot be calculated with any precision.

State government will benefit from cost savings associated with a lower risk of litigation, a reduction of errors, greater compliance and more efficiency in the processing and administration of the Pennsylvania Film Production Tax Credit.

Regulatory Analysis Form

(20) In the table below, provide an estimate of the fiscal savings and costs associated with implementation and compliance for the regulated community, local government, and state government for the current year and five subsequent years.

	Current FY Year	FY +1 Year	FY +2 Year	FY +3 Year	FY +4 Year	FY +5 Year
SAVINGS:	\$	\$	\$	\$	\$	\$
Regulated Community	0	0	0	0	0	0
Local Government	0	0	0	0	0	0
State Government	0	0	0	0	0	0
Total Savings	0	0	0	0	0	0
COSTS:						
Regulated Community	0	0	0	0	0	0
Local Government	0	0	0	0	0	0
State Government	0	0	0	0	0	0
Total Costs	0	0	0	0	0	0
REVENUE LOSSES:						
Regulated Community	0	0	0	0	0	0
Local Government	0	0	0	0	0	0
State Government	0	0	0	0	0	0
Total Revenue Losses	0	0	0	0	0	0

(20a) Provide the past three year expenditure history for programs affected by the regulation.

Program	FY -3	FY -2	FY -1	Current FY
Film Production	\$75,000,000	\$75,000,000	\$42,000,000	\$60,000,000
Tax Credit Program				

Regulatory Analysis Form

(21) Explain how the benefits of the regulation outweigh any cost and adverse effects.

The regulation provides clarification of the process and requirements of the Pennsylvania Film Production Tax Credit. It is anticipated that the benefits of the clarification and guidance provided by the regulation will outweigh unforeseeable adverse effects.

(22) Describe the communications with and input from the public and any advisory council/group in the development and drafting of the regulation. List the specific persons and/or groups who were involved.

The Pennsylvania Film Office
 The Film Advisory Board
 The Greater Philadelphia Film Office
 The Pittsburgh Film Office
 Department of Community and Economic Development

(23) Include a description of any alternative regulatory provisions which have been considered and rejected and a statement that the least burdensome acceptable alternative has been selected.

N/A

(24) Are there any provisions that are more stringent than federal standards? If yes, identify the specific provisions and the compelling Pennsylvania interest that demands stronger regulations.

There are no applicable federal standards for the Pennsylvania Film Production Tax Credit.

(25) How does this regulation compare with those of other states? How will this affect Pennsylvania's ability to compete with other states?

The regulation is consistent with other state film production tax credit regulations and will allow Pennsylvania to remain on equal footing with other states in promoting and attracting film production in the Commonwealth. The tax credit provides an important tool for the development of the film industry in Pennsylvania which benefits small businesses, taxpayers and local employees of the industry.

(26) Will the regulation affect any other regulations of the promulgating agency or other state agencies? If yes, explain and provide specific citations.

Yes. Department of Revenue is affected. The regulation supplements Revenue's regulations and bulletins. *See, e.g., PA Dept. of Revenue, Corporation Tax Bulletin 2008-02, July 21, 2008.*

Regulatory Analysis Form

(27) Submit a statement of legal, accounting or consulting procedures and additional reporting, recordkeeping or other paperwork, including copies of forms or reports, which will be required for implementation of the regulation and an explanation of measures which have been taken to minimize these requirements.

Under the proposed regulation, the Production Company shall submit, through an independent Certified Public Accountant (CPA), an audit or a report on agreed upon procedures. The regulation requirements have been previously required by guidelines and do not represent additional measures.

The regulation provisions establishing the option to submit agreed upon procedures in place of an audit were included in order to minimize the financial burden on the Production Company.

In addition to the Audit or Agreed Upon Procedures, the Production Company must submit an Economic Impact Report in the form provided by the Department.

