RHODE ISLAND DEPARTMENT OF ADMINISTRATION
FILM AND TELEVISION OFFICE

NOTICE OF RULE MAKING

The Film and Television Office within the Rhode Island Department of Administration, in conjunction with the Division of Taxation within the Department of Revenue, has drafted proposed amendments to the Rules and Regulations for the Certification of Motion Picture Production Tax Credits ("Tax Credit Regulations"). **The proposed amendments revise the Tax Credit Regulations last filed with the Office of the Secretary of State as ERLID #5463.** The proposed amended regulations were prepared in accordance with the provisions of Section 10, Article 21, Chapter 241 of the Public Laws of 2012. The proposed amendments have been promulgated in accordance with Chapter 44-31.2 and Chapters 42-35 and 42-11 of the General Laws of Rhode Island, as amended. Upon filing, the final amended regulations will supersede ERLID #5463.

Notice is hereby given, in accordance with the provisions of Chapter 42-35 of the Rhode Island General Laws as amended, that a public hearing on the above proposed amended regulations shall be held on **Tuesday October 22, 2013, beginning at 9:30 AM in Conference Room A** within the William E. Powers Building, One Capitol Hill, Providence, Rhode Island, at which time and place all persons interested will be heard.

In the development of the proposed amended regulations, consideration was given to the following: (1) alternative approaches; (2) overlap or duplication with other statutory and regulatory provisions; and (3) significant economic impact on small business, as defined in Chapter 42-35.1 of the Rhode Island General Laws, as amended, which may result from these regulations. No alternative approach or duplication or overlap was identified based upon available information.

Copies of the proposed amended regulations are available for public inspection at the Film and Television Office, Department of Administration, One Capitol Hill, Providence, RI 02908, or by calling Steven Feinberg at (401) 222-3456, or by sending an email to steven.feinberg@arts.ri.gov If you send an email request, please refer to "Proposed Amended Rules—Tax Credits". In conformance with section 42-35-3(a)(1) of the General Laws of Rhode Island, a concise summary of all non-technical amendments being proposed will be included with the proposed amended rules that are filed with the Secretary of State's Office.

For the sake of accuracy, it is requested that comments made relative to any aspect of the regulations, including alternative approaches, overlap, or significant economic impact, are received prior to or at the hearing. These comments should refer to "Proposed Amendments to Tax Credit Regulations", as well as the specific regulations commented upon. Comments should be mailed to Steven Feinberg, RI Film and Television Office, Department of Administration, One Capitol Hill, Providence, RI 02908. Written comments may also be submitted at the public hearing. Oral statements made at the hearing will be considered, but should be limited to five minutes each.

Any individual requiring a reasonable accommodation in order to participate in this hearing should contact James A. Pitassi, Jr. at 222-6395 (voice) or #711 (R.I. Relay) at least three (3) business days prior to the hearing.

Signed,

Steven C. Feinberg

Steven Feinberg
Executive Director, RI Film and Television Office

9/17/13

Date

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

RHODE ISLAND DEPARTMENT OF ADMINISTRATION
FILM AND TELEVISION OFFICE

SEPTEMBER 2013

Concise Summary of Non-Technical Amendments pursuant to RIGL § 42-35-3(a)(1)

These amendments were drafted by the Department of Administration's Film and Television Office, in conjunction with the Department of Revenue's Division of Taxation. These amendments are proposed in order to implement the provisions of Section 10, Article 21, Chapter 241 of the Public Laws of 2012

As indicated in the Table of Contents on page 3 of the proposed rules, the amended rules are set forth in eighteen (18) sections. As new rules are added, the numbering has been revised; references to rule numbers are to the numbers within the proposed amended rules.

Sections containing non -technical amendments are set forth below:

Rule 5 entitled **Definitions:**

Several definitions have been amended, including definitions of "Above the Line Person (p. 4); "Accountant's Certification" (p. 4); "Amended Production" (p.5); "certificate of Motion Picture Production Tax Credit" (p. 5); "Costs" (pp 5-8); "Costs incurred within the State" (p. 8); "Loan-Out Company" (p. 9); "Motion Picture" (p. 9); "Motion Picture Production Company" (p.10); "Primary Locations" (p. 11); "State Certified Production" (p. 12); "State Certified Production Costs" (p.12); and "Total Production Budget" (p. 13). \

Three new definitions have been added to **Rule 5:** "Application Year" p. 5; "Final Production Budget" p. 9; and "Qualified Vendor" pp. 11-12.

Rule 6 entitled **Overview** has been added in order to summarize the process for applying for and receiving motion picture tax credit certificates. See p. 14.

Rule 7 entitled **Applications** has been amended. See pp 14-18.

Rule 8 entitled **Impact Analysis** has been added, in accordance with RIGL section 44-31.2-6.1. See pages 18-20.

Rule 9 entitled **Certification of a Production** has been amended. See pp 21-22.

Rule 10 entitled **Priority and Allocation of Credits** has been amended. See pp 23-24.

Rule 12 entitled **Cost Report** has been amended. See pp 25-26.

Rule 13 entitled **Determination of Tax Credit** has been amended. See p. 26.

Rule 14 entitled **Issuance of Tax Credit Certificates** has been amended. See pp. 26-27.

Rule 15 entitled **Hearing and Appeals** has been added, in order to clarify the process for appeals taken from a decision of the film office and appeals taken from a decision of tax administrator. See pp. 27-28.

Rule 17 entitled **Sunset** has been added, in accordance with RIGL section 44-31.2-11. See p. 29.

State of Rhode Island and Providence Plantations
Rhode Island Film and Television Office in conjunction with the Rhode Island Division of Taxation

Rules and Regulations for the Certification of Motion Picture Production Tax Credits

~~CR 09-01~~ CR 13-14

Table of Contents

Rule 1. Purpose
Rule 2. Authority
Rule 3. Application
Rule 4. Severability
Rule 5. Definitions
Rule 6. Overview
Rule ~~6~~7. Applications
Rule 8. Impact Analysis and Periodic Reporting
Rule ~~7~~9. Certification of a Production
Rule ~~7.1~~10. Priority and Allocation of Credit
Rule ~~8~~11. Commencement of Production
Rule ~~9~~12. Cost Report
Rule ~~10~~13. Determination of Tax Credit
Rule ~~11~~14. Issuance of Tax Credit Certificates
Rule 15. Hearings and Appeals
Rule ~~12~~6. Assignment of ~~Motion Picture Production~~ Tax Credit Certificates
Rule 17. Sunset
Rule ~~13~~8. Effective Date

Rule 1. Purpose

These rules implement Chapter 44-31.2 which was revised by 2012 Public Law Chapter 241 the Rhode Island General Laws This Chapter, also referred to within as RIGL Chapter 44-31.2, provides for ~~the issuance of~~ motion picture production tax credits. These rules govern the procedures for the application, certification, and issuance of these tax credits.

Rule 2. Authority

These rules and regulations are promulgated pursuant to RIGL Chapter 44-31.2. These rules have been prepared in accordance with the requirements of RIGL Chapter 42-35, the Rhode Island Administrative Procedures Act.

Rule 3. Application

The terms and provisions of these rules and regulations shall be liberally construed to permit the Rhode Island ~~D~~division of ~~T~~taxation, within the department of revenue, and the Rhode Island film and t~~T~~elevision ~~and Film O~~office, within the department of administration, to effectuate the purposes of RIGL Chapter 44-31.2 and other applicable state laws and regulations.

Rule 4. Severability

If any provision of these Rules and Regulations, or the application thereof to any person or circumstances, is held invalid by a court of competent jurisdiction, the validity of the remainder of the Rules and Regulations shall not be affected thereby.

