



Private Letter Ruling  
Redacted Version  
No. 08-022

Corporation Income Tax and Individual Income Tax  
Motion Picture Infrastructure Credit  
October 28, 2008

This is in reply to your request for a private letter ruling concerning whether or not the Requesting Parties and Project will qualify for Motion Picture Infrastructure Credits.

**FACTUAL SCENARIO**

**Statement of Facts**

1. By a letter dated June 16, 2008 (a copy of which is attached hereto as Exhibit A, the “Pre-Certification Letter”) and subject to the limitations set forth therein, the Louisiana Department of Economic Development (the “LED”) and the Office of Entertainment Industries Development (the “Entertainment Office”) have approved the Project A as a “state-certified infrastructure project” as defined in La. R.S. 47:6007(B)(12). To date, the certification by the LED and the Entertainment Office of Project A as a “state-certified infrastructure project”, as such term is defined in La. R.S. 47:6007(B)(12), as evidenced by the Pre-Certification Letter, has not been revoked.
2. Company A was formed as a limited liability company under the Louisiana Limited Liability Company Law, La. R.S. 12:1301, et seq. Company A was formed in order to build, own and operate a motion picture (as defined in La. R.S. 47:6007(B)(5)) production facility in Louisiana, which includes the Project A. Since the date of its formation and at all relevant times described herein, Company A (a) has maintained, and will continue to maintain, a registered office in the State of Louisiana; (b) has been, and will continue to be, domiciled and headquartered in Louisiana; (c) has been, and will continue to be, engaged in the business of building, owning and operating a motion picture production facility. Company A is not owned, affiliated, or controlled, in whole or in part, by any company or person which is in default on a loan made by the State of Louisiana or a loan guaranteed by the State of Louisiana, nor is Company A owned, affiliated, or controlled, in whole or in part, by 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. Company A is a pass-through entity for tax purposes that has not elected to be taxed as a corporation.
3. At this time, Company A is a single-purpose entity that is not expected to have any business activities other than building, owning and operating a motion picture

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production facility, including the Project A.

4. The Pre-Certification Letter provides for, among other things, procedures for certification of the amount of Infrastructure Tax Credits earned by Company A as a result of its investment in Project A.
5. Pursuant to the Pre-Certification Letter, during the building of, or after completion of, the Project A, Company A will submit to LED and the Entertainment Office one or more auditor's reports of a Louisiana certified public account requesting that LED and the Entertainment Office issue a Tax Credit Certification Letter. In each Tax Credit Certification Letter, it is anticipated that LED and the Entertainment Office will certify the amount of Infrastructure Tax Credits that have been earned by Company A, that Company A is eligible to transfer and that are no longer subject to recapture, disallowance, recovery, reduction, repayment, forfeiture, decertification, or any other remedy that would have the effect of reducing or otherwise limiting the use of the Infrastructure Tax Credits (collectively, "Recapture").
6. Infrastructure Tax Credits earned by Company A will remain with Company A, whether Company A is a single-member limited liability company that is disregarded for federal tax or state tax purposes or is a multi-member limited liability company that is classified as a partnership for federal tax or state tax purposes, and will not flow through to or be allocated to the member or members of Company A, until such flow through or allocation of Infrastructure Tax Credits is provided for in the written limited liability company operating agreement of Company A executed by its members effective February 19, 2008. Currently, the Company A operating agreement provides that all Infrastructure Tax Credits that are earned by Company A during a taxable year shall not flow through or be allocated to the holder of any Company A membership interest, but instead, shall remain with Company A until such time (including in subsequent taxable years) as all or any portion of such Infrastructure Tax Credits are (i) sold or otherwise transferred by Company A or (ii) allocated to Company A's members.
7. Company A expects to transfer and/or allocate the Infrastructure Tax Credits for value to one or more persons (as used herein, "person" means any individual or entity) in one or more of the following ways:
  - a. Company A may sell or otherwise transfer all or a portion of the Infrastructure Tax Credits to one or more persons.
  - b. Company A may allocate the Infrastructure Tax Credits to one or more if its members on such terms that are agreed to by the relevant parties and as permitted by the Company A limited liability company operating agreement. In such event, Company A's limited liability company operating agreement may be amended to allocate up to 100 percent of the Infrastructure Tax Credits available to Company A to certain of its members (the "Tax Credit Members") even though under the Company A limited liability company operating agreement (i) as much as 100 percent of all profit and loss of Company A and as much as 100 percent of all income, gain, deduction, loss and credits (other than Infrastructure Tax Credits) for federal tax and state tax purposes may be allocated to members