(28) Please list any special provisions which have been developed to meet the particular needs of affected groups or persons including, but not limited to, minorities, elderly, small businesses, and farmers.

Not applicable.

FACE SHEET
FOR FILING DOCUMENTS
WITH THE LEGISLATIVE REFERENCE BUREAU
(Pursuant to Commonwealth Documents Law)

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IRRC
2010 SEP 23 A 11: 26

DO NOT WRITE IN THIS SPACE

<p>Copy below is hereby approved as to form and legality. Attorney General</p> <p>BY: <u>[Signature]</u> (DEPUTY ATTORNEY GENERAL)</p> <p>SEP 09 2010</p> <p>DATE OF APPROVAL</p> <p><input type="checkbox"/> Check if applicable Copy not approved. Objections attached.</p>	<p>Copy below is here by certified to be a true and correct copy of a document issued, prescribed or promulgated by:</p> <p>Department of Community and Economic Development (AGENCY)</p> <p>DOCUMENT/FISCAL NOTE NO. 04-92 DATE OF ADOPTION: <u>July 13, 2010</u></p> <p>BY: <u>[Signature]</u></p> <p>TITLE <u>Deputy Secretary of Administration</u> (EXECUTIVE OFFICER, CHAIRMAN OR SECRETARY)</p>	<p>Copy below is hereby approved as to form and legality. Executive or Independent Agencies.</p> <p>BY: <u>[Signature]</u></p> <p>Andrew C. Clark Deputy General Counsel</p> <p>AUG 13 2010</p> <p>DATE OF APPROVAL</p> <p>(Chief Counsel, Independent Agency) (Strike inapplicable title)</p> <p><input type="checkbox"/> Check if applicable. No Attorney General approval or objection within 30 days after submission.</p>
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TITLE 12. COMMERCE TRADE AND LOCAL GOVERNMENT

PART 1. GENERAL ADMINISTRATION

SUBPART F. FILM TAX CREDIT

CHAPTER 36. FILM TAX CREDIT

PREAMBLE

The Department of Community and Economic Development, under the authority of Section 1710-D of the act of July 25, 2007 (P.L. 373, No.55.) (72 PA. STAT. ANN. § 8701-D *et seq.*), known as the Tax Reform Code of 1971, hereby amends Title 12 of the *Pennsylvania Code* by adding Subpart F and Chapter 36. The purpose of these regulations is to delineate actions necessary for financial compliance with the Film Production Tax Credit requirements and the use and transfer of tax credits.

Introduction

The Tax Reform Code of 1971 authorizes the Department to promulgate rules and regulations to interpret and make specific the provisions of the Film Production Tax Credit. Such rules and regulations, *inter alia*, are to be promulgated “for the implementation of the provisions of this article.” 72 PA. STAT. ANN. § 8710-D. The purpose of these regulations is to provide guidance and clarification concerning the ability to qualify, receive, utilize and/or transfer film production tax credits.

Analysis

Part 1 of the Pennsylvania Code has been amended to include Subpart F and Chapter 36, which are new regulations governing film production tax credits.

Fiscal Impact

The proposed regulation supplements the existing compliance framework. It creates no adverse fiscal impact and should benefit both the regulated community and state government through a reduction in errors, greater compliance, and more efficiency in the administration of the Film Production Tax Credit.

Paperwork

The proposed regulation will not change existing paperwork requirements.

Regulatory Review

Under Section 5(a) of the Regulatory Review Act, the Act of June 30, 1989 (P.L. 73, No. 19), (71 PA. STAT. ANN. §§ 745.1-745.15), the agency submitted a copy of this proposed regulation on September 23, 2010 to the Independent Regulatory Review Commission, the Chairperson of the House Urban Affairs Committee, and the Chairperson of the Senate Community Economic and Recreational Development Committee. In addition to submitting the regulation, the agency has provided IRRC and the Committees with a copy of a detailed Regulatory Analysis Form prepared by the agency in compliance with Executive Order 1982-2, "Improving Government Regulations." A copy of this material is available to the public upon request.

