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LOUISIANA FILM INCENTIVES

PART A. CURRENT INCENTIVES (FOR PROJECTS CERTIFIED PRIOR TO DECEMBER 31, 2005)

I. INVESTOR TAX CREDIT (10-15% OF TOTAL PRODUCTION BUDGET)

Amounts

If the total Louisiana expenditure is greater than $300,000 and less than or equal to $8 million in one year, the producer shall be allowed a tax credit of 10% of the entire production budget, whether such funds are spent in Louisiana or elsewhere, even internationally.

If the total Louisiana expenditure is greater than $8 million in one year, the producer shall be allowed a tax credit of 15% of the entire production budget regardless of where such funds are spent.

Time Credit Earned

The tax credit is earned at the time the investment is made in a state-certified production, i.e., at the beginning of the production when production funds are deposited into the production account.

Time Credit Certified

Until the invested funds have been spent legitimately in connection with the production, the tax credits can be recaptured. Once evidence of valid expenditure has been filed with, and reviewed by, the State the credits become certified, and therefore not subject to recapture.

Use/Transfer of the Credit

The investor tax credits offset Louisiana income tax. However, most out-of-state production companies owe no Louisiana income taxes. The credits are therefore freely transferable. Throughout the year, Louisiana Production Capital purchases tax credits from production companies in bulk, usually acquiring all tax credits in one simple and easy transaction. We then resell the tax credits to Louisiana taxpayers during tax season.

Corporate Structure

The investor tax credits must be earned by a Louisiana taxpayer. Therefore, it is necessary for out-of-state production companies to form a Louisiana subsidiary. Such subsidiary then forms a second Louisiana subsidiary. Funds from the production company are channeled through the first subsidiary to the second, and it is the first subsidiary that is deemed to have earned the investor tax credits.

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No production can earn more in investor tax credits than the amount such production spends in Louisiana in connection with the project.

Incentive Expiration

The investor tax credit program is permanent. However, during the 2005 Fiscal Session of the Louisiana Legislature, the law was amended such that the existing program will cease to apply to productions that receive their initial certification after December 31, 2005. For projects certified prior to such date, the existing incentives can be utilized for a period of twelve months from the date of such certification. For projects certified thereafter, the investor tax credits will be subject to different rules and rates, as described more fully in the next section of this summary.

II. EMPLOYMENT TAX CREDIT (10-20% OF LOUISIANA PAYROLL)

Amounts

The credit is equal to 10% of the total aggregate payroll for residents employed in connection with a production when total production costs in Louisiana equal or exceed $300,000 but are less than $1 million.

The credit is equal to 20% of the total aggregate payroll for residents employed in connection with a production when total production costs in Louisiana equal or exceed $1 million.

Note: The term "total aggregate payroll" does not include the salary of any employee whose salary is equal to or greater than $1 million. Payroll is deemed to include payments to La. residents who receive from the production company either a W-2 or Form 1099. Therefore, payments to independent contractors earn employment tax credits as well.

Time Credit Earned

The employment tax credit is earned at the time payroll expenditures are made to Louisiana residents.

Time Credit Certified

Until the producer has demonstrated to the State that all of the funds claimed as payroll expenditures were in fact paid to eligible Louisiana residents, the tax credits can be recaptured. Once such evidence has been presented to the State, however, the credits become certified, and therefore not subject to recapture.

Use/Transfer of the Credit

The employment tax credits offset Louisiana income tax and corporate franchise tax. However, most out-of-state production companies owe no Louisiana income or corporate franchise taxes. Therefore, they can be sold to Louisiana taxpayers in exchange for cash.

Corporate and Transaction Structure
In general, the credits are earned by a special purpose Louisiana production subsidiary limited liability company. Louisiana Production Capital then pays in a negotiated dollar amount for the tax credits and becomes a part owner of the company, but takes no control rights. In exchange for the capital investment, all employment tax credits are allocated to Louisiana Production Capital, while all cash and profits are allocated to the producer. We then resell the tax credits to Louisiana taxpayers in smaller increments throughout the year in the same manner.

Incentive Expiration
The employment tax credit program ends on December 31, 2005. However, productions certified prior to that date are still eligible to receive employment tax credits for up to one year from the date of initial certification, i.e. throughout calendar year 2006.

III. SALES TAX EXEMPTION (4% ON GOODS AND SERVICES)

Amounts
A production company will be granted an "exclusion" from state sales and use tax (4%) if it reports expenditures of $250,000 or more in any consecutive 12-month period.

Recapture of Taxes
A motion picture production company that fails to expend two hundred fifty thousand dollars within a consecutive 12-month period will be liable for the sales and use taxes that would have been paid had the approval not been granted. The sales and use taxes shall be considered due as of the date that taxable expenditures were made.

Incentive Expiration
The sales and use tax exemption program ends on December 31, 2006.

IV. SPECIAL NOTE: PRODUCTION SLATES

Louisiana Production Capital has pioneered a system whereby those producers who might not independently cross the necessary spending thresholds to maximize tax credit rates can join with producers who can. Any producer, no matter how small, can buy-in to such a certification slate in order to earn tax credits at the highest possible rates. For this service, the producer who manages the slate generally takes a fee, which is often calculated as a percentage of the additional tax credits earned through the aggregation. For more information on joining a production slate, please contact our office.