of Company A other than the Tax Credit Members to whom the Infrastructure Tax Credits are allocated; (ii) as much as 100 percent of all distributions of cash and property of Company A (including distributions made in connection with the liquidation of Company A) may be made solely to members of Company A other than the Tax Credit Members to whom the Infrastructure Tax Credits are allocated; (iii) the Tax Credit Members to whom the Infrastructure Tax Credits are allocated may have limited voting rights or have no voting rights of any kind; (iv) control, management, direction and operation of the affairs of Company A may be vested partially or entirely in persons other than the Tax Credit Members to whom the Infrastructure Tax Credits are allocated; (v) Company A may have the right but not the obligation in its sole and absolute discretion to redeem and terminate 100 percent of the membership interest in Company A of any one or more Tax Credit Members to whom the Infrastructure Tax Credits are allocated for a nominal cash payment (for example, \$10) to each such Tax Credit Member after such Tax Credit Member has been allocated the Infrastructure Tax Credits to which it is entitled, at which time such Tax Credit Members would be required to forfeit all rights to or with respect to any capital contribution that they made to Company A and any capital account reflecting such contributions; (vi) the Infrastructure Tax Credits allocated to the Tax Credit Members may be vastly disproportionate compared to the relative capital accounts of and capital contributions made (or to be made) by such Tax Credit Members; (vii) the allocation of Infrastructure Tax Credits to the Tax Credit Members may not be respected under principles of federal income tax law, including Sections 704(b) and 752 of the Internal Revenue Code of 1986 and the Treasury Regulations issued thereunder, as the same may be, modified or amended from time to time, if such Infrastructure Tax Credits were federal income tax credits; and (viii) Company A may not constitute a “partnership” for federal tax or state tax purposes and each member of Company A may agree that it will not treat Company A as a “partnership,” or itself as a “partner,” or the membership interest in Company A as a “partnership interest,” or the allocation of Infrastructure Tax Credits as a partnership allocation, for federal tax or state tax purposes.

- c. Members of Company A may sell all or a portion of their membership interests in Company A to one or more persons (each, a “Substituted Member”) on such terms that are agreed to by the relevant parties, in which event, the Company A operating agreement may be amended to limit the rights of such Substituted Members in the manner described in Paragraph 7(b) above.
- d. Pursuant to an amendment to its operating agreement, Company A may allocate all or a portion of the Infrastructure Tax Credits that are earned by Company A to its members who upon receiving an allocation of Infrastructure Tax Credits from Company A may in turn sell or allocate the Infrastructure Tax Credits, as applicable, acquired to one or more persons in one or more of the ways described in this Paragraph (7).

8. Pursuant to its operating agreement Company A may retain Infrastructure Tax Credits and then allocate, sell or otherwise transfer the Infrastructure Tax Credits pursuant to one or more of the alternatives described in Paragraph (7) above in a calendar year that follows the calendar year in which the Infrastructure Tax Credits were originally earned by Company A and to persons who were or were not members of Company A in the calendar year in which the Infrastructure Tax Credits were originally earned by Company A. Each successive person that acquires, whether by allocation or sale, the Infrastructure Tax Credits earned by Company A in connection with Project A will sometimes be referred to hereinafter as a "Transferee."
9. Some, if not all, persons who will (i) acquire a membership interest in Company A and receive an allocation and flow through of Infrastructure Tax Credits or (ii) purchase Infrastructure Tax Credits from Company A will do so after Company A has made some, or all, of its expenditures necessary to create Project A and after Project A has been certified and completed.
10. Company A has never been, and is not currently, engaged in the business of producing films, videos, television series, or commercials of any kind and has never produced a film, video, television series, or commercial of any kind.
11. Upon the sale or transfer of Infrastructure Tax Credits, the seller/transferor and the transferee of the Infrastructure Tax Credits will submit to LDR and the Entertainment Office the notification of transfer required by La. R.S. 47:6007(C)(5)(b).

