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HOUSE BILL 113

53RD LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2018

INTRODUCED BY

Antonio Maestas

AN ACT

RELATING TO TAXATION; REMOVING THE ANNUAL AGGREGATE CAP FOR THE
FILM AND TELEVISION TAX CREDIT.

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

SECTION 1. Section 7-2F-12 NMSA 1978 (being Laws 2015,
Chapter 143, Section 11) is amended to read:

"7-2F-12. CREDIT CLAIMS [~~AGGREGATE AMOUNT OF CLAIMS
ALLOWED~~].--

A. A claim for a film and television tax credit
shall be filed as part of a return filed pursuant to the Income
Tax Act or the Corporate Income and Franchise Tax Act or an
information return filed by a pass-through entity. [~~The date a
credit claim is received by the department shall determine the
order that a credit claim is authorized for payment by the
department. The aggregate amount of claims for a credit~~

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1 ~~provided by the Film Production Tax Credit Act that may be~~
2 ~~authorized for payment in any fiscal year is fifty million~~
3 ~~dollars (\$50,000,000) with respect to the direct production~~
4 ~~expenditures or postproduction expenditures made on film or~~
5 ~~commercial audiovisual products. A film production company~~
6 ~~that submits a claim for a film and television tax credit that~~
7 ~~is unable to receive the tax credit because the claims for the~~
8 ~~fiscal year exceed the limitation in this subsection shall be~~
9 ~~placed for the subsequent fiscal year at the front of a queue~~
10 ~~of credit claimants submitting claims in the subsequent fiscal~~
11 ~~year in the order of the date on which the credit was~~
12 ~~authorized for payment.]~~

13 B. Except as otherwise provided in this section,
14 credit claims authorized for payment pursuant to the Film
15 Production Tax Credit Act shall be paid pursuant to provisions
16 of the Tax Administration Act to the taxpayer as follows:

17 (1) a credit claim amount of less than two
18 million dollars (\$2,000,000) per taxable year shall be paid
19 immediately upon authorization for payment of the credit claim;

20 (2) a credit claim amount of two million
21 dollars (\$2,000,000) or more but less than five million dollars
22 (\$5,000,000) per taxable year shall be divided into two equal
23 payments, with the first payment to be made immediately upon
24 authorization of the payment of the credit claim and the second
25 payment to be made twelve months following the date of the

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1 first payment; and

2 (3) a credit claim amount of five million
3 dollars (\$5,000,000) or more per taxable year shall be divided
4 into three equal payments, with the first payment to be made
5 immediately upon authorization of payment of the credit claim,
6 the second payment to be made twelve months following the date
7 of the first payment and the third payment to be made twenty-
8 four months following the date of the first payment.

9 ~~[G. For a fiscal year in which the amount of total~~
10 ~~credit claims authorized for payment is less than the aggregate~~
11 ~~amount of credit claims that may be authorized for payment~~
12 ~~pursuant to this section, the next scheduled payments for~~
13 ~~credit claims authorized for payment pursuant to Subsection B~~
14 ~~of this section shall be accelerated for payment for that~~
15 ~~fiscal year and shall be paid to a taxpayer pursuant to the Tax~~
16 ~~Administration Act and in the order in which outstanding~~
17 ~~payments are scheduled in the queue established pursuant to~~
18 ~~Subsections A and B of this section; provided that the total~~
19 ~~credit claims authorized for payment shall not exceed the~~
20 ~~aggregate amount of credit claims that may be authorized for~~
21 ~~payment pursuant to this section. If a partial payment is made~~
22 ~~pursuant to this subsection, the difference owed shall retain~~
23 ~~its original position in the queue.~~

24 ~~D. Any amount of a credit claim that is carried~~
25 ~~forward pursuant to Subsection B of this section shall be~~

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1 ~~subject to the limit on the aggregate amount of credit claims~~
2 ~~that may be authorized for payment pursuant to Subsection A of~~
3 ~~this section in the fiscal year in which that amount is paid.~~

4 ~~E.]~~ C. A credit claim shall only be considered
5 received by the department if the credit claim is made on a
6 complete return filed after the close of the taxable year. All
7 direct production expenditures and postproduction expenditures
8 incurred during the taxable year by a film production company
9 shall be submitted as part of the same income tax return and
10 paid pursuant to this section. A credit claim shall not be
11 divided and submitted with multiple returns or in multiple
12 years.

13 ~~[F.]~~ D. For purposes of determining the payment of
14 credit claims pursuant to this section, the secretary of
15 taxation and revenue may require that credit claims of
16 affiliated persons be combined into one claim if necessary to
17 accurately reflect closely integrated activities of affiliated
18 persons."

19 **SECTION 2. APPLICABILITY.**--The provisions of this act
20 apply to expenditures made on or after January 1, 2018 by film
21 production companies that commence principal photography
22 directly related to those expenditures on or after January 1,
23 2018.