

JAN 20 2023

A BILL FOR AN ACT

RELATING TO TAXES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Section 235-17, Hawaii Revised Statutes, is
2 amended as follows:

3 1. By amending subsection (a) to read:

4 "(a) Any law to the contrary notwithstanding, there shall
5 be allowed to each taxpayer subject to the taxes imposed by this
6 chapter, an income tax credit that shall be deductible from the
7 taxpayer's net income tax liability, if any, imposed by this
8 chapter for the taxable year in which the credit is properly
9 claimed. The amount of the credit shall be:

10 (1) Twenty-two per cent of the qualified production costs
11 incurred by a qualified production in any county of
12 the State with a population of over seven hundred
13 thousand; [~~or~~]

14 (2) Twenty-seven per cent of the qualified production
15 costs incurred by a qualified production in any county
16 of the State with a population of seven hundred
17 thousand or less[-];



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1 (3) Twenty-seven per cent of the qualified production
2 costs incurred by a qualified production in any county
3 of the State with a population of over seven hundred
4 thousand; provided that over thirty-five per cent of
5 below-the-line positions of the qualified production
6 shall be filled by persons who file income tax returns
7 in the State; or

8 (4) 34.5 per cent of the qualified production costs
9 incurred by a population in any county of the State
10 with a population of seven hundred thousand or less;
11 provided that over thirty-five per cent of below-the-
12 line positions of the qualified production shall be
13 filled by persons who file income tax returns in the
14 State.

15 A qualified production occurring in more than one county may
16 prorate its expenditures based upon the amounts spent in each
17 county, if the population bases differ enough to change the
18 percentage of tax credit.

19 In the case of a partnership, S corporation, estate, or
20 trust, the tax credit allowable is for qualified production
21 costs incurred by the entity for the taxable year. The cost

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1 upon which the tax credit is computed shall be determined at the
2 entity level. Distribution and share of credit shall be
3 determined by rule.

4 If a deduction is taken under section 179 (with respect to
5 election to expense depreciable business assets) of the Internal
6 Revenue Code of 1986, as amended, no tax credit shall be allowed
7 for those costs for which the deduction is taken.

8 The basis for eligible property for depreciation of
9 accelerated cost recovery system purposes for state income taxes
10 shall be reduced by the amount of credit allowable and claimed."

11 2. By amending subsections (h) and (i) to read:

12 "(h) Every taxpayer claiming a tax credit under this
13 section for a qualified production shall, no later than ninety
14 days following the end of each taxable year in which qualified
15 production costs were expended, submit a written, sworn
16 statement to the department of business, economic development,
17 and tourism that identifies:

18 (1) All qualified production costs as provided by
19 subsection (a), if any, incurred in the previous
20 taxable year;



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- 1 (2) The amount of tax credits claimed pursuant to this
- 2 section, if any, in the previous taxable year; ~~and~~
- 3 (3) The number of total hires versus the number of local
- 4 hires by category and by county[-]; and
- 5 (4) The number of total below-the-line position hires
- 6 versus the number of below-the-line position local
- 7 hires.

8 This information may be reported from the department of
9 business, economic development, and tourism to the legislature
10 pursuant to subsection (i)(4).

11 (i) The department of business, economic development, and
12 tourism shall:

- 13 (1) Maintain records of the names of the taxpayers and
- 14 qualified productions thereof claiming the tax credits
- 15 under subsection (a);
- 16 (2) Obtain and total the aggregate amounts of all
- 17 qualified production costs per qualified production
- 18 and per qualified production per taxable year;
- 19 (3) Review and verify the percentage of below-the-line
- 20 positions filled by persons who file income tax
- 21 returns in the State for each qualified production



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1 that is claiming the credit under paragraphs (3) or
2 (4) of subsection (a);

3 ~~[-3-]~~ (4) Provide a letter to the director of taxation
4 specifying the amount of the tax credit per qualified
5 production for each taxable year that a tax credit is
6 claimed and the cumulative amount of the tax credit
7 for all years claimed; and

8 ~~[-4-]~~ (5) Submit a report to the legislature no later than
9 twenty days prior to the convening of each regular
10 session detailing the non-aggregated qualified
11 production costs that form the basis of the tax credit
12 claims and expenditures, itemized by taxpayer, in a
13 redacted format to preserve the confidentiality and
14 that shall include the dollar amount claimed, name of
15 company, and name of the qualified production of the
16 taxpayers claiming the credit."

17 3. By amending subsection (o) to read:

18 "(o) For the purposes of this section:

19 "Below-the-line position" means a technical role that does
20 not substantially affect the artistic creativity of a qualified
21 production. A "below-the-line position" may include technical



1 production or post-production crew or non-principal cast. A
2 "below-the-line position" does not include producers, directors,
3 screenwriters, and principal cast.

