

2011-2012 Regular Sessions

I N S E N A T E

(PREFILED)

January 5, 2011

Introduced by Sen. GOLDEN -- 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 and part P of chapter 60 of the laws of 2004, amending the tax law relating to the empire state film production credit, in relation to authorizing additional tax credits for certain costs incurred in film and television productions in a city having a population of one million or more

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

1 Section 1. Subdivision (b) of section 1201-a of the tax law, as
2 amended by section 5 of part Y of chapter 62 of the laws of 2006, is
3 amended to read as follows:
4 (b) Empire state film production credit. Any city in this state having
5 a population of one million or more, acting through its local legisla-
6 tive body, is hereby authorized to adopt and amend local laws to allow a
7 credit against the general corporation tax and the unincorporated busi-
8 ness tax imposed pursuant to the authority of chapter seven hundred
9 seventy-two of the laws of nineteen hundred sixty-six which shall be
10 substantially identical to the credit allowed under section twenty-four
11 of this chapter, except that (A) the percentage of qualified production
12 costs used to calculate such credit shall be five percent, (B) whenever
13 such section twenty-four references the state, such words shall be read
14 as referencing the city, (C) such credit shall be allowed only to a
15 taxpayer which is a qualified film production company OR QUALIFIED INDE-
16 PENDENT FILM PRODUCTION COMPANY, and (D) the effective date of such
17 credit shall be July first, two thousand six. Such credit shall be
18 applied in a manner consistent with the credit allowed under subdivision
19 thirty-six of section two hundred ten of this chapter except as may be
20 necessary to take into account differences between the general corpo-

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

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1 ration tax and the unincorporated business tax. A "QUALIFIED INDEPEND-
2 ENT FILM PRODUCTION COMPANY" IS AN INDIVIDUAL OR A CORPORATION, PARTNER-
3 SHIP, LIMITED PARTNERSHIP OR OTHER ENTITY THAT IS NOT PUBLICLY TRADED,
4 AND PUBLICLY TRADED COMPANIES THAT DO NOT OWN, DIRECTLY OR INDIRECTLY,
5 MORE THAN FIVE PERCENT OF THE QUALIFIED INDEPENDENT FILM PRODUCTION
6 COMPANY, AND THE INDIVIDUAL OR ENTITY IS PRINCIPALLY ENGAGED IN THE
7 PRODUCTION OF A QUALIFIED FILM AND CONTROLS THE QUALIFIED FILM DURING
8 PRODUCTION.

9 S 2. Subdivision (b) of section 7 of part P of chapter 60 of the laws
10 of 2004, amending the tax law relating to the empire state film
11 production credit, as amended by section 2 of part Y of chapter 62 of
12 the laws of 2006, is amended to read as follows:

13 (b) (1) The aggregate amount of tax credits allowed pursuant to the
14 authority of subdivision (b) of section 1201-a of the tax law in any
15 calendar year shall be \$12.5 million in 2004 and 2005 and \$30 million in
16 2006 through 2011. Such aggregate amount of credits shall be allocated
17 by the mayor's office of film, theater and broadcasting among taxpayers
18 in order of priority based upon the date of filing an application for
19 allocation of film production credit with such office. If the total
20 amount of allocated credits applied for in any particular year exceeds
21 the aggregate amount of tax credits allowed for such year under this
22 section, such excess shall be treated as having been applied for on the
23 first day of the subsequent year.

24 (2) NOTWITHSTANDING PARAGRAPH (1) OF THIS SUBDIVISION, THE AGGREGATE
25 AMOUNT OF TAX CREDITS ALLOWED PURSUANT TO THE AUTHORITY OF SUBDIVISION
26 (B) OF SECTION 1201-A OF THE TAX LAW SHALL BE INCREASED BY AN ADDITIONAL
27 \$24 MILLION IN 2011. THIS ADDITIONAL AMOUNT SHALL BE ALLOCATED BY THE
28 MAYOR'S OFFICE OF FILM, THEATER AND BROADCASTING IN ACCORDANCE WITH
29 PARAGRAPH (1) OF THIS SUBDIVISION. A TAXPAYER ALLOCATED CREDITS FROM THE
30 AMOUNTS AUTHORIZED UNDER THIS PARAGRAPH SHALL NOT CLAIM SUCH CREDITS
31 BEFORE TAXABLE YEARS BEGINNING ON OR AFTER JANUARY 1, 2011. NOTWITH-
32 STANDING THE YEAR TO WHICH CREDITS AUTHORIZED UNDER THIS PARAGRAPH ARE
33 ALLOCATED BY THE MAYOR'S OFFICE OF FILM, THEATER AND BROADCASTING, SUCH
34 CREDITS SHALL NOT BE CLAIMED IN EXCESS OF \$24 MILLION IN A GIVEN YEAR.
35 CREDITS AUTHORIZED UNDER THIS PARAGRAPH AND ALLOCATED IN EXCESS OF \$24
36 MILLION IN A GIVEN YEAR SHALL BE CLAIMED IN THE SUBSEQUENT YEAR.
37 NOTWITHSTANDING THE FOREGOING, A TAXPAYER WHICH IS A QUALIFIED INDEPEND-
38 ENT FILM PRODUCTION COMPANY WHO IS ALLOCATED CREDITS UP TO \$250,000 PER
39 QUALIFIED FILM FROM THE AMOUNTS AUTHORIZED UNDER THIS PARAGRAPH SHALL
40 CLAIM SUCH CREDITS FOR THE TAXABLE YEAR IN WHICH THE PRODUCTION OF SUCH
41 QUALIFIED FILM IS COMPLETED.

42 S 3. This act shall take effect immediately and shall apply to taxable
43 years beginning on or after January 1, 2011.