
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1050 Session of
2015

INTRODUCED BY WARD, COSTA, PILEGGI, FONTANA, BARTOLOTTA,
SABATINA, GREENLEAF, TARTAGLIONE, FARNESE, RAFFERTY,
TOMLINSON, BLAKE, STEFANO, LEACH, HUGHES, WILEY, MCGARRIGLE,
BROWNE, WILLIAMS, BOSCOLA, YUDICHAK AND BREWSTER,
NOVEMBER 13, 2015

REFERRED TO FINANCE, NOVEMBER 13, 2015

AN ACT

1 Amending the act of March 4, 1971 (P.L.6, No.2), entitled "An
2 act relating to tax reform and State taxation by codifying
3 and enumerating certain subjects of taxation and imposing
4 taxes thereon; providing procedures for the payment,
5 collection, administration and enforcement thereof; providing
6 for tax credits in certain cases; conferring powers and
7 imposing duties upon the Department of Revenue, certain
8 employers, fiduciaries, individuals, persons, corporations
9 and other entities; prescribing crimes, offenses and
10 penalties," in film production tax credit, further providing
11 for definitions and for credit for qualified film production
12 expenses, providing for reissuance of film production tax
13 credits and further providing for limitations.

14 The General Assembly of the Commonwealth of Pennsylvania
15 hereby enacts as follows:

16 Section 1. The definitions of "Pennsylvania production
17 expense" and "start date" in section 1702-D of the act of March
18 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971,
19 amended July 9, 2013 (P.L.270, No.52), are amended and the
20 section is amended by adding definitions to read:

21 Section 1702-D. Definitions.

22 The following words and phrases when used in this article

1 shall have the meanings given to them in this section unless the
2 context clearly indicates otherwise:

3 * * *

4 "Pennsylvania postproduction expense." A postproduction
5 expense incurred at a qualified postproduction facility.

6 "Pennsylvania production expense." Production expense
7 incurred in this Commonwealth. The term includes:

8 (1) Compensation paid to an individual on which the tax
9 imposed by Article III will be paid or accrued.

10 (2) Payment to a personal service corporation
11 representing individual talent if the tax imposed by Article
12 IV will be paid or accrued on the net income of the
13 corporation for the taxable year.

14 (3) Payment to a pass-through entity representing
15 individual talent if the tax imposed by Article III will be
16 paid or accrued by all of the partners, members or
17 shareholders of the pass-through entity for the taxable year
18 for which the tax imposed under Article III has been withheld
19 and remitted under the requirements of Article III by the
20 production company.

21 (4) The cost of transportation incurred while
22 transporting to or from a train station, bus depot or
23 airport, located in this Commonwealth.

24 (5) The cost of insurance coverage purchased through an
25 insurance agent based in this Commonwealth.

26 (6) The purchase of music or story rights if any of the
27 following subparagraphs apply:

28 (i) The purchase is from a resident of this
29 Commonwealth.

30 (ii) The purchase is from an entity subject to

1 taxation in this Commonwealth, and the transaction is
2 subject to taxation under Article III, IV or VI.

3 (7) The cost of rental of facilities and equipment
4 rented from or through a resident of this Commonwealth or an
5 entity subject to taxation in this Commonwealth.

6 (8) A qualified postproduction expense.

7 "Postproduction expense." A postproduction expense of
8 original content for a film as follows:

9 (1) The term includes traditional, emerging and new work
10 flow techniques used in postproduction for any of the
11 following:

12 (i) Picture, sound and music editorial, rerecording
13 and mixing.

14 (ii) Visual effects.

15 (iii) Graphic design.

16 (iv) Original scoring.

17 (v) Animation.

18 (vi) Musical composition.

19 (vii) Mastering.

20 (viii) Dubbing.

21 (2) The term does not include any of the following:

22 (i) Editing previously produced content for a film.

23 (ii) News or current affairs.

24 (iii) Talk shows.

25 (iv) Instructional videos.

26 (v) Content which contains obscene material or
27 performance as defined in 18 Pa.C.S. § 5903(b).

28 * * *

29 "Qualified postproduction expense." A Pennsylvania
30 postproduction expense.

