

2009 NY A 9710 , Enacted

New York

SUMMARY: Implements the FY2010-11 state fiscal plan; relates to taxes and credits on biofuel production, film production, low income housing, S corporations, income, video lottery gaming, thoroughbred racing, motor vehicle and aircraft sales, estates, electric corporations, cigars, livery vehicles, motor fuels, green buildings, credit card refunds, and STAR exemptions.~SAME AS:

State Net Legislative History and Analysis

Changes in Bill text reflected as:

~~Text Deleted~~

Text Added

~~Text Vetoed~~

Current Legislative Status

01/19/2010 INTRODUCED.

01/19/2010 To ASSEMBLY Committee on WAYS AND MEANS.

02/17/2010 Amended in ASSEMBLY Committee on WAYS AND MEANS.

03/24/2010 Amended in ASSEMBLY Committee on WAYS AND MEANS.

06/26/2010 Amended in ASSEMBLY Committee on WAYS AND MEANS.

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06/29/2010 From ASSEMBLY Committee on WAYS AND MEANS.

06/29/2010 To ASSEMBLY Committee on RULES.

06/29/2010 From ASSEMBLY Committee on RULES.

07/01/2010 Passed ASSEMBLY. *****To SENATE.

07/01/2010 To SENATE Committee on RULES.

08/03/2010 From SENATE Committee on RULES.

08/03/2010 Substituted for S 6610.

08/03/2010 Passed SENATE.

08/03/2010 *****To GOVERNOR.

08/04/2010 Signed by GOVERNOR.

08/04/2010 Chapter No. 57

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session: New York 233rd Annual Legislative Session

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Enacted

August 4, 2010

Office of the Governor

STATE OF NEW YORK

A. 9710--D

SENATE - ASSEMBLY

January 19, 2010

SECTIONS NOT PERTAINING TO THE FILM INCENTIVE HAVE BEEN OMITTED

PART Q

Section 1. Subdivision (d) of section 7 of part P of chapter 60 of the laws of 2004 amending the tax law relating to the empire state film production credit, as added by section 2 of part Y-1 of chapter 57 of the laws of 2009, is amended to read as follows:

(d) **ADDITIONAL POOL 1** - The aggregate amount of tax credits allowed in subdivision (a) of this section shall be increased by an additional \$350 million in 2009. This additional amount shall be allocated by the governor' s office for motion picture and television development among taxpayers in accordance with

subdivision (a) of this section.

Section 2. Section 7 of part P of chapter 60 of the laws of 2004 amending the tax law relating to the empire state film production credit is amended by adding a new subdivision (e) to read as follows:

(E) ADDITIONAL POOL 2 - THE AGGREGATE AMOUNT OF TAX CREDITS ALLOWED IN SUBDIVISION (A) OF THIS SECTION SHALL BE INCREASED BY AN ADDITIONAL \$420 MILLION IN 2010, \$420 MILLION IN 2011, \$420 MILLION IN 2012, \$420 MILLION IN 2013 AND \$420 MILLION IN 2014 PROVIDED HOWEVER, UP TO \$7 MILLION OF THE ANNUAL ALLOCATION SHALL BE AVAILABLE FOR THE EMPIRE STATE FILM POST PRODUCTION CREDIT PURSUANT TO SECTION 31 OF THE TAX LAW. THIS ADDITIONAL AMOUNT SHALL BE ALLOCATED BY THE GOVERNOR'S OFFICE FOR MOTION PICTURE AND TELEVISION DEVELOPMENT AMONG TAXPAYERS IN ACCORDANCE WITH SUBDIVISION (A) OF THIS SECTION. THE GOVERNOR'S OFFICE FOR MOTION PICTURE AND TELEVISION DEVELOPMENT MUST NOTIFY TAXPAYERS OF THEIR ALLOCATION YEAR AND INCLUDE THE ALLOCATION YEAR ON THE CERTIFICATE OF TAX CREDIT. TAXPAYERS ELIGIBLE TO CLAIM A CREDIT MUST REPORT THE ALLOCATION YEAR DIRECTLY ON THEIR EMPIRE STATE FILM PRODUCTION CREDIT TAX FORM FOR EACH YEAR A CREDIT IS CLAIMED AND INCLUDE A COPY OF THE CERTIFICATE WITH THEIR TAX RETURN. IN THE CASE OF A QUALIFIED FILM THAT RECEIVES FUNDS FROM ADDITIONAL POOL 2, NO EMPIRE STATE FILM PRODUCTION CREDIT SHALL BE CLAIMED BEFORE THE LATER OF (1) THE TAXABLE YEAR THE PRODUCTION OF THE QUALIFIED FILM IS COMPLETE, OR (2) THE TAXABLE YEAR IMMEDIATELY FOLLOWING THE ALLOCATION YEAR FOR WHICH THE FILM HAS BEEN ALLOCATED CREDIT BY THE GOVERNOR'S OFFICE FOR MOTION PICTURE AND TELEVISION DEVELOPMENT.

