

3191--A

2013-2014 Regular Sessions

I N S E N A T E

January 31, 2013

Introduced by Sens. PARKER, ADDABBO -- read twice and ordered printed, and when printed to be committed to the Committee on Investigations and Government Operations -- recommitted to the Committee on Investigations and Government Operations in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the tax law, in relation to eligibility for the empire state film production credit

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

1 Section 1. Paragraph 2 of subdivision (b) of section 24 of the tax
2 law, as added by section 1 of part P of chapter 60 of the laws of 2004,
3 is amended to read as follows:
4 (2) "Production costs" means any costs for tangible property used and
5 services performed directly and predominantly in the production (includ-
6 ing pre-production and post production) of a qualified film.
7 "Production costs" shall not include [(i) costs for a story, script or
8 scenario to be used for a qualified film and (ii)] wages or salaries or
9 other compensation for writers, directors, including music directors,
10 producers and performers (other than background actors with no scripted
11 lines). WRITERS' FEES AND SALARIES SHALL BE ELIGIBLE PRODUCTION COSTS
12 SUBJECT TO THE PROVISIONS OF SUBDIVISION (C) OF THIS SECTION; PROVIDED,
13 HOWEVER, THAT FEES THAT ARE BASED ON DEFERRED, LEVERAGED OR PROFIT
14 PARTICIPATION COSTS, OR ARE IN EXCESS OF THOSE OTHERWISE PERMITTED BY
15 SUBDIVISION (C) OF THIS SECTION SHALL NOT BE ELIGIBLE PRODUCTION COSTS.
16 "Production costs" generally include technical and crew production
17 costs, such as expenditures for film production facilities, or any part
18 thereof, props, makeup, wardrobe, film processing, camera, sound record-
19 ing, set construction, lighting, shooting, editing and meals.
20 S 2. Subdivision (b) of section 24 of the tax law is amended by adding
21 a new paragraph 9 to read as follows:

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

LBD06838-02-4

1 (9) "WRITER" MEANS A WRITER EMPLOYED OR RETAINED TO WRITE OR REVISE
2 SCRIPTS, SCREENPLAYS, TELEPLAYS, DIALOGUE, SKETCHES, ROUTINES OR
3 NARRATIONS.

4 S 3. Subdivisions (c), (d) and (e) of section 24 of the tax law are
5 relettered subdivisions (e), (f) and (g) and two new subdivisions (c)
6 and (d) are added to read as follows:

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

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

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

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

26 S 5. This act shall take effect April 1, 2015.