Rule 5. Definitions

~~A. "Act" means Chapter 44-31.2 of the Rhode Island General Laws, as amended.~~

~~B.~~ "Above-The-Line Person" means a motion picture director, writer, producer or featured actor. Motion picture directors, writers, producers, featured actors and their fees are grouped within the "pre-production," ~~or~~ "production" and/or "post-production section of a typical motion picture budget, above a solid, bold line, separating these few "above-the-line" persons from the majority of the "below-the-line" crew, other production and post-production expenses.

~~C.~~ "Accountant's Certification" means a certified audit by a Rhode Island certified public accountant licensed in accordance with ~~Section~~ § 5-~~5~~- 3.1-5 of the Rhode Island General Laws, as amended.

"Act" means chapter 44-31.2 of the Rhode Island General Laws, as amended.

~~D.~~ "Alternative Distribution Method" for the purposes of the ~~P~~production ~~T~~tax ~~C~~credit means an executed agreement among all participants of a pass-through entity, or among all owners of a motion picture having multiple owners, setting forth the method for allocation of the ~~M~~motion ~~P~~picture ~~P~~production ~~T~~tax ~~C~~credit agreed upon by and among the participants or co-owners. An alternative distribution method may include, without limitation, a partnership agreement, an operating agreement of a limited liability company, a shareholders agreement, or any other instrument executed by all participants or co-owners.

~~E.~~ "Amended Production" means one additional separate and distinct application that is allowable for the same production for purposes such as "re-shoots", "retakes", added scenes or any additional production expenditures incurred and paid within the State of Rhode Island (but not previously included in the cost report) provided that the motion picture has already met the conditions required for, and has already been approved for final certification by the ~~F~~film ~~O~~office and the division of taxation. The amended application must individually meet the statutory requirements for a state certified production including, but not limited to, a total production budget of a minimum of one hundred thousand dollars ($100,000). The additional production expenditures shall be

included in a separate cost report, ~~and~~ require a separate accountant's certification, and be subject to a separate review by the division of taxation.

~~F.~~ "Applicant" means a motion picture production company, which is a corporation, partnership, limited partnership, or other entity or individual, submitting an application to the ~~F~~film ~~O~~office ~~or~~ and the ~~D~~division of ~~T~~taxation for initial or final certification of a production.

"Application year" means within the calendar year the motion picture production company files any application for the tax credit.

~~G.~~ "Certificate of Motion Picture Production Tax Credit" means a certificate issued by the ~~Film Office~~ division of taxation, which states the amount of the ~~M~~motion ~~P~~picture ~~P~~production ~~T~~tax ~~C~~credit for which the production has qualified. A motion picture production company is prohibited from using State funds, State loans or State guaranteed loans to qualify for the motion picture tax credit. The certificate shall include, but not be limited to, the following information: specific and unique certificate number, name and address of the approved applicant, name of the state certified production, name of the qualified film to which the credit applies, date ~~in~~ on which production completed, date of final certification by the ~~Film Office~~ division of taxation, the name and taxpayer identification number of production company that incurred and paid state certified Rhode Island production expenditures, total amount of state certified Rhode Island production expenditures, name of initial holder of this certificate, taxpayer identification number of initial holder of this certificate, and amount of credit allocated to initial holder of this Certificate.

~~H.~~ "Completion of a Production" means the date of completion of a motion picture's production in the State of Rhode Island as certified to the film office and the division of taxation as part of the production's cost report.

~~I.(a)~~"Costs" (a) include, but are not limited to, the following expenses which shall qualify when incurred ~~and paid~~ within the State of Rhode Island and paid to a qualified vendor:

(1) set construction, set dressing and operation – labor and materials provided by a qualified vendor where the labor and materials are actually and physically provided, supplied, consumed or used within Rhode Island;

(2) wardrobes, make-up, accessories, props, expendables, supplies and related services;

(3) costs associated with photography and sound synchronization, lighting, and related services and materials including animation costs - labor and materials provided by a qualified vendor where the labor and materials are actually and physically provided, supplied, consumed or used within Rhode Island;

(4) editing and related services including, but not limited to, film processing, transfers of film to tape or digital format, sound mixing, computer graphics services, special effects, and animation services – provided the work is performed or procured in the state of Rhode Island;

(5) salary, wages, and other compensation, including related benefits paid by the employer such as health insurance, pension/retirement benefits, and life insurance of persons employed, either directly or indirectly, in the production of a film including, but not limited to, writer, actor, motion picture director, and producer (provided the work is performed in the State of Rhode Island;

(6) rental of facilities, site locations and equipment located and procured in the State of Rhode Island;

(7) leasing of vehicles from a qualified vendor where the vehicles are actually and physically delivered, provided, supplied, consumed or used within Rhode Island;

(8) costs of food and lodging - procured or performed by a qualified vendor where the food and lodging are actually and physically provided, delivered, supplied, consumed or used within Rhode Island;

(9) music, if performed, composed, or recorded by a Rhode Island musician, or released or published by a person domiciled in Rhode Island;

(10) travel expenses incurred to bring persons employed, either directly or indirectly, in the production of the film to Rhode Island (but not expenses of such persons departing from Rhode Island); and

(11) legal (but not expense of completion bond or insurance) and accounting fees and expenses related to the production's activities in Rhode Island provided such services are provided by Rhode Island licensed attorneys or accountants.

(b) ~~Expenses~~ Costs that do not qualify as state certified production costs, include without limitation, the following:

(1) any salaries, wages, and other compensation, including related benefits to individuals who are located outside of the State of Rhode Island and performing services outside the State of Rhode Island;

(2) any travel expenses for persons departing from the State of Rhode Island;

(3) any expense attributable to a completion bond;

(4) insurance expenses~~;~~, including workers' compensation insurance and temporary disability insurance;

(5) any cost associated with the promotion or marketing of the production including premier showings, special screenings and advertising;

(6) costs that were not incurred in Rhode Island; ~~and~~

(7) costs that have not been paid at the time of the application for final certification; ~~or which have not been the subject of the accountant's certification.~~

(8) costs which have not been the subject of the accountant's certification;

(9) bank fees or charges;

(10) federal and state withholding tax amounts;

(11) payments to he Rhode Island Secretary of State's office;

(12) payments to the Rhode Island division of taxation, including, but not limited to, payments for tax filings, letter of good standing requests, and audits conducted under Chapter 44-31.2;

(13) payments to the Rhode Island film office;

(14) expenses incurred for the preparation of the cost report;

(15) payments made to a nonqualified vendor; and

(16) costs incurred prior to filing a completed initial certification application with the film office.

(c) In the case where props and other production assets, with a cost of more than two thousand five hundred dollars ($2,500), are purchased, created or acquired for a Rhode Island production and kept in inventory for future use, there must be deducted from the cost incurred in Rhode Island the fair market value of the assets remaining after initial use in Rhode Island. The fair market value shall be attested to by an independent appraiser in a manner prescribed by the ~~D~~director of the Rhode Island ~~F~~film ~~O~~office in conjunction with the Rhode Island division of taxation.

Example: A prop is purchased from a qualified vendor for use in a production in the State of Rhode Island at a cost of $5,000.~~00~~ and placed in storage at the end of production. The fair market value of the prop at the end of production is certified to be $4,000.~~00~~ by an independent appraiser. For purposes of the cost report, only the $1,000.~~00~~ value consumed during production will be allowed.

~~J.~~ "Costs Incurred within the State" means, in the case of tangible property, which is acquired from or through a qualified vendor will constitute a cost incurred within the State of Rhode Island where goods and materials are actually and physically provided, supplied, consumed or used within Rhode Island and, in the case of services, shall mean services performed within the State of Rhode Island.

