ENGROSSED HOUSE AMENDMENT
TO
ENGROSSED SENATE BILL NO. 1151 By: Mazzei and Fields of the Senate

and

Sears of the House

An Act relating to income tax; amending 68 O.S. 2357.101, which relates to tax credits for certain reinvestment of specified profit; limiting time period during which credits are allowed; and providing an effective date.

AMENDMENT NO. 1. Page 1, Section 1, line 17, delete the figure "2017" and add the figure "2015"

Passed the House of Representatives the 3rd day of April, 2014.

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Presiding Officer of the House of Representatives

Passed the Senate the ____ day of _____, 2014.

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Presiding Officer of the Senate

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An Act relating to income tax; amending 68 O.S. 2357.101, which relates to tax credits for certain reinvestment of specified profit; limiting time period during which credits are allowed; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 68 O.S. 2011, Section 2357.101, is amended to read as follows:

Section 2357.101. A. Except as otherwise provided in subsection E of this section, for taxable years beginning after December 31, 2004, <u>and ending before January 1, 2017,</u> there shall be allowed against the tax imposed by Section 2355 of ~~Title 68 of the Oklahoma Statutes~~ <u>this title</u>, a credit equal to twenty-five percent (25%) of the amount of profit made by a taxpayer from investment in an existing Oklahoma film or music project with a production company to pay for production costs that is reinvested by the taxpayer with the production company to pay for the production cost of the production company for a new Oklahoma film or music project.

B. In no event shall the amount of the credit provided for in subsection A of this section for an eligible taxpayer exceed the tax liability of the taxpayer in a calendar year.

C. The Oklahoma Tax Commission shall have the authority to prescribe forms for purposes of claiming the credit authorized in subsection A of this section. The forms shall include, but not be limited to, requests for information that prove who the investment was with, the amount of the original investment and the amount of the profit realized from the investment.

D. As used in this section:

1. "Film" means a professional single media, multimedia program or feature, which is not child pornography as defined in subsection A of Section 1024.1 of Title 21 of the Oklahoma Statutes or obscene material as defined in paragraph 1 of subsection B of Section 1024.1 of Title 21 of the Oklahoma Statutes including, but not limited to, national advertising messages that are broadcast on a national affiliate or cable network, fixed on film or digital video, which can be viewed or reproduced and which is exhibited in theaters, licensed for exhibition by individual television stations, groups of stations, networks, cable television stations or other means or licensed for home viewing markets;

2. "Music project" means a professional recording released on a national or international level, whether via traditional manufacturing or distributing or electronic distribution, using

technology currently in use or future technology including, but not limited to, music CDs, radio commercials, jingles, cues, or electronic device recordings;

3. "Production company" means a person who produces a film or music project for exhibition in theaters, on television or elsewhere;

4. "Total production cost" includes, but is not limited to:

a. wages or salaries of persons who have earned income from working on a film or music project in this state, including payments to personal services corporations with respect to the services of qualified performing artists, as determined under Section 62(a)(A) of the Internal Revenue Code,

b. the cost of construction and operations, wardrobe, accessories and related services,

c. the cost of photography, sound synchronization, lighting and related services,

d. the cost of editing and related services,

e. rental of facilities and equipment, and

f. other direct costs of producing a film or music project;

5. "Existing Oklahoma film or music project" means a film or music project produced after July 1, 2005;

6. "Profit" means the amount made by the taxpayer to be determined as follows:

a. the gross revenues less gross expenses, including direct production, distribution and marketing costs and an allocation of indirect overhead costs, of the film or music project shall be multiplied by,

b. a ratio, the numerator of which is Oklahoma production costs, as defined in paragraph 7 of this subsection, and the denominator of which is total production costs, as defined in paragraph 4 of this subsection, which shall be multiplied by,

c. the percent of the taxpayer's taxable income allocated to Oklahoma in a taxable year, and

d. subtract from the result of the formula calculated pursuant to subparagraphs a through c of this paragraph the profit made by a taxpayer from investment in an existing Oklahoma film or music project in previous taxable years. Profit shall include either a net profit or net loss;

7. "Oklahoma production cost" means that portion of total production costs which are incurred with any qualified vendor;

8. a. "Qualified vendor" means an Oklahoma entity which provides goods or services to a production company and for which:

(1) fifty percent (50%) or more of its employees are Oklahoma residents, and

(2) fifty percent (50%) or more of gross wages, as reported on Internal Revenue Service Form W-2 or Form 1099, are paid to Oklahoma residents.

b. For purposes of this paragraph, an employee shall include a self-employed individual reporting income from a qualified vendor on Internal Revenue Service Form 1040.

c. The Oklahoma Tax Commission shall prescribe forms by which an entity may be certified to a production company as a qualified vendor for purposes of this section; and

9. "Investment" means costs associated with the original production company. Film or music projects acquired from an original production company do not qualify as investment under subsection A of this section.

E. No credit otherwise authorized by the provisions of this section may be claimed for any event, transaction, investment, expenditure or other act occurring on or after July 1, 2010, for which the credit would otherwise be allowable. The provisions of this subsection shall cease to be operative on July 1, 2012. Beginning July 1, 2012, the credit authorized by this section may be claimed for any event, transaction, investment, expenditure or other

act occurring on or after July 1, 2012, according to the provisions of this section.

SECTION 2. This act shall become effective November 1, 2014.

Passed the Senate the 25th day of February, 2014.

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Presiding Officer of the Senate

Passed the House of Representatives the ____ day of _____, 2014.

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Presiding Officer of the House
of Representatives