

STATE OF NEW YORK

4999

2017-2018 Regular Sessions

IN SENATE

March 3, 2017

Introduced by Sen. ALCANTARA -- 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. Legislative intent. The Legislature hereby recognizes that
2 providing tax incentive to enhance diversity in the ranks of television
3 writers and directors will also enhance the diversity of stories and
4 casts.

5 § 2. Paragraph 1 of subdivision (a) of section 24 of the tax law, as
6 amended by section 3 of part Q of chapter 57 of the laws of 2010, is
7 amended to read as follows:

8 (1) Allowance of credit. A taxpayer which is a qualified film
9 production company, or a qualified independent film production company,
10 or which is a sole proprietor of or a member of a partnership which is a
11 qualified film production company or a qualified independent film
12 production company, and which is subject to tax under articles nine-A or
13 twenty-two of this chapter, shall be allowed a credit against such tax,
14 pursuant to the provisions referenced in subdivision ~~[(e)]~~ (e) of this
15 section, to be computed as ~~[hereinafter]~~ provided in this section.

16 § 3. Paragraph 2 of subdivision (b) of section 24 of the tax law, as
17 added by section 1 of part P of chapter 60 of the laws of 2004, is
18 amended and four new paragraphs 9, 10, 11 and 12 are added to read as
19 follows:

20 (2) "Production costs" means any costs for tangible property used and
21 services performed directly and predominantly in the production (includ-
22 ing pre-production and post production) of a qualified film.
23 "Production costs" shall not include ~~[(i) costs for a story, script or~~
24 ~~scenario to be used for a qualified film and (ii)]~~ wages or salaries or

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

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1 other compensation for writers, directors, including music directors,
2 producers and performers (other than background actors with no scripted
3 lines). Writers' and directors' fees and salaries shall be eligible
4 production costs subject to the provisions of subdivision (c) of this
5 section; provided, however, that fees that are based on deferred, lever-
6 aged or profit participation costs, or are in excess of those otherwise
7 permitted by subdivision (c) of this section shall not be eligible
8 production costs. "Production costs" generally include technical and
9 crew production costs, such as expenditures for film production facili-
10 ties, or any part thereof, props, makeup, wardrobe, film processing,
11 camera, sound recording, set construction, lighting, shooting, editing
12 and meals.

13 (9) "Writer" means a writer who is employed or retained to write or
14 revise scripts, screenplays, teleplays, dialogue, sketches, routines or
15 narrations and who reports to work regularly in a writers room located
16 in the state.

17 (10) "Director" means the individual employed or retained to direct
18 the production, as the word "direct" is commonly used in the motion
19 picture industry.

20 (11) "Writers room" means a room or physical location where television
21 stories are conceived by writers.

22 (12) "Profit participant" is an individual who has negotiated for a
23 percentage of profits generated by their television show. Profit partic-
24 ipation does not include monies contractually required by collectively
25 bargained agreements for reuse of the program on different platforms
26 over time.

27 § 4. Subdivisions (c), (d) and (e) of section 24 of the tax law are
28 relettered subdivisions (e), (f) and (g), respectively and two new
29 subdivisions (c) and (d) are added to read as follows:

30 (c) For a television production, writers' and directors' fees and
31 salaries shall be eligible costs; provided, however, such costs shall
32 not exceed: (i) for each writer or director who receives an on-air cred-
33 it, fifty thousand dollars in fees or salary per episode; (ii) for each
34 non-credited writer, seventy-five thousand dollars per series of
35 episodes; and (iii) for each eligible writer or director, an overall
36 total of one hundred fifty thousand dollars per season. Provided that
37 in each case, such writer or director is a minority group member, as
38 defined by subdivision eight of section three hundred ten of the execu-
39 tive law, or a woman, and provided, further, that any writer or director
40 who is a profit participant in the qualified production shall not be
41 eligible.

42 (d) For each tax year, not more than five million dollars in tax cred-
43 its for writers' and directors' fees and salaries shall be granted
44 pursuant to this section. Such credits shall only be available from
45 credits allowed for production costs pursuant to this section.

46 § 5. This act shall take effect on the one hundred twentieth day after
47 it shall have become a law and shall apply to the tax year in which it
48 takes effect and all subsequent tax years.