If the Commission has any objections to any portion of the proposed regulation, it will notify the agency by 30 days after the close of the public comment period. Such notification shall specify the regulatory review criteria which have not been met by that portion. The Act specifies detailed procedures for review, prior to final publication of the regulation, by the agency, the General Assembly and the Governor of objections raised.

Effective Date/Sunset Date

(a) The regulation will become effective 60 days after final publication in the Pennsylvania Bulletin.

(b) The regulations are monitored on a regular basis and updated as needed.

Contact Person

Interested persons are invited to submit in writing, within thirty (30) days from the date of publication of the proposed regulation in the Pennsylvania Bulletin, any comments, suggestions or objections regarding the proposed regulation to Andrew Tanzer, Assistant Counsel, Office of Chief Counsel, Department of Community and Economic Development, Commonwealth Keystone Building, 4th Floor, 400 North Street, Harrisburg, PA 17120 (717-720-7317); and/or Jane Saul, Executive Director, Pennsylvania Film Office, 4th Floor, 400 North Street, Commonwealth Keystone Building, Harrisburg, PA 17120 (717-783-3456).

TITLE 12. COMMERCE TRADE AND LOCAL GOVERNMENT

PART 1. GENERAL ADMINISTRATION

SUBPART F. FILM PRODUCTION TAX CREDIT

CHAPTER 36. FILM PRODUCTION TAX CREDIT

§ 36.1. Authority.

This regulation is promulgated under the authority provided by Section 8710-D of the Act of July 25, 2007 (P.L. , No. 55), known as The Tax Reform Code of 1971.

§ 36.2. Definitions.

The definitions of the Pennsylvania Film Production Tax Credit Law are hereby incorporated by reference. The following words or phrases when used in this Chapter shall have the meanings given to them in this section unless context clearly indicates otherwise:

“CPA” a certified public accountant.

“Pennsylvania Film Office” the office within the Department which administers the Tax Credit.

“Single Application for Assistance” The Department’s application for its funding programs.

§ 36.3. Application.

(a) Taxpayers shall provide the following information and documentation to the Pennsylvania Film Office to be considered for an award of a Tax Credit:

- (1) A completed Tax Credit Application available at the Pennsylvania Film Office website at <http://www.filminpa.com>.

- (2) A completed Single Application for Assistance available at the Department's website at <http://www.newpa.com>. The Single Application of Assistance shall be submitted electronically.
- (3) A budget top sheet in a format that provides 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.
- (4) 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 of Pennsylvania. If financing is or will be in place, an Taxpayer shall provide appropriate documentation and shall notify the Pennsylvania Film Office of any change in financing prior to completion of the project.
- (5) Additional information and documentation requested during an interview, in person or by telephone, with the Pennsylvania Film Office to discuss the application prior to its submission. Interested Taxpayers should request an appointment by calling (717) 783-FILM.
- (6) Any other information or documentation deemed appropriate by the Pennsylvania Film Office.

(b) Applications shall be mailed, faxed or sent via email to:

Pennsylvania Film Office

Department of Community and Economic Development

Commonwealth Keystone Building

400 North Street, 4th Floor

Harrisburg, PA 17120-0225

Phone: (717) 783-FILM

Fax: (717) 787-0687

info@filminpa.com

§ 36.4. Special Circumstances.

(a) Productions lasting more than 12 months. If a Film is scheduled to be in production for more than 12 months, the Taxpayer may, at the time of application, make a written request that a Tax Credit be issued on an annual basis rather than upon completion of production. If accepted, the request may not be withdrawn or changed. The Pennsylvania Film Office may in its discretion grant such a request, subject to the following conditions:

- (1) The amount of the Tax Credit to be issued shall be limited to 25% of Qualified Pennsylvania Production Expenses actually incurred during the relevant 12 month period; and
- (2) The Taxpayer shall comply with the Financial Compliance provisions of this regulation with respect to each tax credit to be issued under Section 36.3 (relating to financial compliance).

