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HOUSE BILL 479

50TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2011

INTRODUCED BY

James P. White

AN ACT

RELATING TO TAXATION; REDUCING THE FILM PRODUCTION TAX CREDIT.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 7-2F-1 NMSA 1978 (being Laws 2002, Chapter 36, Section 1, as amended) is amended to read:

"7-2F-1. FILM PRODUCTION TAX CREDIT.--

A. The tax credit created by this section may be referred to as the "film production tax credit". An eligible film production company may apply for, and the taxation and revenue department may allow, a tax credit in an amount equal to the percentage specified in Subsection B of this section of:

(1) direct production expenditures made in New Mexico that:

(a) are directly attributable to the production in New Mexico of a film or commercial audiovisual

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1 product;

2 (b) are subject to taxation by the state
3 of New Mexico; and

4 (c) exclude direct production
5 expenditures for which another taxpayer claims the film
6 production tax credit; and

7 (2) postproduction expenditures made in New
8 Mexico that:

9 (a) are directly attributable to the
10 production of a commercial film or audiovisual product;

11 (b) are for services performed in New
12 Mexico;

13 (c) are subject to taxation by the state
14 of New Mexico; and

15 (d) exclude postproduction expenditures
16 for which another taxpayer claims the film production tax
17 credit.

18 B. Except as provided in Subsections C and J of
19 this section, the percentage to be applied in calculating the
20 amount of the film production tax credit is [~~twenty-five~~]
21 fifteen percent.

22 C. With respect to expenditures attributable to a
23 production for which the film production company receives a tax
24 credit pursuant to the federal new markets tax credit program,
25 the percentage to be applied in calculating the film production

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1 tax credit is [~~twenty~~] ten percent.

2 D. The film production tax credit shall not be
3 claimed with respect to direct production expenditures or
4 postproduction expenditures for which the film production
5 company has delivered a nontaxable transaction certificate
6 pursuant to Section 7-9-86 NMSA 1978.

7 E. A long-form narrative film production for which
8 the film production tax credit is claimed pursuant to Paragraph
9 (1) of Subsection A of this section shall contain an
10 acknowledgment that the production was filmed in New Mexico.

11 F. To be eligible for the film production tax
12 credit, a film production company shall submit to the New
13 Mexico film division of the economic development department
14 information required by the division to demonstrate conformity
15 with the requirements of this section and shall agree in
16 writing:

17 (1) to pay all obligations the film production
18 company has incurred in New Mexico;

19 (2) to publish, at completion of principal
20 photography, a notice at least once a week for three
21 consecutive weeks in local newspapers in regions where filming
22 has taken place to notify the public of the need to file
23 creditor claims against the film production company by a
24 specified date;

25 (3) that outstanding obligations are not

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1 waived should a creditor fail to file by the specified date;
2 and

3 (4) to delay filing of a claim for the film
4 production tax credit until the New Mexico film division
5 delivers written notification to the taxation and revenue
6 department that the film production company has fulfilled all
7 requirements for the credit.

8 G. The New Mexico film division shall determine the
9 eligibility of the company and shall report this information to
10 the taxation and revenue department in a manner and at times
11 the economic development department and the taxation and
12 revenue department shall agree upon.

13 H. To receive a film production tax credit, a film
14 production company shall apply to the taxation and revenue
15 department on forms and in the manner the department may
16 prescribe. The application shall include a certification of
17 the amount of direct production expenditures or postproduction
18 expenditures made in New Mexico with respect to the film
19 production for which the film production company is seeking the
20 film production tax credit. If the requirements of this
21 section have been complied with, the taxation and revenue
22 department shall approve the film production tax credit and
23 issue a document granting the tax credit.

24 I. The film production company may apply all or a
25 portion of the film production tax credit granted against

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1 personal income tax liability or corporate income tax
2 liability. If the amount of the film production tax credit
3 claimed exceeds the film production company's tax liability for
4 the taxable year in which the credit is being claimed, the
5 excess shall be refunded.

6 J. As applied to direct production expenditures for
7 the services of performing artists, the film production tax
8 credit authorized by this section shall not exceed five million
9 dollars (\$5,000,000) for services rendered by all performing
10 artists in a production for which the film production tax
11 credit is claimed."

12 SECTION 2. APPLICABILITY.--The provisions of this act
13 apply to taxable years beginning on or after January 1, 2012.