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

8144

2009-2010 Regular Sessions

I N A S S E M B L Y

May 6, 2009

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

AN ACT to amend the tax law, in relation to eligibility for the empire state film production credit and providing for the repeal of certain provisions upon expiration thereof

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

Section 1. Paragraph 2 of subdivision (b) of section 24 of the tax law, as added by section 1 of part P of chapter 60 of the laws of 2004, is amended to read as follows:

(2) "Production costs" means any costs for tangible property used and services performed directly and predominantly in the production (including pre-production and post production) of a qualified film. "Production costs" shall not include [(i) costs for a story, script or scenario to be used for a qualified film and (ii)] wages or salaries or other compensation for writers, directors, including music directors, producers and performers (other than background actors with no scripted lines). WRITERS FEES AND SALARIES SHALL BE ELIGIBLE PRODUCTION COSTS SUBJECT TO THE PROVISIONS OF SUBDIVISION (C) OF THIS SECTION; PROVIDED, HOWEVER, THAT FEES THAT ARE BASED ON DEFERRED, LEVERAGED OR PROFIT PARTICIPATION COSTS, OR ARE IN EXCESS OF THOSE OTHERWISE PERMITTED BY SUBDIVISION (C) OF THIS SECTION SHALL NOT BE ELIGIBLE PRODUCTION COSTS. "Production costs" generally include technical and crew production costs, such as expenditures for film production facilities, or any part thereof, props, makeup, wardrobe, film processing, camera, sound recording, set construction, lighting, shooting, editing and meals.

S 2. Subdivision (b) of section 24 of the tax law is amended by adding a new paragraph 7 to read as follows:

(7) "WRITER" MEANS A WRITER EMPLOYED OR RETAINED TO WRITE OR REVISE SCRIPTS, SCREEN PLAYS, TELEPLAYS, DIALOGUE, SKETCHES, ROUTINES OR NARRATIONS.

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

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S 3. Subdivision (c) of section 24 of the tax law is relettered subdivision (e) and two new subdivisions (c) and (d) are added to read as follows:

(C) FOR A FEATURE FILM OR TELEVISION PRODUCTION WRITERS FEES AND SALARIES SHALL BE ELIGIBLE COSTS; PROVIDED, HOWEVER, SUCH COSTS SHALL NOT EXCEED FIFTY THOUSAND DOLLARS PER WRITER PER QUALIFIED FILM. PROVIDED, FURTHER, THAT NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION, A WRITER'S SERVICES SHALL BE ELIGIBLE FOR THE CREDIT UP TO THE MAXIMUM AMOUNTS OF THIS SUBDIVISION IF SUCH WRITER IS SUBJECT TO TAXATION BY THIS STATE.

(D) THE STATE ANNUALLY WILL DISBURSE NO MORE THAN FIVE MILLION DOLLARS IN TAX CREDITS FOR PRODUCTION COSTS FOR WRITERS FEES AND SALARIES PURSUANT TO THIS SECTION. SUCH CREDITS SHALL ONLY BE AVAILABLE FROM CREDITS ALLOWED FOR PRODUCTION COSTS AS DEFINED AND GOVERNED BY THIS SECTION.

S 4. The tax law is amended by adding a new section 24-a to read as follows:

S 24-A. DIVERSITY IN HIRING FOR WRITERS. WHERE MORE THAN THREE WRITERS ARE TO BE HIRED OR RETAINED FOR SERVICE ON AN ELIGIBLE PRODUCTION, CREDITS FOR WRITER COSTS AUTHORIZED PURSUANT TO SECTION TWENTY-FOUR OF THIS ARTICLE SHALL ONLY BE GRANTED WHERE AT LEAST ONE SUCH WRITER IS A MINORITY GROUP MEMBER, AS DEFINED BY SUBDIVISION EIGHT OF SECTION THREE HUNDRED TEN OF THE EXECUTIVE LAW, OR A WOMAN.

S 5. This act shall take effect April 1, 2010; provided, however, that the amendments to section 24 and the addition of section 24-a of the tax law made by sections one, two, three and four of this act, respectively, shall expire and be deemed repealed on the same date and in the same manner as section 9 of part P of chapter 60 of the laws of 2004, as amended.