

1465

2015-2016 Regular Sessions

I N   A S S E M B L Y

January 12, 2015

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Introduced by M. of A. LENTOL -- read once and referred to the Committee  
on Ways and Means

AN ACT to amend the tax law, in relation to the creation of the empire  
state music production credit

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

1     Section 1. The tax law is amended by adding a new section 42 to read  
2 as follows:

3     S 42. EMPIRE STATE MUSIC PRODUCTION CREDIT. (A)(1) ALLOWANCE OF CRED-  
4 IT. A TAXPAYER WHICH IS A QUALIFIED MUSIC PRODUCTION COMPANY, OR A QUAL-  
5 IFIED INDEPENDENT MUSIC PRODUCTION COMPANY, OR WHICH IS A SOLE PROPRIE-  
6 TOR OF OR A MEMBER OF A PARTNERSHIP WHICH IS A QUALIFIED MUSIC  
7 PRODUCTION COMPANY OR A QUALIFIED INDEPENDENT MUSIC PRODUCTION COMPANY,  
8 AND WHICH IS SUBJECT TO TAX UNDER ARTICLE NINE-A OR TWENTY-TWO OF THIS  
9 CHAPTER, SHALL BE ALLOWED A CREDIT AGAINST SUCH TAX.

10     (2) THE AMOUNT OF THE CREDIT SHALL BE THE PRODUCT (OR PRO RATA SHARE  
11 OF THE PRODUCT, IN THE CASE OF A MEMBER OF A PARTNERSHIP) OF TWENTY  
12 PERCENT AND THE QUALIFIED PRODUCTION COSTS PAID OR INCURRED IN THE  
13 PRODUCTION OF MUSIC BY THE TAXPAYER. SUCH COSTS SHALL INCLUDE: RECORDING  
14 PRODUCTION COSTS, ARTISTS' ROYALTIES, MUSICIAN SESSION FEES, GRAPHICS,  
15 DIGITAL SCANNING, PROGRAMMING AND TESTING, PRODUCTION COSTS FOR MUSIC  
16 VIDEOS MADE IN NEW YORK STATE AND DIRECT MARKETING EXPENDITURES INCLUD-  
17 ING CONSULTANT FEES AND COSTS TO LAUNCH THE RECORDING. COSTS SHALL NOT  
18 INCLUDE TOURING, PERFORMING, MANUFACTURING AND DISTRIBUTION COSTS.

19     (3) NO QUALIFIED PRODUCTION COSTS USED BY A TAXPAYER AS THE BASIS FOR  
20 THE ALLOWANCE OF THE CREDIT PROVIDED FOR UNDER THIS SECTION SHALL BE  
21 USED BY SUCH TAXPAYER TO CLAIM ANY OTHER CREDIT ALLOWED PURSUANT TO THIS  
22 CHAPTER.

23     (B) ALLOCATION OF CREDIT. THE AGGREGATE AMOUNT OF TAX CREDITS ALLOWED  
24 UNDER THIS SECTION, SUBDIVISION FIFTY OF SECTION TWO HUNDRED TEN-B AND  
25 SUBSECTION (CCC) OF SECTION SIX HUNDRED SIX OF THIS CHAPTER IN ANY

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

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CALENDAR YEAR SHALL BE SIXTY MILLION DOLLARS. SUCH AGGREGATE AMOUNT OF CREDITS SHALL BE ALLOCATED BY THE EMPIRE STATE DEVELOPMENT CORPORATION AMONG TAXPAYERS IN ORDER OF PRIORITY BASED UPON THE DATE OF FILING AN APPLICATION FOR ALLOCATION OF MUSIC PRODUCTION CREDIT WITH SUCH OFFICE. IF THE TOTAL AMOUNT OF ALLOCATED CREDITS APPLIED FOR IN ANY PARTICULAR YEAR EXCEEDS THE AGGREGATE AMOUNT OF TAX CREDITS ALLOWED FOR SUCH YEAR UNDER THIS SECTION, SUCH EXCESS SHALL BE TREATED AS HAVING BEEN APPLIED FOR ON THE FIRST DAY OF THE SUBSEQUENT YEAR.

