

# STATE OF NEW YORK

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4669

2019-2020 Regular Sessions

## IN SENATE

March 20, 2019

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Introduced by Sen. ANTONACCI -- 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 phasing out 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 4 of subdivision (e) of section 24 of the tax  
2 law, as amended by section 2 of part M of chapter 59 of the laws of  
3 2017, is amended to read as follows:

4 (4) Additional pool 2 - The aggregate amount of tax credits allowed in  
5 subdivision (a) of this section shall be increased by an additional four  
6 hundred twenty million dollars in each year starting in two thousand ten  
7 through two thousand [~~twenty-two~~ twenty, two hundred eighty million  
8 dollars in two thousand twenty-one and one hundred forty million dollars  
9 in two thousand twenty-two provided however, seven million dollars of  
10 the annual allocation shall be available for the empire state film post  
11 production credit pursuant to section thirty-one of this article in two  
12 thousand thirteen and two thousand fourteen and twenty-five million  
13 dollars of the annual allocation shall be available for the empire state  
14 film post production credit pursuant to section thirty-one of this arti-  
15 cle in each year starting in two thousand fifteen through two thousand  
16 twenty-two. This amount shall be allocated by the governor's office for  
17 motion picture and television development among taxpayers in accordance  
18 with subdivision (a) of this section. If the commissioner of economic  
19 development determines that the aggregate amount of tax credits avail-  
20 able from additional pool 2 for the empire state film production tax  
21 credit have been previously allocated, and determines that the pending  
22 applications from eligible applicants for the empire state film post  
23 production tax credit pursuant to section thirty-one of this article is  
24 insufficient to utilize the balance of unallocated empire state film

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

LBD10519-01-9

1 post production tax credits from such pool, the remainder, after such  
2 pending applications are considered, shall be made available for allo-  
3 cation in the empire state film tax credit pursuant to this section,  
4 subdivision twenty of section two hundred ten-B and subsection (gg) of  
5 section six hundred six of this chapter. Also, if the commissioner of  
6 economic development determines that the aggregate amount of tax credits  
7 available from additional pool 2 for the empire state film post  
8 production tax credit have been previously allocated, and determines  
9 that the pending applications from eligible applicants for the empire  
10 state film production tax credit pursuant to this section is insuffi-  
11 cient to utilize the balance of unallocated film production tax credits  
12 from such pool, then all or part of the remainder, after such pending  
13 applications are considered, shall be made available for allocation for  
14 the empire state film post production credit pursuant to this section,  
15 subdivision thirty-two of section two hundred ten-B and subsection (qq)  
16 of section six hundred six of this chapter. The governor's office for  
17 motion picture and television development must notify taxpayers of their  
18 allocation year and include the allocation year on the certificate of  
19 tax credit. Taxpayers eligible to claim a credit must report the allo-  
20 cation year directly on their empire state film production credit tax  
21 form for each year a credit is claimed and include a copy of the certif-  
22 icate with their tax return. In the case of a qualified film that  
23 receives funds from additional pool 2, no empire state film production  
24 credit shall be claimed before the later of the taxable year the  
25 production of the qualified film is complete, or the taxable year imme-  
26 diately following the allocation year for which the film has been allo-  
27 cated credit by the governor's office for motion picture and television  
28 development.

29 § 2. This act shall take effect immediately.