**SPECIFIC RULINGS REQUESTED:**

Based on the foregoing, Company A hereby requests each of the following specific rulings:

**Infrastructure Tax Credits Rulings**

- A. Louisiana Revised Statute 47:6007 gives the Entertainment Office and LED, jointly, the exclusive authority to determine whether a project qualifies as a state-certified infrastructure project. Therefore, because the Entertainment Office and LED, as evidenced in the Pre-Certification Letter, have approved the Project A as a "state-certified infrastructure project," as defined in La. R.S. 47:6007(B)(12), LDR will abide by such determination with respect to Project A.
- B. As a company domiciled in Louisiana that is not a motion picture production company, Company A is eligible to earn Infrastructure Tax Credits under La. R.S. 47:6007(C)(2) and is entitled to claim and use any Infrastructure Tax Credits that Company A earns in accordance with La. R.S. 47:6007(C)(4)(c) even if Company A does not have any Louisiana tax liability.
- C. Each Substituted Member and each Transferee are eligible under La. R.S. 47:6007(C)(2) and 47:6007(C)(4) to receive an allocation and/or transfer of Infrastructure Tax Credits as described in the Statement of Facts above and each of them is entitled to claim and use in accordance with La. R.S. 47:6007(C)(4) any Infrastructure Tax Credits of which it receives an allocation and/or transfer, even if it does not have any Louisiana tax liability.

- D. Louisiana Revised Statute 47:6007(C)(5) provides for the transferability of Infrastructure Tax Credits not previously claimed by any taxpayer against its income tax. Company A is eligible to transfer any Infrastructure Tax Credits that it earns and each Substituted Member and each Transferee is eligible to transfer any Infrastructure Tax Credits that it acquires as long as such credits have not been previously claimed by any taxpayer against Louisiana income tax.

Under La. R.S. 47:6007(C)(4) an entity not subject to Louisiana corporate income tax may allocate any Infrastructure Tax Credits it receives to its partners or members. As a limited liability company that is not subject to Louisiana corporation income tax, Company A is eligible to allocate any Infrastructure Tax Credits that it earns. Each Substituted Member and each Transferee will be eligible to allocate any Infrastructure Tax Credits it acquires only if it is an entity not subject to Louisiana corporation income tax.

- E. Company A is a single-purpose entity whose only business activities are building, owning and operating a motion picture production facility, including Project A. Company A is not involved in the actual production of motion pictures, and therefore, is not a "motion picture production company" within the meaning of La. R.S. 47:6007(C)(5).

- F. Louisiana Revised Statute 47:6007(C)(2) provides that for state-certified infrastructure projects approved by the Entertainment Office on or after January 1, 2005 and prior to January 1, 2009, if total base investment is greater than three hundred thousand dollars, there shall be allowed a tax credit of forty percent of the base investment with respect to such state-certified infrastructure project.

Therefore, if the combination of one or more auditor's reports and Tax Credit Certification Letters indicates that the aggregate "base investment," as defined in La. R.S. 47:6007(B)(1), with respect to Project A exceeds three hundred thousand dollars, then, in accordance with La. R.S. 47:6007(C)(2)(a), Company A will earn and be entitled to claim an amount of Infrastructure Tax Credits equal to 40% of its base investment to the extent Company A's base investment is expended by Company A on a state-certified infrastructure project as defined in La. R.S. 47:6007.

