



RECEIVED
IRRC

2010 NOV 10 A 9 42

2876

November 5, 2010

Andrew Tanzer, Assistant Council
Office of Chief Council
Dept of Community and Economic Development
Commonwealth Keystone Bldg,
400 North Street, 4th Floor
Harrisburg, PA 17120

Jane Saul, Executive Director
Pennsylvania Film Office
Commonwealth Keystone Bldg
400 North Street, 4th Floor
Harrisburg, PA 17120

Re: Proposed rulemaking – 12 PA. Code CH. 36

Dear Andrew and Jane:

We have read the proposed rulemaking to add Chapter 26 (relating to film production tax credit) for the purpose of delineating actions necessary for financial compliance with the film production tax credit requirements and the use and transfer of tax credits. We have the following comments:

1. Section 36.6(a) indicates that an audit or agreed upon procedures report must be submitted within 120 days after the completion of the film unless a written request for an extension has been submitted and approved by the Pennsylvania Film Office. This language is consistent with the current guidelines. However, it has been our experience that the credit award letters indicate the report must be submitted within 60 days. We request the 120 day timeframe be utilized consistently going forward.
2. Section 36.6(d)(1) requires the CPA to first submit a draft engagement letter to the Department before performing the procedures. It should be noted professional standards prohibit the CPA from using professional judgment in determining the scope and sample size for the engagement. This is to be determined by the Department and applicant. Further, the Department has previously requested certain testing coverage percentages be included in the engagement letter. These percentages cannot be determined until all of the expenses have been paid and the sample selections made. Therefore, the CPA cannot provide an engagement letter for signature to the applicant until after the delivery has occurred. In our experience this is causing delays in issuance of the CPA report due to the time it takes to have the letter finalized signed by the applicant and signed by the Department.

3. Section 36.6(d)(1)(iii) requires the CPA to test payments on a sample basis. The current guidelines specify certain expense type population segregations between payroll and non-payroll transactions as well as stratifying these populations. This technique provides increased dollar coverage and focuses the procedures on higher dollar amounts. Removing these techniques will decrease the effectiveness of the testing and increase the amount of labor required by the CPA.
4. Section 36.6(d)(1)(vi) states the CPA shall review categories of expenses and payroll reports and prepare an estimate of Sales Taxes and individual Gross Income Taxes related to the project. Professional standards prohibit the use of the term *review* in an agreed upon procedures engagement because *review* is a level of attestation engagement different from an agreed upon procedures engagement. Professional standards also prohibit a CPA from estimating in an agreed upon procedure engagement. We recommend the Department define parameters and to be used by the CPA to calculate the amounts based on defined assumptions.
5. Section 36.8(a) indicates the taxpayer must apply the credit first to the taxpayer's tax liability in the year in which the tax credit is awarded. Further clarification is necessary to fully determine which tax period this relates to.



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

November 8, 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 745.5(c) of the Regulatory Review Act, enclosed for your review are comments received from EisnerAmper LLP on proposed regulation #4-92, the Film Production Tax Credit regulation, which would amend Chapter 36 of Title 12 of the Pennsylvania Code.

Concurrently with delivery of the comments to you, the comments have 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, appearing to read "Andrew Tanzer".

Andrew Tanzer
Assistant Counsel

Enclosures

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





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

November 8, 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:

Pursuant to Section 745.5(c) of the Regulatory Review Act, enclosed for your review are comments received from EisnerAmper LLP on proposed regulation #4-92, the Film Production Tax Credit regulation, which would amend Chapter 36 of Title 12 of the Pennsylvania Code.

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

Sincerely,

A handwritten signature in cursive script that reads "Andrew Tanzer".

Andrew Tanzer
Assistant Counsel

Enclosures

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





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

November 8, 2010

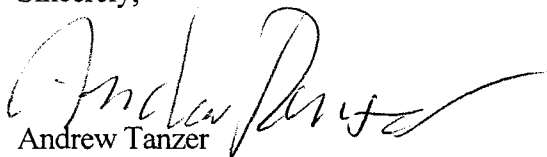
Honorable Thomas W. Curtis, Chair
Urban Affairs Committee
Pennsylvania House of Representatives
301 Irvis Office Building
Harrisburg, PA 17120

Dear Representative **Curtis**:

Pursuant to Section 745.5(c) of the Regulatory Review Act, enclosed for your review are comments received from EisnerAmper LLP on proposed regulation #4-92, the Film Production Tax Credit regulation, which would amend Chapter 36 of Title 12 of the Pennsylvania Code.

Concurrently with delivery of the comments to you, the comments have 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**

November 8, 2010

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

Dear Representative **Ross**:

Pursuant to Section 745.5(c) of the Regulatory Review Act, enclosed for your review are comments received from EisnerAmper LLP on proposed regulation #4-92, the Film Production Tax Credit regulation, which would amend Chapter 36 of Title 12 of the Pennsylvania Code.

Concurrently with delivery of the comments to you, the comments have 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, appearing to read "Andrew Tanzer".

Andrew Tanzer
Assistant Counsel

Enclosures

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

