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December 29, 2012

CIRCULAR LETTER OF THE PUERTO RICO MOTION PICTURE ARTS, SCIENCES AND INDUSTRY DEVELOPMENT CORPORATION NO. 12-11

TO: PERSONS INTERESED IN APPLYING FOR THE BENEFITS UNDER ACT NO. 27 OF MARCH 4, 2011, AS AMENDED, KNOWN AS THE "PUERTO FILM INDUSTRY ECONOMIC INCENTIVES ACT".

SUBJECT: PUERTO RICO PRODUCTION EXPENSES INCURRED IN RELATION TO PER DIEMS.

Pursuant to Article 2.2(k)(1) of Act No. 27-211 of March 4, 2011, as amended, the Puerto Rico Film Industry Economic Incentives Act (the "Act"), the Secretary of Development¹ has the discretion to approve as valid Puerto Rico Production Expenses the per diems paid to a person who is a Puerto Rico Resident and a Qualified Nonresident. The purpose of this letter is to announce the treatment in relation to per diems that would yield valid Puerto Rico Production Expenses for Grantees. This Circular Letter shall replace the provisions set forth in Circular Letter 12-05.

Article 3.5 of the Act provides that the Secretary of Development may delegate to the Executive Director of the Puerto Rico Motion Picture Arts, Sciences and Industry Development Corporation (the "Film Commissioner") any of the powers granted to him by the Act, except for matters related to designation of the geographic areas as Film Development Zones pursuant to the provisions of Articles 6.1 and 8.4 of the Act. On March 4, 2011, Administrative Order No. OA-01-2011 and Circular Letter No. 11-01 of the Department of Economic Development and Commerce were signed by the Secretary delegating to the Film Commissioner all the powers granted to him under the Act, including the power to approve or deny applications, transfers and/or amendments to Decrees and the power to authorize the concession of tax credits under the Act (the "Administrative Determinations").

The Film Commissioner will consider as "Valid Per Diems" only amounts paid according to the maximum amounts allowed for Puerto Rico under the per diem guidelines published by the United States Department of Defense for Alaska, Hawaii, U.S.

¹All terms not defined herein shall have the name given to them in the Act.

Territories and Possessions (OCONUS rates), available at <http://www.defensetravel.dod.mil/site/perdiemCalc.cfm>. Pursuant to the provisions of the Puerto Rico Internal Revenue Code of 2011, as amended (the "PR Code"), Valid Per Diems are generally not considered gross income, therefore, would not be subject to Puerto Rico income taxes.

In the case of Puerto Rico Residents, Valid Per Diems paid and any per diems paid to Puerto Rico Residents in excess of the Valid Per Diems amounts will be considered valid Puerto Rico Production Expenses and would qualify for a 40% tax credit, pursuant to Article 7.3(b)(1)(A) of the Act. However, any per diems paid to Puerto Rico Residents in excess of the Valid Per Diems amounts will be considered wages or service income, as applicable, subject to income taxes pursuant to the corresponding PR Code provisions.

In the case of Qualified Nonresidents (which include Above the Line and Below the Line individuals, as set forth in the Act), Valid Per Diems paid and any per diems paid to Qualified Nonresidents in excess of the Valid Per Diems amounts will be considered valid Puerto Rico Production Expenses and would qualify for a 20% tax credit, pursuant to Article 7.3(b)(1)(B) of the Act. However, per diems paid to Qualified Nonresidents in excess of the Valid Per Diems amounts, will be subject to the special 20% withholding tax established in Article 8.3 of the Act.

The Film Commissioner adopts this Circular Letter based on the authority granted by the Administrative Determinations.

For additional information related to the provisions of this Circular Letter, please contact the Film Commissioner at (787) 754-4747. The provisions of this Circular Letter shall be effective immediately.

Attentively,



Carlos F. Amy
Acting Film Commissioner