Contents

Purpose

The purpose of these agreed-upon procedures is to clearly outline the requirements for a Motion Picture Company after completion of their state approved production and for an Independent Utah CPA performing a review of the Motion Picture Company's production activity. The Motion Picture Company is required to provide the CPA with correct and adequate information do that the CPA can (1) verify the amount of dollars left in the state, (2) verify the amount of new state revenues, and (3) calculate the Utah Motion Picture Incentive rebate amount.

Depending on the Motion Picture Company's contract with the Utah Film Commission, the purpose of these agreed-upon procedures may also include (a) determining the number of productions days occurring in rural Utah, or (b) determining the percentage of cast and crew who were Utah residents.

Procedures for Motion Picture Company

1. Review the Agreed-Upon Procedures, Rule, Statute, Contract, FAQ's, and Salesforce portal thoroughly.
2. Compile all required documentation in the corresponding templates. Templates can be found on the website and within the Salesforce portal. Templates are required for the Vendor List, Location List, Cast and Crew List.
3. Complete the Agreed-Upon Procedures Form in its entirety.
4. Submit the Agreed-Upon Procedures Form, Vendor List, Location List, Cast and Crew List, accounting journal, all detail used to substantiate the qualified "Dollars Left in the State", and your contract to an Independent Utah Certified Public Accountant (CPA).
    a. The Vendor List, Location List, and Cast and Crew List, must be entered into the prescribe form by the Office, which will be available on the Utah Film Commission Website.
5. Contact the Utah Film Commission (UFC) within 3 days of submitting work to an Independent CPA and inform UFC when the CPA's review will be completed.
6. Provide the Independent Utah CPA with any other documentation required to conduct a review as required by this document.

Procedures for CPA

1. Before starting verify MPC has provided: Accounting journal or transaction list, Vendor List (in specified template, available on the Utah Film Commission Website), Cast and Crew List (in specified template, available on the Utah Film Commission Website), Location List (in specified template, available on the Utah Film Commission Website),

copy of the signed and executed State of Utah Film Incentive contract. If any of these materials are missing, the CPA is required to wait until all the materials are made available before continuing the procedures.

2. Verify against the contract whether the production completing the Agreed-Upon Procedures Form is the same production in the Contract.
3. Verify against the contract whether the eligibility dates entered on the Agreed-Upon Procedures Form are correct. (The eligible in state spend period will be listed on the front of the contract in a table in the recitals).
4. Verify that the "Minimum Dollars Left in State Requirement" listed on the Rebate Request Form matches the contract. (This information can usually be found in Section 3.1 of the contract).
5. If the MPC has claimed eligibility for an additional 5% on the Rebate Agreed-Upon Procedures Form, verify this eligibility in the contract. (This information can usually be found in Section 3.1 of the contract).

Payroll Dollars Left in State

Procedures for qualifying payroll dollars left in the state should be performed for all payroll costs.

6. Obtain from the MPC a payroll schedule. This list should include each payment made to each individual working on the project. In addition each line item should include the name of the individual, the amount paid, the date of payment, and whether the individual is a Utah resident.
7. Obtain a representation from the MPC that the payroll list excludes profit participation amounts paid to any recipient participating in the profits from the project.
8. For all payments, determine whether the payments or accruals were made between the dates of eligibility. Only payments or accruals that fall within this period qualify as dollars left in the state.
9. For each payment, determine whether the payment is to: (a) a Utah resident, (b) a nonresident of Utah, or (c) a payroll company or loan-out company.

Utah Resident Income Tax

10. Verify that only Utah residents are receiving the Utah resident rate of dollars left in the state.
    a. ***Determining residency.*** For our purposes Utah residency can be confirmed in one of two ways:
        i. A copy of a Utah driver's license or,
        ii. (1) A copy of government issued identification (from any state or foreign government or student ID/Report card), and (2) documentation showing residency, covering at least 183 days, matching the name, or parent or guardian, on the submitted government ID.

    b. ***Utah resident rate.*** For a Utah resident all payments subject to Utah tax count as dollars left in the state. For example:
        i. If a Utah resident is paid $10,000, and all $10,000 is subject to individual income tax, the amount of dollars left in state is $10,000.

11. Verify that the "Total Utah Wages" listed on the Agreed-Upon Procedures Form for "Cast and Crew Details" accurately reflects your findings.
12. If the MPC is eligible for an additional 5% incentive for having 75% of cast and crew from Utah, determine whether 75% of the cast and crew, excluding extras and five principle cast members, are Utah residents.

Non-Utah Resident Income Tax

13. Verify that dollars left in the state for non-residents only amounts to their tax liability.
    a. For nonresidents of Utah only the amount of income tax paid to the state, count as dollars left in the state. For example:
        a. If a nonresident of Utah is paid $10,000, and $1,500 was withheld for Utah withholding tax, the amount of dollars left in state is $1,500.

In-State per Diems

14. Verify the accuracy of "Total per diems" on the Agreed-Upon Procedures Form. The full amount of per diems paid to residents and non-residents is eligible as dollars left in the state. However, the amount of a per diem is limited by an acceptable limit of up to 120 % of the current federal rate for the area in which the per diem was paid.