Example 1: Wardrobe purchased or rented from a qualified vendor ~~will constitute a cost incurred within the State~~ where the labor and materials are actually and physically provided, supplied, consumed or used within Rhode Island will constitute a cost incurred within the state. However, wardrobe purchased or rented from a non-qualified vendor and shipped to Rhode Island will not constitute a cost incurred within the state.

Example 2: Catering expenses and services provided by a qualified vendor ~~will constitute a cost incurred within the State~~ where the labor and materials are actually and physically

provided, supplied, consumed or used within Rhode Island will constitute a cost incurred within the ~~S~~state. However, catering services rendered outside of Rhode Island ~~from~~ or by a non-qualified vendor will not constitute a cost incurred within the state.

Example 3: Props purchased or rented from a qualified vendor ~~will constitute a cost incurred within the State~~ where the labor and materials are actually and physically provided, supplied, consumed or used within Rhode Island will constitute a cost incurred within the state. However, props acquired from a non-qualified vendor or created outside of Rhode Island will not constitute a cost incurred within the state.

Example 4: Set construction materials, such as lumber and steel, purchased or rented from a qualified vendor where the labor and materials are actually and physically provided, supplied, consumed or used within Rhode Island will constitute a cost incurred within the state. However, materials acquired from a non-qualified vendor or constructed outside of Rhode Island will not constitute a cost incurred within the state.

Example 5: Shipping expenses incurred to send materials and supplies to Rhode Island will constitute a cost incurred within the state. However, shipping expenses for materials and supplies shipped from Rhode Island to an out of state location will not constitute a cost incurred within the ~~S~~state.

~~K.~~ "Division of Taxation" means that office within the ~~D~~department of ~~R~~revenue that operates under the authority and direction of the ~~T~~tax ~~A~~administrator, pursuant to RIGL §44-1-1 *et seq*.

"Documentary Production" means a non-fiction production intended for educational or commercial distribution that may require out of state principal photography.

~~L.~~ "Domiciled in Rhode Island" means a corporation incorporated in Rhode Island or a partnership, limited liability company, or other business entity formed under the laws of the State of Rhode Island for the purpose of producing motion pictures, or an individual who is a domiciled resident of Rhode Island as defined in the Rhode Island General Laws Section 44-30. Such individual, corporation, partnership, limited liability company, or other entity, is subject to the General Laws of the State of Rhode Island including, but not limited to, Chapters 44-11, 44-12 and 44-30.

~~M.~~ "Feature-Length Film" means a production intended for commercial distribution to a motion picture theater or directly to the home video market that has a running time of at least seventy-five (75) minutes in length.

~~N.~~ "Film Office" means ~~the Rhode Island Film and Television Office, as defined in RIGL §42-75-12.~~ an office within the department of administration that has been established in order to promote and encourage the locating of film and television productions within the State of Rhode Island. The office is also referred to within as the "Rhode Island Film and Television Office."

~~O.~~ "Film Office Director" means the Director of the Rhode Island Film and Television Office.

"Final Production Budget" means and includes the total pre-production, production and post-production out of pocket costs incurred and paid in connection with the making of the motion picture. The final production budget excludes costs associated with the promotion or marketing of the motion picture.

~~P.~~ "Inspection" means a visit by an authorized representative of the ~~F~~film ~~O~~office and/or the division of taxation to a property, including a set, a soundstage, a location or a production office for services performed in Rhode Island.

~~Q.~~ "Loan-Out Company" means and includes a corporation, partnership, limited liability company, S-corporation, association, nominee trust, or any other entity through which an artist or other person is loaned out to perform services for the motion picture production company. Regardless of structure, employees or other persons of such "loan-out companies" and the loan out company itself shall be subject to all applicable provisions of the Rhode Island personal income tax and any applicable payroll or other tax provisions. A loan-out company shall be registered with the Rhode Island Secretary of State and the Rhode Island division of taxation.

~~R.~~ "Motion picture" means feature-length film, documentary production, video, video game, television series, or commercial made in Rhode Island, in whole or in part, for theatrical or television viewing or as a television pilot or for educational distribution. Motion picture shall not include the production of television coverage of news or athletic events, nor shall it apply to any film, video, television series or commercial or production for which records are required under Section 2257 of Title 18, U.S.C., to be maintained with respect to any performer in such production or reporting of books, films, etc. with respect to sexually explicit conduct.

~~S.~~ "Motion Picture Production Company" (1) means a corporation, partnership, limited liability company, or other business entity, domiciled in Rhode Island, and engaged in the business of producing one or more motion pictures. Generally, the motion picture production company controls the state certified motion picture during production and is responsible for payment of the direct production expenses (including pre- and post-production), and is a signatory to the state certified motion picture's contracts with its payroll company and facility operators.

(2) Motion picture production company shall not mean or include:

(a) any company owned, affiliated, or controlled, in whole or in part by any company or person which is in default:

(i) on taxes owed to the state; or

(ii) on a loan made by the state in the application year; or

(iii) on a loan guaranteed by the state in the application year. or,

(b) ~~any company or person who has ever declared bankruptcy under which an obligation of the company or person to pay or repay public funds or monies was~~

~~discharged as a part of such bankruptcy.~~ Any company or person who has discharged an obligation to pay or repay public funds or monies by:

(i) filing a petition under any federal bankruptcy, or state receivership, or insolvency law against such company or person;

(ii) having a petition filed under any federal bankruptcy, or state receivership, or insolvency law against such company or person;

(iii)consenting to, acquiescing in, or joining in a petition named in (i) or (ii) above;

(iv) consenting to, acquiescing in, joining in the appointment of a custodian, receiver, trustee, or examiner for such company's or person's property; or

(v) making an assignment for the benefit of creditors, or admitting in writing or in any legal proceeding its insolvency or inability to pay debts as they become due.

~~T. "Qualified Vendor" means any individual, partnership, corporation, limited liability company or other business entity, that (1) provides goods and services to a state certified motion picture during production; (2) who maintains a place of business in Rhode Island; (3) is subject to Rhode Island taxation; and (4) is qualified to do business in Rhode Island~~

~~U.~~ "Participant" means a partner in a partnership, member of a limited liability company, ~~or~~ shareholder of an S-corporation, a beneficial owner of a trust, or any other person having an interest in a pass-through entity.

~~V.~~ "Pass-Through Entity" means a partnership, limited liability company, S-corporation, association, nominee trust, or any other entity, the tax attributes of which are passed through to the participants in such entity.

~~W.~~ "Post-Production" means the final stage in a state certified motion picture's production after principal and ongoing photography is completed, including, but not limited to, editing, Foley ~~R~~recording, ~~A~~automatic ~~D~~dialogue ~~R~~replacement, sound editing, special effects, scoring and music editing, beginning and end credits, negative cutting, soundtrack production, the addition of sound/visual effects, dubbing, and subtitling. Advertising and marketing activities and expenses are not included in post-production.

~~X.~~ "Pre-Production" means costs directly related to the production, which are incurred prior to the first day of principal photography for a state certified motion picture. For example, the establishment of a dedicated production office, the hiring of key crew members such as a ~~U~~unit ~~P~~production ~~M~~manager, Lline ~~P~~producer and ~~L~~location ~~M~~manager, and includes, but is not limited to, activities such as location scouting, hiring of crew, and execution of contracts with vendors of equipment and stage space.

~~Y.~~ "Primary Locations" means the locations within which (1) at least fifty-one percent (51%) of the motion picture's total principal photography days are filmed~~.~~; or

(2) at least fifty-one percent (51%) of the motion picture's final production budget is spent and at least five (5) individuals were employed by the production company during the production in this State; or

(3) for documentary productions, the location of at least fifty-one percent (51%) of the total productions days, which shall include pre-production and post-production locations.

