S T A T E O F N E W Y O R K

S. 8397 A. 11579

S E N A T E - A S S E M B L Y

June 28, 2010

IN SENATE -- Introduced by Sen. KRUGER -- read twice and ordered printed, and when printed to be committed to the Committee on Finance

IN ASSEMBLY -- Introduced by COMMITTEE ON RULES -- read once and referred to the Committee on Ways and Means

AN ACT to amend the tax law and chapter 60 of the laws of 2004, amending the tax law relating to the empire state film production credit, in relation to the empire state film production credit

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

Section 1. Paragraph 1 of subdivision (a) and subdivisions (b) and (c) of section 31 of the tax law, as added by section 12 of part Q of a chapter of the laws of 2010 amending the tax law and other laws relating to the empire state film production credit, as proposed in legislative bills numbers S. 6610-B/A. 9710-C, are amended to read as follows:

(1) A taxpayer which is a [film production company or a] qualified film production company, and which is subject to tax under article nine-A or twenty-two of this chapter, UNLESS ELIGIBLE FOR THE CREDIT UNDER SECTION TWENTY-FOUR OF THIS ARTICLE WITH RESPECT TO THE QUALIFIED FILM, shall be allowed a credit against such tax, pursuant to the provisions referenced in subdivision (c) of this section to be computed as provided in this subdivision.

(b) Definitions. As used in this section the following terms shall have the following meanings:

(1) "Qualified film production company" and "qualified film" shall have the same meaning as are ascribed to such terms by section twenty-four of this article.

(2) ["Film production company" is a corporation, partnership, limited partnership, or other entity or individual which or who is principally engaged in the production of a qualified film and controls the qualified film during production.

(3)] "Post production costs" means production of original content for a qualified film employing traditional, emerging and new workflow techniques used in post-production for picture, sound and music editorial,

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

LBD17919-01-0

rerecording and mixing, visual effects, graphic design, original scoring, animation, and musical composition; but shall not include the editing of previously produced content for a qualified film.

[(4)] (3) "Post production facility" means a building and/or complex of buildings and their improvements on which film are intended to be post produced.

[(5)] (4) "Qualified post production facility" means a post production facility located in the state, engaged in finishing a qualified film.

(c) NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, THE AGGREGATE AMOUNT OF TAX CREDITS AVAILABLE UNDER THIS SECTION SHALL NOT EXCEED THE AMOUNTS ALLOWED PURSUANT TO SUBDIVISION (E) OF SECTION SEVEN OF PART P OF CHAPTER SIXTY OF THE LAWS OF TWO THOUSAND FOUR AND SHALL BE ALLOCATED IN THE SAME MANNER AS PROVIDED FOR IN SUBDIVISION (A) OF SECTION SEVEN OF PART P OF CHAPTER SIXTY OF THE LAWS OF TWO THOUSAND FOUR.

(D) 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: subdivision 41.

(2) article 22: section 606: subsection (qq).

S 2. Subdivision (e) of section 7 of part P of chapter 60 of the laws of 2004 amending the tax law relating to the empire state film production credit, as added by section 2 of part Q of a chapter of the laws of 2010 amending the tax law and other laws relating to the empire state film production credit, as proposed in legislative bills numbers S. 6610-B/A. 9710-C, is amended to read as follows:

(e) Additional pool 2 - The aggregate amount of tax credits allowed in subdivision (a) of this section shall be increased by an additional $420 million in 2010, $420 million in 2011, $420 million in 2012, $420 million in 2013 and $420 million in 2014 provided however, UP TO $7 million of the annual allocation shall be available for the empire state film post production credit pursuant to section 31 of the tax law. This additional amount shall be allocated by the governor's office for motion picture and television development among taxpayers in accordance with subdivision (a) of this section. The governor's office for motion picture and television development must notify taxpayers of their allocation year and include the allocation year on the certificate of tax credit. Taxpayers eligible to claim a credit must report the allocation year directly on their empire state film production credit tax form for each year a credit is claimed and include a copy of the certificate with their tax return. In the case of a qualified film that receives funds from additional pool 2, no empire state film production credit shall be claimed before the later of (1) the taxable year the production of the qualified film is complete, or (2) the taxable year immediately following the allocation year for which the film has been allocated credit by the governor's office for motion picture and television development.

S 3. This act shall take effect on the same date and in the same manner as part Q of a chapter of the laws of 2010 amending the tax law and other laws relating to the empire state film production credit, as proposed in legislative bills numbers S. 6610-B/A. 9710-C, takes effect.