- G. The Entertainment Office has the exclusive authority under La. R.S. 47:6007(D)(2)(d) to determine whether funds were properly expended with respect to a state-certified infrastructure project prior to issuing a Tax Credit Certification Letter. Additionally, LDR is aware of the Pre-Certification Letter whereby, among other things, LED and the Entertainment Office may review and examine the findings of the certified public accountant prior to issuing a Tax Credit Certification Letter. Although LDR does not concede its authority to examine Company A, to the extent that LED and the Entertainment Office certify by the issuance of a Tax Credit Certification Letter funds as having been expended by Company A with respect to Project A, then LDR will abide by such certification and will not, under La. R.S. 47:6007(E), under La. R.S. 47:6007(F), or otherwise, seek to Recapture any Infrastructure Tax Credits associated with such expenditures unless such Recapture is approved or requested by LED and the Entertainment Office; provided, however, that LDR may recapture any Infrastructure Tax Credits taken in excess of

those certified as earned in the Tax Credit Certification Letter issued by the LED and the Entertainment Office, or if the LDR becomes aware of fraud or material misrepresentation associated with the transactions described herein.

- H. LDR further acknowledges and agrees that following the issuance of the Tax Credit Certification Letter by LED and the Entertainment Office, LDR will not initiate any action against Company A or a Transferee as the case may be, under La. R.S. 47:6007(E), 47:6007(F), or otherwise, to recapture, disallow, recover, reduce, decertify, require repayment of, require forfeiture of or otherwise limit the use of the Infrastructure Tax Credits allocated or transferred to a Transferee, as the case may be, unless (i) LDR determines that Company A or one or more Transferees individually or collectively claimed more Infrastructure Tax Credits than LED and the Entertainment Office certified by issuance of one or more Tax Credit Certification Letters, or (ii) Company A or the Transferee committed fraud or made a material misrepresentation when, in each case, claiming or utilizing the Infrastructure Tax Credits. In the case of Company A or one or more Transferees individually or collectively claiming more Infrastructure Tax Credits than LED and the Entertainment Office certified by issuance of the Tax Credit Certification Letter any action to disallow, recover, reduce, or otherwise limit the use of the Infrastructure Tax Credits will be directed solely against the person claiming more Infrastructure Tax Credits than LED and the Entertainment Office certified. In the case of fraud or material misrepresentation when claiming or utilizing the Infrastructure Tax Credits on an income or franchise tax return any recapture action will be directed solely against the person committing the fraud or making the material misrepresentation.
- I. Every infrastructure project that is approved by LED and the Entertainment Office as a state-certified infrastructure project is issued a unique identification number. As described in Paragraph (5) of the Statement of Facts, LED and the Entertainment Office will issue a Tax Credit Certification Letter in response to each auditor's report submitted pursuant to the Pre-Certification Letter. In the event any Infrastructure Tax Credits are allocated, transferred or sold, then a copy of the credit certificate or certificates evidencing such Infrastructure Tax Credits allocated, transferred or sold must be submitted as part of the notice required by La. R.S. 47:6007(C)(5)(b). The notice requirement of La. R.S. 47:6007(C)(5)(b) will be met if, in lieu of the credit certificate or certificates evidencing the Infrastructure Tax Credits allocated, sold or transferred, the transferor and the transferee submit a copy of the Tax Credit Certification Letter that includes the unique identification number associated with the state-certified infrastructure project.

#### **Transfer and Allocation of Infrastructure Tax Credit Rulings**

- J. Infrastructure Tax Credits earned by Company A will flow through to Company A's members, at the time provided for in the limited liability company operating agreement of Company A. Currently, the Company A operating agreement provides that all Infrastructure Tax Credits earned by Company A will remain with Company A, whether Company A is a single-member limited liability company that is disregarded for federal tax or state tax purposes or is a multi-member limited liability

company that is classified as a partnership for federal tax or state tax purposes, and will not flow through to or be allocated to the member or members of Company A, until such flow through or allocation of Infrastructure Tax Credits is provided for in the limited liability company operating agreement of Company A as described in Paragraph (6) of the Statement of Facts.