~~Z.~~ "Principal Photography and/or Animation" means the filming and/or animation of major and significant portions of a state certified ~~motion picture~~ production that involves the lead actors and/or animators.

"Qualified Vendor" means any individual, partnership, corporation, limited liability company or other business entity that (1) provides goods and services in this state to a state certified motion picture during production;

(2) maintains a place of business in Rhode Island;

(3) is subject to Rhode Island taxation;

(4) is registered with the Rhode Island division of taxation; and

(5) is registered with the Rhode Island Secretary of State's office and is qualified to do business in Rhode Island.

"Rhode Island Film and Television Office" means an office within the department of administration that has been established in order to promote and encourage the locating of film and television productions within the State of Rhode Island. The office is also referred to within as the "Film Office."

~~AA.~~ "State Certified Production" means a motion picture production approved by the Rhode Island ~~F~~film and ~~T~~television ~~O~~office and produced by a motion picture production company domiciled in Rhode Island, whether or not such company owns or controls the copyright and distribution rights in the motion picture; provided that such company has either:

(~~a~~1) signed a viable distribution plan; or

(~~b~~2) is producing the motion picture for:

(~~i~~a) a major motion picture distributor;

(~~ii~~b) a major theatrical exhibitor;

(~~iii~~c) a television network; or

(~~iv~~d) a cable television programmer; or

(e) web-based streaming distribution.

(3) Additionally, the production must be produced with the motion picture's "primary locations" being filmed within the State of Rhode Island and with a "total production budget" of a minimum of ~~three~~ one hundred thousand dollars ~~($300,000).~~ ($100,000).

~~BB.~~ "State Certified Production Costs" means any pre-production, production, and post-production cost directly attributable to activity within this state that a motion picture company incurs and pays to the extent that it occurs within the State of Rhode Island. The term refers to a production certified by the State of Rhode Island under the Act and should not be taken to infer that the State of Rhode Island is certifying the production costs. State certified production costs do not include costs paid for using State funds, State loans or State guaranteed loans to qualify for the motion picture tax credit.

~~CC.~~ "Television Pilot" means the initial episode produced for a proposed episodic television series. This category will include shorter formats which are known as "television presentation", a production of at least fifteen (15) minutes in length, produced for the purposes of selling a proposed television series, but not intended for broadcast.

~~DD.~~ "Television Series" which may also be known as "episodic television series" means a regularly occurring production, live action, animation or a combination of the two, intended in its initial run for broadcast on television, whether free or via subscription-based service, that has a running time of at least thirty (30) minutes in length (inclusive of commercial advertisement and interstitial programming).

~~EE.~~ "Total Production Budget" means and includes the motion picture production company's pre-production, production and post-production costs incurred for the production activities of the production company in Rhode Island in connection with the making of the state certified production. The budget shall not include costs associated with the promotion or marketing of the film, video, or television product.; costs not incurred within Rhode Island; costs not paid; or costs provided by nonqualified vendors.

Rule 6. Overview

A. The process of applying for and receiving motion picture production tax credit certificates consist of the following steps:

(1) The production company files an application for initial certification with the film office. (For details see Rule 7.)

(2) The film office prepares an impact analysis based on information provided by the production company on its initial application. The analysis is available for public inspection and is posted on the division of taxation's website. (For details see Rule 8.)

(3) The film office, following review and approval of the initial certification request, issues an initial certification letter to the motion picture production company and to the tax administrator. If the film office rejects an initial certification request, a written notification will be sent to the applicant. (For details see Rule 9.)

(4) The production company notifies the film office in writing of the commencement of production. (For details see Rule 11.)

(5) The production company, after completion of a production, files an application for final certification of the production with the film office and the division of taxation. (For details see Rule 7 and Rule 9.)

(6) The division of taxation makes a determination of the amount of tax credit based on its review of state certified production costs. (For details see Rule 13.)

(7) The division of taxation, upon determination that the production company has complied with all necessary requirements, issues tax credit certificates to the production company. (For details see Rule 14.)

B. In addition, all recipients of motion picture production tax credits are required to file annual reports with the tax administrator, for the year they receive a tax credit, as follows:

(1) Rhode Island Form TC-100 must be filed by August 15th. (For details see Rule 8.)

(2) Rhode Island Form 8201A must be filed by September 1st. (For details see Rule 8.)

Rule 67. Applications

A. Applications for designation of a motion picture production as a state certified production shall be made on State Certification Application forms. These forms are available from the ~~F~~film ~~O~~office at One Capitol Hill, Third Floor, Providence, Rhode Island 02908 or from the ~~F~~film ~~O~~office's website at www.film.ri.gov and the division of taxation's website at www.tax.ri.gov. The Initial Application is used to request initial certification of a motion picture production and shall be filed with the ~~F~~film ~~O~~office before the commencement of Rhode Island production activities. The Final Application is used after the completion of Rhode Island production activities to request final certification of the production and the issuance by the ~~Film Office~~ division of taxation of any credit documents relating to the completion of a state certified production.

B. Application for Initial Certification of a Production. (1) The applicant shall properly prepare, sign and submit the Initial Certification Application form to the ~~F~~film ~~O~~office. This part of the application, when completed, contains information regarding both the motion picture production company and a specific Rhode Island motion picture such that the ~~F~~film ~~O~~office may make a determination pertaining to the initial certification of the production.

(2) Any costs incurred prior to filing a complete initial certification application shall not be allowed for purposes of meeting the one hundred thousand dollars ($100,000) minimum Rhode Island production budget or as a cost in calculating the motion picture production tax credits.

(3)The information submitted shall include the following and any other data the ~~F~~film ~~O~~office determines necessary for the proper evaluation and administration of the application:

(a) identification information: name and address of applicant, name of contact person, telephone numbers and email addresses; federal employer identification number[s]; the production company's Rhode Island address (including federal employer identification number, contact person, telephone numbers and email addresses); brief background and structure of the company, and information (including name, address and federal employer identification number) about other companies which are related, affiliated, or controlled by the motion picture production company and which are expected to be involved in the production.

(b) timing information: anticipated start date; anticipated completion date; proposed schedule; and estimated number of principal photography days to be filmed in Rhode Island and outside of Rhode Island.

(c) financial information: proposed total production budget, estimated ~~disclosed~~ motion picture budget (expenditures within the State of Rhode Island), and information for each of the "above the line" individuals as to whether they will be employees of the motion picture production company or, if not, the name, address, and federal employer identification number of the entity by which they will be employed. Additionally, the applicant will estimate the anticipated amount of Rhode Island motion picture production tax credit from this production.

(d) operational information: brief description of the motion picture production, including:

(~~1~~i) story synopsis and screenplay for proposed motion picture production; and;

(~~2~~ii) a statement as to whether the company owns or controls the copyright and distribution rights in the motion picture; and,

(~~3~~iii) a copy of the signed viable distribution plan or evidence that the production company is producing the motion picture for a major motion picture distributor, a major theatrical exhibitor, a television network or a cable television programmer.

(e) payroll company information: name, address, and federal employer identification number of any company or other entity who will make withholding tax payments and employer tax payments on behalf of the production company. The payroll company must be a qualified vendor.

(e~~f~~) other information: the anticipated days each "above the line" person (i.e., producers, motion picture director, writers and featured actors) is scheduled to perform work in Rhode Island; copies of documents evidencing that the motion picture production company is formed under the laws of the State of Rhode Island; and one paragraph each regarding production plans for internship, diversity and training programs in Rhode Island.

