

5370

2013-2014 Regular Sessions

I N S E N A T E

May 16, 2013

Introduced by Sen. HANNON -- read twice and ordered printed, and when printed to be committed to the Committee on Investigations and Government Operations

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 1 of subdivision (a) of section 24 of the tax
2 law, as amended by section 3 of part Q of chapter 57 of the laws of
3 2010, is amended to read as follows:
4 (1) Allowance of credit. A taxpayer which is a qualified film
5 production company, or a qualified independent film production company,
6 or which is a sole proprietor of or a member of a partnership which is a
7 qualified film production company or a qualified independent film
8 production company, and which is subject to tax under articles nine-A or
9 twenty-two of this chapter, shall be allowed a credit against such tax,
10 pursuant to the provisions referenced in subdivision [(c)] (E) of this
11 section, to be computed as [hereinafter] provided IN THIS SECTION.
12 S 2. Paragraph 2 of subdivision (b) of section 24 of the tax law, as
13 added by section 1 of part P of chapter 60 of the laws of 2004, is
14 amended and a new paragraph 9 is added to read as follows:
15 (2) "Production costs" means any costs for tangible property used and
16 services performed directly and predominantly in the production (includ-
17 ing pre-production and post production) of a qualified film.
18 "Production costs" shall not include [(i) costs for a story, script or
19 scenario to be used for a qualified film and (ii)] wages or salaries or
20 other compensation for writers, directors, including music directors,
21 producers and performers (other than background actors with no scripted
22 lines). WRITERS' FEES AND SALARIES SHALL BE ELIGIBLE PRODUCTION COSTS
23 SUBJECT TO THE PROVISIONS OF SUBDIVISION (C) OF THIS SECTION; PROVIDED,
24 HOWEVER, THAT FEES THAT ARE BASED ON DEFERRED, LEVERAGED OR PROFIT

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

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1 PARTICIPATION COSTS, OR ARE IN EXCESS OF THOSE OTHERWISE PERMITTED BY
2 SUBDIVISION (C) OF THIS SECTION SHALL NOT BE ELIGIBLE PRODUCTION COSTS.
3 "Production costs" generally include technical and crew production
4 costs, such as expenditures for film production facilities, or any part
5 thereof, props, makeup, wardrobe, film processing, camera, sound record-
6 ing, set construction, lighting, shooting, editing and meals.

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

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

13 (C) FOR A FEATURE FILM OR TELEVISION PRODUCTION, WRITERS' FEES AND
14 SALARIES SHALL BE ELIGIBLE COSTS; PROVIDED, HOWEVER, SUCH COSTS SHALL
15 NOT EXCEED FIFTY THOUSAND DOLLARS IN FEES OR SALARY PER WRITER PER QUAL-
16 IFIED FILM AND PROVIDED THAT SUCH WRITER IS A MINORITY GROUP MEMBER, AS
17 DEFINED BY SUBDIVISION EIGHT OF SECTION THREE HUNDRED TEN OF THE EXECU-
18 TIVE LAW, OR A WOMAN.

19 PROVIDED, FURTHER, THAT, NOTWITHSTANDING ANY OTHER PROVISION OF THIS
20 SECTION, A WRITER'S FEES AND SALARY SHALL BE ELIGIBLE FOR THE MAXIMUM
21 AMOUNT OF THE CREDIT GRANTED BY THIS SUBDIVISION, IF SUCH WRITER IS A
22 RESIDENT OF THIS STATE.

23 (D) FOR EACH TAX YEAR, NOT MORE THAN FIVE MILLION DOLLARS IN TAX CRED-
24 ITS FOR WRITERS' FEES AND SALARIES SHALL BE GRANTED PURSUANT TO THIS
25 SECTION. SUCH CREDITS SHALL ONLY BE AVAILABLE FROM CREDITS ALLOWED FOR
26 PRODUCTION COSTS PURSUANT TO THIS SECTION.

27 S 4. This act shall take effect on the one hundred twentieth day after
28 it shall have become a law and shall apply to the tax year in which it
29 takes effect and all subsequent tax years.