Section 3. Paragraph 1 of subdivision (a) of section 24 of the tax law, as added by section 1 of part P of chapter 60 of the laws of 2004, is amended to read as follows:

(1) Allowance of credit. A taxpayer which is a qualified film production company, ***OR A QUALIFIED INDEPENDENT FILM PRODUCTION COMPANY***, or which is a sole proprietor of ***OR A MEMBER OF A PARTNERSHIP WHICH IS*** a qualified film production company ***OR A QUALIFIED INDEPENDENT FILM PRODUCTION COMPANY***, and which is subject to tax under articles nine-A or twenty-two of this chapter, shall be allowed a credit against such tax, pursuant to the provisions referenced in subdivision (c) of this section, to be computed as hereinafter provided.

Section 4. Paragraph 2 of subdivision (a) of section 24 of the tax law, as amended by section 1 of part Y-1 of chapter 57 of the laws of 2009, is amended to read as follows:

(2) The amount of the credit shall be the product (or pro rata share of the product, in the case of a member of a partnership) of thirty percent and the qualified production costs paid or incurred in the production of a qualified film, provided that ***:(I) the qualified production costs (excluding post production costs) paid or incurred which are attributable to the use of tangible property or the performance of services at a qualified film production facility in the production of such qualified film equal or exceed seventy-five percent of the production costs (excluding post production costs) paid or incurred which are attributable to the use of tangible property or the performance of services at any film production facility within and without the state in the production of such qualified film, AND (II) EXCEPT WITH RESPECT TO A QUALIFIED INDEPENDENT FILM PRODUCTION COMPANY OR PILOT, AT LEAST TEN PERCENT OF THE TOTAL PRINCIPAL PHOTOGRAPHY SHOOTING DAYS SPENT IN THE PRODUCTION OF SUCH QUALIFIED FILM MUST BE SPENT AT A QUALIFIED FILM PRODUCTION FACILITY***. However, if the qualified production costs (excluding post production costs) which are attributable to the use of tangible property or the performance of services at a qualified film production facility in the production of such qualified film is less than three million dollars, then the portion of the qualified production costs attributable to the use of tangible property or the performance of services in the production of such qualified film outside of a qualified film production facility shall be allowed only if the shooting days spent in New York outside of a film production facility in the production of such qualified film equal or exceed seventy-five percent of the total shooting days spent within and without New York outside of a film production facility in the production of such qualified film. The credit shall be allowed for the taxable year in which the production of such qualified film is completed. ***HOWEVER, IN THE CASE OF A QUALIFIED FILM THAT RECEIVES FUNDS FROM ADDITIONAL POOL 2, NO CREDIT SHALL BE CLAIMED BEFORE THE LATER OF (1) THE TAXABLE YEAR THE PRODUCTION OF THE QUALIFIED***

FILM IS COMPLETE, OR (2) THE TAXABLE YEAR IMMEDIATELY FOLLOWING THE ALLOCATION YEAR FOR WHICH THE FILM HAS BEEN ALLOCATED CREDIT BY THE GOVERNOR'S OFFICE FOR MOTION PICTURE AND TELEVISION DEVELOPMENT. If the amount of the credit is at least one million dollars but less than five million dollars, the credit shall be claimed over a two year period beginning in the **FIRST** taxable year in which the ~~production of the qualified film is completed~~ **CREDIT MAY BE CLAIMED** and in the next succeeding taxable year, with one-half of the amount of credit allowed being claimed in each year. If the amount of the credit is at least five million dollars, the credit shall be claimed over a three year period beginning in the **FIRST** taxable year in which the ~~production of the qualified film is completed~~ **CREDIT MAY BE CLAIMED** and in the next two succeeding taxable years, with one-third of the amount of the credit allowed being claimed in each year.

