

NY S 4009, Chaptered

New York

SUMMARY: Enacts into law major components of legislation which are necessary to implement the state fiscal plan for the 2023-2024 state fiscal year.~SAME AS: NY A 3009#

Changes in Bill text reflected as:

~~Text Deleted~~

Text Added

~~Text Vetoed~~

Current Legislative Status

02/01/2023 INTRODUCED.

02/01/2023 To SENATE Committee on FINANCE.

03/06/2023 Amended in SENATE Committee on FINANCE.

03/14/2023 Amended in SENATE Committee on FINANCE.

04/30/2023 Amended in SENATE Committee on FINANCE.

05/01/2023 From SENATE Committee on FINANCE.

05/01/2023 Passed SENATE. *****To ASSEMBLY.

05/01/2023 To ASSEMBLY Committee on WAYS AND MEANS.

05/01/2023 From ASSEMBLY Committee on WAYS AND MEANS.

05/01/2023 Substituted for A3009C

05/01/2023 Passed ASSEMBLY.

05/02/2023 *****To GOVERNOR.

05/03/2023 Signed by GOVERNOR.

05/03/2023 Chapter No. 59

~

session: New York 246th Annual Legislative Session

cite: 2023 NY S 4009

Chaptered

May 3, 2023

Office of the Governor

LAWS OF NEW YORK, 2023

CHAPTER 59

AN ACT to amend the tax law, in relation to providing the authority to abate interest for taxpayers impacted by declared disasters (Part A); to amend the tax law, in relation to clarifying the definition of limited partner for the purposes of the metropolitan commuter transportation mobility tax (Part B); to amend the tax law, in relation to making the investment tax credit refundable for eligible farmers for five years (Part C); to amend the tax law, in relation to the empire state film production credit and the empire state film post-production credit (Part D); to amend the tax law, in relation to the abatement of penalties for underpayment of estimated tax by a corporation (Part E); to amend the economic development law, in relation to the COVID-19 capital costs tax credit program (Part F); to amend the social services law and the tax law, in relation to creating a tax credit for the creation and expansion of child care (Part G); to amend the tax law and the administrative code of the city of New York, in relation to a credit for certain businesses engaged in biotechnologies (Part H); to amend the tax law, in relation to extending the current corporate tax rates (Subpart A); to amend the tax law, in relation to extending the

rehabilitation of historic properties tax credit (Subpart B); to amend the tax law, in relation to extending the empire state commercial production tax credit for five years (Subpart C); to amend the tax law, in relation to extending provisions of law relating to the grade No. 6 heating oil conversion tax credit (Subpart D); to amend subpart B of part PP of chapter 59 of the laws of 2021 amending the tax law and the state finance law relating to establishing the New York city musical and theatrical production tax credit and establishing the New York state council on the arts cultural program fund, in relation to the effectiveness thereof; and to amend the tax law, in relation to the New York city musical and theatrical production tax credit (Subpart E)(Part I); to amend the tax law, in relation to making technical corrections to the credit for companies who provide transportation to individuals with disabilities (Subpart A); to amend the tax law, in relation to eligibility for the brownfield redevelopment tax credit (Subpart B); to amend the tax law, in relation to the pass-through entity tax and city pass-through entity tax and making technical corrections thereto (Subpart C) (Part J); to amend the real property tax law, in relation to simplifying certain senior citizens real property tax exemptions (Part K); to amend chapter 540 of the laws of 1992, amending the real property tax law relating to oil and gas charges, in relation to the effectiveness thereof (Part L); intentionally omitted (Part M); to amend the real property tax law and the state administrative procedure act, in relation to clarifying the solar or wind energy system appraisal model (Part N); intentionally omitted (Part O); to repeal certain provisions of the tax law, relating to eliminating congestion surcharge registration requirements (Part P); to amend the tax law, in relation to the payment of tax on increased quantities of motor fuel and Diesel motor fuel on which the taxes pursuant to articles 12-A, 13-A and 28 were not previously paid (Part Q); to amend the tax law, in relation to extending the sales tax exemption for certain sales made through vending machines (Part R); to amend the tax law, in relation to an increase in the rate of tax on cigarettes (Part S); to amend the tax law, in relation to the revocation of certain certificates and civil penalties for refusal of a cigarette and tobacco inspection (Part T); to amend the tax law and the administrative code of the city of New York, in relation to extending the tax rate reduction under the New York state real estate transfer tax and the New York city real property transfer tax for conveyances of real property to existing real estate investment funds (Part U); to amend the tax law, in relation to permitting the commissioner of taxation and finance to seek judicial review of decisions of the tax appeals tribunal (Part V); to amend the state finance law, in relation to clarifying the deposit timeframe for moneys deposited by the commissioner of taxation and finance (Part W); to amend the racing, pari-mutuel wagering and breeding law and the tax law, in relation to requiring the New York Racing Association, Inc. to enter into a repayment agreement with the state of New York for the repayment of funds provided by the state for the renovation of Belmont Park racetrack; and in relation to the membership of the franchise oversight board (Part X); intentionally omitted (Part Y); intentionally omitted (Part Z); intentionally omitted (Part AA); to amend the racing, pari-mutuel wagering and breeding law, in relation to licenses for simulcast facilities, sums relating to track simulcast, simulcast of out-of-state thoroughbred races, simulcasting of races run by out-of-state harness tracks and distributions of wagers; to amend chapter 281 of the laws of 1994 amending the racing, pari-mutuel wagering and breeding law and other laws relating to simulcasting; to amend chapter 346 of the laws of 1990 amending the racing, pari-mutuel wagering and breeding law and other laws relating to simulcasting and the imposition of certain taxes, in relation to extending certain provisions thereof; and to amend the racing, parimutuel wagering and breeding law, in relation to extending certain provisions thereof (Part BB); intentionally omitted (Part CC); to amend the state finance law, in relation to the liability of a person who presents false claims for money or property to the state or a local government (Part DD); to repeal subparagraph 9 of paragraph (e) of subdivision 1 of section 210-B of the tax law relating to the transferability of the investment tax credit (Part EE); to amend the tax law, in relation to the amount of credit for cider, wine, and liquor under the alcoholic beverage production credit (Part FF); and to amend the tax law, in relation to establishing a permanent rate for the metropolitan transportation business tax surcharge (Part GG)

