

# STATE OF NEW YORK

7757

2023-2024 Regular Sessions

## IN ASSEMBLY

June 6, 2023

Introduced by M. of A. WEINSTEIN -- (at request of the Governor) -- read once and referred to the Committee on Ways and Means

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  
22 shall be available for the empire state film post production credit

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

LBD12016-02-3

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

1 § 3. Paragraph 4 of subdivision (e) of section 24 of the tax law, as  
2 amended by section 7 of part D of chapter 59 of the laws of 2023, is  
3 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-three and seven hundred million dollars in  
8 each year starting in two thousand twenty-four through two thousand  
9 thirty-four, provided however, seven million dollars of the annual allo-  
10 cation shall be available for the empire state film post production  
11 credit pursuant to section thirty-one of this article in two thousand  
12 thirteen and two thousand fourteen, twenty-five million dollars of the  
13 annual allocation shall be available for the empire state film post  
14 production credit pursuant to section thirty-one of this article in each  
15 year starting in two thousand fifteen through two thousand twenty-three,  
16 and forty-five million dollars of the annual allocation shall be avail-  
17 able for the empire state film post production credit pursuant to  
18 section thirty-one of this article in each year starting in two thousand  
19 twenty-four through two thousand thirty-four. This amount shall be allo-  
20 cated by the department of economic development among taxpayers in  
21 accordance with subdivision (a) of this section. If the commissioner of  
22 economic development determines that the aggregate amount of tax credits  
23 available from additional pool 2 for the empire state film production  
24 tax credit have been previously allocated, and determines that the pend-  
25 ing applications from eligible applicants for the empire state film post  
26 production tax credit pursuant to section thirty-one of this article is  
27 insufficient to utilize the balance of unallocated empire state film  
28 post production tax credits from such pool, the remainder, after such  
29 pending applications are considered, shall be made available for allo-  
30 cation in the empire state film tax credit pursuant to this section,  
31 subdivision twenty of section two hundred ten-B and subsection (gg) of  
32 section six hundred six of this chapter. Also, if the commissioner of  
33 economic development determines that the aggregate amount of tax credits  
34 available from additional pool 2 for the empire state film post  
35 production tax credit have been previously allocated, and determines  
36 that the pending applications from eligible applicants for the empire  
37 state film production tax credit pursuant to this section is insuffi-  
38 cient to utilize the balance of unallocated film production tax credits  
39 from such pool, then all or part of the remainder, after such pending  
40 applications are considered, shall be made available for allocation for  
41 the empire state film post production credit pursuant to this section,  
42 subdivision thirty-two of section two hundred ten-B and subsection (qq)  
43 of section six hundred six of this chapter. The department of economic  
44 development must notify taxpayers of their allocation year and include  
45 the allocation year on the certificate of tax credit. Taxpayers eligible  
46 to claim a credit must report the allocation year directly on their  
47 empire state film production credit tax form for each year a credit is  
48 claimed and include a copy of the certificate with their tax return. In  
49 the case of a qualified film that receives funds from additional pool 2  
50 where the taxpayer filed an initial application before April first, two  
51 thousand twenty-three, no empire state film production credit shall be  
52 claimed before the later of (1) the taxable year the production of the  
53 qualified film is complete, or (2) the taxable year immediately follow-  
54 ing the allocation year for which the film has been allocated credit by  
55 the department of economic development. In the case of a qualified film  
56 that receives funds from additional pool 2 where the taxpayer filed an

1 initial application on or after April first, two thousand twenty-three,  
2 no empire state film production credit shall be claimed before the later  
3 of (1) the taxable year the production of the qualified film is  
4 complete, or (2) the taxable year that includes the last day of the  
5 allocation year for which the film has been allocated credit by the  
6 department of economic development.  
7 § 4. This act shall take effect immediately and shall be deemed to  
8 have been in full force and effect on and after the effective date of  
9 part D of chapter 59 of the laws of 2023; provided, however, that the  
10 amendments made to paragraph 4 of subdivision (e) of section 24 of the  
11 tax law made by section two of this act shall take effect on the same  
12 date and in the same manner as section 6 of chapter 683 of the laws of  
13 2019, as amended, takes effect.