Payroll or Loan-Out Companies

15. Ensure that the payroll/loan-out company is registered to do business in Utah.
16. Obtain documentation from the MPC supporting that the Utah withholding rules have been followed by the loan out companies.
17. Verify that only the withholding amounts from the company are counted as dollars left in the state. For payroll or loan-out companies that are registered to do business in Utah, the amount of withholding under Section 59-10-402 counts as dollars left in the state. For example:
    a. If the MPC pays $50,000 to a payroll company registered to do business in Utah, and $10,000 is withheld, the amount of dollars left in the state is $10,000.

Remaining Expenses (Sales & Use Taxes, Direct Reimbursements)

The following procedures should be performed on: (1) all individual expenses exceeding 5% of the total dollars left in the state (this is the substantive amount), and (2) expenses taken from a random statistical sample (this is the sampled amount). For purposes of establishing the sample size, it should be large enough that you can be at least 95% confident that there is no more than a 5% misstatement on the Agreed-Upon Procedures Form.

18. Through inspection of receipts or other suitable documentation that is independent of the MPC, determine whether (1) the submitted items meet the definition of "dollars left in the state," and (2) if the submitted items were paid or accrued between the dates of eligibility. Only payments or accruals that fall within this period qualify as dollars left in the state.
    a. If submitted documentation does not meet the definition of "dollars left in state," the MPC must supply the CPA with additional documentation to satisfy this criteria or the amount must be disqualified.
19. Confirm that Utah dollars left in state claim for capital expenditures, rents and expenditures for partial use only include the depreciated amount.
20. Marketing and distribution costs are not eligible as dollars left in the state.
21. Confirm that the taxes reported by the company are within reason.

After Completion of Agreed-Upon Procedures

After completion of the Agreed-Upon Procedures, the CPA shall forward a copy of the results to the MPC.

If the CPA finds a difference in the amount of dollars left in state than the MPC has two choices:

1. The MPC can accept the CPA's verified amount of dollars left in the state, or
2. The MPC may elect to re-submit a corrected calculation of their dollars left in the state. In that case, the above procedures should then be completed again on the revised accounting records. The revised accounting records should have a higher level of testing with specific emphasis on the parts of the records that were revised.

However, if the CPA finds a difference equal to or greater than 15% in the total dollars left in the state than was submitted by the MPC, the MPC must re-submit a corrected calculation of their dollars left in state to the CPA.

The MPC will then inform the CPA whether it wants to accept the CPA's findings or re-submit. In the event the MPC elects to re-submit, the MPC must immediately notify the UFC. When notifying the UFC of a resubmission the MPC must inform the UFC of the new anticipated completion date for the second CPA review.

When accepting the CPA's results, the MPC must submit a final application to the Office in the form prescribed by the Office, including required attachments or additional information. A basic review will be performed, checking for completeness and obvious errors. The office will contact the CPA to confirm the contents of their letter and report. If the results are incomplete or contain obvious errors, the results will be returned to the MPC for completion or correction. If the Office determines the agreed-upon procedures are complete and free of obvious errors, GOED will issue the incentive to the MPC after completing the basic review.

Required attachments for final application include:

1. Accounting journal or transaction list
2. Vendor List (in specified template, available on the Utah Film Commission Website)
3. Cast and Crew List (in specified template, available on the Utah Film Commission Website)
4. Location List (in specified template, available on the Utah Film Commission Website)
5. The CPA's Letter and Report
6. Certificate of Compliance

CPA Attestation Report on Agreed-Upon Procedures

The CPA's Independent Accountant's Report on Applying Agreed-Upon Procedures must include that:

1. The MPC's contract was obtained and contract number referenced.
2. The incentive eligibility period was reviewed and the total verified dollars left in state were paid or accrued within the period.
3. The minimum dollars left in state requirement was reviewed and met.
4. If the MPC claimed eligibility for an additional 5% or had residency requirements, that these were reviewed and met.
5. The CPA's verified Utah wages.
6. The CPA's verified total / remaining expenses (these expenses include taxes).
7. The CPA's verified total new state revenue (total taxes and Utah withholdings).
8. The CPA's verified total of dollars left in state (all wages and expenses).
9. The CPA's verified incentive rebate percentage and calculated amount of incentive.

Utah Film Commission Right to Review

The CPA must retain work papers related to performing these agreed-upon procedures for at least two years. GOED, at its own discretion, shall have the right to review the CPA's work to ensure consistency among the various CPAs, to find areas for improvement to the agreed-upon procedures, and as an internal control to help ensure the accuracy and reliability of the CPA report.

At GOED's discretion, UFC and Compliance will select a sample of completed motion picture incentives for in-depth review. This review will include:

1. A review of the CPA's work on the agreed-upon procedures to verify the accuracy of the CPA report. Minor errors will be reported to the CPA for informational purposes. Egregious errors will also be reported to the CPA, and may result in prohibiting the CPA from performing these agreed-upon procedures in the future.