4 "Commercial":

5 (1) Means an advertising message that is filmed using
6 film, videotape, or digital media, for dissemination
7 via television broadcast or theatrical distribution;

8 (2) Includes a series of advertising messages if all parts
9 are produced at the same time over the course of six
10 consecutive weeks; and

11 (3) Does not include an advertising message with
12 Internet-only distribution.

13 "Digital media" means production methods and platforms
14 directly related to the creation of cinematic imagery and
15 content, specifically using digital means, including but not
16 limited to digital cameras, digital sound equipment, and
17 computers, to be delivered via film, videotape, interactive game
18 platform, or other digital distribution media.

19 "Post-production" means production activities and services
20 conducted after principal photography is completed, including
21 but not limited to editing, film and video transfers,



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1 duplication, transcoding, dubbing, subtitling, credits, closed
2 captioning, audio production, special effects (visual and
3 sound), graphics, and animation.

4 "Production" means a series of activities that are directly
5 related to the creation of visual and cinematic imagery to be
6 delivered via film, videotape, or digital media and to be sold,
7 distributed, or displayed as entertainment or the advertisement
8 of products for mass public consumption, including but not
9 limited to scripting, casting, set design and construction,
10 transportation, videography, photography, sound recording,
11 interactive game design, and post-production.

12 "Qualified production":

13 (1) Means a production, with expenditures in the State,
14 for the total or partial production of a feature-
15 length motion picture, short film, made-for-television
16 movie, commercial, music video, interactive game,
17 television series pilot, single season (up to
18 twenty-two episodes) of a television series regularly
19 filmed in the State (if the number of episodes per
20 single season exceeds twenty-two, additional episodes
21 for the same season shall constitute a separate



1 qualified production), television special, single
2 television episode that is not part of a television
3 series regularly filmed or based in the State,
4 national magazine show, or national talk show. For
5 the purposes of subsections (d) and (l), each of the
6 aforementioned qualified production categories shall
7 constitute separate, individual qualified productions;
8 and

9 (2) Does not include:

- 10 (A) News;
- 11 (B) Public affairs programs;
- 12 (C) Non-national magazine or talk shows;
- 13 (D) Televised sporting events or activities;
- 14 (E) Productions that solicit funds;
- 15 (F) Productions produced primarily for industrial,
16 corporate, institutional, or other private
17 purposes; and
- 18 (G) Productions that include any material or
19 performance prohibited by chapter 712.

20 "Qualified production costs" means the costs incurred by a
21 qualified production within the State that are subject to the



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1 general excise tax under chapter 237 at the highest rate of tax
2 or income tax under this chapter if the costs are not subject to
3 general excise tax and that have not been financed by any
4 investments for which a credit was or will be claimed pursuant
5 to section 235-110.9. Qualified production costs include but
6 are not limited to:

- 7 (1) Costs incurred during preproduction such as location
8 scouting and related services;
- 9 (2) Costs of set construction and operations, purchases or
10 rentals of wardrobe, props, accessories, food, office
11 supplies, transportation, equipment, and related
12 services;
- 13 (3) Wages or salaries of cast, crew, and musicians;
- 14 (4) Costs of photography, sound synchronization, lighting,
15 and related services;
- 16 (5) Costs of editing, visual effects, music, other post-
17 production, and related services;
- 18 (6) Rentals and fees for use of local facilities and
19 locations, including rentals and fees for use of state
20 and county facilities and locations that are not



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1 subject to general excise tax under chapter 237 or
2 income tax under this chapter;
3 (7) Rentals of vehicles and lodging for cast and crew;
4 (8) Airfare for flights to or from Hawaii, and interisland
5 flights;
6 (9) Insurance and bonding;
7 (10) Shipping of equipment and supplies to or from Hawaii,
8 and interisland shipments; and
9 (11) Other direct production costs specified by the
10 department in consultation with the department of
11 business, economic development, and tourism;
12 provided that any government-imposed fines, penalties, or
13 interest that are incurred by a qualified production within the
14 State shall not be "qualified production costs". "Qualified
15 production costs" does not include any costs funded by any
16 grant, forgivable loan, or other amounts not included in gross
17 income for purposes of this chapter."

18 SECTION 2. Statutory material to be repealed is bracketed
19 and stricken. New statutory material is underscored.


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1 SECTION 3. This Act shall take effect upon its approval
2 and apply to taxable years beginning after December 31, 2022.

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INTRODUCED BY: 



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Report Title:

Motion Picture, Digital Media, and Film Production Tax Credit;
Below-the-line Position; Local Hires

Description:

Increases the Motion Picture, Digital Media, and Film Production
Income Tax Credit for qualified productions when certain
percentages of its below-the-line positions are persons who file
income tax returns in the State.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

