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

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I N A S S E M B L Y

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Introduced by M. of A. ENGLEBRIGHT, MAISEL, BENEDETTO, GALEF, DenDEKKER, MILLMAN, TITONE, MOYA, GABRYSZAK, BOYLAND, ROSENTHAL, HOOPER -- Multi-Sponsored by -- M. of A. ABBATE, COOK, CRESPO, CYMBROWITZ, THIELE -- read once and referred to the Committee on Ways and Means

AN ACT to amend the tax law, 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. Section 31 of the tax law, as added by section 12 of part Q of chapter 57 of the laws of 2010, paragraph 2 of subdivision (a) and subdivision (c) as amended by chapter 268 of the laws of 2012, is amended to read as follows:

S 31. Empire state film post production credit. (a) Allowance of credit. (1) A taxpayer which is 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.

(2) The amount of the credit shall be the product (or pro rata share of the product, in the case of a member of a partnership) of thirty percent and the qualified post production costs paid in the production of a qualified film at a qualified post production facility located within the metropolitan commuter transportation district as defined in section twelve hundred sixty-two of the public authorities law or thirty-five percent and the qualified post production costs paid in the production of a qualified film at a qualified post production facility located elsewhere in the state.

(3) A taxpayer shall not be eligible for the credit established by this section unless the qualified post production costs at a qualified post production facility meet or exceed seventy-five percent of the

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

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[total post production costs] QUALIFIED EXPENDITURES WITH RESPECT TO ANY ONE OR MORE OF THE FOLLOWING SUBSETS:

(I) PICTURE AND SOUND POST PRODUCTION COSTS, AS HEREINAFTER DEFINED; (II) MUSIC, AS HEREINAFTER DEFINED; AND (III) VISUAL EFFECTS, AS HEREINAFTER DEFINED; AS EACH MAY BE paid or incurred in the post production of the qualified film at any post production facility. The credit shall [be allowed] ONLY BE ALLOWED AS TO THE SUBSET OR SUBSETS FOR WHICH THE SEVENTY-FIVE PERCENT THRESHOLD HAS BEEN MET for the taxable year in which the production of such qualified film is completed.

(4) No qualified post production costs used by a taxpayer either as the basis for the allowance of the credit provided for under this section or used in the calculation of the credit provided for under this section shall be used by such taxpayer to claim any other credit allowed pursuant to this chapter.

(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) "Post production costs" means ANY EXPENDITURE IN PICTURE AND SOUND POST PRODUCTION, MUSIC, OR VISUAL EFFECTS, AS HEREIN DEFINED, IN CONNECTION WITH THE 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, rerecording and mixing, visual effects, graphic design, original scoring, animation, and musical composition; but]. FOR PURPOSES OF THIS PARAGRAPH, "PICTURE AND SOUND POST PRODUCTION" SHALL INCLUDE COSTS INCURRED IN PICTURE AND SOUND EDITORIAL, ASSEMBLY, RECORDING, RERECORDING, MIXING, TRANSFERS, RELATED EQUIPMENT AND FACILITY FEES, SCREENING, COLOR GRADING, COLOR CORRECTION, SCANNING, FILM CLEANING, CONFORMING, AND LABORATORY SERVICES; "MUSIC" SHALL INCLUDE COSTS INCURRED IN ORIGINAL SCORING, MUSIC EDITORIAL, AND RELATED EQUIPMENT AND FACILITY FEES; "VISUAL EFFECTS" SHALL INCLUDE COSTS INCURRED IN GRAPHIC DESIGN, COMPOSITING, TRACKING, REMOVALS, ANIMATION, DATA ARCHIVING, RENTALS; HOWEVER, THE FOREGOING shall not include the editing of previously produced content for a qualified film.

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

(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 paragraph four of subdivision (e) of section twenty-four of this article and shall be allocated in the same manner as provided for in paragraph one of subdivision (e) of section twenty-four of this article.

(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. This act shall take effect immediately.