GOVERNMENT OF
THE VIRGIN ISLANDS OF THE UNITED STATES
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VIRGIN ISLANDS BUREAU OF INTERNAL REVENUE

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TESTIMONY OF DIRECTOR DESIGNEE OF THE VIRGIN ISLANDS BUREAU OF INTERNAL REVENUE MONDAY, FEBRUARY 23, 2015 BEFORE THE COMMITTEE ONECONOMIC DEVELOPMENT, AGRICULTURE AND PLANNING

GOOD MORNING HONORABLE SENATOR JANETTE MILLIN YOUNG, CHAIRPERSON OF THE COMMITTEE ON ECONOMIC DEVELOPMENT, AGRICULTURE AND PLANNING, MEMBERS OF THE COMMITTEE, ALL OTHER SENATORS PRESENT,AND THE LISTENING AND VIEWING AUDIENCE. I AM MARVIN L. PICKERING, DIRECTOR DESIGNEE OF THE VIRGIN ISLANDS BUREAU OF INTERNAL REVENUE. THANK YOU FOR ALLOWING THE BUREAU TO PRESENT TESTIMONY ON BILL NO.31-0009, WHICH SEEKS TO REPEAL THE EXISTING STARS ACT, AND REPLACE IT WITH AN ACT THAT OFFERS TAX INCENTIVES AND CREDITS TO PRODUCTION COMPANIES THAT FILM IN THE TERRITORY. THE BILL OFFERS A VARIETY OF TAX CREDITS, WAIVERS, AND REBATES, WHICH, IF ENACTED, WILL BE

ADMINISTERED BY A NEWLY CREATED AND FUNDED FILM TAX CREDIT SECTION OF THE ECONOMIC DEVELOPMENT COMMISSION (EDC). I AM GOING TO PROVIDE A VERY BRIEF OVERVIEW OF THE BILL, FOLLOWED BY A FEW AREAS OF CONCERNS THAT REQUIRE CLARITY FROM THIS BODY TO ENSURE THAT THE FULL INTENT OF THE LEGISLATION IS IMPLEMENTED.

UNDER THE BILL, THE TOTAL BENEFITS OFFERED WILL NOT EXCEED $350,000 PER PROJECT PER YEAR. A FILM APPROVED BY THE EDC AND THE FILM OFFICE OF THE DEPARTMENT OF TOURISM MUST INCLUDE A FIVE SECOND LOGO THAT PROMOTES THE VIRGIN ISLANDS AND VIRGIN ISLANDS PROMOTION OR ADVERTISEMENTS BASED ON THE TYPE OF THE PRODUCTION. IT CAN INCLUDE FEATURED FILMS, TV SERIES, MOVIES FOR TELEVISION, DIGITAL RELEASE, WEBCASTS, COMMERCIAL ADVERTISEMENTS, MUSIC VIDEOS, INTERACTIVE ENTERTAINMENT OR SOUND RECORDING PROJECTS USED IN FEATURE FILMS, TV SERIES, OR MOVIES FOR TELEVISION.

EDC IS EXPECTED TO ESTABLISH A DIVISION TO WORK WITH THE FILM OFFICE OF THE DEPARTMENT OF TOURISM TO MANAGE THE

APPLICATIONS FOR THE TAX CREDITS. THE ASSISTANT CHIEF EXECUTIVE OFFICER OVERSEES THE MANAGEMENT OF THE APPLICATIONS, AND FUNDING FOR THESE POSITIONS WILL COME FROM THE TOURISM REVOLVING FUND.

THE BILL PROVIDES THE PROCEDURE FOR PROCESSING THE APPLICATION THROUGH THE DIVISION OF TOURISM AND EDC OFFICES, AND THE TIME FRAMES IN WHICH CERTAIN ACTS ARE EXPECTED TO BE COMPLETED.

THE QUALIFICATIONS FOR TAX BENEFITS INCLUDE HAVING A VALID VIRGIN ISLANDS BUSINESS LICENSE; PRODUCTION EXPENDITURE OF A MINIMUM OF $250,000 FOR EACH PRODUCTION PROJECT; EMPLOYMENT OF VIRGIN ISLANDS RESIDENTS; INCLUSION OF "MADE OR FILMED IN THE VIRGIN ISLANDS" CREDITS; AND THE AGREEMENT THAT THE CREW MEMBERS, DIRECTORS, AND OTHER FILM PERSONNEL WILL SPEAK TO SCHOOL AND UNIVERSITY STUDENTS AS COORDINATED THROUGH THE DEPARTMENT OF TOURISM. EDC IS TASKED WITH PRESCRIBING REGULATIONS AND PROCEDURES FOR REVIEW OR DENIAL OF BENEFITS REQUESTED.

THERE ARE SEVERAL TAX BENEFITS WHICH CAN BE OBTAINED THROUGH THIS PROGRAM. THE INCOME TAX BENEFITS WILL RANGE FROM 10 TO 17% BASED ON THE PERCENTAGE OF THE TOTAL WORKFORCE THAT IS VIRGIN ISLANDS RESIDENTS. THERE WILL BE A PRODUCTION EXPENDITURE REBATE THAT WILL BE REFUNDED BY THE DEPARTMENT OF TOURISM, BASED ON ACTUAL EXPENDITURES PAID IN THE TERRITORY. THE REBATE OF 9% IS BASED ON TOTAL QUALIFIED EXPENDITURES FOR A TAX YEAR UP TO $500,000. AN ADDITIONAL 10% WILL BE REFUNDED IF PRODUCTION INCLUDES A QUALIFIED VI PROMOTION; AND AN ADDITIONAL 10% IF PRODUCTION IS CONDUCTED ON ST. CROIX.

