

2014 MS S 2374 , Enacted

Mississippi

SUMMARY: Includes costs paid by a motion picture production company for employee benefits that are not subject to state income tax in the calculation of rebates under the State Motion Picture Incentive Act; relates to fringes which may include payments by an employer for unemployment insurance, Federal Insurance Contribution Act, workers' compensation insurance, pension and welfare benefits and health insurance premiums.~SAME AS:

Legislative History and Analysis

Changes in Bill text reflected as:

~~Text Deleted~~

Text Added

~~Text Vetoed~~

Current Legislative Status

01/17/2014 INTRODUCED.

01/17/2014 To SENATE Committee on FINANCE.

02/04/2014 From SENATE Committee on FINANCE: Recommended as substituted.

02/04/2014 Title Deemed Sufficient by SENATE Committee: Do Pass Recommended Substitute.

02/12/2014 Committee substitute adopted on SENATE floor.

02/12/2014 Passed SENATE. *****To HOUSE.

02/13/2014 Transmitted to House.

02/14/2014 To HOUSE Committee on WAYS AND MEANS.

03/03/2014 From HOUSE Committee on WAYS AND MEANS: Do pass.

03/11/2014 Amended on HOUSE floor.

03/11/2014 Passed HOUSE. *****To SENATE for concurrence.

03/19/2014 SENATE refused to concur in HOUSE amendments.

03/19/2014 *****To CONFERENCE Committee.

03/31/2014 CONFERENCE Committee Report filed in SENATE.

03/31/2014 CONFERENCE Committee Report filed in HOUSE.

03/31/2014 CONFERENCE Committee Report filed in HOUSE.

03/31/2014 CONFERENCE Committee Report filed in SENATE.

04/01/2014 CONFERENCE Committee Report adopted by HOUSE.

04/01/2014 CONFERENCE Committee Report adopted by SENATE.

04/07/2014 Eligible for GOVERNOR'S desk.

04/07/2014 *****To GOVERNOR.

04/23/2014 Signed by GOVERNOR.

~

session: Mississippi 2014 Regular Session of the Mississippi Legislature

cite: 2014 MS S 2374

Enacted

April 23, 2014

Fillingane J

MISSISSIPPI LEGISLATURE

2014 Regular Session

To: Finance

By: Senator(s) Fillingane, Horhn, Jackson (11th)

Senate Bill 2374

(As Sent to Governor)

AN ACT TO AMEND SECTIONS 57-89-3 AND 57-89-7, MISSISSIPPI CODE OF 1972, TO INCLUDE COSTS PAID BY A MOTION PICTURE PRODUCTION COMPANY FOR EMPLOYEE BENEFITS THAT ARE NOT SUBJECT TO STATE INCOME TAX IN THE CALCULATION OF REBATES UNDER THE MISSISSIPPI MOTION PICTURE INCENTIVE ACT; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 57-89-3, Mississippi Code of 1972, is amended as follows:

57-89-3. As used in this chapter, the following terms shall have the meanings ascribed in this section unless the context clearly indicates otherwise:

(a) "Base investment" means the actual investment made and expended in Mississippi by a motion picture production company in connection with the production of a state-certified production in the state. The term "base investment" includes amounts expended in Mississippi by a motion picture production company as per diem and housing allowances in connection with the production of a state-certified production in the state. The term "base investment" shall not include payroll.

(b) "Employee" means an individual directly involved in the physical production and/or post-production of a motion picture produced in the state and who is employed by a:

(i) Motion picture production company that is directly involved in the physical production and/or post-production of a motion picture in the state;

(ii) Personal service corporation retained by a motion picture production company to provide persons used directly in the physical production and/or post-production of a motion picture in the state; or

(iii) Payroll service or loan-out company that is retained by a motion picture production company to provide employees who work directly in the physical production and/or post-production of a motion picture in the state.

(c) ***"Fringes" means costs paid by a motion picture production company on or after September 1, 2013, for employee benefits that are not subject to state income tax. Fringes may include, but are not limited to, payments by an employer for unemployment insurance, Federal Insurance Contribution Act (FICA), workers' compensation insurance, pension and welfare benefits and health insurance premiums.***

(* * * **d**) "Motion picture" means a nationally distributed feature-length film, video, DVD, television program or series, commercial, or computer or video game made in Mississippi, in whole or in part, for theatrical or DVD release or television viewing or as a television pilot or viewing through streaming video or Internet delivery, or for playing on a video game console, personal computer or handheld device. The term "motion picture" shall not include the production of television coverage of news and athletic events, or a film, video, DVD, television program, series, or commercial that contains any material or performance defined in Section 97-29-103.

