

2013 PA H 465 , Enacted - Unofficial Pamphlet Law

Pennsylvania

SUMMARY: Includes sales and services taxes on aircraft and automobiles, telephone services taxation credits, a sales and use tax collection license, the sales tax on remote sellers, S corporation taxation, city sales tax, room and occupancy tax, school district tax sources, individual income tax donations, employer withholding taxes, taxable income, television service taxes, real property sales and leases tax, corporate income tax, capital stock and franchise tax, bank stock tax, and Innovate PA tax credit.~SAME AS:

Legislative History and Analysis

Changes in Bill text reflected as:

Text Deleted

Text Added

Text Vetoed

Current Legislative Status

01/30/2013 FILED.

01/30/2013 INTRODUCED.

01/30/2013 To HOUSE Committee on FINANCE.

03/12/2013 From HOUSE Committee on FINANCE. Reported as amended.

03/12/2013 In HOUSE. Read first time.

03/12/2013 In HOUSE. Laid on table.

03/13/2013 In HOUSE. Removed from table.

03/18/2013 In HOUSE. Read second time.

03/18/2013 Rereferred to HOUSE Committee on APPROPRIATIONS.

03/19/2013 From HOUSE Committee on APPROPRIATIONS.

03/19/2013 In HOUSE. Read third time. Passed HOUSE. *****To SENATE.

04/03/2013 To SENATE Committee on FINANCE.

05/01/2013 From SENATE Committee on FINANCE. Reported as amended.

05/01/2013 In SENATE. Read first time.

05/14/2013 In SENATE. Read second time.

05/14/2013 To SENATE Committee on APPROPRIATIONS.

06/30/2013 From SENATE Committee on APPROPRIATIONS. Reported as amended.

06/30/2013 In SENATE. Amendment No. adopted on floor.

06/30/2013 In SENATE. Read third time. Passed SENATE. *****To HOUSE for concurrence.

07/01/2013 Rereferred to HOUSE Committee on RULES for concurrence.

07/01/2013 From HOUSE Committee on RULES. Reported as amended.

07/01/2013 HOUSE concurred in SENATE amendments with further amendments. *****To SENATE for concurrence.

07/03/2013 To SENATE Committee on RULES AND EXECUTIVE NOMINATIONS for concurrence.

07/03/2013 From SENATE Committee on RULES AND EXECUTIVE NOMINATIONS.

07/03/2013 SENATE concurred in HOUSE amendments.

07/08/2013 *****To GOVERNOR.

07/09/2013 Signed by GOVERNOR.

07/09/2013 Act No. 2013-52

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session: Pennsylvania 197th General Assembly -- 2013-14 Regular Session

cite: 2013 PA H 465

Enacted - Unofficial Pamphlet Law

July 9, 2013

Mackenzie

Session of 2013

Act No. 2013-52

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL No. 465

AN ACT

SECTIONS NOT PERTAINING TO THE FILM INCENTIVE HAVE BEEN OMITTED.

Section 27. Sections 1702-D and 1703-D of the act, amended or added July 25, 2007 (P.L.373, No.55) and July 2, 2012 (P.L.751, No.85), are amended to read:

Section 1702-D. Definitions.

The following words and phrases when used in this article shall have the meanings given to them in this section unless the context clearly indicates otherwise:

“Department.” The Department of Community and Economic Development of the Commonwealth.

“Film.” A feature film, a television film, a television talk or game show series, a television commercial or a television pilot or each episode of a television series which is intended as programming for a national audience. The term does not include a production featuring news, current events, weather and market reports, public programming, sports events, awards shows or other gala events, a production that solicits funds, a production containing obscene material or performances as defined in 18 Pa.C.S. Section 5903(b) (relating to obscene and other sexual materials and performances) or a production primarily for private, political, industrial, corporate or institutional purposes.

“Minimum stage filming requirements.” Include:

(1) Taxpayers with a Pennsylvania production expense of less than \$30,000,000 per production must:

(i) build at least one set at a qualified production facility;

(ii) shoot for a minimum of ten days at a qualified production facility; and

(iii) spend or incur a minimum of \$1,500,000 in direct expenditures relating to the use or rental of tangible property or for performance of services provided by a qualified production facility.

(2) Taxpayers with a Pennsylvania production expense of at least \$30,000,000 per production must:

(i) build at least two sets at a qualified production facility;

(ii) shoot for a minimum of 15 days at a qualified production facility; and

(iii) spend or incur a minimum of \$5,000,000 in direct expenditures relating to the use or rental of tangible property at or for performance of services provided by a qualified production facility.

“Pass-through entity.” A partnership as defined in section 301(n.0) or a Pennsylvania S corporation as defined in section 301(n.1).

“Pennsylvania production expense.” Production expense incurred in this Commonwealth. The term includes:

(1) Compensation paid to an individual on which the tax imposed by Article III will be paid or accrued.

(2) Payment to a personal service corporation representing individual talent if the tax imposed by Article IV will be paid or accrued on the net income of the corporation for the taxable year.

(3) Payment to a pass-through entity representing individual talent if the tax imposed by Article III will be paid or accrued by all of the partners, members or shareholders of the pass-through entity for the taxable year **for which the tax imposed under Article III has been withheld and remitted under the requirements of Article III by the production company** .

(4) The cost of transportation incurred while transporting to or from a train station, bus depot or airport, located in this Commonwealth.

(5) The cost of insurance coverage purchased through an insurance agent based in this Commonwealth.

(6) The purchase of music or story rights if any of the following subparagraphs apply:

(i) The purchase is from a resident of this Commonwealth.

(ii) The purchase is from an entity subject to taxation in this Commonwealth, and the transaction is subject to taxation under Article III, IV or VI.