THE HOTEL TAX WAIVER WILL BE GRANTED BASED ON THE MINIMUM EXPENDITURE AND NUMBER OF HOTEL STAY ROOM-NIGHTS. THE WAIVERS START AT 2% AND INCREASE TO 8.5%.

UNDER THE BILL, THE BASE INVESTMENT IN THE TERRITORY IS $5,000,000 TO BE ELIGIBLE FOR THESE CREDITS. CREDITS ARE ALLOWED FROM THE FIRST YEAR OF INVESTMENTS, AND THERE IS AUTHORIZATION FOR THE SALE OR TRANSFER OF UNUSED CREDITS.

THE BUREAU HAS THE FOLLOWING CONCERNS:

1. THE BILL ALLOWS FOR INCOME TAX CREDITS, EXPENDITURE REBATES, AND HOTEL TAX REDUCTION RATES. THESE ARE THREE DIFFERENT TYPES OF INCENTIVES, WHICH MUST BE MANAGED BY THREE SEPARATE GOVERNMENT ENTITIES. THE BILL SUGGESTS THAT THESE BENEFITS SHOULD BE FUNDED THROUGH THE TOURISM REVOLVING FUND. IS IT THE INTENTION OF THIS BODY TO HAVE ALL BENEFITS TREATED AS REBATES, WHICH MEANS PAID IN FULL TO THE BUREAU AND THEN REIMBURSED TO THE TAXPAYER BY THE DEPARTMENT OF TOURISM?

2. HOTEL TAXES ARE PAID BY THE GUESTS, COLLECTED BY THE HOTELSAND REMITTED TO THE BUREAU ON A MONTHLY BASIS. WILL THE HOTELS APPLY THE REDUCED RATES AS DETERMINED BY THE FILM OFFICE OR WILL THE TAXPAYERS (FILM COMPANIES) PAY IN FULL AND BE REIMBURSED BY THE NEWLY FORMED FILM OFFICE? THERE NEEDS TO BE CLARITY ON HOW THE REDUCED TAX RATE WILL BE ADMINISTERED.

3. SECTION 747g(a)(1)(D) REQUIRES A SCHEDULE OF THE CREDITS TAKEN AGAINST INCOME TAX LIABILITIES OR THE PRODUCTION COMPANY'S*QUARTERLY MONTHLY WITHHOLDING PAYMENTS.* THE WITHHOLDING PAYMENTS ARE THE INCOME TAX AMOUNTS WITHHELD FROM THE EMPLOYEES' WAGES AND REMITTED TO THE BUREAU. THESE AMOUNTS CANNOT BE REDUCED, BECAUSE THEY REPRESENT THE EMPLOYEES' MONIES, AND NOT THOSE OF THE PRODUCTION COMPANY. THE UNDERLINED LANGUAGE SHOULD BE REMOVED FROM THE BILL.
4. SECTION 747h DEALS WITH THE SALE AND TRANSFER OF THE CREDITS. IT IS NOT CLEAR TO WHOM THE CREDITS CAN BE SOLD.THE SECTION SPEAKS TO "ANOTHER VIRGIN ISLANDS TAXPAYER." IS IT THE INTENTION OF THE LEGISLATURE TO ALLOW ANY VIRGIN ISLANDS TAXPAYER TO USE THESE CREDITS AGAINST HIS/HER TAX LIABILITY, OR SHOULD IT BE A TAXPAYER WHO MEETS THE SAME REQUIREMENTS AS THE OWNER OF THE BENEFITS, SUCH AS ANOTHER FILM PRODUCTION COMPANY?

5. SECTION 747h (b) ALLOWS FOR THE REIMBURSEMENT OF THE COST FOR A DEPARTMENT INITIATED AUDIT, BUT IT DOES NOT PROVIDE THE PROCEDURE OR TIME FRAME FOR THE COMPANY TO REIMBURSE THE GOVERNMENT AGENCY. WILL THIS AUDIT COST BE PAID THROUGH TOURISM AND THEN REIMBURSED BY THE TAXPAYER?

6. THERE NEEDS TO BE CLARITY ON THE REPORTING REQUIREMENTS TO THE RESPECTIVE AGENCIES THAT ARE AFFECTED BY THIS INCENTIVE PROGRAM. FOR EXAMPLE, WITH THE HOTEL TAX WAIVERS, WILL TOURISM'S FILM OFFICE APPROVE THE REDUCED HOTEL TAX RATE AND REPORT IT TO THE BUREAU WITHIN THE TIME FRAME NEEDED TO PROPERLY PROCESS THE MONTHLY HOTEL ROOM TAX RETURNS OR WILL TOURISM REFUND THE TAXES PAID TO THE TAXPAYERS DIRECTLY?

IN CONCLUSION, I LOOK FORWARD TO WORKING WITH THIS BODY TO ENSURE THAT THE REVISED S.T.A.R.S. ACT CAN BE

IMPLEMENTED AS A SOURCE OF NEW REVENUE FOR THE TERRITORY. IT IS MY HOPE THAT THE CONCERNS RAISED TODAY CAN BE ADDRESSED SO THAT THE AGENCIES INVOLVED CAN BE PREPARED TO MANAGE THESE NEW CREDITS, REBATES AND WAIVERS IF THE BILL PASSES AND BECOMES LAW. AS WITH ANY NEW TAX OR TAX INCENTIVE PROGRAM, TAXPAYER EDUCATION IS IMPORTANT. IN ADDITION, IT IS IMPORTANT THAT THE AGENCIES BE GIVEN AN IMPLEMENTATION TIME TO SET UP INTERNAL PROCESSES AND PROCEDURES TO ENSURE A SUCCESSFUL PROGRAM THAT BENEFITS US ALL.

I AM AVAILABLE TO ANSWER ANY QUESTIONS AT THIS TIME.