Section 5. Subdivision (a) of section 24 of the tax law is amended by adding a new paragraph 4 to read as follows:

(4) NOTWITHSTANDING THE FOREGOING PROVISIONS OF THIS SUBDIVISION, A QUALIFIED FILM PRODUCTION COMPANY OR QUALIFIED INDEPENDENT FILM PRODUCTION COMPANY, THAT HAS APPLIED FOR CREDIT UNDER THE PROVISIONS OF THIS SECTION, AGREES AS A CONDITION FOR THE GRANTING OF THE CREDIT:

(I) TO INCLUDE IN EACH QUALIFIED FILM DISTRIBUTED BY DVD, OR OTHER MEDIA FOR THE SECONDARY MARKET, A NEW YORK PROMOTIONAL VIDEO APPROVED BY THE GOVERNOR'S OFFICE OF MOTION PICTURE AND TELEVISION DEVELOPMENT OR TO INCLUDE IN THE END CREDITS OF EACH QUALIFIED FILM "FILMED WITH THE SUPPORT OF THE NEW YORK STATE GOVERNOR'S OFFICE OF MOTION PICTURE AND TELEVISION DEVELOPMENT" AND A LOGO PROVIDED BY THE GOVERNOR'S OFFICE OF MOTION PICTURE AND TELEVISION DEVELOPMENT, AND (II) TO CERTIFY THAT IT WILL PURCHASE TAXABLE TANGIBLE PROPERTY AND SERVICES, DEFINED AS QUALIFIED PRODUCTION COSTS PURSUANT TO PARAGRAPH ONE OF SUBDIVISION (B) OF THIS SECTION, ONLY FROM COMPANIES REGISTERED TO COLLECT AND REMIT STATE AND LOCAL SALES AND USE TAXES PURSUANT TO ARTICLES TWENTY-EIGHT AND TWENTY-NINE OF THIS CHAPTER.

Section 6. Paragraph 1 of subdivision (b) of section 24 of the tax law, as added by section 1 of part P of chapter 60 of the laws of 2004, is amended to read as follows:

(1) "Qualified production costs" means production costs only to the extent such costs are attributable to the use of tangible property or the performance of services within the state directly and predominantly in the production (including pre-production and post production) of a qualified film , **PROVIDED, HOWEVER, THAT QUALIFIED PRODUCTION COSTS SHALL NOT INCLUDE POST PRODUCTION COSTS UNLESS THE PORTION OF THE POST PRODUCTION COSTS PAID OR INCURRED THAT IS ATTRIBUTABLE TO THE USE OF TANGIBLE PROPERTY OR THE PERFORMANCE OF SERVICES IN NEW YORK IN THE PRODUCTION OF SUCH QUALIFIED FILM EQUALS OR EXCEEDS SEVENTY-FIVE PERCENT OF THE TOTAL POST PRODUCTION COSTS SPENT WITHIN AND WITHOUT NEW YORK IN THE PRODUCTION OF SUCH QUALIFIED FILM .**

Section 7. Paragraph 4 of subdivision (b) of section 24 of the tax law, as added by section 1 of part P of chapter 60 of the laws of 2004, is amended to read as follows:

(4) "Film production facility" shall mean a building and/or complex of buildings and their improvements and associated back-lot facilities in which films are or are intended to be regularly produced and which contain at least one sound stage , **PROVIDED, HOWEVER, THAT AN ARMORY OWNED BY THE STATE OR CITY OF NEW YORK LOCATED IN THE CITY OF NEW YORK SHALL NOT BE CONSIDERED TO BE A "FILM PRODUCTION FACILITY" UNLESS IT MEETS THE CRITERIA CONTAINED IN PARAGRAPH FIVE OF THIS SUBDIVISION OR UNLESS SUCH FACILITY IS USED BY A QUALIFIED INDEPENDENT FILM PRODUCTION COMPANY .**

Section 8. Paragraph 5 of subdivision (b) of section 24 of the tax law, as added by section 1 of part P of chapter 60 of the laws of 2004, is amended to read as follows:

(5) "Qualified film production facility" shall mean a film production facility in the state, which contains at least one sound stage having a minimum of seven thousand square feet of contiguous production space , **PROVIDED, HOWEVER, THAT EXCEPT WITH RESPECT TO A QUALIFIED FILM PRODUCTION**

FACILITY BEING USED BY A QUALIFIED INDEPENDENT FILM PRODUCTION COMPANY:

(I) A FILM PRODUCTION FACILITY IN THE CITY OF NEW YORK MUST CONTAIN AT LEAST ONE SOUND STAGE HAVING A MINIMUM OF SEVEN THOUSAND SQUARE FEET OF CONTIGUOUS PRODUCTION SPACE THAT IS SOUND PROOF WITH A NOISE CRITERIA ("NC") OF 30 OR BETTER, HAS SUFFICIENT HEATING AND AIR CONDITIONING FOR SHOOTING WITHOUT THE NEED FOR SUPPLEMENTAL UNITS, INCORPORATES A PERMANENT GRID AND SUFFICIENT BUILT-IN ELECTRIC SERVICE FOR SHOOTING WITHOUT THE NEED FOR GENERATORS, AND IS COLUMN-FREE WITH A CLEAR HEIGHT OF AT LEAST SIXTEEN FEET UNDER THE PERMANENT GRID; AND

(II) AN ARMORY OWNED BY THE STATE OR CITY OF NEW YORK LOCATED IN THE CITY OF NEW YORK THAT DOES NOT SATISFY THE CRITERIA OF SUBPARAGRAPH (I) OF THIS PARAGRAPH SHALL BE TREATED AS A QUALIFIED FILM PRODUCTION FACILITY UPON CERTIFICATION BY THE GOVERNOR'S OFFICE OF MOTION PICTURE AND TELEVISION DEVELOPMENT OF A PETITION SUBMITTED TO THAT OFFICE BY A QUALIFIED FILM PRODUCTION COMPANY ESTABLISHING THAT NO QUALIFIED FILM PRODUCTION FACILITY IS AVAILABLE IN THE CITY OF NEW YORK THAT HAS STAGE SPACE AVAILABLE FOR SHOOTING SUCH COMPANY'S FILM. SUCH PETITION SHALL BE SUBMITTED NO LATER THAN NINETY DAYS PRIOR TO THE START OF PRINCIPAL PHOTOGRAPHY FOR THE QUALIFIED FILM AND THE GOVERNOR'S OFFICE OF MOTION PICTURE AND TELEVISION DEVELOPMENT SHALL HAVE TEN DAYS TO CERTIFY OR REJECT THE PETITION. A STAGE WILL BE DEEMED UNAVAILABLE IF CONSIDERATION HAS BEEN PAID FOR ITS USE OR SUCH STAGE IS CURRENTLY UNDER AN AGREEMENT WITH AN OPTION FOR USE AND, IN EITHER CIRCUMSTANCE, SUCH PERIOD OF USE INCLUDES THE PETITIONER'S ESTIMATED START DATE OF PRINCIPAL PHOTOGRAPHY .

Section 9. Subdivision (b) of section 24 of the tax law is amended by adding a new paragraph 7 to read as follows:

(7) "QUALIFIED INDEPENDENT FILM PRODUCTION COMPANY" IS A CORPORATION, PARTNERSHIP, LIMITED PARTNERSHIP, OR OTHER ENTITY OR INDIVIDUAL, THAT OR WHO (I) IS PRINCIPALLY ENGAGED IN THE PRODUCTION OF A QUALIFIED FILM WITH A MAXIMUM BUDGET OF FIFTEEN MILLION DOLLARS, AND (II) CONTROLS THE QUALIFIED FILM DURING PRODUCTION, AND (III) EITHER IS NOT A PUBLICLY TRADED ENTITY, OR NO MORE THAN FIVE PERCENT OF THE BENEFICIAL OWNERSHIP OF WHICH IS OWNED, DIRECTLY OR INDIRECTLY, BY A PUBLICLY TRADED ENTITY.