- K. Louisiana Revised Statute 47:6007(C)(5)(e) states that a transferee of the Infrastructure Tax Credit has only the right to claim and use the Infrastructure Tax Credit that was available to the transferor at the time of the transfer and that LDR shall disallow the Infrastructure Tax Credit claimed if the transferor did not have the right to claim or use the Infrastructure Tax Credit at the time of the transfer. This provision prevents a transferee from claiming the Infrastructure Tax Credit if the transferor did not own the Infrastructure Tax Credit at the time of the transfer. Company A, each Substituted Member and each Transferee will each have the right to claim and use the Infrastructure Tax Credits, at the time earned or at the time of the allocations or transfers described in the Statement of Facts, as the case may be, notwithstanding their lack of sufficient Louisiana tax liability to use the Infrastructure Tax Credits.
- L. The 10-year carry forward period during which any Infrastructure Tax Credits may be used begins on the first day of the calendar year immediately following the calendar year in which the credits were originally earned, or in the case of a structured infrastructure credit, the date upon which the credit is allowed to be taken, regardless of whether or for what period of time the Infrastructure Tax Credits remain with the person originally entitled to claim them prior to flowing through or being allocated to or being transferred to one or more persons who utilize the Infrastructure Tax Credits to reduce their Louisiana tax liability.
- M. Each of Company A, each Substituted Member and each Transferee may allocate (except if it is taxed as a corporation), sell or otherwise transfer in any year within the carry-forward period applicable to the Infrastructure Tax Credits all or any portion of the Infrastructure Tax Credits that have not previously flowed through or been allocated to such company's members or sold or otherwise transferred even if such allocation, sale or transfer occurs in a year following the year in which the Infrastructure Tax Credits were originally earned or acquired by the transferring or allocating company. Any such allocation, sale or other transfer of Infrastructure Tax Credits will constitute a valid transfer of Infrastructure Tax Credits under La. R.S. 47:6007.
- N. The Infrastructure Tax Credits may be allocated or transferred to and claimed by any person or entity in any calendar year within the 10-year carry forward period even if the Infrastructure Tax Credits are allocated or transferred to that person or entity (i) in a calendar year following the calendar year in which the Infrastructure Tax Credits were earned by Company A or acquired by the allocating or transferring company (ii) or if that person or entity was not a member of the allocating or transferring company in the calendar year in which the Infrastructure Tax Credits were earned or acquired.

- O. Each of Company A, each Substituted Member and each Transferee may admit additional members or substituted members at any time, on such terms that are agreed to by the relevant parties and permitted by their respective limited liability company operating agreements (as may be amended from time to time), and any Infrastructure Tax Credits that are earned by or that flow through or are allocated to or acquired by any of the foregoing may be allocated among their respective members in any manner set forth in their respective operating agreements, provided the allocating company has not elected to be classified as a corporation for federal and Louisiana state tax purposes.
- P. Specifically, with respect to each of Company A, each Substituted Member and each Transferee if any of the foregoing admits additional members or substituted members on terms, including but not limited to the terms set forth in Paragraph (7)(b) or (7)(c) above, and the rights of such members are limited in the manner set forth in Paragraph (7)(b) or (7)(c) above, any allocation of Infrastructure Tax Credits by the allocating company to such additional or substituted members will constitute a valid allocation of Infrastructure Tax Credits under La. R.S. 47:6007, provided that the allocating company has not elected to be classified as a corporation for Louisiana state tax purposes.
- Q. The allocation of Infrastructure Tax Credits from Company A to each Transferee as described in Paragraph (7) and Paragraph (8) above, will constitute a valid allocation of Infrastructure Tax Credits under La. R.S. 47:6007 (i) in each case even though the allocation of such Infrastructure Tax Credits may be disproportionate compared to the relative capital account of and capital contributions made (or to be made) by the person receiving the allocation and (ii) regardless of whether the allocation of Infrastructure Tax Credits is or would be respected under principles of federal income tax law, including Sections 704(b) and 752 of the Internal Revenue Code of 1986 and the Treasury Regulations issued thereunder, as the same may be modified or amended from time to time, if such Infrastructure Tax Credits were federal income tax credits.
- R. Company A, each Substituted Member and each Transferee may sell or otherwise transfer in any year within the carry-forward period applicable to the Infrastructure Tax Credits all or any portion of the Infrastructure Tax Credits that have not previously been sold or that have not flowed through or been allocated to such company's members even if such sale or transfer occurs in a year following the year in which the Infrastructure Tax Credits were originally earned or acquired by the transferring company. Any such sale or other transfer will constitute a valid transfer of Infrastructure Tax Credits under La. R.S. 47:6007.
- S. Any person receiving an allocation or transfer of Infrastructure Tax Credits will have the right to claim and use the Infrastructure Tax Credits of which it receives an allocation or transfer at the time of such allocation or transfer regardless of whether (i) such person is an individual, a trust, an entity that is disregarded as an entity separate from its owner for federal tax purposes, an entity that is classified as a partnership for federal tax purposes, an S corporation, a C corporation or an entity taxed as a corporation for federal tax purposes and (ii) the person allocating the



