

STATE OF NEW YORK

98

2021-2022 Regular Sessions

IN SENATE

(Prefiled)

January 6, 2021

Introduced by Sen. THOMAS -- 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 providing an additional ten percent credit on qualified labor expenses under the empire state film production credit and empire state film post production credit in Nassau and Suffolk counties

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Paragraph 5 of subdivision (a) of section 24 of the tax
2 law, as amended by section 5-a of part M of chapter 59 of the laws of
3 2020, is amended to read as follows:

4 (5) For the period two thousand fifteen through two thousand twenty-
5 five, in addition to the amount of credit established in paragraph two
6 of this subdivision, a taxpayer shall be allowed a credit equal to the
7 product (or pro rata share of the product, in the case of a member of a
8 partnership) of ten percent and the amount of wages or salaries paid to
9 individuals directly employed (excluding those employed as writers,
10 directors, music directors, producers and performers, including back-
11 ground actors with no scripted lines) by a qualified film production
12 company or a qualified independent film production company for services
13 performed by those individuals in one of the counties specified in this
14 paragraph in connection with a qualified film with a minimum budget of
15 five hundred thousand dollars. For purposes of this additional credit,
16 the services must be performed in one or more of the following counties:
17 Albany, Allegany, Broome, Cattaraugus, Cayuga, Chautauqua, Chemung,
18 Chenango, Clinton, Columbia, Cortland, Delaware, Dutchess, Erie, Essex,
19 Franklin, Fulton, Genesee, Greene, Hamilton, Herkimer, Jefferson, Lewis,
20 Livingston, Madison, Monroe, Montgomery, Nassau, Niagara, Oneida, Onon-
21 daga, Ontario, Orange, Orleans, Oswego, Otsego, Putnam, Rensselaer,

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

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1 Saratoga, Schenectady, Schoharie, Schuyler, Seneca, St. Lawrence, Steu-
2 ben, Suffolk, Sullivan, Tioga, Tompkins, Ulster, Warren, Washington,
3 Wayne, Wyoming, or Yates. The aggregate amount of tax credits allowed
4 pursuant to the authority of this paragraph shall be five million
5 dollars each year during the period two thousand fifteen through two
6 thousand twenty-five of the annual allocation made available to the
7 program pursuant to paragraph four of subdivision (e) of this section.
8 Such aggregate amount of credits shall be allocated by the governor's
9 office for motion picture and television development among taxpayers in
10 order of priority based upon the date of filing an application for allo-
11 cation of film production credit with such office. If the total amount
12 of allocated credits applied for under this paragraph in any year
13 exceeds the aggregate amount of tax credits allowed for such year under
14 this paragraph, such excess shall be treated as having been applied for
15 on the first day of the next year. If the total amount of allocated tax
16 credits applied for under this paragraph at the conclusion of any year
17 is less than five million dollars, the remainder shall be treated as
18 part of the annual allocation made available to the program pursuant to
19 paragraph four of subdivision (e) of this section. However, in no event
20 may the total of the credits allocated under this paragraph and the
21 credits allocated under paragraph five of subdivision (a) of section
22 thirty-one of this article exceed five million dollars in any year
23 during the period two thousand fifteen through two thousand twenty-five.

24 § 2. Paragraph 6 of subdivision (a) of section 31 of the tax law, as
25 amended by section 5-c of part M of chapter 59 of the laws of 2020, is
26 amended to read as follows:

27 (6) For the period two thousand fifteen through two thousand twenty-
28 five, in addition to the amount of credit established in paragraph two
29 of this subdivision, a taxpayer shall be allowed a credit equal to the
30 product (or pro rata share of the product, in the case of a member of a
31 partnership) of ten percent and the amount of wages or salaries paid to
32 individuals directly employed (excluding those employed as writers,
33 directors, music directors, producers and performers, including back-
34 ground actors with no scripted lines) for services performed by those
35 individuals in one of the counties specified in this paragraph in
36 connection with the post production work on a qualified film with a
37 minimum budget of five hundred thousand dollars at a qualified post
38 production facility in one of the counties listed in this paragraph. For
39 purposes of this additional credit, the services must be performed in
40 one or more of the following counties: Albany, Allegany, Broome, Catta-
41 raugus, Cayuga, Chautauqua, Chemung, Chenango, Clinton, Cortland, Dela-
42 ware, Erie, Essex, Franklin, Fulton, Genesee, Hamilton, Herkimer,
43 Jefferson, Lewis, Livingston, Madison, Monroe, Montgomery, Nassau,
44 Niagara, Oneida, Onondaga, Ontario, Orleans, Oswego, Otsego, Schenecta-
45 dy, Schoharie, Schuyler, Seneca, St. Lawrence, Steuben, Suffolk, Tioga,
46 Tompkins, Wayne, Wyoming, or Yates. The aggregate amount of tax credits
47 allowed pursuant to the authority of this paragraph shall be five
48 million dollars each year during the period two thousand fifteen through
49 two thousand twenty-five of the annual allocation made available to the
50 empire state film post production credit pursuant to paragraph four of
51 subdivision (e) of section twenty-four of this article. Such aggregate
52 amount of credits shall be allocated by the governor's office for motion
53 picture and television development among taxpayers in order of priority
54 based upon the date of filing an application for allocation of post
55 production credit with such office. If the total amount of allocated
56 credits applied for under this paragraph in any year exceeds the aggre-

1 gate amount of tax credits allowed for such year under this paragraph,
2 such excess shall be treated as having been applied for on the first day
3 of the next year. If the total amount of allocated tax credits applied
4 for under this paragraph at the conclusion of any year is less than five
5 million dollars, the remainder shall be treated as part of the annual
6 allocation for two thousand seventeen made available to the empire state
7 film post production credit pursuant to paragraph four of subdivision
8 (e) of section twenty-four of this article. However, in no event may the
9 total of the credits allocated under this paragraph and the credits
10 allocated under paragraph five of subdivision (a) of section twenty-four
11 of this article exceed five million dollars in any year during the peri-
12 od two thousand fifteen through two thousand twenty-five.
13 § 3. This act shall take effect immediately.