

Approved

by 20 December, 2013 Order No VV-892/1K-406 of the Minister of Culture of the Republic of Lithuania and the Minister of Finance of the Republic of Lithuania  
(Version of 21 March, 2019 Order No IV-213 / 1K-95 of the Minister of Culture of the Republic of Lithuania and the Minister of Finance of the Republic of Lithuania)

## **DESCRIPTION OF THE EVALUATION PROCEDURE OF CULTURAL CONTENT AND PRODUCTION OF THE FILM PRODUCED IN THE REPUBLIC OF LITHUANIA**

### **CHAPTER I GENERAL PROVISIONS**

1. The description of the evaluation procedure of cultural content and production of a film produced in the Republic of Lithuania ('the Description') regulates:

1.1. The procedure of the evaluation of the cultural content of the film produced in the Republic of Lithuania ('the cultural content of the film'), which includes:

1.1.1. criteria for assessing the cultural content of a film or part of it;

1.1.2. the issue and validity of a film qualification certificate, a document attesting that the film meets the criteria for assessing cultural content;

1.2. Evaluation procedure for the production of a film produced in the Republic of Lithuania ('film production'), which includes:

1.2.1. film production evaluation criterion;

1.2.2. investment certificate - issue of the certificate attesting that the use of the donation-based funds allocated to the film producer are in compliance with the requirements laid down in Article 17<sup>2</sup> of the Law on Corporate Income Tax of the Republic of Lithuania.

2. The definitions used in the Description are understood as they are defined in the Law on Corporate Income tax, the Law on Cinema of the Republic of Lithuania and the Law on Copyright and Related Rights of the Republic of Lithuania, the Law on the Audit of Financial Statements of the Republic of Lithuania.

### **CHAPTER II EVALUATION OF THE CULTURAL CONTENT OF THE FILM**

#### **SECTION ONE SUBMISSION OF AN APPLICATION FOR A FILM QUALIFICATION CERTIFICATE**

3. The application for the issue of the film qualification certificate ('the application') is submitted by a Lithuanian film producer to the Lithuanian Film Centre under the Ministry of Culture ('the Lithuanian Film Centre'). The application is drafted in Lithuanian by filling in the electronic application form established by the director of the Lithuanian Film Centre.

4. No application may be submitted for the production of a completed film or part thereof. Costs of production of a film or part of it incurred more than 90 calendar days before the submission of the application shall not be included in the calculation of the total cost of the film production.

5. An application from a Lithuanian film producer shall not be admissible if it is subject to the restrictions laid down in Article 9 (7) to (10) of the Law on Cinema. If these circumstances come to light after the date of submission of the application to the Lithuanian Film Centre, the application is rejected and the Lithuanian film producer is informed in writing within 5 working days.

6. The date of submission of the application to the Lithuanian Film Centre shall be considered the date of receipt of the application in the Lithuanian Film centre.

7. The application may be submitted for:

7.1. production of a national film or part thereof;

7.2. co-production of a film or part thereof;

7.3. the production of the commissioned film (a film where part of the production services is provided by a Lithuanian film producer who does not become the holder of the copyright and related property rights) or part of it.

8. The application can be submitted for the production of the following categories of films:

8.1. feature, documentary and animated long or short film production;

8.2. production of an animated episode film (where the total duration of the film is no less than 24 minutes);

8.3. television drama film production (when the duration of one episode is no less than 30 minutes and the number of season episodes does not exceed 25);

8.4. television feature documentary film production (with total duration of all parts no less than 50 minutes).

9. The following application documents (application documents in a foreign language shall be submitted with their official translation into Lithuanian) to the Lithuanian Film Centre:

9.1. for the production of a feature film – a film script; for the production of a documentary film – a film script or a treatment of a film script; for the production of an animated film – a film script (for the production of an animated full-length film) or a film script treatment (for the production of an animated short or animated episodes) and a visualization of the film script;

9.2. for co-production of a film (not applicable to state funded film production projects), a certified copy of a co-produced film production agreement or preliminary agreement concluded between a Lithuanian film producer and at least one foreign film producer. This agreement or the preliminary agreement must specify the name and description of the co-produced film (type, planned

duration, language, script writer, director, planned start and end of filming, estimated completion date of the film), the total budget of the film and the financial obligations of the co-producers);

9.3. for the production of the commissioned film – a certified copy of the agreement for the production of the commissioned film or part of it or of the preliminary agreement between the Lithuanian film producer and the beneficiary. This agreement or the preliminary agreement must specify the name and the description of the commissioned film (type, planned duration, language, script writer, director, planned start and end of filming in Lithuania) and the total production budget of the film or part of it;

9.4. Estimate of the film or part of the film in the form approved by the director of the Lithuanian Film Centre and the film funding plan.