Infrastructure Tax Credits is an individual, a trust, an entity that is disregarded as an entity separate from its owner for federal tax purposes, or an entity that is classified as a partnership for federal tax purposes, or (iii) the person transferring the Infrastructure Tax Credits is an individual, a trust, an entity that is disregarded as an entity separate from its owner for federal tax purposes, an entity that is classified as a partnership for federal tax purposes, an S corporation, a C corporation, or an entity taxed as a corporation for federal tax purposes.

### **Application of Tax Credit Rulings**

- T. Any person, whether an individual or entity, who is allocated or transferred Infrastructure Tax Credits may use the Infrastructure Tax Credits to offset such person's tax liability that accrued during (i) the same tax year in which the Infrastructure Tax Credits were earned or (ii) any subsequent tax year in which the Infrastructure Tax Credits could have otherwise been carried forward by the person who originally earned the Infrastructure Tax Credits, in each case, regardless of the tax year during which the Infrastructure Tax Credits were allocated or transferred to such person and, in the case of an allocation of Infrastructure Tax Credits, regardless of the tax year during which such person became a member or partner of the entity allocating such Infrastructure Tax Credits.
- U. If (i) a person, whether an individual or entity, received an extension of time to file its tax return for a particular tax year, (ii) such person had at the time that the payment of its tax liability for such tax year was due (without regard to the extension) a written purchase agreement to acquire Infrastructure Tax Credits sufficient to offset the tax liability; and (iii) such person timely paid its tax liability for such tax year prior to filing its tax return for such tax year, then, subject to Paragraph (T), such person may nevertheless use the Infrastructure Tax Credits to offset such tax liability and obtain a refund of any resulting overpayment of tax.
- V. If (i) a person, whether an individual or entity, received an extension of time to file its tax return for a particular tax year, (ii) such person had at the time that the payment of its tax liability for such tax year was due (without regard to the extension) a written purchase agreement to acquire Infrastructure Tax Credits sufficient to offset the tax liability; (iii) such person files its tax return for such year on or before the extended due date of the return; and (iv) such person acquires the Investor Tax Credits prior to filing its tax return, then, subject to Paragraph (T), such person may claim the Infrastructure Tax Credits at the time of filing its tax return on or before the extended due date to offset the outstanding tax liability reflected on such return and will not incur any interest or penalty for underpayment, late payment or otherwise except to the extent the Infrastructure Tax Credits claimed on the return are insufficient to satisfy any portion of the tax liability not paid when due.
- W. Under the provisions of La. R.S. 47:1675(B), a person who is allocated or transferred Infrastructure Tax Credits may claim the Infrastructure Tax Credit prior to any other equally applicable, refundable Louisiana tax credits and will receive a refund of the

refundable tax credits that the person is thereby unable to use, subject to the ruling in Paragraph (T) above.

