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***Louisiana* STATE TAX INCENTIVES FOR FILM PRODUCTION**

After years of observing the effects of successful foreign film and television production tax incentives, the United States is finally amending its views and tax policy to counteract the effects of runaway production (i.e. US film production in Canada attracted by Canadian tax incentives and the benefits of Canada's many bi-lateral co-production treaties, among other runaway destinations). This US change of position is evidenced by a number of states' recently amended production tax incentive programs such as Hawaii's Investment Tax Credit (Act 221, Session Laws of Hawaii 2001), New Mexico's Film Production Tax Credit and its Filmmaker Gross Receipts Tax Reduction, Missouri's Film Production Tax Credit, as well as Louisiana's Non-transferable Labor Tax Credit, and Investor Tax Credit. In total, over 35 states now offer different forms of soft money, while only Hawaii and Louisiana provide investment tax credits patterned after renown foreign investment credits previously found in Germany, Luxembourg and the United Kingdom. This article shall focus on the audiovisual investment incentives arising from the state of Louisiana.

Use of US Tax Incentives by US Film Industry

While Hawaii's tax incentives may have already lured within its borders the production of such films as John Stockwell's "Blue Crush," which was produced by Brian Grazer and Universal Studios, "The Big Bounce" produced by Warner Bros., "Fifty First Dates" and the "Lost" series, New Mexico has wooed Paramount's "Suspect Zero" co-produced by Intermedia and Tom Cruise, Louisiana has really turned into the home of off-Hollywood site productions. Moreover, Louisiana has provided the backdrop for such commercial and critical big budget films as "Ray" produced by Crusader Entertainment, Walt Disney Pictures "Mr. 3000," Lionsgate's "Pride," Warner Bros.' "The Reaping" plus many, many more (even since Hurricane Katrina).

Louisiana Investor Tax Credit

As of the beginning of 2006, a newly amended transferable investment tax credit of 25% on qualified expenditures grants taxpayers domiciled in Louisiana a credit against state income tax if their total base investment is greater than three-hundred thousand dollars (\$300,000).

The objective of this tax credit is to encourage development in Louisiana of a strong capital base for motion pictures, in order to achieve a more independent and economically sustainable film and video industry. The purpose serves to attract private investment for the production of motion pictures and develop a Louisiana indigenous entertainment industry utilizing tax credits that encourage investments in Louisiana produced films.

Procedures for credit claimants:





- (1) Entities taxed as corporations shall claim their credit on their corporation income tax return.
- (2) Individuals shall claim their credit on their individual income tax return.
- (3) Entities not taxed as corporations shall claim the credit on the returns of the partners or members as follows:
 - (a) Corporate partners or members shall claim their share of the credit on their corporation income or corporation franchise tax returns.
 - (b) Individual partners or members shall claim their share on their individual income tax returns.
 - (c) Partners or members that are estates or trusts shall claim their share of the credit on their fiduciary income tax returns.

Fundamentally, the Louisiana government gives a transferable tax credit to production companies for shooting in the state. The credit is salable to taxpayers, which predominantly include Louisiana-based companies that can use the credit on their own expenditures. However, because the system is so new, taxpayers often are able to buy the credit at a discount.

Application for State Certification

The Louisiana Film and Video Commission provides a standard form, which applicants must complete as a precedent for state certification and return to the Commission for evaluation. The application requires detailed descriptions of the following:

1. Name of the production company;
2. Phone number of the production company;
3. Name and phone number of a company contact person;
4. List the first pre-production date through last production date in Louisiana;
5. Louisiana production office address;
6. Louisiana production office phone number;
7. Total budget of the film;
8. Total expenditures in Louisiana;
9. Total percentage of film being shot in Louisiana;
10. The level of employment of Louisiana cast and crew;
11. Completion bond;
12. Script (including a synopsis); and principal creative elements list (principal cast, producer, and director); and
13. Distribution plan, including
 - o Domestic distribution
 - o International distribution
 - o Sales Estimates
14. A final cast and crew list for the project.





Louisiana Labor Tax Credit

The current law provides that a motion picture production company is entitled to a tax credit for the employment of La. residents in connection with production of a nationally distributed motion picture, video, television series, or commercial made in Louisiana.

The credit is equal to 10% of the total aggregate payroll for individuals employed in connection with such production on individual payrolls of less than \$1 million during the taxable year. The credit shall be equal to 20% of the total aggregate payroll for residents of Louisiana employed in connection with such production on individual payrolls of less than \$1 million during the taxable year.

The credit may be applied to any income tax or corporation franchise tax liability applicable to the motion picture production company. Provides that if the motion picture production company is an entity not subject to income or franchise tax, the credit shall flow through its partners or members as follows:

- (1) Corporate partners or members shall claim their share of the credit on their corporation income or corporation franchise tax returns.
- (2) Individual partners or members shall claim their share on their individual income tax returns.
- (3) Partners or members that are estates or trusts shall claim their share of the credit on their fiduciary income tax returns.

Application Procedure

The Commission will provide a standard form, which applicants will use to apply for tax credit. The application will contain, but not be limited to, detailed descriptions of the following:

1. Name of the production company;
2. Phone number of the production company;
3. Name and phone number of a company contact person;
4. List the first pre-production date through last production date in Louisiana;
5. Louisiana production office address
6. Louisiana production office phone number;
7. Total budget of the project;
8. Total expenditures in Louisiana;
9. The level of employment of Louisiana cast and crew;
10. The script (including a synopsis); and principal creative elements list (principal cast, producer, and director); and
11. A final cast and crew list for the project.