C. Application for Final Certification of a Production. (1) When production is completed, the applicant shall submit a completed application for final certification to the ~~F~~film ~~O~~office and the division of taxation. Such application must contain the signature of the applicant, including title and date. This application contains information regarding both the motion picture production company and the specific Rhode Island motion picture (which has previously been granted initial certification from the ~~F~~film ~~O~~office) and provides documentation that the completed state certified motion picture production is consistent with the work described in the initial certification. Such final application shall be filed within three (3) years after the date Rhode Island production activities have finished. The final application must also contain a cost report as prescribed by the tax administrator and an "accountant's certification" to evidence the motion picture production company's compliance with all provisions of RIGL ~~Section~~ chapter 44-31.2-~~2(7)~~. The ~~F~~film ~~O~~office and the ~~D~~division of ~~T~~taxation may rely, without independent investigation, upon the accountant's certification confirming the accuracy of the information included in the cost report.

(2) The application for final certification information shall, in addition to the items above, include all the following information, and any other information that the ~~Film Office~~ division of taxation determines necessary for proper evaluation and administration of the application:. The following information is to be submitted to both the film office and the division of taxation:

(a) identification data: name and address of applicant (including contact person, telephone numbers and email addresses); ~~F~~federal E~~e~~mployer ~~I~~identification ~~N~~number[s]; the production company's Rhode Island address, (including ~~F~~federal E~~e~~mployer ~~I~~identification number, contact person, telephone numbers and email addresses); and, for compliance purposes, the name, address and ~~F~~federal E~~e~~mployer ~~I~~identification number or ~~S~~social ~~S~~security number of each company related, affiliated or controlled by the motion picture production company as of the production's completion date, a description and amount of the relationship, affiliation or control, and a copy of the initial certification letter showing the unique identifying number assigned by the ~~F~~film ~~O~~office.

(b) timing information: actual start date; actual completion date; the daily schedule of the entire production and of all employees and personnel, above the line and below the line; and actual number of principal photography days filmed in Rhode Island and outside of Rhode Island.

(c) financial information: actual data for the total production budget, ~~the disclosed motion picture budget~~ (including final combined expenditures within the State of Rhode Island and outside the State of Rhode Island~~)~~.

(d) operational information: final script for the motion picture production; all travel schedules and data for "above-the-line" persons arriving and departing the State of Rhode Island including the actual number of days each performed work in Rhode Island; location of soundstage and one paragraph each regarding how the production applied internship, diversity and training programs.

(e) maximum credit calculation: based on the production costs incurred and paid and other information in the application for final certification, the applicant will calculate an

estimate of the total amount of production credits associated with the production and show a comparison between the estimated total credits and the total production budget.

(3) In addition to the above, the following information must also be provided to the division of taxation in order to verify the credit amount (all lists shall include the name, address, federal employer identification number or social security number, amount paid and dates paid, and be in a manner prescribed by the tax administrator):

~~(f)~~ (a) ~~miscellaneous information:~~ a list of the loan out companies, temporary agencies, employee leasing companies, and professional employee organizations that have provided services to the motion picture production company within the State of Rhode Island;~~, and~~

(b) a list of qualified vendors that have sold and/or rented goods to the motion picture production company for use within the State of Rhode Island,

(c) a list of all personnel involved in the production;

(d) a complete general ledger as certified by a Rhode Island certified public accountant;

(e) payroll records for all cast and crew working on the production;

(f) copies of all invoices and receipts broken down by expense categories as prescribed by the tax administrator; ~~This information shall be filed directly with the Division of Taxation who, in turn, shall advise the Film Office, in writing, of its receipt.~~

(g) ~~signature of applicant including title and date~~. the production "bible;" and

(h) any other information the tax administrator considers necessary.

~~**D.** Confidentiality of Application Information. Application information submitted to the Division of Taxation is confidential by statute. Application information submitted to the Film Office may be subject to scrutiny under the Access to Public Records Act, Chapter 38-2 of the Rhode Island General Laws, as amended, unless it comes within one of the exemptions set forth in RIGL §38-2-2. If the Applicant believes that certain information, being submitted as part of its applications should not be available for public inspection, such information shall be marked or labeled "CONFIDENTIAL" or "PROPRIETARY" in capital letters. The Applicant shall also submit a statement briefly setting forth the grounds why the information should be treated as confidential and how long it should be maintained as confidential. The Film Office shall not disclose the materials to the public unless ordered to do so by a court of competent jurisdiction.~~

D. Disclosure of Application Information.

(1) Records maintained by the division of taxation may not be publicly disclosed as provided in RIGL §38-2-2.

(2) (a) In the event a request for access to public records is made, application information submitted to the film office may be publicly disclosed under the Access to

Public Records Act, Chapter 38-2 of the Rhode Island General Laws, as amended, unless it comes within one of the exemptions set forth in RIGL §38-2-2.

(b) Records that are exempt from disclosure are described in RIGL §38- 2-2(4). For example, RIGL §38-2-2(4)(B) provides an exemption that "Trade secrets and commercial or financial information obtained from a person, firm, or corporation which is of a privileged or confidential nature" are not deemed public.

(c) If an Applicant believes that certain information submitted as part of its applications is exempt from public disclosure, on the submitted record such information should be marked or labeled "Exempt from Public Disclosure". This label should also set forth the applicable statutory exemption. For the example above, please reference RIGL §38-2-2(4)(B).

(d) In the event that a person requests that all or part of a submitted record be publicly disclosed, the person must submit such a request to the film office. As stated in the Access to Public Records Act, the film office must respond in writing within 10 business days of receipt. If any submitted record has been described as exempt from disclosure, the film office will consider whether or not the exempted record falls within a particular exemption.

Rule 8. Impact Analysis and Periodic Reporting

A. As provided in RIGL §44-31.2-6.1, the film office shall not certify or approve any application under RIGL § 44-31.2-6 until it has first prepared and publicly released an analysis of the impact the proposed investment will or may have on the state. The analysis shall be supported by appropriate data and documentation and shall consider, but not be limited to, the following factors:

(1) The impact on the industry or industries in which the applicant will be involved;

(2) State fiscal matters, including the state budget (revenues and expenses);

(3) The financial exposure of the taxpayers of the state under the plans for the proposed investment and negative foreseeable contingencies that may arise therefrom;

(4) The approximate number of full-time, part-time, temporary, seasonal and/or permanent jobs projected to be created, construction and non-construction;

(5) Identification of geographic sources of the staffing for identified jobs;

(6) The projected duration of the identified construction jobs;

(7) The approximate wage rates for each category of the identified jobs;

(8) The types of fringe benefits to be provided with the identified jobs, including healthcare insurance and any retirement benefits;

(9) The projected fiscal impact on increased personal income taxes to the state of Rhode Island; and

(10) The description of any plan or process intended to stimulate hiring from the host community, training of employees or potential employees, and outreach to minority job applicants and minority businesses.

B. The film office shall monitor every impact analysis it completes through the duration of any approved tax credit. Such monitoring shall include annual reports made available to the public on the:

(1) Actual versus projected impact for all considered factors; and

(2) Verification of all commitments made in consideration of state incentives or aid.

