

## Resources

### New Audit Requirement for Michigan Film Credit

March 11, 2010

*On February 1, 2010, the Michigan Film Office issued a Michigan Film Production Audit Packet stating that in order to receive a Certificate of Completion, all Michigan projects completed after January 1, 2010, are required to provide a full audit of production expenses.*

#### Michigan Film Production Credit

In 2008, Michigan adopted a series of tax credits intended to attract film production, movie studios and production personnel to Michigan. The Michigan Film Production Credit (the "Production Credit"), one of three available credits, is available to offset Michigan Business Taxes or income taxes. To qualify for the credit, a film production company must spend at least \$50,000 in Michigan for the development, preproduction, production, or post-production costs of a certified qualified production and enter into an agreement with the Michigan Film Office.

The Production Credit is equal to 42% of direct production expenditures for a state-certified production in a "core community" (40% on a non-core community); and 30% for qualified personnel expenditures. Direct production expenditures generally include, among others, payments for intellectual property (such as scripts, music and screenplays) payments for production work and equipment, use of facilities or equipment, catering, food and lodging expenses, travel expenses, and labor and crew expenses other than "qualified personnel expenditures." Qualified personnel expenditures generally are personnel expenditures of so-called "below the line" crew members who were not residents in Michigan for at least 60 days before the Film Office approved the film production credit. "Below the line" personnel are generally all the people who work on a film production, other than the actors, directors, writers and producers. To qualify, however, the expenses must be allocated to and otherwise be a taxable transaction in Michigan.

The Production Credit cannot be claimed, until production is completed and then only after the Michigan Film Office issues a postproduction certificate of completion. The company then must submit the postproduction certificate of completion issued by the Michigan Film Office to the Michigan Department of Treasury.

#### Post-Production Certificate of Completion

Until this year, the Michigan Film Office would issue a Certificate of Completion based on a sample review of production expenses; a detailed audit was not required. That has now changed: **all film projects completed after January 1, 2010, are now required to provide a full audit of all production expenses.**

#### Audit of Production Expenses

Michigan Expenditures. Since only expenditures incurred in Michigan qualify as direct production expenses or qualified personnel expenditures, the production company must provide detailed information regarding Michigan expenditures, including proofs of purchases and payments. The records must demonstrate that all claimed expenditures were bought from and paid to established Michigan businesses, organizations or individuals.

Independent Michigan Certified Public Accountant. The film production credit audit must be performed by an independent Michigan certified public accountant. The CPA must express an opinion in his or her capacity as an independent auditor and the CPA must be free from any obligation to or interest in the company, its management, or its owners.

Taxpayers with questions about these or other Michigan film production tax matters may contact Wayne D. Roberts at 616-776-7514, or Douglas Parker at 248-203-0703, or **Anthony Ilardi** at 248-203- 0863.

As part of our service to you, we regularly compile short reports on new and interesting developments in taxation and the issues they create. If you would like to receive such reports, please contact us at 248-203-0863. Your comments on this newsletter, or any Dykema publication, are always welcome. © 2010 Dykema Gossett PLLC.

New Audit Requirement for Michigan Film Credit (Cont.)

## **Attorneys**

Anthony Ilardi, Jr.

## **Practice Areas**

Taxation

As part of our service to you, we regularly compile short reports on new and interesting developments and the issues the developments raise. Please recognize that these reports do not constitute legal advice and that we do not attempt to cover all such developments. Rules of certain state supreme courts may consider this advertising and require us to advise you of such designation. Your comments are always welcome. © 2019 Dykema Gossett PLLC.