(b) More than one film. An Taxpayer may submit one application for a slate of feature films, i.e., three or more films each with a running time of more than 75 minutes. The application should be accompanied by a proposal detailing how the Taxpayer will ensure that all of the films will be completed and will qualify for the Tax Credit.

(c) **Large awards.** If the total Tax Credit Award for one approved application exceeds 20% of the Film Production Tax Credit allocation for that fiscal year, the Pennsylvania Film Office may award the Tax Credit for that application over succeeding years in each case not to exceed 20% of the allocation for that fiscal year.

§ 36.5. Review.

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

1. the amount of Qualifying Pennsylvania Production Expenses to be incurred by the Taxpayer;
2. the number of jobs in Pennsylvania to be created by the project;
3. the number of days shooting in Pennsylvania;
4. whether the Film is or will be fully financed prior to the Start Date;
5. whether distribution for the Film has been secured;
6. the number of job training opportunities in Pennsylvania to be generated by the Film;
7. whether post production activity will take place in Pennsylvania; and
8. such other factors as the Pennsylvania Film Office may deem appropriate.

§ 36.6. Contract.

If an application for a tax credit is approved, the Pennsylvania Film Office will prepare and send a contract to the Taxpayer. The contract will specify the maximum

amount of eligible Tax Credits and the Taxpayer's obligations including but not limited to:

- (1) Provide evidence that the Taxpayer has registered to do business in Pennsylvania prior to the Start Date.
- (2) Provide evidence that all personal service corporations or loan-out companies engaged by the Taxpayer are incorporated in or have registered to do business in Pennsylvania prior to the Start Date or the date on which such company was engaged, whichever is later.
- (3) Provide evidence of the Start Date. In situations where the Taxpayer demonstrates to the satisfaction of the Pennsylvania Film Office that exigent circumstances have caused an unavoidable delay in the commencement of production, 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.
- (4) Provide the following reports to the Pennsylvania Film Office on a timely basis until completion of the production using the forms provided by the Pennsylvania Film Office:
 - i. Projects of less than three months duration only need to submit an economic impact report. The economic impact report shall be submitted to the Pennsylvania Film Office within 60 days of completion of the production.

ii. Projects with a duration of more than three months shall submit a monthly report in addition to an economic impact report.

(5) Provide an independently audited report of all Production Expenses and all Qualifying Pennsylvania Production Expenses upon delivery of the completed project to investors. The report shall be prepared in accordance with Section 36.3 (relating to special circumstances).

(6) Include with the end credits, in each print and electronic version of the Film, an acknowledgement of the support provided by the Pennsylvania Film Office and any applicable regional film office and the logo of the Pennsylvania Film Office.

(7) Such other terms and conditions as the Pennsylvania Film Office deems appropriate.

§ 36.7. Financial Compliance.

(a) Description

The Taxpayer shall submit, through a CPA, an audit or a report on agreed upon procedures within 120 days after completion of Film unless a written request for an extension has been submitted to and approved by the Pennsylvania Film Office.

(b) Selection of an Independent Certified Public Accountant

The audit or report on agreed upon procedures shall be performed by a properly licensed CPA. Prior approval of the CPA selection is not required unless the Taxpayer is notified in writing by the Department.

(c) Audit

(1) Scope: The audit must include all funds expended on the Film 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.

(2) Components: The audit shall be done in accordance with the standards set forth in the Generally Accepted Auditing Standards, current revision, and must include, *as a minimum*, the following:

- i) Accountant's report
- ii) Financial statements, including the statement of total Qualifying Pennsylvania Expenses and total Production Expenses
- iii) Notes to the financial statements
- iv) Report of estimated sales tax and individual gross income tax withheld related to the Film
- v) Internal control report
- vi) Compliance report: including all findings (i.e., instances of non-compliance or deficiencies in the internal control structure), along with all attendant costs.

