

8805

2009-2010 Regular Sessions

I N A S S E M B L Y

June 9, 2009

Introduced by M. of A. LENTOL, FARRELL, ENGLEBRIGHT, DenDEKKER, MORELLE,
GIANARIS, V. LOPEZ, TITONE -- read once and referred to the Committee
on Ways and Means

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 ASSEM-
BLY, 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-
21 ration tax and the unincorporated business tax. A "QUALIFIED INDEPEND-

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

LBD14216-01-9

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

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

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

23 (2) NOTWITHSTANDING PARAGRAPH (1) OF THIS SUBDIVISION, THE AGGREGATE
24 AMOUNT OF TAX CREDITS ALLOWED PURSUANT TO THE AUTHORITY OF SUBDIVISION
25 (B) OF SECTION 1201-A OF THE TAX LAW SHALL BE INCREASED BY AN ADDITIONAL
26 \$24 MILLION A YEAR IN 2009, 2010 AND 2011. THIS ADDITIONAL AMOUNT SHALL
27 BE ALLOCATED BY THE MAYOR'S OFFICE OF FILM, THEATER AND BROADCASTING IN
28 ACCORDANCE WITH PARAGRAPH (1) OF THIS SUBDIVISION. A TAXPAYER ALLOCATED
29 CREDITS FROM THE AMOUNTS AUTHORIZED UNDER THIS PARAGRAPH SHALL NOT CLAIM
30 SUCH CREDITS BEFORE TAXABLE YEARS BEGINNING ON OR AFTER JANUARY 1, 2011.
31 NOTWITHSTANDING THE YEAR TO WHICH CREDITS AUTHORIZED UNDER THIS PARA-
32 GRAPH ARE ALLOCATED BY THE MAYOR'S OFFICE OF FILM, THEATER AND BROAD-
33 CASTING, SUCH CREDITS SHALL NOT BE CLAIMED IN EXCESS OF \$24 MILLION IN A
34 GIVEN YEAR. CREDITS AUTHORIZED UNDER THIS PARAGRAPH AND ALLOCATED IN
35 EXCESS OF \$24 MILLION IN A GIVEN YEAR SHALL BE CLAIMED IN THE SUBSEQUENT
36 YEAR. NOTWITHSTANDING THE FOREGOING, A TAXPAYER WHICH IS A QUALIFIED
37 INDEPENDENT FILM PRODUCTION COMPANY ALLOCATED CREDITS UP TO \$250,000 PER
38 QUALIFIED FILM FROM THE AMOUNTS AUTHORIZED UNDER THIS PARAGRAPH SHALL
39 CLAIM SUCH CREDITS FOR THE TAXABLE YEAR IN WHICH THE PRODUCTION OF SUCH
40 QUALIFIED FILM IS COMPLETED.

41 S 3. This act shall take effect immediately and shall apply to taxable
42 years beginning on or after January 1, 2009; provided, however, that the
43 amendments to subdivision (b) of section 1201-a of the tax law made by
44 section one of this act and the amendments to subdivision (b) of section
45 7 of part P of chapter 60 of the laws of 2004 made by section two of
46 this act shall not affect the repeal of such subdivisions and shall
47 expire and be deemed repealed therewith.