PART B. NEW INCENTIVES (FOR PROJECTS CERTIFIED AFTER DECEMBER 31, 2005)

I. INVESTOR TAX CREDIT (25% OF LOUISIANA SPEND)

Amounts

If the total Louisiana expenditure is greater than $300,000 in one year, the producer shall be allowed a tax credit of 25% of the Louisiana spend. For purposes of this calculation, local payroll is not included, as it forms the basis of the local employment bonus, described below.

Definition of Louisiana Spend

The "Louisiana spend" includes more than just the dollars that are actually expended in Louisiana. In a legislative compromise, Louisiana spend was defined to include payroll to non-residents as long as such income is "sourced or apportioned" to Louisiana, which means that the recipient must pay La. income tax on such funds. Also qualifying are expenditures for airfare, as long as it is purchased through a Louisiana travel agency, and insurance/bonding, as long as it is acquired through a Louisiana insurance agency. Finally, music licensing costs are considered part of the local spend if the music was "performed, composed or recorded by a Louisiana musician, or released or published by a Louisiana-domiciled and headquartered company."

Local Employment Bonus

In addition to the investor tax credit described above, the producer shall earn a tax credit of 35% of the total aggregate payroll for Louisiana residents.

Note: The term "total aggregate payroll" does not include the salary of any employee whose salary is equal to or greater than $1 million. Payroll is deemed to include payments to La. residents who receive from the production company either a W-2 or Form 1099. Therefore, payments to independent contractors earn local employment bonus tax credits as well.

Time Credit Earned

The investor tax credit is earned at the time the investment is made in a state-certified production, i.e., at the beginning of the production when production funds are deposited into the production account. The local employment bonus tax credits are earned when payments are made to Louisiana residents.

Time Credit Certified

Until the invested funds have been spent legitimately in connection with the production, the investor tax credits can be recaptured. Once evidence of valid expenditure has been filed with, and reviewed by, the State the investor and employment credits become certified, and therefore not subject to recapture.

Use/Transfer of the Credit

The investor tax credits offset Louisiana income tax. However, most out-of-state production companies owe no Louisiana income taxes. The credits are therefore freely transferable. Throughout the year, Louisiana Production Capital purchases tax credits from production companies in bulk, usually acquiring all tax credits in one simple and easy transaction. We then resell the tax credits to Louisiana taxpayers during tax season in smaller increments.

Corporate Structure

The investor tax credits must be earned by a Louisiana taxpayer. Therefore, it is necessary for out-of-state production companies to form a Louisiana subsidiary. Such subsidiary then forms a second Louisiana subsidiary. Funds from the production company are channeled through the first subsidiary to the second, and it is the first subsidiary that is deemed to have earned the investor and employment tax credits.

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There is no cap.

Phase Down

The investor tax credit program is permanent. However, the rates will phase down through 2012, as follows. For projects that receive initial certification on or after January 1, 2010, the investor credit rate drops to 20% and the local employment rate drops to 30%. After January 1, 2012, the investor tax credit rate drops to 15%, and the local employment bonus rate drops to 25%.

II. INFRASTRUCTURE TAX CREDIT (15%-40% OF INVESTMENT)

General

The State of Louisiana is serious about growing its film industry. As a result, the state is offering an aggressive tax credit aimed at growing the local production infrastructure. Those who invest in approved infrastructure projects can receive these credits.

Amounts

The new law provides that "[F]or state-certified infrastructure projects approved . . . on or after July 1, 2005 . . . [i]f the total base investment is greater than three hundred thousand dollars, each investor shall be allowed a tax credit of twenty-five percent of the base investment" In addition, the new law also states "each taxpayer shall be allowed a credit of fifteen percent of the base investment made by that taxpayer that is expended in this state on a state-certified infrastructure project." The State's position is that the tax credit is a 15% tax credit, but the letter of the law clearly specifies that both the 15% credit and the 25% credit apply.

Time Credit Earned

The infrastructure tax credit is earned at the time the investment is made in a state-certified infrastructure project, i.e., at the beginning of the project when the construction funds are deposited into the local account.

Time Credit Certified

Until the invested funds have been spent legitimately in connection with the infrastructure project, the investor tax credits can be recaptured. Once evidence of valid expenditure has been filed with, and reviewed by, the State the infrastructure credits become certified, and therefore not subject to recapture.

Use/Transfer of the Credit

The infrastructure tax credits offset Louisiana income tax. However, at least in the first few years of operating a production-related facility, the operator is unlikely to owe any Louisiana income tax. The credits are therefore freely transferable. Throughout the year, Louisiana Production Capital purchases tax credits from infrastructure investors in bulk, usually acquiring all tax credits in one simple and easy transaction. We then resell the tax credits to Louisiana taxpayers during tax season in smaller increments.

Corporate Structure

The infrastructure tax credits must be earned by a Louisiana taxpayer. Therefore, it is necessary for out-of-state investors to form a Louisiana subsidiary. Such subsidiary then forms a second Louisiana subsidiary. Funds from the investor are channeled through the first subsidiary to the second, and it is the first subsidiary that is deemed to have earned the infrastructure credits.

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There is no cap.

Incentive Expiration

The infrastructure tax credit is only available until January 1, 2008.