10. If the Lithuanian Film Centre receives a preliminary co-production agreement or preliminary commissioned film or its part production agreement, the Lithuanian film producer respectively, shall submit the approved copy of the agreement with all its annexes to the Lithuanian Film Centre no later than by the first day of filming of the co-production or the original film or part of the film and the Lithuanian film producer shall inform about it the Lithuanian Film Centre in writing.

11. The application, signed with an authorised electronic signature, together with the application documents, shall be submitted to the Lithuanian Film Centre by e-mail of the Lithuanian Film Centre. Applications submitted by other means together with the application documents shall not be accepted.

## **SECOND SECTION STAGES OF APPLICATION EXAMINATION**

12. Examination of the application consists of two stages:

12.1. verification of application and application documents by the Lithuanian Film Centre;

12.2. the assessment of the cultural content of the film indicated in the application, which is carried out by at least 3 experts, chosen by the Lithuanian Film Centre, with at least 3 years of experience in the cinema field, the commission (hereinafter – Expert commission) acting in accordance with the regulations established by the director of the Lithuanian Film Centre.

13. The Lithuanian Film Centre within 10 working days from the date of receipt of the application and the application documents, shall verify the application and the application documents, determine whether they comply with the requirements set out in the first section of Chapter II of the Description and forward the applications to the expert commission for consideration.

14. If the Lithuanian film centre, in evaluating the application and the application documents, finds out that the application is not properly filled in or not all the application documents are submitted, it shall notify the identified deficiencies to the Lithuanian film producer, and the producer within the deadline established by the Lithuanian film centre shall correct the deficiencies of the submitted application or (and) the documents. If the Lithuanian film producer fails to correct the

deficiencies discovered in the submitted application and / or application documents within the time limit set by the Lithuanian Film Centre, the application shall not be submitted to the expert commission for consideration. Once the deficiencies are eliminated properly and on time, the revised application information and / or application documents shall be attached to the application submitted.

### **SECTION THREE CRITERIA FOR ASSESSING THE CULTURAL CONTENT OF A FILM**

15. The expert commission shall assess the cultural content of the films on the basis of the application submitted and the film script or the treatment of the film script in the light of the criteria for assessing the cultural content.

16. A film shall be considered to meet the criteria for assessing the cultural content if:

16.1. it is not a promotional film, a promotional video clip, a television show, a music video clip, a computer game, or a series that is broadcasted daily or several times a week and is characterised by certain character schemes and drama rules that would enable to continue it endlessly and does not create artistic value, including situational comedies, soap operas, and

16.2. the film is not violent or pornographic, and

16.3. the film is not instigating hatred, and

16.4. the film meets at least two of the following cultural criteria:

16.4.1. the script of the film is based on the themes of culture, history, religion and mythology of Lithuania or other European state (s);

16.4.2. the film depicts public or political life events in Lithuania or other European state (s);

16.4.3. the film tells about a famous personality, mythological figure of culture, history, religion, society of Lithuania or other European state (s);

16.4.4. film script or main theme are based on a significant literary work of Lithuania or other European state (s);

16.4.5. the film embodies the important values of Lithuania or other European state (s): cultural and religious diversity, human rights and citizenship, democracy and solidarity, minority rights and tolerance, respect for cultural and family traditions;

16.4.6. the film deals with issues of national or European identity;

16.4.7. the film takes place in Lithuania or other European state (s).

17. The expert commission within 10 working days from the date of receipt of the application, shall evaluate the application and submit its conclusions to the Lithuanian Film Centre on the film's compliance with the criteria for assessing cultural content.

### **SECTION FOUR ISSUE AND VALIDITY OF A FILM QUALIFICATION CERTIFICATE**

18. The Lithuanian Film Centre within 3 working days of the receipt of the expert commission's conclusions on the film's conformity to cultural content assessment criteria shall issue to the Lithuanian film producer the qualification certificate in a form established by the director of the Lithuanian Film Centre on the compliance to the cultural content assessment criteria.