(d) Report on Agreed Upon Procedures

(1) Scope: If the Taxpayer chooses to submit a report on agreed upon procedures, the CPA shall first submit a draft engagement letter to the Department before performing the procedures. The engagement letter should include the Department as a signing party and should include the following procedures:

- i) The CPA will apply the agreed-upon procedures to the expense accounts of the Taxpayer for the pre-production, production and post-production periods of the Film in accordance with the standards established by the American Institute of Certified Public Accountants. Other periods may also be specified at the discretion of the Department and the Department reserves the right to designate additional compliance factors.
- ii) The CPA will read and understand the Film Production Tax Credit Law, Regulations, Guidelines and any other materials specified by the Pennsylvania Film Office.
- iii) The CPA will test payments on a sample basis and verify the agreement of: the date the expense was incurred, the payee and the amount of the expense. The CPA will also inspect the documentation for evidence of the expense being incurred in Pennsylvania if such invoice has been included in the report as a Qualified Pennsylvania Production Expense in accordance with the Film Production Tax Credit Law, Regulations and Guidelines.
- iv) The CPA will confirm with the Department of State whether the Taxpayer and all loan-out companies involved in the production are registered to do business in the Commonwealth of Pennsylvania.
- v) The CPA will calculate the amount of the credit at 25% of the Qualified Pennsylvania Production Expenses.
- vi) 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.

(2) Components: The agreed upon procedures engagement shall be performed in accordance with the attestation standards established by the American Institute of Certified Public Accountants, and must include, **at a minimum**, the following:

- i) CPA's report on agreed upon procedures;
- ii) Statement of total Qualifying Pennsylvania Production Expenses and total Production Expenses and computation of the Tax Credit;
- iii) Report of estimated sales tax and individual gross income tax withheld related to the Film;
- iv) Report containing an attestation that the Taxpayer met the conditions set forth in the Pennsylvania Film Production Tax Credit Law, Regulations, Guidelines and the any other materials provided by the Department.

(e) Economic Impact Report

In addition to the audit or report on agreed upon procedures, the Taxpayer shall submit an economic impact report in the form provided by the Department.

(f) Submission of Materials

Three copies of the audit or report on agreed upon procedures, economic impact report, application, engagement letter and award letter shall be submitted to the Pennsylvania Film Office within 120 days after the completion of the Film unless a written request for an extension has been submitted to and approved by the Pennsylvania Film Office. The Pennsylvania Film Office will not issue a Tax Credit certificate until it has received, reviewed and approved the audit or report on agreed upon procedures and the economic impact report.

§ 36.8. Issuance of Tax Credits.

Tax credit certificates will be issued by the Department of Community and Economic Development upon review and approval of the audit or report of agreed upon procedures, the economic impact report and any other information requested by the Pennsylvania Film Office. Provided that the information submitted meets the financial reporting requirements of the regulations, a tax credit certificate will be issued within 45 days of receipt. The amount of the Tax Credit issued shall not exceed the amount requested in the application. 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 shall register to do business in Pennsylvania in order to obtain a state tax ID number.

§ 36.9. Use and Transfer of Tax Credits.

(a) Taxpayer's Qualified Tax Liability: The Tax Credit shall be applied first to the Taxpayer's Qualified Tax for the Taxpayer's tax year in which the Tax Credit is awarded. The Tax Credit cannot be applied against such liability until the return for such year has been filed.

(b) Options: If the Taxpayer's Qualified Tax Liability is less than the Tax Credits awarded to it, the Taxpayer:

(1) May carry forward the unused portion of the Tax Credit for a period not to exceed three additional tax years and may use the Tax Credit to offset

Qualified Tax Liabilities during those years; or

(2) 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 for use

against Qualified Tax Liabilities.

