

Commonwealth of Puerto Rico

# **LAW FOR THE DEVELOPMENT OF THE FILM INDUSTRY**

Act No. 362 of December 24, 1999

The Puerto Rico Law for the Development of the Film Industry provides benefits in the form of investment tax credits and tax exemptions to investors, producers, and developers of film projects and industry related infrastructure projects. Eligible projects must apply for a license with the Puerto Rico Film Commission. Projects must also be endorsed by the Puerto Rico Film Commission and approved by the Department of the Treasury.

The maximum available per year in tax credits is \$15,000,000, but the Secretary of the Treasury is allowed to make exceptions based on the merits of particular projects. Tax credits may be sold or otherwise transferred by the investor to any person or entity, which may in turn apply the value of the tax credit against its Puerto Rico income tax liability. A market exists for the purchase and sale of tax credits. Tax credits are generally sold at a discount ranging between approximately 8% and 15% during the income tax season.

## **Film Projects**

### **A. Types of Projects**

The following types of projects qualify for the benefits under the law:

1. Production of feature-length motion pictures;
2. Production of short-subject films that meet the following requirements:
  1. Are distributed outside Puerto Rico.
  2. Do not constitute promotion of other Film Projects; and
  3. Have a budget of not less than \$100,000.
3. Production of series that meet the following requirements:
  1. Are distributed outside Puerto Rico; and
  2. Have a budget of not less than \$1,000,000.
4. Production of catalogues for the sale of articles through the exhibition of professional models for their distribution outside of Puerto Rico; and
5. Production of original soundtrack recordings.

Projects may be produced in any medium existing now or in the future, and may be disseminated through any medium, including electronic methods of transmitting information.

In order to qualify, if not less than 50% of a project's principal photography must take place in Puerto Rico.

## **B. Tax Benefits**

A tax credit is granted to the investors in a Film Project equivalent to 40% of budget items paid to Puerto Rico residents, up to 50% of the cash invested as equity in the project. 50% of the tax credit granted to the investor may be made available to the investor upon investment if a completion bond or a letter of credit is obtained, including the Puerto Rico Secretary of the Treasury as one of the beneficiaries. In the absence of a bond, 50% of the tax credit will be available when a certified public accountant appointed by the government certifies that 40% of the budget to be paid to Puerto Rico residents has been actually paid. The balance of the tax credit shall be available when a certified public accountant appointed by the government certifies that the entire budget has been spent.

Additionally, in projects with budgets of less than \$4,000,000, the Director of the Film Commission must certify that principal photography has been completed, and the project managers has to send to the Secretary of the Treasury copy of the executed distribution agreements or, in the alternative, certify the attempts made to distribute the product. In projects with budgets of more than \$4,000,000, the project manager must certify of the Secretary of the Treasury and the Commissioner of Financial Institutions that the project has been edited in final form and is ready for commercial exhibition. The project manager must also provide copy of executed distribution agreements.

The other half of the tax credit may be adjusted if actual disbursements were not made as expected when the first half of the tax credit was taken.

## **II Infrastructure Projects**

The construction or substantial expansion of studios, laboratories, facilities for the international transmission of television images, or other permanent facilities for the production of film projects, with budgets exceeding \$5,000,000, shall qualify for the benefits under the law. A substantial expansion of a project requires an investment equivalent to at least 25% of the fair market value of its assets prior to such expansion.

### **A. Tax Benefits**

A tax credit is granted to investors in an Infrastructure Project equivalent to the lesser of 40% of the cash invested as equity in the project or 20% of the project's total budget. The tax credit granted to the investor may be made available to the investor upon investment if a payment and performance bond is posted including the Puerto Rico Secretary of the Treasury as one of the beneficiaries. In the absence of a bond, 50% of the tax credit will be available when a certified public accountant appointed by the government certifies that 40% of the budget has been actually paid. The balance of the tax credit will be available when a certified public accountant appointed by the government certifies that 60% of the budget has been disbursed and that the project has been substantially completed.

The other half of the tax credit may be adjusted if actual disbursements were not made as expected when the first half of the tax credit was taken.

## **B. Tax Treatment**

Producers or developers licensed under the law are subject to the following tax exemptions among others:.

1. Income is subject to a flat 7% tax rate.
2. Dividends or income distributions are 100% tax exempt.
3. Personal property and real estate are 90% exempt from municipal and state taxes.
4. Income is 100% exempt from municipal excise taxes.
5. Net income from the rental of real estate dedicated exclusively to the exploitation of an infrastructure project is subject to a flat 7% tax rate.