

# 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.

LBD02308-01-1

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.