(c) Tax Returns: A Taxpayer shall file all required state tax reports and returns for the years up to and including the date of the award letter 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.

(d) Transfer Application Review: Applications for the transfer of all or a portion of the Tax Credit shall be submitted to the Pennsylvania Film Office for review. If the application is complete in all respects, the Pennsylvania Film Office will approve and forward the application to the Department of Revenue for review and processing.

(e) Effective Date of Transfer: Subject to the statutory requirements relating to the payment of all outstanding Qualified Tax Liabilities for the year in which the Tax Credit is awarded, a Taxpayer 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, the tax report filing date or the date the seller becomes compliant, whichever is latest.

(f) Limits: The amount of the Tax Credit that a transferee may use against any one Qualified Tax Liability shall 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 Tax Credits. After submitting an application to transfer a Tax Credit, an Taxpayer may no longer use that portion of the Tax Credit to offset a Qualified Tax Liability unless the application is denied by the Pennsylvania Film Office or withdrawn by the Taxpayer.

(g) Doing Business in Pennsylvania: Tax Credits can only be awarded, issued, sold or assigned to entities that have a Pennsylvania state tax ID number. All entities not incorporated in the Commonwealth of Pennsylvania shall register to do business in Pennsylvania in order to obtain a state tax ID number. The Department requires that the Taxpayer and all loan-out companies involved in the production are registered to do business in the Commonwealth of Pennsylvania.



**COMMONWEALTH OF PENNSYLVANIA
GOVERNOR'S OFFICE OF GENERAL COUNSEL**

September 23, 2010

Honorable Thomas W. Curtis, Chair
Urban Affairs Committee
Pennsylvania House of Representatives
301 Irvis Office Building
Harrisburg, PA 17120

Dear Representative Curtis:

Pursuant to Section 5 of the Regulatory Review Act, enclosed for your review is the Film Production Tax Credit regulation. The regulation submitted would amend Chapter 36 of Title 12 of the Pennsylvania Code.

Also enclosed is a regulatory analysis form pertaining to the regulation.

Concurrently with delivery of the regulation to you, the regulation has also been submitted to the Independent Regulatory Review Commission for its review in accordance with the Regulatory Review Act.

Sincerely,

Andrew Tanzer
Assistant Counsel

Enclosures

cc: Bryce Maretzki, Legislative Liaison
✓ Arthur Coccodrilli, IRRC





**COMMONWEALTH OF PENNSYLVANIA
GOVERNOR'S OFFICE OF GENERAL COUNSEL**

September 23, 2010

Honorable Jane M. Earll, Chair
Community, Economic and Recreational Development Committee
Senate of Pennsylvania
Room 177 Main Capitol Building
Harrisburg, PA 17120

Dear Senator Earll:

Pursuant to Section 5 of the Regulatory Review Act, enclosed for your review is the Film Production Tax Credit regulation. The regulation submitted would amend Chapter 36 of Title 12 of the Pennsylvania Code.

Also enclosed is a regulatory analysis form pertaining to the regulation.

Concurrently with delivery of the regulation to you, the regulation has also been submitted to the Independent Regulatory Review Commission for its review in accordance with the Regulatory Review Act.

Sincerely,

A handwritten signature in black ink that reads "Andrew Tanzer". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Andrew Tanzer
Assistant Counsel

Enclosures

cc: Bryce Maretzki, Legislative Liaison
✓Arthur Coccodrilli, IRRC





**COMMONWEALTH OF PENNSYLVANIA
GOVERNOR'S OFFICE OF GENERAL COUNSEL**

September 23, 2010

Honorable Wayne D. Fontana, Minority Chair
Community, Economic and Recreational Development Committee
Senate of Pennsylvania
Room 15 East Wing
Harrisburg, PA 17120

Dear Senator Fontana:

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Sincerely,

A handwritten signature in black ink that reads "Andrew Tanzer" with a horizontal line extending to the right.