Section 10. Section 24 of the tax law is amended by adding a new subdivision (d) to read as follows:

(D) NOTWITHSTANDING ANY PROVISION OF THIS CHAPTER, EMPLOYEES AND OFFICERS OF THE GOVERNOR'S OFFICE OF MOTION PICTURE AND TELEVISION DEVELOPMENT AND THE DEPARTMENT SHALL BE ALLOWED AND ARE DIRECTED TO SHARE AND EXCHANGE INFORMATION REGARDING THE CREDITS APPLIED FOR, ALLOWED, OR CLAIMED PURSUANT TO THIS SECTION AND TAXPAYERS WHO ARE APPLYING FOR CREDITS OR WHO ARE CLAIMING CREDITS, INCLUDING INFORMATION CONTAINED IN OR DERIVED FROM CREDIT CLAIM FORMS SUBMITTED TO THE DEPARTMENT AND APPLICATIONS FOR CREDIT SUBMITTED TO THE GOVERNOR'S OFFICE OF MOTION PICTURE AND TELEVISION DEVELOPMENT.

Section 11. Section 9 of part P of chapter 60 of the laws of 2004 amending the tax law relating to the empire state film production credit, as amended by section 5 of part WW-1 of chapter 57 of the laws of 2008, is amended to read as follows:

Section 9. This act shall take effect immediately and shall apply to taxable years beginning on or after January 1, 2004, with respect to "qualified production costs" paid or incurred on or after such effective date, providing final applications are approved on or after the effective date, regardless of whether the initial application relating to such qualified film was first submitted before such date, ~~provided further that this act shall expire and be deemed repealed January 1, 2014, provided further that the expiration and repeal of this act shall not affect the carry over of any credit allowed pursuant to this act and, subsequent to the expiration and repeal of this act, such carry over credits shall be allowed as provided by and pursuant to the provisions of this act, and~~ provided further that the IMB credit for

energy taxes under subsection (t-1) of section 606 of the tax law contained in section three of this act shall expire on the same date as provided in subdivision (a) of section 49 of part Y of chapter 63 of the laws of 2000.

Section 12. The tax law is amended by adding a new section 31 to read as follows:

Section 31. EMPIRE STATE FILM POST PRODUCTION CREDIT. (A) ALLOWANCE OF CREDIT.

(1) A TAXPAYER WHICH IS A QUALIFIED FILM PRODUCTION COMPANY, AND WHICH IS SUBJECT TO TAX UNDER ARTICLE NINE-A OR TWENTY-TWO OF THIS CHAPTER, UNLESS ELIGIBLE FOR THE CREDIT UNDER SECTION TWENTY-FOUR OF THIS ARTICLE WITH RESPECT TO THE QUALIFIED FILM, SHALL BE ALLOWED A CREDIT AGAINST SUCH TAX, PURSUANT TO THE PROVISIONS REFERENCED IN SUBDIVISION (C) OF THIS SECTION TO BE COMPUTED AS PROVIDED IN THIS SUBDIVISION.

(2) THE AMOUNT OF THE CREDIT SHALL BE THE PRODUCT (OR PRO RATA SHARE OF THE PRODUCT, IN THE CASE OF A MEMBER OF A PARTNERSHIP) OF TEN PERCENT AND THE QUALIFIED POST PRODUCTION COSTS PAID IN THE PRODUCTION OF A QUALIFIED FILM AT A QUALIFIED POST PRODUCTION FACILITY.

(3) A TAXPAYER SHALL NOT BE ELIGIBLE FOR THE CREDIT ESTABLISHED BY THIS SECTION UNLESS THE QUALIFIED POST PRODUCTION COSTS AT A QUALIFIED POST PRODUCTION FACILITY MEET OR EXCEED SEVENTY-FIVE PERCENT OF THE TOTAL POST PRODUCTION COSTS PAID OR INCURRED IN THE POST PRODUCTION OF THE QUALIFIED FILM AT ANY POST PRODUCTION FACILITY. THE CREDIT SHALL BE ALLOWED FOR THE TAXABLE YEAR IN WHICH THE PRODUCTION OF SUCH QUALIFIED FILM IS COMPLETED.

(4) NO QUALIFIED POST PRODUCTION COSTS USED BY A TAXPAYER EITHER AS THE BASIS FOR THE ALLOWANCE OF THE CREDIT PROVIDED FOR UNDER THIS SECTION OR USED IN THE CALCULATION OF THE CREDIT PROVIDED FOR UNDER THIS SECTION SHALL BE USED BY SUCH TAXPAYER TO CLAIM ANY OTHER CREDIT ALLOWED PURSUANT TO THIS CHAPTER.

