

STATE OF NEW YORK

7562

2023-2024 Regular Sessions

IN SENATE

June 6, 2023

Introduced by Sen. GIANARIS -- (at request of the Governor) -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

AN ACT to amend part D of chapter 59 of the laws of 2023 amending the tax law relating to the empire state film production credit and the empire state film post-production credit, in relation to the application of such provisions; and to amend the tax law, in relation to the claiming of credits under the empire state film product credit

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

1 Section 1. Section 10 of part D of chapter 59 of the laws of 2023
2 amending the tax law relating to the empire state film production credit
3 and the empire state film post-production credit, is amended to read as
4 follows:

5 § 10. This act shall take effect immediately [~~and~~]; provided, however,
6 that sections one, two, two-a, three, four, five, five-a, eight, nine
7 and nine-a of this act shall apply to initial applications received on
8 or after April 1, 2023; further provided, however, that the amendments
9 to paragraph 4 of subdivision (e) of section 24 of the tax law made by
10 section six of this act shall take effect on the same date and in the
11 same manner as section 6 of chapter 683 of the laws of 2019, as amended,
12 takes effect.

13 § 2. Paragraph 4 of subdivision (e) of section 24 of the tax law, as
14 amended by section 6 of part D of chapter 59 of the laws of 2023, is
15 amended to read as follows:

16 (4) Additional pool 2 - The aggregate amount of tax credits allowed in
17 subdivision (a) of this section shall be increased by an additional four
18 hundred twenty million dollars in each year starting in two thousand ten
19 through two thousand twenty-three and seven hundred million dollars each
20 year starting in two thousand twenty-four through two thousand thirty-
21 four, provided however, seven million dollars of the annual allocation

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

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1 shall be available for the empire state film post production credit
2 pursuant to section thirty-one of this article in two thousand thirteen
3 and two thousand fourteen, twenty-five million dollars of the annual
4 allocation shall be available for the empire state film post production
5 credit pursuant to section thirty-one of this article in each year
6 starting in two thousand fifteen through two thousand twenty-three, and
7 forty-five million dollars of the annual allocation shall be available
8 for the empire state film post production credit pursuant to section
9 thirty-one of this article in each year starting in two thousand twen-
10 ty-four through two thousand thirty-four. Provided further, five million
11 dollars of the annual allocation shall be made available for the tele-
12 vision writers' and directors' fees and salaries credit pursuant to
13 section twenty-four-b of this article in each year starting in two thou-
14 sand twenty through two thousand thirty-four. This amount shall be allo-
15 cated by the department of economic development among taxpayers in
16 accordance with subdivision (a) of this section. If the commissioner of
17 economic development determines that the aggregate amount of tax credits
18 available from additional pool 2 for the empire state film production
19 tax credit have been previously allocated, and determines that the pend-
20 ing applications from eligible applicants for the empire state film post
21 production tax credit pursuant to section thirty-one of this article is
22 insufficient to utilize the balance of unallocated empire state film
23 post production tax credits from such pool, the remainder, after such
24 pending applications are considered, shall be made available for allo-
25 cation in the empire state film tax credit pursuant to this section,
26 subdivision twenty of section two hundred ten-B and subsection (gg) of
27 section six hundred six of this chapter. Also, if the commissioner of
28 economic development determines that the aggregate amount of tax credits
29 available from additional pool 2 for the empire state film post
30 production tax credit have been previously allocated, and determines
31 that the pending applications from eligible applicants for the empire
32 state film production tax credit pursuant to this section is insuffi-
33 cient to utilize the balance of unallocated film production tax credits
34 from such pool, then all or part of the remainder, after such pending
35 applications are considered, shall be made available for allocation for
36 the empire state film post production credit pursuant to this section,
37 subdivision thirty-two of section two hundred ten-B and subsection (qq)
38 of section six hundred six of this chapter. The department of economic
39 development must notify taxpayers of their allocation year and include
40 the allocation year on the certificate of tax credit. Taxpayers eligible
41 to claim a credit must report the allocation year directly on their
42 empire state film production credit tax form for each year a credit is
43 claimed and include a copy of the certificate with their tax return. In
44 the case of a qualified film that receives funds from additional pool 2
45 where the taxpayer filed an initial application before April first, two
46 thousand twenty-three, no empire state film production credit shall be
47 claimed before the later of (1) the taxable year the production of the
48 qualified film is complete, or (2) the taxable year immediately follow-
49 ing the allocation year for which the film has been allocated credit by
50 the department of economic development. In the case of a qualified film
51 that receives funds from additional pool 2 where the taxpayer filed an
52 initial application on or after April first, two thousand twenty-three,
53 no empire state film production credit shall be claimed before the later
54 of (1) the taxable year the production of the qualified film is
55 complete, or (2) the taxable year that includes the last day of the

1 allocation year for which the film has been allocated credit by the
2 department of economic development.