C. Upon its preparation and release of the analysis required by subsection (B) of this rule, the film office shall provide copies of that analysis to the chairpersons of the house and senate finance committees, the house and senate fiscal advisors, the department of labor and training and the division of taxation. Any such analysis shall be available to the public for inspection by any person and shall by published by the tax administrator on the tax division website. Annually thereafter, through and including the second tax year after any taxpayer has applied for and received a tax credit pursuant to this chapter, the department of labor and training shall certify to the chairpersons of the house and senate finance committees, the house and senate fiscal advisors, the corporation and the division of taxation that:

(1) the actual number of new full-time jobs with benefits created by the state-certified production, not including construction jobs, is on target to meet or exceed the estimated number of new jobs identified in the analysis above, and

(2) the actual number of existing full-time jobs with benefits has not declined. For purposes of this section, "full-time jobs with benefits" means jobs that require working a minimum of thirty (30) hours per week within the state, with a median wage that exceeds by five percent (5%) the median annual wage for full-time jobs in Rhode Island and within the taxpayer's industry, with a benefit package that includes healthcare insurance plus other benefits typical of companies within the motion picture industry. The department of labor and training shall also certify annually to the house and senate fiscal committee chairs, the house and senate fiscal advisors, and the division of taxation that jobs created by the state-certified production are "new jobs" in the state of Rhode Island, meaning that the employees of the motion picture production company are in addition to, and without a reduction of, those employees of the motion picture production company currently employed in Rhode Island, are not relocated from another facility of the motion picture production company in Rhode Island or are employees assumed by the motion picture production company as the result of a merger or acquisition of a company already located in Rhode Island. The certifications made by the department of labor and training shall be available to the public for inspection by any person and shall be published by the tax administrator on the tax division website.

D. The film office, with the assistance of the motion picture production company, the department of labor and training, the department of human services and the division of taxation shall provide annually an analysis of whether any of the employees of the motion picture production company has received RIte Care or RIte Share benefits and the impact such benefits or assistance may have on the state budget. This analysis shall be available to the public for inspection by any person and shall be published by the tax administrator on the tax division website. Notwithstanding any other provision of law or rule or regulation, the division of taxation, the department of labor and training and the department of human services are authorized to present, review and discuss project-specific tax or employment information or data with the film office, the chairpersons of the house and senate finance committees, and/or the house and senate fiscal advisors for the purpose of verification and compliance with this tax credit reporting requirement.

E. Any agreements or contracts entered into by the film office and the motion picture production company shall be sent to the division of taxation and be available to the public for inspection by any person and shall be published by the tax administrator on the tax division website.

F. By August 15th of each year the motion picture production company shall file Rhode Island Form TC-100 reporting the source and amount of any bonds, grants, loans, loan guarantees, matching funds or tax credits received from any state governmental entity, state agency or public agency as defined in § 37-2-7 during the previous state fiscal year. The completed Form TC-100 shall be sent to the division of taxation and be available to the public for inspection by any person and shall be published by the tax administrator on the tax division website.

G. By August 15th of each year the division of taxation shall report the name, address, and amount of tax credit received for each motion picture production company during the previous state fiscal year to the film office, the chairpersons of the house and senate finance committees, the house and senate fiscal advisors, and the department of labor and training. This report shall be available to the public for inspection by any person and shall be published by the tax administrator on the tax division website.

H. Beginning September 1, 2011, and every September 1 thereafter, the motion picture production company shall file Rhode Island Form 8201A with the tax administrator. Said report shall contain each full-time equivalent, part-time or seasonal employee's name, social security number, date of hire, and hourly wage as of the immediately preceding July 1 and such other information deemed necessary by the tax administrator. The report shall be filed on a form and in a manner prescribed by the tax administrator.

Rule ~~7~~9. Certification of a Production

A. Initial Certification of a Production: (1) Where necessary documentation is not provided, review and evaluation will be delayed and initial certification may be denied on the basis of lack of information. Because the circumstances of each production are unique, initial certifications that have been granted to one production shall not be used nor relied upon by applicants for other productions.

(2) Any costs incurred prior to filing a complete initial certification application shall not be allowed for purposes of meeting the one hundred thousand dollars ($100,000) minimum Rhode Island production budget or as a cost in calculating the motion picture production company tax credits.

(3) The ~~F~~film ~~O~~office will complete its review for initial certification requests within thirty (30) business days of receiving a complete, adequately documented application. Where adequate information is not provided, the ~~F~~film ~~O~~office will notify the applicant of the additional information needed to complete the review. The ~~F~~film ~~O~~office will adhere to this time period as closely as possible, but failure to complete a review within the designated period does not waive or alter any certification requirement nor does it imply approval.

(4) Initial Certification Letter~~:~~. (a) Once the review is completed, the ~~F~~film ~~O~~office will issue initial certification of the motion picture production in the form of a letter issued to the motion picture production company and to the ~~T~~tax ~~A~~administrator. The letter states that, after appropriate review, the initial application meets the appropriate criteria for conditional eligibility. The letter of initial certification is only a statement of conditional eligibility for the production and, as such, does not grant or convey any Rhode Island tax benefits. If the ~~F~~film ~~O~~office denies initial certification, the applicant may appeal that decision under the provisions of RIGL §44-31.2-8.

(b) The letter of initial certification includes, but is not limited to, the following information: name and address of the applicant, the name of the motion picture production, the effective date for the production, taxpayer identification number of the motion picture production company, and a unique identifying number assigned by the ~~F~~film ~~O~~office and required for each production. The letter also gives notice that, upon completion of the production, the application for final certification must be completed including the receipt of a Rhode Island Certificate of Good Standing for the production company to verify the production company's compliance with all provisions of RIGL §44-31.2-~~2(7).~~

~~C~~B. Final Certification of a Production: (1) Where necessary documentation is not provided, review and evaluation will be delayed and final certification may be denied on the basis of lack of information. Because the circumstances of each production are unique, final certifications that have been granted to one production shall not be used nor relied upon by applicants for other productions.

~~The Film Office will complete its review for final certification requests~~ (2) ~~w~~ Within ninety (90) business days after the division of taxation's receipt of the motion picture production company's application for final certification and fully documented cost report, the division of taxation shall issue a certification of the amount of credit for which the motion picture production company qualifies under section 44-31.2-5. ~~of receiving a complete application.~~ When adequate information is not provided, the ~~Film Office~~ division of taxation will notify the applicant of the additional information needed to complete the review. The ~~Film Office~~ division of taxation will adhere to this time period as closely as possible, but failure to complete a review within the designated period does not waive or alter any certification requirement nor does it imply approval.

(3)~~The Film Office~~ The division of taxation will determine the final certification of the

production and issue a written determination to the applicant either denying or granting certification. Depending upon the determination, the ~~Film Office~~ division of taxation will ~~determine~~ calculate the amount of Rhode Island Motion Picture Production Tax Credit and issue the applicable Certificate[s] ~~pursuant thereto~~. To claim the tax credit, the tax credit certificate issued by division of taxation shall be attached to the state tax return on which the credit is initially claimed. If the ~~Film Office~~ division of taxation denies final certification, the applicant may appeal the ~~Film Office's~~ division of taxation's decision under the provisions of RIGL §44-31.2-8 (For details see Rule 15).

~~D~~C. ~~Film Office~~ Decisions, Reliance on Application: (1) Initial ~~C~~certifications are only issued in writing by the ~~F~~film ~~O~~office Director or other duly authorized representative of the ~~F~~film ~~O~~office. Final certifications are only issued in writing by the tax administrator or other duly authorized representative of the division of taxation. Decisions with respect to initial and final certifications are made on the basis of the information contained in the application form and other available information. The applicant's signature on any application form is a representation to the ~~F~~film ~~O~~office and the division of taxation that the facts contained therein are true and correct, and the ~~F~~film ~~O~~office and the division of taxation is entitled to rely thereon. If, at any time, it comes to the attention of the ~~F~~film ~~O~~office or the division of taxation that information is/was misstated, misrepresented or omitted or is materially inconsistent with representations made in an application, the ~~F~~film ~~O~~office or the division of taxation may deny the requested certification or revoke a certification previously given. Upon revocation of any certification, the production company must surrender any and all issued certificates or remit payment equal to the face value of any previously transferred certificates. In such cases, the applicant may appeal the ~~F~~film ~~O~~office's or the division of taxation's decision under the provisions of RIGL §44-31.2-8.

