

5842

2009-2010 Regular Sessions

I N S E N A T E

June 11, 2009

Introduced by Sen. GOLDEN -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

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 ASSEMBLY, 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-
22 ENT FILM PRODUCTION COMPANY" IS AN INDIVIDUAL OR A CORPORATION, PARTNER-

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

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SHIP, LIMITED PARTNERSHIP OR OTHER ENTITY THAT IS NOT PUBLICLY TRADED, AND PUBLICLY TRADED COMPANIES THAT DO NOT OWN, DIRECTLY OR INDIRECTLY, MORE THAN FIVE PERCENT OF THE QUALIFIED INDEPENDENT FILM PRODUCTION COMPANY, AND THE INDIVIDUAL OR ENTITY IS PRINCIPALLY ENGAGED IN THE PRODUCTION OF A QUALIFIED FILM AND CONTROLS THE QUALIFIED FILM DURING PRODUCTION.

S 2. Subdivision (b) 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 amended by section 2 of part Y of chapter 62 of the laws of 2006, is amended to read as follows:

(b) (1) The aggregate amount of tax credits allowed pursuant to the authority of subdivision (b) of section 1201-a of the tax law in any calendar year shall be \$12.5 million in 2004 and 2005 and \$30 million in 2006 through 2011. Such aggregate amount of credits shall be allocated by the mayor's office of film, theater and broadcasting among taxpayers in order of priority based upon the date of filing an application for allocation of film 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.

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

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