(B) DEFINITIONS. AS USED IN THIS SECTION THE FOLLOWING TERMS SHALL HAVE THE FOLLOWING MEANINGS:

(1) "QUALIFIED FILM PRODUCTION COMPANY" AND "QUALIFIED FILM" SHALL HAVE THE SAME MEANING AS ARE ASCRIBED TO SUCH TERMS BY SECTION TWENTY-FOUR OF THIS ARTICLE.

(2) "POST PRODUCTION COSTS" MEANS PRODUCTION OF ORIGINAL CONTENT FOR A QUALIFIED FILM EMPLOYING TRADITIONAL, EMERGING AND NEW WORKFLOW TECHNIQUES USED IN POST-PRODUCTION FOR PICTURE, SOUND AND MUSIC EDITORIAL, RERECORDING AND MIXING, VISUAL EFFECTS, GRAPHIC DESIGN, ORIGINAL SCORING, ANIMATION, AND MUSICAL COMPOSITION; BUT SHALL NOT INCLUDE THE EDITING OF PREVIOUSLY PRODUCED CONTENT FOR A QUALIFIED FILM.

(3) "POST PRODUCTION FACILITY" MEANS A BUILDING AND/OR COMPLEX OF BUILDINGS AND THEIR IMPROVEMENTS ON WHICH FILM ARE INTENDED TO BE POST PRODUCED.

(4) "QUALIFIED POST PRODUCTION FACILITY" MEANS A POST PRODUCTION FACILITY LOCATED IN THE STATE, ENGAGED IN FINISHING A QUALIFIED FILM.

(C) NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, THE AGGREGATE AMOUNT OF TAX CREDITS AVAILABLE UNDER THIS SECTION SHALL NOT EXCEED THE AMOUNTS ALLOWED PURSUANT TO SUBDIVISION (E) OF SECTION SEVEN OF PART P OF CHAPTER SIXTY OF THE LAWS OF TWO THOUSAND FOUR AND SHALL BE ALLOCATED IN THE SAME MANNER AS PROVIDED FOR IN SUBDIVISION (A) OF SECTION SEVEN OF PART P OF CHAPTER SIXTY OF THE LAWS OF TWO THOUSAND FOUR.

(D) CROSS-REFERENCES. FOR APPLICATION OF THE CREDIT PROVIDED FOR IN THIS SECTION, SEE THE FOLLOWING PROVISIONS OF THIS CHAPTER:

(1) ARTICLE 9-A: SECTION 210: SUBDIVISION 41.

(2) ARTICLE 22: SECTION 606: SUBSECTION (QQ).

Section 13. Section 210 of the tax law is amended by adding a new subdivision 41 to read as follows:

41. EMPIRE STATE FILM POST PRODUCTION CREDIT. (A) ALLOWANCE OF CREDIT. A TAXPAYER WHO IS ELIGIBLE PURSUANT TO SECTION THIRTY-ONE OF THIS CHAPTER SHALL BE ALLOWED A CREDIT TO BE COMPUTED AS PROVIDED IN SUCH SECTION THIRTY-ONE AGAINST THE TAX IMPOSED BY THIS ARTICLE.

