

S T A T E O F N E W Y O R K

4199--A

2011-2012 Regular Sessions

I N S E N A T E

March 23, 2011

Introduced by Sens. HANNON, ADDABBO, HASSELL-THOMPSON, KRUEGER, McDONALD, MONTGOMERY, PERKINS, RIVERA -- read twice and ordered printed, and when printed to be committed to the Committee on Investigations and Government Operations -- recommitted to the Committee on Investigations and Government Operations in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the tax law, in relation to eligibility for the empire state film production credit

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. Paragraph 1 of subdivision (a) of section 24 of the tax
2 law, as amended by section 3 of part Q of chapter 57 of the laws of
3 2010, is amended to read as follows:
4 (1) Allowance of credit. A taxpayer which is a qualified film
5 production company, or a qualified independent film production company,
6 or which is a sole proprietor of or a member of a partnership which is a
7 qualified film production company or a qualified independent film
8 production company, and which is subject to tax under articles nine-A or
9 twenty-two of this chapter, shall be allowed a credit against such tax,
10 pursuant to the provisions referenced in subdivision [(c)] (F) of this
11 section, to be computed as [hereinafter] provided IN THIS SECTION.
12 S 2. Paragraph 2 of subdivision (b) of section 24 of the tax law, as
13 added by section 1 of part P of chapter 60 of the laws of 2004, is
14 amended and a new paragraph 8 is added to read as follows:
15 (2) "Production costs" means any costs for tangible property used and
16 services performed directly and predominantly in the production (includ-
17 ing pre-production and post production) of a qualified film.
18 "Production costs" shall not include [(i) costs for a story, script or
19 scenario to be used for a qualified film and (ii)] wages or salaries or
20 other compensation for writers, directors, including music directors,

EXPLANATION--Matter in *ITALICS* (underscored) is new; matter in brackets
[] is old law to be omitted.

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1 producers and performers (other than background actors with no scripted
2 lines). WRITERS' FEES AND SALARIES SHALL BE ELIGIBLE PRODUCTION COSTS
3 SUBJECT TO THE PROVISIONS OF SUBDIVISION (C) OF THIS SECTION; PROVIDED,
4 HOWEVER, THAT FEES THAT ARE BASED ON DEFERRED, LEVERAGED OR PROFIT
5 PARTICIPATION COSTS, OR ARE IN EXCESS OF THOSE OTHERWISE PERMITTED BY
6 SUBDIVISION (C) OF THIS SECTION SHALL NOT BE ELIGIBLE PRODUCTION COSTS.
7 "Production costs" generally include technical and crew production
8 costs, such as expenditures for film production facilities, or any part
9 thereof, props, makeup, wardrobe, film processing, camera, sound record-
10 ing, set construction, lighting, shooting, editing and meals.

11 (8) "WRITER" MEANS A WRITER EMPLOYED OR RETAINED TO WRITE OR REVISE
12 SCRIPTS, SCREEN PLAYS, TELEPLAYS, DIALOGUE, SKETCHES, ROUTINES OR
13 NARRATIONS.

14 S 3. Subdivisions (c) and (d) of section 24 of the tax law are relet-
15 tered subdivisions (f) and (g) and three new subdivisions (c), (d) and
16 (e) are added to read as follows:

17 (C) FOR A FEATURE FILM OR TELEVISION PRODUCTION, WRITERS' FEES AND
18 SALARIES SHALL BE ELIGIBLE COSTS; PROVIDED, HOWEVER, SUCH COSTS SHALL
19 NOT EXCEED FIFTY THOUSAND DOLLARS PER WRITER PER QUALIFIED FILM.
20 PROVIDED, FURTHER, THAT, NOTWITHSTANDING ANY OTHER PROVISION OF THIS
21 SECTION, A WRITER'S FEES AND SALARY SHALL BE ELIGIBLE FOR THE MAXIMUM
22 AMOUNT OF THE CREDIT GRANTED BY THIS SUBDIVISION, IF SUCH WRITER IS A
23 RESIDENT OF THIS STATE.

24 (D) WHERE MORE THAN THREE WRITERS ARE HIRED OR RETAINED FOR SERVICE ON
25 AN ELIGIBLE PRODUCTION AND AT LEAST ONE SUCH WRITER IS A MINORITY GROUP
26 MEMBER, AS DEFINED BY SUBDIVISION EIGHT OF SECTION THREE HUNDRED TEN OF
27 THE EXECUTIVE LAW, OR A WOMAN SUCH COSTS SHALL NOT EXCEED SEVENTY THOU-
28 SAND DOLLARS PER WRITER PER QUALIFIED FILM.

29 (E) FOR EACH TAX YEAR, NOT MORE THAN FIVE MILLION DOLLARS IN TAX CRED-
30 ITS FOR WRITERS' FEES AND SALARIES SHALL BE GRANTED PURSUANT TO THIS
31 SECTION. SUCH CREDITS SHALL ONLY BE AVAILABLE FROM CREDITS ALLOWED FOR
32 PRODUCTION COSTS PURSUANT TO THIS SECTION.

33 S 4. This act shall take effect on the one hundred twentieth day after
34 it shall have become a law and shall apply to the tax year in which it
35 takes effect and all subsequent tax years.