

4199

2011-2012 Regular Sessions

I N   S E N A T E

March 23, 2011

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Introduced by Sen. HANNON -- read twice and ordered printed, and when printed to be committed to the Committee on Investigations and Government Operations

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)] (E) 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,  
21    producers and performers (other than background actors with no scripted  
22    lines). WRITERS' FEES AND SALARIES SHALL BE ELIGIBLE PRODUCTION COSTS  
23    SUBJECT TO THE PROVISIONS OF SUBDIVISION (C) OF THIS SECTION; PROVIDED,  
24    HOWEVER, THAT FEES THAT ARE BASED ON DEFERRED, LEVERAGED OR PROFIT

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

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PARTICIPATION COSTS, OR ARE IN EXCESS OF THOSE OTHERWISE PERMITTED BY SUBDIVISION (C) OF THIS SECTION SHALL NOT BE ELIGIBLE PRODUCTION COSTS. "Production costs" generally include technical and crew production costs, such as expenditures for film production facilities, or any part thereof, props, makeup, wardrobe, film processing, camera, sound recording, set construction, lighting, shooting, editing and meals.

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

S 3. Subdivisions (c) and (d) of section 24 of the tax law are relettered subdivisions (e) and (f) and two new subdivisions (c) and (d) are added to read as follows:

(C) FOR A FEATURE FILM OR TELEVISION PRODUCTION, WRITERS' FEES AND SALARIES SHALL BE ELIGIBLE PRODUCTION COSTS ONLY IF THE WRITER IS A RESIDENT OF THIS STATE AND EITHER:

(1) THE TAXPAYER CLAIMS SUCH COSTS IN AN AMOUNT NOT TO EXCEED FIFTY THOUSAND DOLLARS FOR THE FEES AND SALARIES OF EACH SUCH WRITER; OR

(2) WHERE THE TAXPAYER HIRES OR RETAINS THREE OR MORE SUCH WRITERS FOR SERVICE ON AN ELIGIBLE PRODUCTION, AT LEAST ONE SUCH WRITER IS A MINORITY GROUP MEMBER AS DEFINED IN SUBDIVISION EIGHT OF SECTION THREE HUNDRED TEN OF THE EXECUTIVE LAW, AND THE TAXPAYER CLAIMS SUCH COSTS IN AN AMOUNT NOT TO EXCEED FIFTY THOUSAND DOLLARS FOR THE FEES AND SALARY OF EACH SUCH WRITER.

(D) FOR EACH TAX YEAR, THE AMOUNT OF THE CREDIT BASED UPON THE INCLUSION OF WRITERS' FEES AND SALARIES AS PRODUCTION COSTS SHALL NOT, IN THE AGGREGATE, EXCEED FIVE MILLION DOLLARS. FURTHERMORE, THE CREDIT AUTHORIZED BY THIS SECTION THAT IS ATTRIBUTABLE TO WRITERS' FEES AND SALARIES SHALL BE APPORTIONED AMONG ALL ELIGIBLE TAXPAYERS.

S 4. This act shall take effect January 1, 2012.