

5448--A

2015-2016 Regular Sessions

I N S E N A T E

May 14, 2015

Introduced by Sen. HANNON -- read twice and ordered printed, and when printed to be committed to the Committee on Investigations and Government Operations -- 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. Legislative intent. The Legislature hereby recognizes that  
2 providing tax incentive to enhance diversity in the ranks of television  
3 writers and directors will also enhance the diversity of stories and  
4 casts.

5 S 2. Paragraph 1 of subdivision (a) of section 24 of the tax law, as  
6 amended by section 3 of part Q of chapter 57 of the laws of 2010, is  
7 amended to read as follows:

8 (1) Allowance of credit. A taxpayer which is a qualified film  
9 production company, or a qualified independent film production company,  
10 or which is a sole proprietor of or a member of a partnership which is a  
11 qualified film production company or a qualified independent film  
12 production company, and which is subject to tax under articles nine-A or  
13 twenty-two of this chapter, shall be allowed a credit against such tax,  
14 pursuant to the provisions referenced in subdivision [(c)] (E) of this  
15 section, to be computed as [hereinafter] provided IN THIS SECTION.

16 S 3. Paragraph 2 of subdivision (b) of section 24 of the tax law, as  
17 added by section 1 of part P of chapter 60 of the laws of 2004, is  
18 amended and two new paragraphs 9 and 10 are added to read as follows:

19 (2) "Production costs" means any costs for tangible property used and  
20 services performed directly and predominantly in the production (includ-  
21 ing pre-production and post production) of a qualified film.  
22 "Production costs" shall not include [(i) costs for a story, script or  
23 scenario to be used for a qualified film and (ii)] wages or salaries or

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

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1 other compensation for writers, directors, including music directors,  
2 producers and performers (other than background actors with no scripted  
3 lines). WRITERS' AND DIRECTORS' FEES AND SALARIES SHALL BE ELIGIBLE  
4 PRODUCTION COSTS SUBJECT TO THE PROVISIONS OF SUBDIVISION (C) OF THIS  
5 SECTION; PROVIDED, HOWEVER, THAT FEES THAT ARE BASED ON DEFERRED, LEVER-  
6 AGED OR PROFIT PARTICIPATION COSTS, OR ARE IN EXCESS OF THOSE OTHERWISE  
7 PERMITTED BY SUBDIVISION (C) OF THIS SECTION SHALL NOT BE ELIGIBLE  
8 PRODUCTION COSTS. "Production costs" generally include technical and  
9 crew production costs, such as expenditures for film production facili-  
10 ties, or any part thereof, props, makeup, wardrobe, film processing,  
11 camera, sound recording, set construction, lighting, shooting, editing  
12 and meals.

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

16 (10) "DIRECTOR" MEANS THE INDIVIDUAL EMPLOYED OR RETAINED TO DIRECT  
17 THE PRODUCTION, AS THE WORD "DIRECT" IS COMMONLY USED IN THE MOTION  
18 PICTURE INDUSTRY.

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

22 (C) FOR A TELEVISION PRODUCTION, WRITERS' AND DIRECTORS' FEES AND  
23 SALARIES SHALL BE ELIGIBLE COSTS; PROVIDED, HOWEVER, SUCH COSTS SHALL  
24 NOT EXCEED: (I) FOR EACH WRITER OR DIRECTOR WHO RECEIVES AN ON-AIR CRED-  
25 IT, FIFTY THOUSAND DOLLARS IN FEES OR SALARY PER EPISODE; AND (II) FOR  
26 EACH NON-CREDITED WRITER OR DIRECTOR, SEVENTY-FIVE THOUSAND DOLLARS PER  
27 SERIES OF EPISODES AND PROVIDED THAT SUCH WRITER OR DIRECTOR IS A MINOR-  
28 ITY GROUP MEMBER, AS DEFINED BY SUBDIVISION EIGHT OF SECTION THREE  
29 HUNDRED TEN OF THE EXECUTIVE LAW, OR A WOMAN.

30 PROVIDED, FURTHER, THAT, NOTWITHSTANDING ANY OTHER PROVISION OF THIS  
31 SECTION, A WRITER'S OR DIRECTOR'S FEES AND SALARY SHALL BE ELIGIBLE FOR  
32 THE MAXIMUM AMOUNT OF THE CREDIT GRANTED BY THIS SUBDIVISION, ONLY IF  
33 SUCH WRITER OR DIRECTOR IS A RESIDENT OF THIS STATE.

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

38 S 5. This act shall take effect on the one hundred twentieth day after  
39 it shall have become a law and shall apply to the tax year in which it  
40 takes effect and all subsequent tax years.