19. Film qualification certificate is not issued in the following cases:

19.1. if the Lithuanian film producer fails to correct the deficiencies of the application and / or application documents submitted by the Lithuanian Film Centre within the deadline set by the Lithuanian Film Centre;

19.2. where a panel of experts finds that a film does not meet the criteria for assessing cultural content.

20. The Lithuanian Film Centre shall inform the Lithuanian film producer who submitted the application in writing of the decision taken not to issue a film qualification certificate.

21. Upon the application submission of the same film, which has already received the film qualification certificate, the compliance to the cultural content assessment criteria is not evaluated repeatedly and the Lithuanian Film Centre shall take a decision on the issue of the film qualification within 10 working days of the receipt of the application.

22. If a film qualification certificate is not issued for the reason set out in point 19.2 of the description, the application for the same film may be submitted again only after the film script or the treatment of the film script are changed.

23. The film qualification certificate is invalidated in the following cases:

23.1. if, as a result of the co-production of the film or the production of the commissioned film or part of it, a certified copy of the agreement as set out in point 10 of the description is not submitted to the Lithuanian Film Centre by the first day of filming;

23.2. once it becomes clear that the Lithuanian film producer is subject to the restrictions set out in Article 9 (7) to (10) of the Law on Cinema.

24. Within 3 working days of the date of occurrence of the circumstances referred to in point 23.1 or 23.2 of the description, the Lithuanian Film Centre shall decide to invalidate the film's qualification certificate and inform the Lithuanian film producer thereof in writing.

### **CHAPTER III ISSUE OF INVESTMENT CERTIFICATE**

#### **SECTION ONE SUBMISSION OF DOCUMENTS FOR OBTAINING AN INVESTMENT CERTIFICATE**

25. The Lithuanian film producer for whose produced film the qualification certificate is issued, shall submit to the Lithuanian Film Centre:

25.1. A certified copy of the Lithuanian film producer and the investor (s) agreement (-agreements) on the conditions of the donation-based funding of the production of a film or its part, which shall include the amount of the donation-based funding provided for the production of a film

or its part, in order to take advantage of the Law on the Corporate Income Tax articles 17<sup>2</sup> and 46<sup>2</sup> which stipulate the tax incentive for film production; planned film production costs; production of the title of the film; and a copy of the bank transfer (s) which (s) certifying the receipt of funds, copy (s);

25.2. the auditor's conclusion on the costs incurred by the Lithuanian film producer during the production of a film or its part during the audited period (which begins no earlier than 90 calendar days before the application submission date to the Lithuanian Film Centre and continues to the end of the production of a film or its part, which is established in accordance to the documents certifying the production costs of a film or its part submitted to the auditor and shall not be later than the film registration in the Film register) and the film compliance with the requirements of the Law on Corporate Income Tax articles 17<sup>2</sup> part 1 points 2 and 3 and the film production assessment criteria referred to in item 29 of the Description.

26. All documents referred to in point 25 of the description shall be submitted no later than 3 months after the end of the period to be assessed.

## **SECOND SECTION EXAMINATION OF DOCUMENTS FOR OBTAINING INVESTMENT CERTIFICATES**

27. The Lithuanian Film Centre assesses whether all submitted documents are appropriate (no deficiencies).

28. The Lithuanian Film Centre shall, if necessary, have the right to request the Lithuanian film producer to provide explanations or clarifications on the content of the submitted documents within 5 working days.

## **SECTION THREE FILM PRODUCTION EVALUATION**

29. A film or part of a film meets the criteria for the production evaluation if:

29.1. during the production of the film (other than the animated film) or part of it the filming lasted in the Republic of Lithuania for at least 3 days;

29.2. during the production of the animated film, at least 20 percent of the total cost of production of all or part of the film in the Republic of Lithuania was incurred to cover the costs of at least two of these activities:

29.2.1. execution of filming work (if required by the film script);

29.2.2. creating visual (character / backgrounds) design;

29.2.3. frame layout / storyboard creation;

29.2.4. creating visual effects;

29.3. at least 51 percent of the members of the film group hired by the Lithuanian film producer (creative and technical staff that the Lithuanian film producer has brought together for the

creation and production of the film) are citizens of the Republic of Lithuania or other state (s) of the European Economic Area.