(2) Because the circumstances of each production are unique, certifications that may have been granted to other productions that are not specifically applicable may not be relied on by applicants as applicable to other projects.

Rule ~~7.1~~10. Priority and Allocation of Credits

~~1~~A. (1) No more than fifteen million dollars ($15,000,000) in total may be issued for any calendar year beginning after December 31, 2007 for motion picture tax credits pursuant of chapter 31.2 of title 44 and/or musical and theatrical production tax credits pursuant to chapter 31.3 of title 44. Said credits shall be equally available to motion picture productions and musical and theatrical productions. No specific amount shall be set aside of either type of production. ~~Section 44-31.2-5 of the Rhode Island General Laws, as amended, provides that for any tax year beginning after December 31, 2007, no more than fifteen million dollars ($15,000,000) in motion picture production company tax credits may be issued, in any calendar year. Prior to this amendment, no such limitation was in effect.~~

(2) Notwithstanding subsection A(1) of this rule, the tax credit for any motion picture production shall not exceed five million dollars ($5,000,000).

(3) The tax administrator may issue a waiver of the five million dollar ($5,000,000) tax credit cap provided:

(a) the production is a feature-length film or television series;

(b) the requested tax credits do not exceed the remaining portion of the fifteen million dollars ($15,000,000) in total motion picture production company tax credits available for the calendar year: and

(c) the production company meets all other conditions and requirements under these rules and regulations.

~~2. Because the amended section does not set forth how this limitation would be implemented and because the Applications for Credit Certification could exceed the total amount of $15,000,000 during any calendar year, it is necessary for the film office and the tax division to promulgate a rule and regulation pursuant to the authority contained in Section 44-31.2-6.~~

(4) Credits shall be allocated against the cap established in subsection A(1) of this rule for the calendar year determined by film office in the initial certification letter.

~~3~~B. In order to comply with the ~~above described amendment~~ requirements of subsection A(1) of this rule, the ~~F~~film ~~O~~office has developed a "queuing" process, which is an equitable process that will provide applicants some degree of certainty as to what credit amounts will be available to them at the conclusion of a production. This queuing process shall consist of the following:

(~~a~~1) Once a production has been initially certified, the ~~F~~film ~~O~~office will assign a number to that production. Initial numbers are assigned chronologically and are based on the date and time that a production has been initially certified. These productions will be placed in sequence on a "first come, first served" basis. This sequence is also referred to within as the "queue";

(~~b~~2) Based upon the applicant's information and availability of credit remaining for the calendar year for which application is made, the ~~F~~film ~~O~~office shall allocate the estimated credit amount to that production;

(~~c~~3) This estimated amount will not be allocated to any other production, except as set forth below under "loss of place ~~or priority~~ in the queue";

(~~d~~4) If a production (~~1~~a) falls out of "good standing status" with the Secretary of State~~,~~; or

(~~2~~b) halts production~~,~~; or

(~~3~~c) declares in writing to the ~~F~~film ~~O~~office that the estimated State Certified Production Costs will not be expended in Rhode Island~~,~~; or

(4d) fails to meet the deadlines as indicated in sub-paragraph (e5), the production will lose its place in the queue, and shall be moved to the end of the queue.

(e5) In order to maintain place in the queue, filming in Rhode Island shall commence before the elapse of sixty (60) days from the intended start date indicated on the ~~I~~initial ~~C~~certification ~~L~~letter. Upon receipt of a written request ~~to Film Office~~ the director of the ~~F~~film ~~O~~office ~~Director~~ is allowed to extend that time for an additional thirty (30) days, for good cause shown. Furthermore, in order to continue to be certified, the production's filming shall begin no more than one hundred and eighty (180) days from the start date indicated on the ~~I~~initial ~~C~~certification ~~L~~letter;

(~~f~~6) Upon loss of place in the queue, the estimated tax credit, which originally had been assigned to the production, shall be released and made available to other productions in sequence in the queue;

(~~g~~7) If, at the time of initial certification, all available tax credits for the calendar year have been claimed or otherwise assigned, a production shall be put at the end of the queue for that calendar year's credit, in the order of the date of initial certification.

(~~h~~8) Remaining productions in the queue, which are not qualified for available tax credit in the calendar year in which applied, must indicate in writing to the ~~F~~film ~~O~~office their interest in renewing their applications for the next calendar year's available tax credit. Any renewal request for the succeeding calendar year's available tax credit must be made to the ~~F~~film ~~O~~office on or before December 1st of the calendar year of the original application.

Rule ~~8~~11. Commencement of Production

A. Once production has begun, the ~~F~~film ~~O~~office ~~should~~ shall be notified in writing by the applicant/production company that, on a specific date, the actual production, including the principal photography, has commenced. In the event that an applicant's principal photography on a state certified motion picture does not actually begin within one hundred eighty (180) days of the start date indicated on the ~~I~~initial ~~C~~certification ~~L~~letter, the applicant shall be required to resubmit the application for initial certification.

B. Recurrent Productions: If a motion picture production company produces a television series, then production work on any given "season" of such series completed in any one calendar year shall be considered a separate and distinct state certified production for the purposes of certification. In the case that a motion picture production company produces a television "pilot" or "movies of the week", then such "pilot" or "movie of the week" shall be considered a separate and distinct state certified production for the purpose of the issuance of credit certificates. Any additional "season", "pilot" or "movie of the week" will be treated as a separate production and the applicant must repeat the application process and the production must meet all appropriate criteria.

C. Amended Productions: In the event that the production company requests the ~~F~~film ~~O~~office or the division of taxation to approve an amended production for a motion picture that has already obtained final certification, the applicant must repeat the application process and the amended production must meet all appropriate criteria.

D. ~~Film Office's~~ Inspection Rights: The ~~F~~film ~~O~~office and the division of taxation shall have the right at reasonable times to enter upon any set, soundstage, location or

production office that is the subject of an application for certification, whether the motion picture production is proposed, ongoing, or completed, to verify that the motion picture production is as represented.

Rule 912. Cost Report

A. As a part of the completed application for final certification of the production and the basis on which the credits are calculated, the production costs and Cost Report are crucial to the ~~F~~film ~~O~~office's and the division of taxation's deliberations concerning the certification of the production. As part of the final certification, the Cost Report must be accompanied by an "accountant's certification" of the items to which it pertains. The ~~F~~film ~~O~~office and the ~~D~~division of ~~T~~taxation may rely, without independent investigation, upon the accountant's certification confirming the accuracy of the information included in the Cost Report as well as the motion picture production company's compliance with RIGL §44-31-2.2(5).

B. ~~The Cost Report is a crucial part of and attachment to the application for final certification of a motion picture production. It contains (a) the date of completion of the motion picture's production in the State of Rhode Island, (b) the amount and listing of production costs incurred and actually paid within the State of Rhode Island with respect to the motion picture as set forth in the rules herein, (c) that the motion picture's total production budget is at least $300,000 and (d) the cost report shall be in a format as prescribed by the Director of the Film Office .~~
The cost report is a crucial part of and an attachment to the application for final certification of a production. The cost report shall be in a format as prescribed by the tax administrator, and must state:

(1) the date of completion of the production in the State of Rhode Island,

(2) the amount and listing of production costs incurred and actually paid within the State of Rhode Island with respect to the production as set forth in the rules herein, and

(3) that the total production budget is at least $100,000.

Rule ~~10~~13. Determination of Tax Credit

A. The amount of the ~~M~~motion ~~P~~picture ~~P~~production ~~Company~~ ~~T~~tax ~~C~~credit shall be determined by the ~~Film Office~~ division of taxation to equal twenty-five percent (25%) of the state certified production costs of a completed state certified production, as ~~shown in the application for final certification and as verified by the accountant's certification~~ verified by the division of taxation. The credit is considered earned in the tax year the production is completed.

