

1465

2015-2016 Regular Sessions

I N A S S E M B L Y

January 12, 2015

Introduced by M. of A. LENTOL -- read once and referred to the Committee on Ways and Means

AN ACT to amend the tax law, in relation to the creation of the empire state music production credit

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

1 Section 1. The tax law is amended by adding a new section 42 to read
2 as follows:

3 S 42. EMPIRE STATE MUSIC PRODUCTION CREDIT. (A)(1) ALLOWANCE OF CRED-
4 IT. A TAXPAYER WHICH IS A QUALIFIED MUSIC PRODUCTION COMPANY, OR A QUAL-
5 IFIED INDEPENDENT MUSIC PRODUCTION COMPANY, OR WHICH IS A SOLE PROPRIE-
6 TOR OF OR A MEMBER OF A PARTNERSHIP WHICH IS A QUALIFIED MUSIC
7 PRODUCTION COMPANY OR A QUALIFIED INDEPENDENT MUSIC PRODUCTION COMPANY,
8 AND WHICH IS SUBJECT TO TAX UNDER ARTICLE NINE-A OR TWENTY-TWO OF THIS
9 CHAPTER, SHALL BE ALLOWED A CREDIT AGAINST SUCH TAX.

10 (2) THE AMOUNT OF THE CREDIT SHALL BE THE PRODUCT (OR PRO RATA SHARE
11 OF THE PRODUCT, IN THE CASE OF A MEMBER OF A PARTNERSHIP) OF TWENTY
12 PERCENT AND THE QUALIFIED PRODUCTION COSTS PAID OR INCURRED IN THE
13 PRODUCTION OF MUSIC BY THE TAXPAYER. SUCH COSTS SHALL INCLUDE: RECORDING
14 PRODUCTION COSTS, ARTISTS' ROYALTIES, MUSICIAN SESSION FEES, GRAPHICS,
15 DIGITAL SCANNING, PROGRAMMING AND TESTING, PRODUCTION COSTS FOR MUSIC
16 VIDEOS MADE IN NEW YORK STATE AND DIRECT MARKETING EXPENDITURES INCLUD-
17 ING CONSULTANT FEES AND COSTS TO LAUNCH THE RECORDING. COSTS SHALL NOT
18 INCLUDE TOURING, PERFORMING, MANUFACTURING AND DISTRIBUTION COSTS.

19 (3) NO QUALIFIED PRODUCTION COSTS USED BY A TAXPAYER AS THE BASIS FOR
20 THE ALLOWANCE OF THE CREDIT PROVIDED FOR UNDER THIS SECTION SHALL BE
21 USED BY SUCH TAXPAYER TO CLAIM ANY OTHER CREDIT ALLOWED PURSUANT TO THIS
22 CHAPTER.

23 (B) ALLOCATION OF CREDIT. THE AGGREGATE AMOUNT OF TAX CREDITS ALLOWED
24 UNDER THIS SECTION, SUBDIVISION FIFTY OF SECTION TWO HUNDRED TEN-B AND
25 SUBSECTION (CCC) OF SECTION SIX HUNDRED SIX OF THIS CHAPTER IN ANY

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

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1 CALENDAR YEAR SHALL BE SIXTY MILLION DOLLARS. SUCH AGGREGATE AMOUNT OF
 2 CREDITS SHALL BE ALLOCATED BY THE EMPIRE STATE DEVELOPMENT CORPORATION
 3 AMONG TAXPAYERS IN ORDER OF PRIORITY BASED UPON THE DATE OF FILING AN
 4 APPLICATION FOR ALLOCATION OF MUSIC PRODUCTION CREDIT WITH SUCH OFFICE.
 5 IF THE TOTAL AMOUNT OF ALLOCATED CREDITS APPLIED FOR IN ANY PARTICULAR
 6 YEAR EXCEEDS THE AGGREGATE AMOUNT OF TAX CREDITS ALLOWED FOR SUCH YEAR
 7 UNDER THIS SECTION, SUCH EXCESS SHALL BE TREATED AS HAVING BEEN APPLIED
 8 FOR ON THE FIRST DAY OF THE SUBSEQUENT YEAR.

