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August 28th, 2012

**CIRCULAR LETTER OF THE PUERTO RICO MOTION PICTURE ARTS, SCIENCES AND INDUSTRY DEVELOPMENT CORPORATION NO. 12-05**

**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 the Department of Economic Development and Commerce (the "Secretary of Development") has the discretion to approve as valid Puerto Rico Production Expenses the per diems paid to a person who is neither a Puerto Rico Resident nor a Nonresident Above the Line ("Nonresident Below the Line Per Diems"). 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.

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. 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 Nonresident Below the Line Per Diems, the Film Commissioner will allow Valid Per Diems to be considered valid Puerto Rico Production Expenses and qualify for the 40% tax credit provided under Article 7.3(b)(1)(A) of the Act. Any Nonresident Below the Line Per Diems paid in excess of these Valid Per Diems amounts, will not qualify as Puerto Rico Production Expense for eligible Film Projects. Pursuant to Section 1031.02(a)(32) of the PR Code, these excess amounts will not be subject to Puerto Rico income taxes.

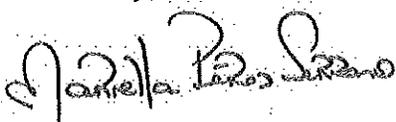
In the case of Puerto Rico Residents, Valid Per Diems paid and any per diems paid to Puerto Rico Residents in excess of the Valid Per Diems amounts will be considered valid Puerto Rico Production Expenses and would qualify for a 40% tax credit, pursuant to Article 7.3(b)(1)(A) of the Act. However, any 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 Nonresident Above the Line, Valid Per Diems paid and any per diems paid to Nonresident Above the Line 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 Nonresident Above the Line 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.

The provisions of this Circular Letter will be effective immediately.

Attentively,



Mariella Pérez Serrano  
Film Commissioner