Andrew Tanzer
Assistant Counsel

Enclosures

cc: Bryce Maretzki, Legislative Liaison
✓ Arthur Coccodrilli, IRRC





**COMMONWEALTH OF PENNSYLVANIA
GOVERNOR'S OFFICE OF GENERAL COUNSEL**

September 23, 2010

Honorable Chris Ross, Minority Chair
Urban Affairs Committee
Pennsylvania House of Representatives
110 Ryan Office Building
Harrisburg, PA 17120

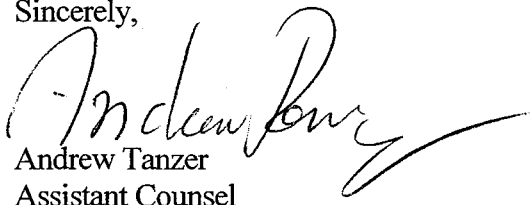
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Sincerely,


Andrew Tanzer
Assistant Counsel

Enclosures

cc: Bryce Maretzki, Legislative Liaison
✓Arthur Coccodrilli, IRRC





**COMMONWEALTH OF PENNSYLVANIA
GOVERNOR'S OFFICE OF GENERAL COUNSEL**

September 23, 2010

Independent Regulatory Review Commission
c/o Arthur Coccodrilli
14th Floor, Harristown II
333 Market Street
Harrisburg, PA 17101

Dear Mr. Coccodrilli:

Pursuant to Section 5 of the Regulatory Review Act, enclosed for your review is the Film Production Tax Credit regulation. The regulation submitted would amend Chapter 36 of Title 12 of the Pennsylvania Code.

Also enclosed is a regulatory analysis form pertaining to the regulation.

Concurrently with delivery of the regulation to you, the regulation has also been submitted to the House Urban Affairs Committee and the Senate Community, Economic and Recreational Development Committee for their respective review in accordance with the Regulatory Review Act.

Sincerely,

A handwritten signature in black ink, appearing to read "Andrew Tanzer".

Andrew Tanzer
Assistant Counsel

Enclosures

cc: Bryce Maretzki, Legislative Liaison



pennsylvania
DEPARTMENT OF COMMUNITY
& ECONOMIC DEVELOPMENT

**TRANSMITTAL SHEET FOR REGULATIONS SUBJECT TO THE
REGULATORY REVIEW ACT**

I.D. NUMBER: 4-92
 SUBJECT: FILM TAX CREDIT
 AGENCY: DEPARTMENT COMMUNITY & ECONOMIC DEVELOPMENT

TYPE OF REGULATION

- X Proposed Regulation
 Final Regulation
 Final Regulation with Notice of Proposed Rulemaking Omitted
 120-day Emergency Certification of the Attorney General
 120-day Emergency Certification of the Governor
 Delivery of Tolled Regulation
 a. With Revisions b. Without Revisions

RECEIVED
 IRRC
 2010 SEP 23 A 11:26

FILING OF REGULATION

DATE	SIGNATURE	DESIGNATION
9/23/10	<i>Devin L. Munnell</i>	HOUSE URBAN AFFAIRS COMMITTEE
9/23/10	<i>Paul Jones</i>	MAJORITY CHAIRMAN <i>Thomas W. Curtis</i>
9/23/10	<i>d. Mackenzie</i>	SENATE COMMITTEE ON COMMUNITY, ECONOMIC & RECREATIONAL DEVELOPMENT
9-23-10	<i>Cheryl S. Seltzer</i>	MAJORITY CHAIRMAN <i>JANE M. EARLE</i>
9/23/10	<i>K Cooper</i>	INDEPENDENT REGULATORY REVIEW COMMISSION
		ATTORNEY GENERAL (for Final Omitted only)
9/23/10	<i>n. nichols</i>	LEGISLATIVE REFERENCE BUREAU (for Proposed only)