

5448

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

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

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

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

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

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