3 § 3. Paragraph 4 of subdivision (e) of section 24 of the tax law, as
4 amended by section 7 of part D of chapter 59 of the laws of 2023, is
5 amended to read as follows:

6 (4) Additional pool 2 - The aggregate amount of tax credits allowed in
7 subdivision (a) of this section shall be increased by an additional four
8 hundred twenty million dollars in each year starting in two thousand ten
9 through two thousand twenty-three and seven hundred million dollars in
10 each year starting in two thousand twenty-four through two thousand
11 thirty-four, provided however, seven million dollars of the annual allo-
12 cation shall be available for the empire state film post production
13 credit pursuant to section thirty-one of this article in two thousand
14 thirteen and two thousand fourteen, twenty-five million dollars of the
15 annual allocation shall be available for the empire state film post
16 production credit pursuant to section thirty-one of this article in each
17 year starting in two thousand fifteen through two thousand twenty-three,
18 and forty-five million dollars of the annual allocation shall be avail-
19 able for the empire state film post production credit pursuant to
20 section thirty-one of this article in each year starting in two thousand
21 twenty-four through two thousand thirty-four. This amount shall be allo-
22 cated by the department of economic development among taxpayers in
23 accordance with subdivision (a) of this section. If the commissioner of
24 economic development determines that the aggregate amount of tax credits
25 available from additional pool 2 for the empire state film production
26 tax credit have been previously allocated, and determines that the pend-
27 ing applications from eligible applicants for the empire state film post
28 production tax credit pursuant to section thirty-one of this article is
29 insufficient to utilize the balance of unallocated empire state film
30 post production tax credits from such pool, the remainder, after such
31 pending applications are considered, shall be made available for allo-
32 cation in the empire state film tax credit pursuant to this section,
33 subdivision twenty of section two hundred ten-B and subsection (gg) of
34 section six hundred six of this chapter. Also, if the commissioner of
35 economic development determines that the aggregate amount of tax credits
36 available from additional pool 2 for the empire state film post
37 production tax credit have been previously allocated, and determines
38 that the pending applications from eligible applicants for the empire
39 state film production tax credit pursuant to this section is insuffi-
40 cient to utilize the balance of unallocated film production tax credits
41 from such pool, then all or part of the remainder, after such pending
42 applications are considered, shall be made available for allocation for
43 the empire state film post production credit pursuant to this section,
44 subdivision thirty-two of section two hundred ten-B and subsection (qq)
45 of section six hundred six of this chapter. The department of economic
46 development must notify taxpayers of their allocation year and include
47 the allocation year on the certificate of tax credit. Taxpayers eligible
48 to claim a credit must report the allocation year directly on their
49 empire state film production credit tax form for each year a credit is
50 claimed and include a copy of the certificate with their tax return. In
51 the case of a qualified film that receives funds from additional pool 2
52 where the taxpayer filed an initial application before April first, two
53 thousand twenty-three, no empire state film production credit shall be
54 claimed before the later of (1) the taxable year the production of the
55 qualified film is complete, or (2) the taxable year immediately follow-
56 ing the allocation year for which the film has been allocated credit by

1 the department of economic development. In the case of a qualified film
2 that receives funds from additional pool 2 where the taxpayer filed an
3 initial application on or after April first, two thousand twenty-three,
4 no empire state film production credit shall be claimed before the later
5 of (1) the taxable year the production of the qualified film is
6 complete, or (2) the taxable year that includes the last day of the
7 allocation year for which the film has been allocated credit by the
8 department of economic development.

9 § 4. This act shall take effect immediately and shall be deemed to
10 have been in full force and effect on and after the effective date of
11 part D of chapter 59 of the laws of 2023; provided, however, that the
12 amendments made to paragraph 4 of subdivision (e) of section 24 of the
13 tax law made by section two of this act shall take effect on the same
14 date and in the same manner as section 6 of chapter 683 of the laws of
15 2019, as amended, takes effect.