

JAN 19 2024

A BILL FOR AN ACT

RELATING TO MOTION PICTURE, DIGITAL MEDIA, AND FILM PRODUCTION
INCOME TAX CREDIT.

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 (d) to read:
- 4 "(d) To qualify for this tax credit, a production shall:
- 5 (1) Meet the definition of a qualified production
6 specified in subsection (o);
- 7 (2) Have qualified production costs totaling at least
8 \$100,000;
- 9 (3) Provide the State a qualified Hawaii promotion, which
10 shall be at a minimum, a shared-card, end-title screen
11 credit, where applicable;
- 12 (4) Provide evidence of reasonable efforts to hire local
13 talent and crew;
- 14 (5) Provide evidence when making any claim for products or
15 services acquired or rendered outside of this State
16 that reasonable efforts were unsuccessful to secure



1 and use comparable products or services within this
2 State;

3 (6) Provide evidence of financial or in-kind contributions
4 or educational or workforce development efforts, in
5 partnership with related local industry labor
6 organizations, educational institutions, or both,
7 toward the furtherance of the local film and
8 television and digital media industries;

9 (7) Provide all call sheets and payroll records related to
10 the individuals on the call sheets;

11 [~~7~~] (8) Be compliant with all applicable requirements
12 under title 14, including tax return filing and
13 payments; and

14 [~~8~~] (9) Provide complete responses to the department of
15 taxation's inquiries and document requests, in the
16 form prescribed by the department, no later than
17 ninety days from the inquiry or request."

18 2. By amending subsection (h) to read:

19 "(h) Every taxpayer claiming a tax credit under this
20 section for a qualified production shall, no later than ninety
21 days following the end of each taxable year in which qualified



1 production costs were expended, submit a written, sworn
2 statement to the department of business, economic development,
3 and tourism that [~~identifies:~~] includes:

4 (1) All qualified production costs as provided by
5 subsection (a), if any, incurred in the previous
6 taxable year;

7 (2) The amount of tax credits claimed pursuant to this
8 section, if any, in the previous taxable year; and

9 (3) The number of total hires versus the number of local
10 hires by category and by county[-]; provided that an
11 individual who is listed on a qualified production's
12 call sheet but is hired or classified as an
13 independent contractor shall not be considered a local
14 hire for purposes of this section.

15 This information may be reported from the department of
16 business, economic development, and tourism to the legislature
17 pursuant to subsection (i)(4)."

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

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

20 "Commercial":



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

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

7 (3) Does not include an advertising message with Internet-
8 only distribution.

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

15 "Post-production" means production activities and services
16 conducted after principal photography is completed, including
17 but not limited to editing, film and video transfers,
18 duplication, transcoding, dubbing, subtitling, credits, closed
19 captioning, audio production, special effects (visual and
20 sound), graphics, and animation.



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

9 "Qualified production":

10 (1) Means a production, with expenditures in the State,
11 for the total or partial production of a feature-
12 length motion picture, short film, made-for-television
13 movie, commercial, music video, interactive game,
14 television series pilot, single season (up to twenty-
15 two episodes) of a television series regularly filmed
16 in the State (if the number of episodes per single
17 season exceeds twenty-two, additional episodes for the
18 same season shall constitute a separate qualified
19 production), television special, single television
20 episode that is not part of a television series
21 regularly filmed or based in the State, national



1 magazine show, or national talk show. For the
2 purposes of subsections (d) and (l), each of the
3 aforementioned qualified production categories shall
4 constitute separate, individual qualified productions;
5 and

6 (2) Does not include:

7 (A) News;

8 (B) Public affairs programs;

9 (C) Non-national magazine or talk shows;

10 (D) Televised sporting events or activities;

11 (E) Productions that solicit funds;

12 (F) Productions produced primarily for industrial,
13 corporate, institutional, or other private
14 purposes; and

15 (G) Productions that include any material or
16 performance prohibited by chapter 712.

17 "Qualified production costs" means the costs incurred by a
18 qualified production within the State that are subject to the
19 general excise tax under chapter 237 at the highest rate of tax
20 or income tax under this chapter if the costs are not subject to
21 general excise tax and that have not been financed by any



1 investments for which a credit was or will be claimed pursuant
2 to section 235-110.9. Qualified production costs include but
3 are not limited to:

4 (1) Costs incurred during preproduction such as location
5 scouting and related services;

6 (2) Costs of set construction and operations, purchases or
7 rentals of wardrobe, props, accessories, food, office
8 supplies, transportation, equipment, and related
9 services;

10 (3) Wages or salaries of cast, crew, and musicians;
11 provided that individuals listed on a qualified
12 production's call sheet but paid as an independent
13 contractor shall not be considered a qualified
14 production cost for purposes of this section;

15 (4) Costs of photography, sound synchronization, lighting,
16 and related services;

17 (5) Costs of editing, visual effects, music, other post-
18 production, and related services;

19 (6) Rentals and fees for use of local facilities and
20 locations, including rentals and fees for use of state
21 and county facilities and locations that are not



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.



1 SECTION 3. This Act, upon its approval, shall apply to
2 taxable years beginning after December 31, 2024.

3

INTRODUCED BY:





S.B. NO. 2858

Report Title:

Motion Picture, Digital Media, and Film Production Income Tax Credit; Call Sheets; Payroll; Independent Contractors; Local Hires; Qualified Production Costs

Description:

Requires qualified productions claiming the Motion Picture, Digital Media, and Film Production Income Tax Credit to submit call sheets and payroll information. Specifies that individuals listed on a qualified production's call sheet who are hired or classified as independent contractors shall not be considered a local hire. Exempts from the definition of "qualified production costs" wages or salaries paid to individuals listed on a qualified production's call sheet who are paid as independent contractors.

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