9 (C) CROSS-REFERENCES. FOR APPLICATION OF THE CREDIT PROVIDED FOR IN
 10 THIS SECTION, SEE THE FOLLOWING PROVISIONS OF THIS CHAPTER:

- 11 (1) ARTICLE 9-A: SECTION 210-B: SUBDIVISION 50
- 12 (2) ARTICLE 22: SECTION 606: SUBSECTION (CCC)

13 S 2. Section 210-B of the tax law is amended by adding a new subdivi-
 14 sion 50 to read as follows:

15 50. EMPIRE STATE MUSIC PRODUCTION CREDIT. (A) ALLOWANCE OF CREDIT. A
 16 TAXPAYER WHO IS ELIGIBLE PURSUANT TO SECTION FORTY-TWO OF THIS CHAPTER
 17 SHALL BE ALLOWED A CREDIT TO BE COMPUTED AS PROVIDED IN SUCH SECTION
 18 FORTY-TWO AGAINST THE TAX IMPOSED BY THIS ARTICLE.

19 (B) APPLICATION OF CREDIT. THE CREDIT ALLOWED UNDER THIS SUBDIVISION
 20 FOR ANY TAXABLE YEAR SHALL NOT REDUCE THE TAX DUE FOR SUCH YEAR TO LESS
 21 THAN THE AMOUNT PRESCRIBED IN PARAGRAPH (D) OF SUBDIVISION ONE OF
 22 SECTION TWO HUNDRED TEN OF THIS ARTICLE. PROVIDED, HOWEVER, THAT IF THE
 23 AMOUNT OF THE CREDIT ALLOWABLE UNDER THIS SUBDIVISION FOR ANY TAXABLE
 24 YEAR REDUCES THE TAX TO SUCH AMOUNT, THE EXCESS SHALL BE TREATED AS AN
 25 OVERPAYMENT OF TAX TO BE CREDITED OR REFUNDED IN ACCORDANCE WITH THE
 26 PROVISIONS OF SECTION ONE THOUSAND EIGHTY-SIX OF THIS CHAPTER. PROVIDED,
 27 HOWEVER, THE PROVISIONS OF SUBSECTION (C) OF SECTION ONE THOUSAND EIGHT-
 28 Y-EIGHT OF THIS CHAPTER NOTWITHSTANDING, NO INTEREST SHALL BE PAID THER-
 29 EON.

30 S 3. Subparagraph (B) of paragraph 1 of subsection (i) of section 606
 31 of the tax law is amended by adding a new clause (xli) to read as
 32 follows:

33 (XLI) EMPIRE STATE MUSIC	AMOUNT OF CREDIT FOR
34 PRODUCTION CREDIT UNDER	QUALIFIED PRODUCTION CREDIT
35 SUBSECTION (CCC)	MUSIC UNDER SUBDIVISION
36	FIFTY OF SECTION TWO
37	HUNDRED TEN-B

38 S 4. Section 606 of the tax law is amended by adding a new subsection
 39 (ccc) to read as follows:

40 (CCC) EMPIRE STATE MUSIC PRODUCTION CREDIT. (1) ALLOWANCE OF CREDIT. A
 41 TAXPAYER WHO IS ELIGIBLE PURSUANT TO SECTION FORTY-TWO OF THIS CHAPTER
 42 SHALL BE ALLOWED A CREDIT TO BE COMPUTED AS PROVIDED IN SUCH SECTION
 43 FORTY-TWO AGAINST THE TAX IMPOSED BY THIS ARTICLE.

44 (2) APPLICATION OF CREDIT. IF THE AMOUNT OF THE CREDIT ALLOWABLE UNDER
 45 THIS SUBSECTION FOR ANY TAXABLE YEAR EXCEEDS THE TAXPAYER'S TAX FOR SUCH
 46 YEAR, THE EXCESS SHALL BE TREATED AS AN OVERPAYMENT OF TAX TO BE CREDIT-
 47 ED OR REFUNDED AS PROVIDED IN SECTION SIX HUNDRED EIGHTY-SIX OF THIS
 48 ARTICLE, PROVIDED, HOWEVER, THAT NO INTEREST SHALL BE PAID THEREON.

49 S 5. The empire state development corporation shall report, to the
 50 governor and the legislature, its findings, conclusions and recommenda-
 51 tions on or before one year from the date this act shall become a law,
 52 and shall submit with its report such legislative proposals as it deems
 53 necessary to implement its recommendations.

54 S 6. This act shall take effect on the one hundred eightieth day after
 55 it shall have become a law.