#### **SECTION FOUR ISSUE OF INVESTMENT CERTIFICATE**

30. The Lithuanian Film Centre shall issue an investment certificate in the form approved by the director of the Lithuanian Film Centre no later than in 15 working days after the receipt of all the appropriate documents for obtaining the investment certificate, after assessing the documents submitted by the Lithuanian film producer and having ascertained that the film produced by the Lithuanian film producer or part of it meets the requirements laid down in Article 17<sup>2</sup> of the Law on Corporate Income Tax.

31. The investment certificate shall contain:

31.1. data about the Lithuanian film producer:

31.1.1. the name of the taxable entity (hereinafter referred to as 'the entity') or the name of the natural person;

31.1.2. taxpayer Identification Number;

31.1.3. address and contact details;

31.2. data on film produced by Lithuanian film producer:

31.2.1. film title;

31.2.2. confirmation that a film produced for which a film qualification certificate has been issued complies with the requirements laid down in Article 17<sup>2</sup> (1) (1) of the Law on Corporate Income Tax;

31.3. details of the investor who provided funds to the Lithuanian film producer on a donation-basis:

31.3.1. name of the entity;

31.3.2. taxpayer Identification Number;

31.3.3. address and contact details of the establishment of the entity;

31.4. data on the compliance of the donation-based funds provided by the investor to the Lithuanian film producer for the production of the film or part thereof with the requirements laid down in Article 17<sup>2</sup> (1) (3) of the Law on Corporate Income Tax:

31.4.1. total production costs of all or part of the film;

31.4.2. the overall amount of the donation-based funds provided by all investors to the Lithuanian film producer for the production of the film or part of it;

31.4.3. the amount of the donation-based funds provided to a Lithuanian film producer by the investor to whom the investment certificate is issued for the production of a film or part of a film, in accordance with the requirements of Article 17<sup>2</sup> (1) (3) of the Law on Corporate Income Tax;

31.5. data on the compliance of the production costs incurred by the Lithuanian film producer with the requirements laid down in Article 17<sup>2</sup> (1) (2) of the Law on Corporate Income Tax:

31.5.1. 'ineligible expenditure' means the amount of production costs referred to in Article 17<sup>2</sup> (3) of the Law on Corporate Income Tax for a film or part thereof;

31.5.2. 'eligible expenditure' means the amount of production costs of a film or part of a film obtained from the total amount of production costs of a film or part of it minus the amount of ineligible expenditure;

31.5.3. Amount and percentage of eligible costs incurred in the Republic of Lithuania in relation to the total eligible costs;

31.6. data of the audit company or of the auditor in the case of individual activity:

31.6.1. name or first and last name;

31.6.2. Taxpayer Identification Number;

31.6.3. address and contact details;

32. The investment certificate is issued to each investor individually and is valid only for the investor mentioned in it who has provided the Lithuanian film producer with the donation-based funds for the production of the film or part of it.

33. The investment certificate shall not be issued in the following cases:

33.1. If the Lithuanian film producer fails to provide the Lithuanian Film Centre with all the necessary documents for obtaining the investment certificate or explanations or adjustments for the content of the submitted documents for obtaining the investment certificate within the deadlines set by the Lithuanian Film Centre;

33.2. when the auditor's opinion about the costs incurred by the Lithuanian film producer in the production of a film or its part during the audited period on the film's compliance with the Corporate Income Tax Law article 17<sup>2</sup> (1) (2) and (3) the requirements of the film production assessment criteria referred to in the Description in paragraph 29, state that the film does not meet the requirements of the Law on the Corporate Income Tax, article 17<sup>2</sup>(1) (2) and (3) and (or) the requirements of the Description point 29 on the film production assessment criteria.

24. Within 3 working days of the date of occurrence of the circumstances referred to in point 23.1 or 23.2 of the Description, the Lithuanian Film Centre shall decide not to issue the film's qualification certificate and inform the Lithuanian film producer thereof in writing.

#### **CHAPTER IV FINAL PROVISIONS**

35. The beginning or end subtitles of the film in the Lithuanian language or the language used in the film indicated in the film qualification certificate must state that "This film was produced after having applied the Republic of Lithuania Tax Incentive for film production".

36. If the Lithuanian film producer decides to change the name of a film produced in the Republic of Lithuania for which a film qualification certificate has been issued, the Lithuanian film producer shall immediately inform the Lithuanian Film Centre in writing about it.

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