

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

3401--A

2015-2016 Regular Sessions

I N S E N A T E

February 6, 2015

Introduced by Sens. HANNON, RIVERA -- 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 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 two new paragraphs 9 and 10 are 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

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

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1 lines). WRITERS' AND DIRECTORS' FEES AND SALARIES SHALL BE ELIGIBLE
2 PRODUCTION COSTS SUBJECT TO THE PROVISIONS OF SUBDIVISION (C) OF THIS
3 SECTION; PROVIDED, HOWEVER, THAT FEES THAT ARE BASED ON DEFERRED, LEVER-
4 AGED OR PROFIT PARTICIPATION COSTS, OR ARE IN EXCESS OF THOSE OTHERWISE
5 PERMITTED BY SUBDIVISION (C) OF THIS SECTION SHALL NOT BE ELIGIBLE
6 PRODUCTION COSTS. "Production costs" generally include technical and
7 crew production costs, such as expenditures for film production facili-
8 ties, or any part thereof, props, makeup, wardrobe, film processing,
9 camera, sound recording, set construction, lighting, shooting, editing
10 and meals.

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

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

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

20 (C) FOR A FEATURE FILM OR TELEVISION PRODUCTION, WRITERS' AND DIREC-
21 TORS' FEES AND SALARIES SHALL BE ELIGIBLE COSTS; PROVIDED, HOWEVER, SUCH
22 COSTS SHALL NOT EXCEED FIFTY THOUSAND DOLLARS IN FEES OR SALARY PER
23 WRITER OR DIRECTOR PER QUALIFIED FILM. PROVIDED, FURTHER, THAT, NOTWITH-
24 STANDING ANY OTHER PROVISION OF THIS SECTION, A WRITER'S OR DIRECTOR'S
25 FEES AND SALARY SHALL BE ELIGIBLE FOR THE MAXIMUM AMOUNT OF THE CREDIT
26 GRANTED BY THIS SUBDIVISION, IF SUCH WRITER OR DIRECTOR IS A RESIDENT OF
27 THIS STATE.

28 (D) FOR EACH TAX YEAR, NOT MORE THAN FIVE MILLION DOLLARS IN TAX CRED-
29 ITS FOR WRITERS' OR DIRECTORS' FEES AND SALARIES SHALL BE GRANTED PURSU-
30 ANT TO THIS SECTION. SUCH CREDITS SHALL ONLY BE AVAILABLE FROM CREDITS
31 ALLOWED FOR PRODUCTION COSTS PURSUANT TO THIS SECTION.

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