(C) CROSS-REFERENCES. FOR APPLICATION OF THE CREDIT PROVIDED FOR IN THIS SECTION, SEE THE FOLLOWING PROVISIONS OF THIS CHAPTER:

(1) ARTICLE 9-A: SECTION 210-B: SUBDIVISION 50

(2) ARTICLE 22: SECTION 606: SUBSECTION (CCC)

S 2. Section 210-B of the tax law is amended by adding a new subdivision 50 to read as follows:

50. EMPIRE STATE MUSIC PRODUCTION CREDIT. (A) ALLOWANCE OF CREDIT. A TAXPAYER WHO IS ELIGIBLE PURSUANT TO SECTION FORTY-TWO OF THIS CHAPTER SHALL BE ALLOWED A CREDIT TO BE COMPUTED AS PROVIDED IN SUCH SECTION FORTY-TWO AGAINST THE TAX IMPOSED BY THIS ARTICLE.

(B) APPLICATION OF CREDIT. THE CREDIT ALLOWED UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR SHALL NOT REDUCE THE TAX DUE FOR SUCH YEAR TO LESS THAN THE AMOUNT PRESCRIBED IN PARAGRAPH (D) OF SUBDIVISION ONE OF SECTION TWO HUNDRED TEN OF THIS ARTICLE. PROVIDED, HOWEVER, THAT IF THE AMOUNT OF THE CREDIT ALLOWABLE UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR REDUCES THE TAX TO SUCH AMOUNT, THE EXCESS SHALL BE TREATED AS AN OVERPAYMENT OF TAX TO BE CREDITED OR REFUNDED IN ACCORDANCE WITH THE PROVISIONS OF SECTION ONE THOUSAND EIGHTY-SIX OF THIS CHAPTER. PROVIDED, HOWEVER, THE PROVISIONS OF SUBSECTION (C) OF SECTION ONE THOUSAND EIGHTY-EIGHT OF THIS CHAPTER NOTWITHSTANDING, NO INTEREST SHALL BE PAID THEREON.

S 3. Subparagraph (B) of paragraph 1 of subsection (i) of section 606 of the tax law is amended by adding a new clause (xli) to read as follows:

|                          |                             |
|--------------------------|-----------------------------|
| (XLI) EMPIRE STATE MUSIC | AMOUNT OF CREDIT FOR        |
| PRODUCTION CREDIT UNDER  | QUALIFIED PRODUCTION CREDIT |
| SUBSECTION (CCC)         | MUSIC UNDER SUBDIVISION     |
|                          | FIFTY OF SECTION TWO        |
|                          | HUNDRED TEN-B               |

S 4. Section 606 of the tax law is amended by adding a new subsection (ccc) to read as follows:

(CCC) EMPIRE STATE MUSIC PRODUCTION CREDIT. (1) ALLOWANCE OF CREDIT. A TAXPAYER WHO IS ELIGIBLE PURSUANT TO SECTION FORTY-TWO OF THIS CHAPTER SHALL BE ALLOWED A CREDIT TO BE COMPUTED AS PROVIDED IN SUCH SECTION FORTY-TWO AGAINST THE TAX IMPOSED BY THIS ARTICLE.

(2) APPLICATION OF CREDIT. IF THE AMOUNT OF THE CREDIT ALLOWABLE UNDER THIS SUBSECTION FOR ANY TAXABLE YEAR EXCEEDS THE TAXPAYER'S TAX FOR SUCH YEAR, THE EXCESS SHALL BE TREATED AS AN OVERPAYMENT OF TAX TO BE CREDITED OR REFUNDED AS PROVIDED IN SECTION SIX HUNDRED EIGHTY-SIX OF THIS ARTICLE, PROVIDED, HOWEVER, THAT NO INTEREST SHALL BE PAID THEREON.

S 5. The empire state development corporation shall report, to the governor and the legislature, its findings, conclusions and recommendations on or before one year from the date this act shall become a law, and shall submit with its report such legislative proposals as it deems necessary to implement its recommendations.

S 6. This act shall take effect on the one hundred eightieth day after it shall have become a law.