



HOLLYWOOD IN THE TROPICS: PUERTO RICO'S DEVELOPMENT OF THE FILM INDUSTRY ACT

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Puerto Rico's Development of the Film Industry Act, Act No. 362 of December 24, 1999, allows producers of motion pictures and other films to substantially reduce their production costs while paying low or no taxes on their profits.

To obtain the benefits of Act 362, a "film entity" must be created to produce the eligible film project. The entity must obtain a license from the Executive Director of the Corporation for the Development of the Arts, Sciences and Film Industry of Puerto Rico (the "Film Corporation"). The license application must include a budget, work plan, shooting schedule, development plan, purchase orders, distribution agreements, and any other information required by the Film Corporation. In addition, a fee of one percent of the budget must be paid to the Puerto Rico Treasury Department.

Eligible film projects include (i) any feature length motion picture, (ii) short subjects which are distributed outside Puerto Rico, and have a budget of at least \$100,000, (iii) episodic series which are distributed outside Puerto Rico and have a budget of no less than \$1,000,000. Additionally, more than 50% of the principal photography or generation (in the case of computer or hand animated films) must take place in Puerto Rico.

Film entities which comply with these requirements are entitled to a tax credit equal to 40% of the budget items paid to residents of Puerto Rico, up to a maximum of 50% of the cash equity contributed by the investors to the film entity. Fifty percent of the credits may be claimed when 40% or more of the budget to be paid to residents of Puerto Rico has been paid and the remainder, generally speaking, when the film project is completed. Tax credits may be sold, without the imposition of tax on the gain derived therefrom, and generally produce 90 to 92 cents for every dollar of credit sold. As a result, the production cost of the eligible film project may be reduced by approximately 37%. The maximum aggregate amount of tax credits authorized annually is generally \$15 million.

The film entity also enjoys a reduced Puerto Rico income tax rate of 7% and its dividends and liquidating distributions are exempt from taxation. The property used in the film project enjoys a 90% exemption from real and personal property taxes, and full exemption from municipal license taxes, excise taxes and hotel taxes. With careful tax planning, it may also be possible to enjoy full exemption on the income from the film project.

Subsidies from the Fund for the Development of Work Opportunities, a Fund managed by the Department of Labor of Puerto Rico to promote employment opportunities in promising industries, high productivity employment and employment in areas of high demand may also be available to the film entity. In the case of televised series, the Puerto Rico Tourism Company has also shown willingness to purchase advertisements promoting Puerto Rico as a tourist destination in the investor's home country, to be shown when the televised series is aired.

Potential foreign investors should be aware that since Puerto Rico is a territory of the United States, foreign actors and technicians will require appropriate visas issued by the U.S. State Department. Puerto Rico income tax and U.S. social security taxes are applicable to such employees' salaries. Additional payroll costs include unemployment, disability, and worker's compensation insurance.

While all of the foregoing requirements may seem somewhat complex, the substantial savings achieved as a result of the tax credits and tax benefits make Puerto Rico a very attractive alternative for the production of motion pictures and other film projects.

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