(B) APPLICATION OF CREDIT. THE CREDIT ALLOWED UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR SHALL NOT REDUCE THE TAX DUE FOR SUCH YEAR TO LESS THAN THE AMOUNT PRESCRIBED IN PARAGRAPH (D) OF SUBDIVISION ONE OF THIS SECTION. PROVIDED, HOWEVER, THAT IF THE AMOUNT OF THE CREDIT ALLOWABLE UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR REDUCES THE TAX TO SUCH AMOUNT, FIFTY PERCENT OF THE EXCESS SHALL BE TREATED AS AN OVERPAYMENT OF TAX TO BE CREDITED OR REFUNDED IN ACCORDANCE WITH THE PROVISIONS OF SECTION ONE THOUSAND EIGHTY-SIX OF THIS CHAPTER. PROVIDED, HOWEVER, THE PROVISIONS OF SUBSECTION (C) OF SECTION ONE THOUSAND EIGHTY-EIGHT OF THIS CHAPTER NOTWITHSTANDING, NO INTEREST SHALL BE PAID THEREON. THE BALANCE OF SUCH CREDIT NOT CREDITED OR REFUNDED IN SUCH TAXABLE YEAR MAY BE A CARRY OVER TO THE IMMEDIATELY SUCCEEDING TAXABLE YEAR AND MAY BE DEDUCTED FROM THE TAXPAYER'S TAX FOR SUCH YEAR. THE EXCESS, IF ANY, OF THE AMOUNT OF THE CREDIT OVER THE TAX FOR SUCH SUCCEEDING YEAR SHALL BE TREATED AS AN OVERPAYMENT OF TAX TO BE CREDITED OR REFUNDED IN ACCORDANCE WITH THE PROVISIONS OF SECTION ONE THOUSAND EIGHTY-SIX OF THIS CHAPTER. PROVIDED, HOWEVER, THE PROVISIONS OF SUBSECTION (C) OF SECTION ONE THOUSAND EIGHTY-EIGHT OF THIS CHAPTER NOTWITHSTANDING, NO INTEREST SHALL BE PAID THEREON.

Section 14. Subparagraph (B) of paragraph 1 of subsection (i) of section 606 of the tax law is amended by adding a new clause (xxx1) to read as follows:

(XXXI) EMPIRE AMOUNT OF STATE FILM CREDIT FOR POST PRODUCTION QUALIFIED POST PRODUCTION CREDIT UNDER COSTS OF A QUALIFIED FILM SUBSECTION (QQ) UNDER SUBDIVISION FORTY-ONE OF SECTION TWO HUNDRED TEN

Section 15. Section 606 of the tax law is amended by adding a new subsection (qq) to read as follows:

(QQ) EMPIRE STATE FILM POST PRODUCTION CREDIT. (1) ALLOWANCE OF CREDIT. A TAXPAYER WHO IS ELIGIBLE PURSUANT TO SECTION THIRTY-ONE OF THIS CHAPTER SHALL BE ALLOWED A CREDIT TO BE COMPUTED AS PROVIDED IN SUCH SECTION THIRTY-ONE AGAINST THE TAX IMPOSED BY THIS ARTICLE.

(2) APPLICATION OF CREDIT. IF THE AMOUNT OF THE CREDIT ALLOWABLE UNDER THIS SUBSECTION FOR ANY TAXABLE YEAR EXCEEDS THE TAXPAYER'S TAX FOR SUCH YEAR, FIFTY PERCENT OF THE EXCESS SHALL BE TREATED AS AN OVERPAYMENT OF TAX TO BE CREDITED OR REFUNDED IN ACCORDANCE WITH THE PROVISIONS OF SECTION ONE THOUSAND EIGHTY-SIX OF THIS CHAPTER. PROVIDED, HOWEVER, THE PROVISIONS OF SUBSECTION (C) OF SECTION ONE THOUSAND EIGHTY-EIGHT OF THIS CHAPTER NOTWITHSTANDING, NO INTEREST SHALL BE PAID THEREON. THE BALANCE OF SUCH CREDIT NOT CREDITED OR REFUNDED IN SUCH TAXABLE YEAR MAY BE CARRIED OVER TO THE IMMEDIATELY SUCCEEDING TAXABLE YEAR AND MAY BE DEDUCTED FROM THE TAXPAYER'S TAX FOR SUCH YEAR. THE EXCESS, IF ANY, OF THE AMOUNT OF THE CREDIT OVER THE TAX FOR SUCH SUCCEEDING YEAR SHALL BE TREATED AS AN OVERPAYMENT OF TAX TO BE CREDITED OR REFUNDED IN ACCORDANCE WITH THE PROVISIONS OF SECTION ONE THOUSAND EIGHTY-SIX OF THIS CHAPTER. PROVIDED, HOWEVER, THE PROVISIONS OF SUBSECTION (C) OF SECTION ONE THOUSAND EIGHTY-EIGHT OF THIS CHAPTER NOTWITHSTANDING, NO INTEREST SHALL BE PAID THEREON.

Section 16. This act shall take effect immediately; provided that sections one through nine of this act shall apply to applications for credit awarded under additional pool 2 authorized by section two of this act.