

HOUSE BILL No. 2443

By Joint Committee on Arts and Cultural Resources

1-12

1 AN ACT concerning income taxation; relating to film production tax
2 credits; amending K.S.A. 2011 Supp. 79-32,258, 79-32,259 and 79-
3 32,260 and repealing the existing sections.

4
5 *Be it enacted by the Legislature of the State of Kansas:*

6 Section 1. K.S.A. 2011 Supp. 79-32,258 is hereby amended to read as
7 follows: 79-32,258. (a) Except as otherwise provided, for all taxable years
8 commencing after December 31, 2006, a credit against the tax imposed by
9 the Kansas income tax act shall be allowed for direct production
10 expenditures made by *or to* an eligible film production company, ~~except~~
11 ~~that such provisions shall not be applicable for tax years 2009 and 2010.~~
12 Such credit shall be in an amount equal to 30% of direct production
13 expenditures made in Kansas that are directly attributable to ~~the~~
14 ~~production of a film~~ *production* in Kansas and that have been awarded by
15 the department of revenue. The tax credit shall be deducted from the
16 eligible film production company's income tax liability for the taxable year
17 in which the expenditures are made by the eligible film production
18 company. If the amount of the film production tax credit allowed exceeds
19 the film production company's income tax liability for the taxable year, ~~the~~
20 ~~taxpayer may carry over the amount thereof that exceeds such tax liability~~
21 ~~for deduction from the taxpayer's income tax liability in the next~~
22 ~~succeeding taxable year or years until the total amount of the tax credit has~~
23 ~~been deducted from tax liability, except that no such tax credit shall be~~
24 ~~carried over for deduction after the third taxable year succeeding the year~~
25 ~~in which the costs are incurred~~ *an amount equal to the remainder of the*
26 *unused tax credits may be refunded to the film production company.* If the
27 eligible film production company is a corporation having an election in
28 effect under subchapter S of the federal internal revenue code, a
29 partnership or a limited liability entity, the credit provided by this section
30 shall be claimed by the shareholders of such corporation, the partners of
31 such partnership or the member of such limited liability entity in the same
32 manner as such shareholder, partners or members account for their
33 proportionate shares of the income or loss of the corporation, partnership
34 or limited liability entity.

35 (b) A long-form narrative film production for which the film
36 production tax credit is claimed shall contain an acknowledgment that the

1 production was filmed in Kansas.

2 (c) To be eligible for the film production tax credit, a film production
3 company shall submit to the department of commerce information required
4 by the department to demonstrate conformity with the requirements of this
5 act. Information supplied shall include expected direct production
6 expenditures to be made in Kansas with respect to the film production for
7 which the film production company is seeking the film production tax
8 credit. The department of commerce may reserve a tax credit amount
9 based upon the expected direct production expenditures. The department
10 of commerce shall determine the eligibility of the company and shall
11 certify this information to the department of revenue in a manner and at
12 times the department of commerce and department of revenue shall agree
13 upon.

14 (d) To receive a film production tax credit, a film production
15 company shall apply to the department of revenue on forms and in the
16 manner the department may prescribe. The application shall include a
17 certification of the amount of direct production expenditures made in
18 Kansas with respect to the film production for which the film production
19 company is seeking the film production tax credit. The department of
20 revenue may award a film production tax credit based on the application
21 submitted and the amount of tax credit reserved by the department of
22 commerce. Upon approval of the application and the awarding of the tax
23 credit the department of revenue shall certify to the film production
24 company and the department of commerce the amount of the tax credit
25 awarded.

26 (e) The secretary of commerce and the secretary of revenue are
27 hereby authorized to adopt rules and regulations to implement and
28 administer the provisions of this act.

29 Sec. 2. K.S.A. 2011 Supp. 79-32,259 is hereby amended to read as
30 follows: 79-32,259. As used in K.S.A. 2011 Supp. 79-32,257 through 79-
31 32,259, and amendments thereto:

32 (a) "Direct production expenditure" means an expenditure incurred in
33 the state of Kansas in the production of a Kansas film including:

34 (1) Payment of wages, fringe benefits or fees for talent, management
35 or labor to a person who is a Kansas resident for purposes of the Kansas
36 income tax act;

37 (2) payment to a personal services corporation for the services of a
38 performing artist, if:

39 (A) The personal services corporation is subject to taxation under the
40 provisions of the Kansas income tax act; or

41 (B) the performing artist receiving payment from the personal
42 services corporation pays Kansas income tax; and

43 (3) any of the following provided by a vendor:

- 1 (A) The story and scenario to be used for a film;
- 2 (B) set construction and operations, wardrobe, accessories and related
- 3 services;
- 4 (C) photography, sound synchronization, lighting and related
- 5 services;
- 6 (D) editing and related services;
- 7 (E) rental of facilities and equipment;
- 8 (F) leasing of vehicles;
- 9 (G) food or lodging;
- 10 (H) airfare if purchased through a Kansas-based travel agency or
- 11 travel company;
- 12 (I) insurance coverage and bonding if purchased through a Kansas-
- 13 based insurance agent; and
- 14 (J) other direct costs of producing a film in accordance with generally
- 15 accepted entertainment industry practice.
- 16 (b) "Eligible film production company" means a film production
- 17 company that has received certification from the department of commerce.
- 18 (c) "Film" means any *combination of* film, video, commercial,
- 19 *animation* or television, *or post-production*, as approved by the department
- 20 of commerce, ~~that is 30 minutes or less in length with an a total~~ expected
- 21 ~~single project. or that is over 30 minutes in length with an expected in-~~ state expenditure budget in excess of \$50,000, *in a given year or for a*
- 22 *single project.* ~~or that is over 30 minutes in length with an expected in-~~ state expenditure budget in excess of \$100,000. Film shall not include the
- 23 following:
- 24
- 25 (1) ~~News or current events~~ programming;
- 26 (2) *local in-studio* talk show;
- 27 (3) ~~production produced primarily for industrial, corporate or~~
- 28 ~~institutional purposes, and for internal use;~~
- 29 ~~(4)~~ sports event or sports programming;
- 30 ~~(5)~~(4) *local* gala presentation or awards programming;
- 31 ~~(6)~~(5) infomercial or any production that directly solicits funds;
- 32 ~~(7)~~(6) political advertisement; or
- 33 ~~(8)~~(7) production that is considered obscene.
- 34 (d) "Film production company" means a person that produces one or
- 35 more films.

36 Sec. 3. K.S.A. 2011 Supp. 79-32,260 is hereby amended to read as
 37 follows: 79-32,260. (a) No tax credits authorized by K.S.A. 2011 Supp.
 38 79-32,257 through 79-32,259, and amendments thereto, shall be allowed
 39 for any tax year commencing on or after January 1, ~~2013~~ 2015.

40 (b) The total amount of tax credits which may be allowed under
 41 K.S.A. 2011 Supp. 79-32,257 through 79-32,259, and amendments thereto,
 42 shall not exceed \$2,000,000 per tax year.

43 Sec. 4. K.S.A. 2011 Supp. 79-32,258, 79-32,259 and 79-32,260 are

1 hereby repealed.

2 Sec. 5. This act shall take effect and be in force from and after its
3 publication in the statute book.

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