

2013-2014 Regular Sessions

I N S E N A T E

(PREFILED)

January 9, 2013

Introduced by Sen. GALLIVAN -- 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 amending 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 2 of subdivision (a) of section 24 of the tax
2 law, as amended by section 4 of part Q of chapter 57 of the laws of
3 2010, is amended to read as follows:
4 (2) The amount of the credit shall be the [product] SUM OF THE
5 PRODUCTS (or pro rata share of the product, in the case of a member of a
6 partnership) of: (I) thirty percent [and] FOR the qualified production
7 costs paid or incurred in THE COUNTIES OF BRONX, KINGS, NEW YORK, QUEENS
8 OR RICHMOND DURING the production of a qualified film[,]; (II)
9 THIRTY-FIVE PERCENT FOR THE QUALIFIED PRODUCTION COSTS PAID OR INCURRED
10 IN THE COUNTIES OF DUTCHESS, NASSAU, ORANGE, PUTNAM, ROCKLAND, SUFFOLK,
11 SULLIVAN, ULSTER OR WESTCHESTER, DURING THE PRODUCTION OF A QUALIFIED
12 FILM; (III) FORTY PERCENT FOR THE QUALIFIED PRODUCTION COSTS PAID OR
13 INCURRED IN THE COUNTIES OF ALBANY, COLOMBIA, GREENE, RENSSELAER, SARA-
14 TOGA, SCHENECTADY, WARREN OR WASHINGTON DURING THE PRODUCTION OF A QUAL-
15 IFIED FILM; AND (IV) FORTY-FIVE PERCENT FOR THE QUALIFIED PRODUCTION
16 COSTS PAID OR INCURRED IN ALL COUNTIES NOT REFERENCED IN SUBPARAGRAPH
17 (I), (II) OR (III) OF THIS PARAGRAPH DURING THE PRODUCTION OF A QUALI-
18 FIED FILM; provided that: [(i)] (1) the qualified production costs
19 (excluding post production costs) paid or incurred which are attribut-
20 able to the use of tangible property or the performance of services at a
21 qualified film production facility in the production of such qualified
22 film equal or exceed seventy-five percent of the production costs
23 (excluding post production costs) paid or incurred which are attribut-

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

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1 able to the use of tangible property or the performance of services at
2 any film production facility within and without the state in the
3 production of such qualified film[,]; and [(ii)] (2) except with respect
4 to a qualified independent film production company or pilot, at least
5 ten percent of the total principal photography shooting days spent in
6 the production of such qualified film must be spent at a qualified film
7 production facility. However, if the qualified production costs (exclud-
8 ing post production costs) which are attributable to the use of tangible
9 property or the performance of services at a qualified film production
10 facility in the production of such qualified film is less than three
11 million dollars, then the portion of the qualified production costs
12 attributable to the use of tangible property or the performance of
13 services in the production of such qualified film outside of a qualified
14 film production facility shall be allowed only if the shooting days
15 spent in New York outside of a film production facility in the
16 production of such qualified film equal or exceed seventy-five percent
17 of the total shooting days spent within and without New York outside of
18 a film production facility in the production of such qualified film. The
19 credit shall be allowed for the taxable year in which the production of
20 such qualified film is completed. However, in the case of a qualified
21 film that receives funds from additional pool 2, no credit shall be
22 claimed before the later of [(1)] (A) the taxable year the production of
23 the qualified film is complete, or [(2)] (B) the taxable year immediate-
24 ly following the allocation year for which the film has been allocated
25 credit by the governor's office for motion picture and television devel-
26 opment. If the amount of the credit is at least one million dollars but
27 less than five million dollars, the credit shall be claimed over a two
28 year period beginning in the first taxable year in which the credit may
29 be claimed and in the next succeeding taxable year, with one-half of the
30 amount of credit allowed being claimed in each year. If the amount of
31 the credit is at least five million dollars, the credit shall be claimed
32 over a three year period beginning in the first taxable year in which
33 the credit may be claimed and in the next two succeeding taxable years,
34 with one-third of the amount of the credit allowed being claimed in each
35 year.

36 S 2. This act shall take effect immediately.