(7) The cost of rental of facilities and equipment rented from or through a resident of this Commonwealth or an entity subject to taxation in this Commonwealth.

“Production expense.” As follows:

(1) The term includes all of the following:

(i) Compensation paid to an individual employed in the production of the film.

(ii) Payment to a personal service corporation representing individual talent.

(iii) Payment to a pass-through entity representing individual talent.

(iv) The costs of construction, operations, editing, photography, sound synchronization, lighting, wardrobe and accessories.

(v) The cost of leasing vehicles.

(vi) The cost of transportation to or from a train station, bus depot or airport.

(vii) The cost of insurance coverage.

(viii) The costs of food and lodging.

(ix) The purchase of music or story rights.

(x) The cost of rental of facilities and equipment.

(2) The term does not include any of the following:

(i) Deferred, leveraged or profit participation paid or to be paid to individuals employed in the production of the film or paid to entities representing an individual for services provided in the production of the film.

(ii) Development cost.

(iii) Expense incurred in marketing or advertising a film.

(iv) Cost related to the sale or assignment of a film production tax credit under section 1705-D(e).

“Qualified film production expense.” All Pennsylvania production expenses if Pennsylvania production expenses comprise at least 60% of the film's total production expenses. The term shall not include more than \$15,000,000 in the aggregate of compensation paid to individuals or payment made to entities representing an individual for services provided in the production of the film.

“Qualified production facility.” A film production facility located within this Commonwealth that contains at least one sound stage with a column-free, unobstructed floor space and meets either of the following criteria:

(1) Has had a minimum of \$10,000,000 invested in the film production facility in land or a structure purchased or ground-up, purpose-built new construction or renovation of existing improvement.

(2) Meets at least three of the following criteria:

(i) A sound stage having an industry standard noise criteria rating of 25 or better.

(ii) A permanent grid with a minimum point load capacity of no less than 1,000 pounds at a minimum of 25 points.

(iii) Built-in power supply available at a minimum of 4,000 amps per sound stage without the need for supplemental generators.

(iv) A height from sound stage floor to permanent grid of a minimum of 20 feet.

(v) A sound stage with a sliding or roll-up access door with a minimum height of 14 feet.

(vi) A built-in HVAC capacity during shoot days with a minimum of 50 tons of cooling capacity available per sound stage.

(vii) Perimeter security that includes a 24-hour, seven-days-a-week security presence and use of access control identification badges.

(viii) On-site lighting and grip department with an available inventory stored at the film production facility with a minimum cost of investment of \$500,000.

(ix) A sound stage with contiguous production offices with a minimum of 5,000 square feet per sound stage.

“Qualified tax liability.” The liability for taxes imposed under Article III, IV, VI, VII or IX. The term shall not include any tax withheld by an employer from an employee under Article III.

“Start date.” ~~–The first day of principal photography in this Commonwealth.–~~ **As follows:**

(1) the first day of principal photography in this Commonwealth; or

(2) an earlier date than the date under subparagraph (i), approved by the Pennsylvania Film Office.

“Tax credit.” The film production tax credit provided under this article.

“Taxpayer.” A film production company subject to tax under Article III, IV or VI. The term does not include contractors or subcontractors of a film production company.

Section 1703-D. Credit for qualified film production expenses.

(a) Application.--A taxpayer may apply to the department for a tax credit under this section. The application shall be on the form required by the department.

(b) Review and approval.--The department shall establish application periods not to exceed 90 days each. All applications received during the application period shall be reviewed and evaluated by the department based on the following criteria:

(1) The anticipated number of production days in a qualified production facility.

(2) The anticipated number of Pennsylvania employees.

(3) The number of preproduction days through postproduction days in Pennsylvania.

(4) The anticipated number of days spent in Pennsylvania hotels.

(5) The Pennsylvania production expenses in comparison to the production budget.

(6) The use of studio resources.

(7) Other criteria that the Director of the Pennsylvania Film Office deems appropriate to ensure maximum employment and benefit within this Commonwealth.

Upon determining the taxpayer has incurred or will incur qualified film production expenses, the department may approve the taxpayer for a tax credit. Applications not approved may be reviewed and considered in subsequent application periods. The department may approve a taxpayer for a tax credit based on its evaluation of the criteria under this subsection.

(c) Contract.--If the department approves the taxpayer's application under subsection (b), the department and the taxpayer shall enter into a contract containing the following:

(1) An itemized list of production expenses incurred or to be incurred for the film.

(2) An itemized list of Pennsylvania production expenses incurred or to be incurred for the film.

(3) With respect to a contract entered into prior to completion of production, a commitment by the taxpayer to incur the qualified film production expenses as itemized.

(4) The start date.

(5) Any other information the department deems appropriate.

(d) Certificate.--Upon execution of the contract required by subsection (c), the department shall award the taxpayer a film production tax credit and issue the taxpayer a film production tax credit certificate.

Section 28. Sections 1705-D(g) and 1708-G.1(b) of the act, amended or added July 2, 2012 (P.L.751, No.85), are amended to read:

Section 1705-D. Carryover, carryback and assignment of credit.

* * *

(g) Limited carry forward of tax credits by a purchaser or assignee.--A purchaser or assignee may carry forward all or any unused portion of a tax credit purchased or assigned in ~~calendar~~ :

(1) Calendar year 2010 against qualified tax liabilities incurred in taxable years 2011 and 2012.

(2) Calendar year 2013 against qualified tax liabilities incurred in taxable years 2014.

(3) Calendar year 2014 against qualified tax liabilities incurred in taxable year 2015.

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(6) The remainder of this act shall take effect immediately.