B. The motion picture production tax credit shall be allowed as a credit against a tax imposed by chapters 11, 14, 17 and 30 of title 44 of the General Laws of Rhode Island for the tax year the credit is earned. Any unused credit may be carried forward for the next three (3) succeeding tax years.

C. The division of taxation shall determine if the cost included in the cost report meets the criteria of "costs" as defined in Rule 5. If any cost is denied, the division of taxation shall advise the applicant of the denial in writing, citing the reasons for the denial.

Rule ~~11~~14. Issuance of Tax Credits Certificates

A. Concurrent with the final certification of the production, the ~~Film Office~~ division of taxation, based upon the Certification shall also issue written, individual ~~M~~motion ~~P~~picture ~~P~~production ~~T~~tax ~~C~~credit ~~C~~certificate[s] to the motion picture production company, as allocated under its organizational documents, or to one or more transferees. The motion picture production company must provide the names, addresses and taxpayer identification numbers of such Participants or transferees. Credits allowed to a motion picture production company which is a subchapter S-corporation, partnership, or limited liability company that is taxed as a partnership, shall be passed through respectively to the Participants on a pro rata basis or pursuant to an executed agreement among such persons designated as subchapter S-corporation shareholders, partners, or members. This writing documents an alternate distribution method without regard to their sharing of other tax or economic attributes of such entity. Each certificate will bear the unique identification number that was issued to the production as part of its initial certification.

B. ~~Film Office's~~ Right to Deny or Revoke Credit: If, at any time, it comes to the attention of the Film Office or the ~~D~~division of ~~T~~taxation that information is/was misstated, misrepresented or omitted or is materially inconsistent with representations made in an application, the ~~F~~film ~~O~~office or the division of taxation may deny the requested certification or revoke a certification previously given. In such cases, the applicant may appeal the ~~F~~film ~~O~~office's or the division of taxation's decision under the provisions of RIGL §44-31.2-8.

C. In relation to granting the credit, any motion picture production company applying for the credit shall be required to reimburse the division of taxation for its audits.

(1) The reimbursement shall be at the rate of one quarter of one percent (0.25%) of the final audited certified production costs and shall not exceed the amount of $5,000.

(2) Such reimbursement shall be paid to the Rhode Island division of taxation prior to the issuance of any tax credit certificates.

Rule 15. Hearings and Appeals

A. From an action of the film office. For matters pertaining exclusively to application, production, and certification of motion picture productions, any person aggrieved by a denial action of the film office under chapter 44-31.2 shall notify the director of the film office in writing, within thirty (30) days from the date of mailing of the notice of denial action by the film office and request a hearing relative to the denial or action. The director of the film office shall, as soon as is practicable, fix a time and place of hearing. Following the hearing the direct of the film office shall render a final decision. Appeals from a final decision of the director of the film office under chapter 44-31.2 are to the sixth (6th) division district court pursuant to chapter 35 of title 42 of the general laws.

B. From denial of tax credit or a portion thereof. Any person aggrieved by the tax administrator's denial of a tax credit or tax benefit under chapter 44-31.2 shall notify the tax administrator in writing within thirty (30) days from the date of mailing of the notice of denial of the tax credit and request a hearing relative to the denial of the tax credit. The tax administrator shall, as soon as is practicable, fix a time and place for a hearing. Following the hearing the tax administrator shall render a final decision. Appeals from a final decision of the tax administrator under chapter 44-31.2 are to the sixth (6th) division district court pursuant to chapter 8 of title 8 of the general laws. The taxpayer's right to appeal is expressly made conditional upon prepayment of all taxes, interest, and penalties, unless the taxpayer files a timely motion for exemption from prepayment with the district court in accordance with the requirements imposed pursuant to § 8-8-26 of the general laws.

Rule 12~~6~~6. Assignment of ~~Motion Picture Production Company~~ Tax Credit Certificates

A. Each ~~Certificate of M~~motion ~~P~~picture ~~P~~production ~~T~~tax ~~C~~credit certificate may be assigned, with or without consideration, transferred, or sold if it has not been previously claimed, in whole or in part, against the taxes of the motion picture production company or the taxes of the owner of the certificate. A single transfer or sale may involve one or more transferees, assignees or purchasers. The transfereeors and sellers must submit notice of the assignment, transfer or sale within thirty (30) days of the sale of transfer to the ~~Film Office~~ and to the ~~T~~tax ~~A~~administrator. The ~~Film Office~~ division of taxation shall assess and collect an administrative fee of two hundred dollars ($200) for issuing multiple tax credit certificates or for reissuing certificates. In addition, the ~~Film Office~~ division of taxation will also collect an administrative fee of two hundred dollars ($200) on behalf of the ~~Division of Taxation~~ film office.

B. Assignment of Certificate: - A ~~M~~motion ~~P~~picture ~~P~~production T~~t~~ax ~~C~~credit ~~C~~certificate may be assigned, transferred or sold to any person, whether or not such person has an ownership interest in the state certified production, provided that no credit has been claimed based on the certificate being assigned, transferred or sold. The certificate shall be assigned by endorsing the assignment clause on the certificate and delivery of the original certificate to the assignee, transferee or purchaser.

C. Notification of Assignment: ~~–~~(1) It shall be required that written notification is filed with the ~~D~~division of ~~T~~taxation ~~and the Film Office~~ of the assignment, transfer or sale, of all or a portion the ~~M~~motion ~~P~~picture ~~P~~production T~~t~~ax ~~C~~credit certificates. Notification submitted to the ~~T~~tax ~~D~~division ~~and the Film Office~~ shall be done in accordance with the rules herein. Failure to comply will result in the disallowance of the credit until the taxpayer is in full compliance.

(2) Notice to the ~~T~~tax ~~D~~division shall include:

(a) a copy of the ~~C~~credit ~~C~~certificate, endorsed to the assignee. The original ~~C~~certificate shall not be included with the notification since it must be retained by the assignee, transferee or purchaser and attached to his/her/their/its tax return for the year for which credit is claimed;

(b) the name, address and telephone number of the assignor, transferor or seller and those of the assignee, transferee or purchaser;

(c) the taxpayer identification number or social security number of the parties; in addition, for non-resident corporations, partnerships, limited liability companies, or other entities the name and address of such entity's registered agent in Rhode Island and evidence of qualification to do business in Rhode Island.

D. Multiple Assignees; Re-issuance of Certificate - If the holder or assignee of a credit certificate has not used the credit certificate, in whole or in part, against its taxes and desires to assign, transfer or sell its interest in the credit to more than one party, the holder must request the ~~Film Office~~ division of taxation to reissue the original certificate in such number of certificates as the holder requires. The request must be in writing, must specify the number of new certificates required and the amount to be specified on each certificate, and must attach the original certificate for cancellation by the ~~Film Office~~ division of taxation.

Rule 17. Sunset

As provided in RIGL § 44-31.2-11, no credits shall be issued after July 1, 2019 unless the production has received initial certification under RIGL subsection 44-31.2-6(a) prior to July 1, 2019.

Rule 1~~3~~8. Effective Date

~~EFECTIVE DATE: January 1, 2009~~

These regulations shall take effect twenty (20) days after they are filed with the Office of the Secretary of State, and shall amend and supersede regulation CR 09-01 (ERLID# 5460) promulgated on January 1, 2009.

STEVEN FEINBERG
EXECUTIVE DIRECTOR

FILM AND TELEVISON OFFICE

~~THIS REGULATION SUPERCEDES RULES AND REGULATIONS PROMULGATED ON MAY 8, 2008~~