(* * * **e**) "Motion picture production company" means a company engaged in the business of producing nationally distributed motion pictures, videos, DVDs, television programs or series, commercials, or computer or video games intended for a theatrical release, for television viewing or for playing on a video game console, personal computer or handheld device. The term "motion picture production company" includes a company engaged in the business of making such productions through the use of animation, interactive media, preproduction and post-production 3D applications, video game cinematics, virtual production, visual effects, and motion capture within the fields of feature film, television, commercials and games. The term "motion picture production company" shall not mean or include any company owned, affiliated, or controlled, in whole or in part, by any company or person which is in default on a loan made by the state or a loan guaranteed by the state, or any company or person who has ever declared bankruptcy

under which an obligation of the company or person to pay or repay public funds or monies was discharged as a part of such bankruptcy.

(* * * **f**) "Payroll" means salary, wages or other compensation including related benefits paid to employees upon which Mississippi income tax is due and has been withheld.

(* * * **g**) "Resident" or "resident of Mississippi" means a natural person, and for the purpose of determining eligibility for the rebate provided by Section 57-89-7, any person domiciled in the State of Mississippi and any other person who maintains a permanent place of abode within the state and spends in the aggregate more than six (6) months of each year within the state.

(* * * **h**) "State" means the State of Mississippi.

(* * * **i**) "State-certified production" means a motion picture approved by the Mississippi Development Authority produced by a motion picture production company in the state. An application for approval as a state-certified production must be submitted to the Mississippi Development Authority before production of the project begins.

SECTION 2. Section 57-89-7, Mississippi Code of 1972, is amended as follows:

57-89-7. (1) (a) A motion picture production company that expends at least Fifty Thousand Dollars (\$50,000.00) in base investment* * * , payroll* * * **and/or fringes** , in the state shall be entitled to a rebate of a portion of the base investment made by the motion picture production company. Subject to the provisions of this section, the amount of the rebate shall be equal to twenty-five percent (25%) of the base investment made by the motion picture production company.

(b) In addition to the rebates authorized under paragraphs (a), (c) and (d) of this subsection, a motion picture production company may receive a rebate equal to twenty-five percent (25%) of payroll **and fringes** paid for any employee who is not a resident and whose wages are subject to the Mississippi Income Tax Withholding Law of 1968. However, if the payroll **and fringes** paid for an employee exceeds Five Million Dollars (\$5,000,000.00), then the rebate is authorized only for the first Five Million Dollars (\$5,000,000.00) of such payroll **and fringes** .

(c) In addition to the rebates authorized under paragraphs (a), (b) and (d) of this subsection, a motion picture production company may receive a rebate equal to thirty percent (30%) of payroll **and fringes** paid for any employee who is a resident and whose wages are subject to the Mississippi Income Tax Withholding Law of 1968. However, if the payroll **and fringes** paid for an employee exceeds Five Million Dollars (\$5,000,000.00), then the rebate is authorized only for the first Five Million Dollars (\$5,000,000.00) of such payroll **and fringes** .

(d) In addition to the rebates authorized in paragraphs (a), (b) and (c) of this subsection, a motion picture production company may receive an additional rebate equal to five percent (5%) of the payroll **and fringes** paid for any employee who is an honorably discharged veteran of the United States Armed Forces and whose wages are subject to the Mississippi Income Tax Withholding Law of 1968.

(e) If a motion picture has physical production activities and/or post-production activities both inside and outside the state, then the motion picture production company shall be required to provide an itemized accounting for each employee regarding such activities inside and outside the state for the purposes of proration of eligible payroll based on the percentage of activities performed in the state.

(f) The total amount of rebates authorized for a motion picture project shall not exceed Ten Million Dollars (\$10,000,000.00) in the aggregate.

(g) The total amount of rebates authorized in any fiscal year shall not exceed Twenty Million Dollars (\$20,000,000.00) in the aggregate.

(2) A motion picture production company desiring a rebate under this section must submit a rebate request to the Department of Revenue upon completion of the project. The request must include a detailed accounting of the base investment made by the motion picture production company and any other information required by the Department of Revenue. Rebates made by the Department of Revenue under this section shall be made from current income tax collections. The Department of Revenue shall not approve any application for a rebate under subsection (1)(b) of this section after July 1, 2016.

(3) The Department of Revenue shall have all powers necessary to implement and administer the provisions of this section, and the Department of Revenue shall promulgate rules and regulations, in

accordance with the Mississippi Administrative Procedures Law, necessary for the implementation of this section.

SECTION 3. This act shall take effect and be in force from and after January 1, 2014.