

# OKLAHOMA TAX COMMISSION

TAX POLICY DIVISION  
DAWN CASH, DIRECTOR

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November 24, 2009



Re: LR-09-179



Dear



This letter ruling is in response to your letter ruling request dated November 11, 2009 wherein you posed a series of ruling requests relating to the Rural Venture Capital Formation Incentive Act (68 O.S. §2357.70 et seq.). Following a verbatim restatement of the facts as outlined in your letter, are the specific rulings requested and our responses thereto.

## FACTS

In support of our request, we offer the following facts:

1. A film production company has expressed an interest in Oklahoma for an upcoming feature film production. The availability of investment by Capital Company is compelling to the decision to locate the film production in Oklahoma. The film production, in order to qualify as an Oklahoma Rural Small Business Venture, will have or require the following:

- a. The film production will be valued at a cost of \$2 to \$3 million dollars.
- b. The film production company will be engaged in a lawful business under SIC Division I Major Group 78, motion picture production.
- c. The film production will require the use of the Capital Company investment in order to begin its operation.
- d. The production will have a physical office address located outside of a county with a population of 100,000 or more according to the latest decennial census count, specifically [REDACTED], Oklahoma, [REDACTED] County.
- e. The film production company will conduct more than 75% of the business of the motion picture, including periods of pre-production and production, in a non-metropolitan location.

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- f. The film production will likewise shoot a greater than 75% portion of the motion picture in the state of Oklahoma, specifically 100%.
- g. The film production will, within 18 months of any investment made by the Capital Company, have more than 50% of its employees or assets located in Oklahoma.
- h. The film production will expend within 18 months of any investment made by the Capital Company 50% of its investment on both tangible and intangible assets, as those terms are defined under the Act, for the purchase or lease of equipment, services, goods, locations, accommodations, rentals, IP rights, and salaries or payroll of all company employees.

### SUPPLEMENTAL RULING REQUESTED

The ruling requested is as follows:

- 1. The film production company seeking to film its motion picture in Oklahoma will meet the requirements of an Oklahoma Rural Small Business Venture under the Act according to the facts above.

*It is the ruling of the Tax Policy Division that the film production company meets the definition of an "Oklahoma rural small business venture", within the meaning of §2357.72(6), provided that the film production company qualifies as a small business as defined by the federal Small Business Administration, based on the following representations:*

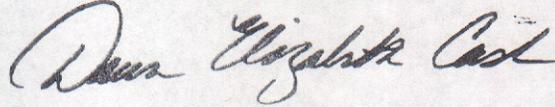
- a. The film production company will have at least 50% of its assets or employees located in Oklahoma within 180 days after a qualified investment is made;*
- b. The film production company needs financial assistance in order to commence the business of producing a film in Oklahoma as described in the letter ruling request;*
- c. At least seventy-five percent (75%) of the film production company's gross annual revenues will be a result of activities conducted in areas deemed to be non-metropolitan areas;*
- d. The film production company is engaged in a lawful business activity under Division I of the Standard Industrial Classification Manual; and*
- e. The film production company will expend within eighteen (18) months after the date of the qualified investment at least 50% of the investment for the acquisition of tangible or intangible assets which are used in the active conduct of the trade or business or for working capital.*

This response applies only to the circumstances set out in the request dated November 11, 2009. Pursuant to Commission Rule 710:1-3-73(e), this Letter Ruling may be generally relied upon only by the entity to whom it is issued and its investors, assuming that all pertinent facts have been accurately and completely stated, and that there has been no change in applicable law.

Please be advised that the issuance of this ruling does not preclude the Oklahoma Tax Commission from conducting an audit or examination under 68 Okla. Stat. § 206 of any report or return claiming a credit for the transactions outlined in this letter ruling. The Commission reserves the right to issue any assessment, correction, or adjustment authorized under 68 Okla. Stat. § 221.

Sincerely,

Oklahoma Tax Commission

A handwritten signature in cursive script that reads "Dawn Elizabeth Cash". The signature is written in dark ink and is positioned above the printed name and title.

Dawn Elizabeth Cash, Director  
Tax Policy & Research Division