1 "Qualified postproduction facility." A permanent facility
2 where Pennsylvania postproduction activities are conducted and
3 expenses are incurred to which all of the following apply:

4 (1) The facility is located in this Commonwealth.

5 (2) The facility is approved by the department.

6 (3) The facility employs at least ten full-time
7 employees who reside in this Commonwealth.

8 (4) There is at least \$500,000 of capital investment in
9 the facility.

10 * * *

11 "Start date." As follows:

12 (1) For a film:

13 (i) the first day of principal photography in this
14 Commonwealth; or

15 (ii) an earlier date approved by the Pennsylvania
16 Film Office.

17 (2) [an earlier] For a postproduction project, a date
18 [than the date under subparagraph (i),] approved by the
19 Pennsylvania Film Office.

20 * * *

21 Section 2. Section 1703-D of the act, amended July 9, 2013
22 (P.L.270, No.52), is amended to read:

23 Section 1703-D. Credit for qualified film production expenses.

24 (a) Application.--A taxpayer may apply to the department for
25 a tax credit under this section. If a film qualifies for a
26 qualified film production expense, any postproduction work done
27 in this Commonwealth shall qualify for a 30% credit. The
28 application shall be on the form required by the department.

29 (b) Review and approval.--The department shall establish
30 application periods not to exceed 90 days each. All applications

1 received during the application period shall be reviewed and
2 evaluated by the department based on the following criteria:

3 (1) The anticipated number of production days in a
4 qualified production facility.

5 (2) The anticipated number of Pennsylvania employees.

6 (3) The number of preproduction days through
7 postproduction days in Pennsylvania.

8 (4) The anticipated number of days spent in Pennsylvania
9 hotels.

10 (5) The Pennsylvania production expenses in comparison
11 to the production budget.

12 (6) The use of studio resources.

13 (7) If the application is for a qualified postproduction
14 expense, the following criteria shall be reviewed and
15 evaluated:

16 (i) The facility where the activity occurred.

17 (ii) The type of postproduction activity conducted.

18 (iii) The percentage of the total postproduction
19 activity conducted for a film in this Commonwealth.

20 [(7)] (8) Other criteria that the Director of the
21 Pennsylvania Film Office deems appropriate to ensure maximum
22 employment and benefit within this Commonwealth.

23 Upon determining the taxpayer has incurred or will incur
24 qualified film production expenses and qualified postproduction
25 expenses, the department may approve the taxpayer for a tax
26 credit. Applications not approved may be reviewed and considered
27 in subsequent application periods. The department may approve a
28 taxpayer for a tax credit based on its evaluation of the
29 criteria under this subsection.

30 (c) Contract.--If the department approves the taxpayer's

1 application under subsection (b), the department and the
2 taxpayer shall enter into a contract containing the following:

3 (1) An itemized list of production expenses incurred or
4 to be incurred for the film.

5 (2) An itemized list of Pennsylvania production and
6 Pennsylvania postproduction expenses incurred or to be
7 incurred for the film.

8 (3) With respect to a contract entered into prior to
9 completion of production, a commitment by the taxpayer to
10 incur the qualified film production or qualified
11 postproduction expenses as itemized.

12 (4) The start date.

13 (5) Any other information the department deems
14 appropriate.

15 (d) Certificate.--Upon execution of the contract required by
16 subsection (c), the department shall award the taxpayer a film
17 production tax credit and issue the taxpayer a film production
18 tax credit certificate.

19 Section 3. The act is amended by adding a section to read:
20 Section 1704.1-D. Reissuance of film production tax credits.

21 (a) Reissuance.--In any fiscal year, the department may
22 reissue a tax credit which meets all of the following:

23 (1) The tax credit was approved under section 1703-D(b).

24 (2) The contract was signed under section 1703-D(c).

25 (3) The tax credit was awarded and a certificate was
26 issued under section 1703-D(d).

27 (b) Amount.--The amount of a tax credit to be reissued shall
28 be calculated as the difference between the amounts in
29 subsection (a)(1) and (3). A tax credit reissued under this
30 section shall be subject to each provision of this article,

1 except for the limitation under section 1707-D(a).

