

1377--A

2011-2012 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 5, 2011

Introduced by M. of A. LENTOL, FARRELL -- Multi-Sponsored by -- M. of A. DenDEKKER, ENGLEBRIGHT, V. LOPEZ, MORELLE, TITONE -- read once and referred to the Committee on Ways and Means -- recommitted to the Committee on Ways and Means in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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

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

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1 applied in a manner consistent with the credit allowed under subdivision
2 thirty-six of section two hundred ten of this chapter except as may be
3 necessary to take into account differences between the general corpo-
4 ration tax and the unincorporated business tax. A "QUALIFIED INDEPEND-
5 ENT FILM PRODUCTION COMPANY" IS AN INDIVIDUAL OR A CORPORATION, PARTNER-
6 SHIP, LIMITED PARTNERSHIP OR OTHER ENTITY THAT IS NOT PUBLICLY TRADED,
7 AND PUBLICLY TRADED COMPANIES THAT DO NOT OWN, DIRECTLY OR INDIRECTLY,
8 MORE THAN FIVE PERCENT OF THE QUALIFIED INDEPENDENT FILM PRODUCTION
9 COMPANY, AND THE INDIVIDUAL OR ENTITY IS PRINCIPALLY ENGAGED IN THE
10 PRODUCTION OF A QUALIFIED FILM AND CONTROLS THE QUALIFIED FILM DURING
11 PRODUCTION.

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

16 (b) (1) The aggregate amount of tax credits allowed pursuant to the
17 authority of subdivision (b) of section 1201-a of the tax law in any
18 calendar year shall be \$12.5 million in 2004 and 2005 and \$30 million in
19 2006 through [2011] 2012. Such aggregate amount of credits shall be
20 allocated by the mayor's office of film, theater and broadcasting among
21 taxpayers in order of priority based upon the date of filing an applica-
22 tion for allocation of film production credit with such office. If the
23 total amount of allocated credits applied for in any particular year
24 exceeds the aggregate amount of tax credits allowed for such year under
25 this section, such excess shall be treated as having been applied for on
26 the first day of the subsequent year.

27 (2) NOTWITHSTANDING PARAGRAPH (1) OF THIS SUBDIVISION, THE AGGREGATE
28 AMOUNT OF TAX CREDITS ALLOWED PURSUANT TO THE AUTHORITY OF SUBDIVISION
29 (B) OF SECTION 1201-A OF THE TAX LAW SHALL BE INCREASED BY AN ADDITIONAL
30 \$24 MILLION IN 2012. THIS ADDITIONAL AMOUNT SHALL BE ALLOCATED BY THE
31 MAYOR'S OFFICE OF FILM, THEATER AND BROADCASTING IN ACCORDANCE WITH
32 PARAGRAPH (1) OF THIS SUBDIVISION. A TAXPAYER ALLOCATED CREDITS FROM THE
33 AMOUNTS AUTHORIZED UNDER THIS PARAGRAPH SHALL NOT CLAIM SUCH CREDITS
34 BEFORE TAXABLE YEARS BEGINNING ON OR AFTER JANUARY 1, 2012. NOTWITH-
35 STANDING THE YEAR TO WHICH CREDITS AUTHORIZED UNDER THIS PARAGRAPH ARE
36 ALLOCATED BY THE MAYOR'S OFFICE OF FILM, THEATER AND BROADCASTING, SUCH
37 CREDITS SHALL NOT BE CLAIMED IN EXCESS OF \$24 MILLION IN A GIVEN YEAR.
38 CREDITS AUTHORIZED UNDER THIS PARAGRAPH AND ALLOCATED IN EXCESS OF \$24
39 MILLION IN A GIVEN YEAR SHALL BE CLAIMED IN THE SUBSEQUENT YEAR.
40 NOTWITHSTANDING THE FOREGOING, A TAXPAYER WHICH IS A QUALIFIED INDEPEND-
41 ENT FILM PRODUCTION COMPANY WHO IS ALLOCATED CREDITS UP TO \$250,000 PER
42 QUALIFIED FILM FROM THE AMOUNTS AUTHORIZED UNDER THIS PARAGRAPH SHALL
43 CLAIM SUCH CREDITS FOR THE TAXABLE YEAR IN WHICH THE PRODUCTION OF SUCH
44 QUALIFIED FILM IS COMPLETED.

45 S 3. This act shall take effect immediately and shall apply to taxable
46 years beginning on or after January 1, 2012.