

1 ENGROSSED SENATE
2 BILL NO. 1151

By: Mazzei and Fields of the
Senate

3 and

4 Sears of the House

5
6
7 An Act relating to income tax; amending 68 O.S.
8 2357.101, which relates to tax credits for certain
9 reinvestment of specified profit; limiting time
10 period during which credits are allowed; and
11 providing an effective date.

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

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

15 Section 2357.101. A. Except as otherwise provided in
16 subsection E of this section, for taxable years beginning after
17 December 31, 2004, and ending before January 1, 2017, there shall be
18 allowed against the tax imposed by Section 2355 of ~~Title 68 of the~~
19 ~~Oklahoma Statutes~~ this title, a credit equal to twenty-five percent
20 (25%) of the amount of profit made by a taxpayer from investment in
21 an existing Oklahoma film or music project with a production company
22 to pay for production costs that is reinvested by the taxpayer with
23 the production company to pay for the production cost of the
24 production company for a new Oklahoma film or music project.

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

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

10 D. As used in this section:

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

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

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

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

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

- 8 a. wages or salaries of persons who have earned income
9 from working on a film or music project in this state,
10 including payments to personal services corporations
11 with respect to the services of qualified performing
12 artists, as determined under Section 62(a)(A) of the
13 Internal Revenue Code,
- 14 b. the cost of construction and operations, wardrobe,
15 accessories and related services,
- 16 c. the cost of photography, sound synchronization,
17 lighting and related services,
- 18 d. the cost of editing and related services,
- 19 e. rental of facilities and equipment, and
- 20 f. other direct costs of producing a film or music
21 project;

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

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

- 3 a. the gross revenues less gross expenses, including
4 direct production, distribution and marketing costs
5 and an allocation of indirect overhead costs, of the
6 film or music project shall be multiplied by,
- 7 b. a ratio, the numerator of which is Oklahoma production
8 costs, as defined in paragraph 7 of this subsection,
9 and the denominator of which is total production
10 costs, as defined in paragraph 4 of this subsection,
11 which shall be multiplied by,
- 12 c. the percent of the taxpayer's taxable income allocated
13 to Oklahoma in a taxable year, and
- 14 d. subtract from the result of the formula calculated
15 pursuant to subparagraphs a through c of this
16 paragraph the profit made by a taxpayer from
17 investment in an existing Oklahoma film or music
18 project in previous taxable years. Profit shall
19 include either a net profit or net loss;

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

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

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

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

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

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

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

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

23 Beginning July 1, 2012, the credit authorized by this section may be
24 claimed for any event, transaction, investment, expenditure or other

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

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

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

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Presiding Officer of the Senate

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8 Passed the House of Representatives the ____ day of _____,
9 2014.

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Presiding Officer of the House
of Representatives

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