2 Section 4. Section 1707-D of the act, amended July 2, 2012
3 (P.L.751, No.85), is amended to read:

4 Section 1707-D. Limitations.

5 (a) Cap.--In no case shall the aggregate amount of tax
6 credits awarded in any fiscal year under this article exceed
7 [\$60,000,000] \$75,000,000. The department may, in its
8 discretion, award in one fiscal year up to:

9 (1) Thirty percent of the dollar amount of film
10 production tax credits available to be awarded in the next
11 succeeding fiscal year.

12 (2) Twenty percent of the dollar amount of film
13 production tax credits available to be awarded in the second
14 successive fiscal year.

15 (3) Ten percent of the dollar amount of film production
16 tax credits available to be awarded in the third successive
17 fiscal year.

18 (a.1) Advance award of credits.--The advance award of film
19 tax credits under subsection (a) shall:

20 (1) count against the total dollar amount of credits
21 that the department may award in that next succeeding fiscal
22 year; and

23 (2) reduce the dollar amount of credits that the
24 department may award in that next succeeding fiscal year.

25 The individual limitations on the awarding of film production
26 tax credits apply to an advance award of film production tax
27 credits under subsection (a) and to a combination of film
28 production tax credits awarded against the current fiscal year
29 cap and against the next succeeding fiscal year's cap.

30 (b) Individual limitations.--The following shall apply:

1 (1) Except as set forth in paragraph (1.1), the
2 aggregate amount of film production or postproduction tax
3 credits awarded by the department under section 1703-D(d) to
4 a taxpayer for a film may not exceed 25% of the qualified
5 [film production] expenses to be incurred.

6 (1.1) In addition to the tax credit under paragraph (1),
7 a taxpayer is eligible for a credit in the amount of 5% of
8 the qualified film production expenses or qualified
9 postproduction expenses incurred by the taxpayer if the
10 taxpayer:

11 (i) films a feature film, television film or
12 television series, which is intended as programming for a
13 national audience; and

14 (ii) either:

15 (A) films in a qualified production facility
16 which meets the minimum stage filming requirements;
17 or

18 (B) conducts at least 50% of all qualified
19 postproduction expenses at a qualified postproduction
20 facility.

21 (2) A taxpayer that has received a grant under 12
22 Pa.C.S. § 4106 (relating to approval) shall not be eligible
23 for a film production tax credit under this act for the same
24 film.

25 (c) Qualified production facility.--To be considered a
26 qualified production facility [under subsection (b) (1.1)] or
27 qualified postproduction facility, the owner of a facility shall
28 provide evidence to the department to verify the development or
29 facility specifications and capital [improvement] investment
30 costs incurred for the facility so that the threshold amounts

1 set in the [definition] definitions of "qualified production
2 facility," [under section 1702-D] and "qualified postproduction
3 facility" are satisfied, and upon verification, the facility
4 shall be registered by the department officially as a qualified
5 production facility or qualified postproduction facility.

6 (d) Waiver.--The department may make a determination that
7 the financial benefit to this Commonwealth resulting from the
8 direct investment in or payments made to Pennsylvania facilities
9 outweighs the benefit of maintaining the 60% requirement
10 contained in the definition of "qualified film production
11 expense" or "qualified postproduction expense." If such
12 determination is made, the department may waive the requirement
13 that 60% of a film's total production or postproduction expenses
14 be comprised of Pennsylvania production or Pennsylvania
15 postproduction expenses for a [feature] film, television film or
16 television series that is intended as programming for a national
17 audience and is filmed or produced in a qualified production
18 facility or qualified postproduction facility if the taxpayer
19 who has Pennsylvania production expenses of at least \$30,000,000
20 per production meets the minimum stage filming requirements.

21 Section 5. This act shall apply as follows:

22 (1) The amendment of sections 1702-D, 1703-D and 1707-
23 D(a) of the act shall apply to taxable years beginning after
24 December 31, 2015.

25 (2) The amendment of section 1707-D(a) of the act shall
26 apply to fiscal years beginning on or after July 1, 2016.

27 Section 6. This act shall take effect immediately.