- X. Any person may acquire and claim the Infrastructure Tax Credits and utilize them to offset that person's Louisiana tax liabilities (which the Infrastructure Tax Credits may otherwise offset) whether or not (i) in the case of an individual, such individual is a Louisiana resident and (ii) in the case of an entity, such entity is domiciled in Louisiana, organized under Louisiana law or headquartered in Louisiana.

#### **Other Rulings**

- Y. As of the date of this PLR, neither LDR, LED, nor the Entertainment Office has promulgated any rules or regulations under La. R.S. 47:6007.
- Z. Revenue Information Bulletin No. 05-001, dated January 14, 2005, sets forth the supporting documents that should be attached to the tax return with respect to claiming Infrastructure Tax Credits. Louisiana taxpayers who have earned, received an allocation of, or purchased either the Infrastructure Tax Credit will claim the credits on the non-refundable credit schedules incorporated in the Louisiana income tax returns. A specific line is provided for the Infrastructure Tax Credits on both the individual income tax return and the corporation income tax return. Individuals will claim the credits on the lines provided for them on Schedule G of the IT-540. Corporations will claim the credits on the lines provided for them on Schedule NRC of the 620.
- AA. This private letter ruling has been signed by the Secretary of Revenue in whom has been invested the requisite authority by Title 47 of the Louisiana Revised Statutes to bind LDR. The regulation that authorizes LDR to issue private letter rulings, LAC 61:III.101, states that private letter rulings will be binding on LDR only as to the taxpayer or taxpayers making the request and only if the facts provided were truthful and complete and the transaction was carried out as proposed. If these requirements are met, LDR will be bound by this private letter ruling.
- BB. The regulation that authorizes the Department to issue private letter rulings, LAC 61:III.101, states that private letter rulings will be binding on the Department only as to the taxpayer or taxpayers making the request and only if the facts provided were truthful and complete and the transaction was carried out as proposed. If these requirements are met, the Department will be bound by this private letter ruling. The requirement that the statement of facts be complete is interpreted by the Department to mean that all relevant facts have been stated. In addition to the facts stated, some assumptions have been made based on the Department's understanding of the transactions proposed. As long as all facts relevant to the ruling request have been provided in the request and the necessary assumptions made by the Department are true, the complete statement of facts requirement has been met.

#### **RULINGS**

A. - D. We agree with your analysis and so rule.

E. The role of LDR in the motion picture tax credit program is to accept the credits that have been certified by the LED and the Film Office. LDR has no part in determining

what qualifies as a state-certified motion picture production company. This question should be addressed to the LED.

F. Company A will be allowed to claim infrastructure tax credits equal to 40% of its base investment expended on a state-certified infrastructure project as certified by the LED and the Film Office.

G. - X. We agree with your analysis and so rule.

Y. As of the date of this PLR, LDR had not promulgated any rules or regulations under La. R.S. 47:6007.

Z. Revenue Information Bulletin (RIB) 05-001 addresses documentation required for claiming the motion picture investor tax credit; however, LDR will require similar documentation as stated in RIB 05-001 in order to claim the motion picture infrastructure tax credits.

AA. - BB. We agree with your analysis and so rule.

If you have any questions or need additional information, please call Leonore Heavey, Senior Policy Consultant or Danielle B. Clapinski, Attorney, Policy Services Division, at 219-2780.

Sincerely,

Cynthia Bridges  
Secretary

By: Danielle B. Clapinski  
Attorney  
Policy Services

This correspondence constitutes a private letter ruling (PLR) by the Louisiana Department of Revenue, as provided for by section 61:III.101 of the Louisiana Administrative Code. A PLR provides guidance to a specific taxpayer at the taxpayer's request. It is a written statement that applies principles of law to a specific set of facts or a particular tax situation. A PLR does not have the force and effect of law, and is not binding on the person who requested it or on any other taxpayer. This PLR is binding on the department only as to the taxpayer to whom it is addressed, and only if the facts presented were truthful and complete and the transaction was carried out as proposed. It continues as authority for the department's position unless a subsequent declaratory ruling, rule, court case, or statute supersedes it.