Became a law May 3, 2023, with the approval of the Governor. Passed on message of necessity pursuant to Article III, section 14 of the Constitution by a majority vote, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact

as follows:

Section 1. This act enacts into law major components of legislation which are necessary to implement the state fiscal plan for the 2023-2024 state fiscal year. Each component is wholly contained within a Part identified as Parts A through GG. The effective date for each particular provision contained within such Part is set forth in the last section of such Part. Any provision in any section contained within a Part, including the effective date of the Part, which makes a reference to a section "of this act", when used in connection with that particular component, shall be deemed to mean and refer to the corresponding section of the Part in which it is found. Section three of this act sets forth the general effective date of this act.

*****TEXT OMITTED, DOES NOT PERTAIN TO FILM*****

PART D

Section 1. Paragraph 2 of subdivision (a) of section 24 of the tax law, as separately amended by sections 1 and 2 of part M of chapter 59 of the laws of 2020, is amended to read as follows:

(2) The amount of the credit shall be the product (or pro rata share of the product, in the case of a member of a partnership) of ~~twenty-five~~ **thirty** percent and the qualified production costs paid or incurred in the production of a qualified film, provided that: (i) the qualified production costs (excluding post production costs) paid or incurred which are attributable to the use of tangible property or the performance of services at a qualified film production facility in the production of such qualified film equal or exceed seventy-five percent of the production costs (excluding post production costs) paid or incurred which are attributable to the use of tangible property or the performance of services at any film production facility within and without the state in the production of such qualified film, and (ii) except with respect to a qualified independent film production company or pilot, at least ten percent of the total principal photography shooting days spent in the production of such qualified film must be spent at a qualified film production facility. However, if the qualified production costs (excluding post production costs) which are attributable to the use of tangible property or the performance of services at a qualified film production facility in the production of such qualified film is less than three million dollars, then the portion of the qualified production costs attributable to the use of tangible property or the performance of services in the production of such qualified film outside of a qualified film production facility shall be allowed only if the shooting days spent in New York outside of a film production facility in the production of such qualified film equal or exceed seventy-five percent of the total shooting days spent within and without New York outside of a film production facility in the production of such qualified film. The credit shall be allowed for the taxable year in which the production of such qualified film is completed. However, in the case of a qualified film that receives funds from additional pool 2, no credit shall be claimed before the later of (1) the taxable year the production of the qualified film is complete, or (2) the ~~first~~ taxable year **beginning immediately after the that includes the last day of the** allocation year for which the film has been allocated credit by the ~~governor's office for motion picture and television department of economic~~ development. If the amount of the credit is at least one million dollars but less than five million dollars, the credit shall be claimed over a two year period beginning in the first taxable year in which the credit may be claimed and in the next succeeding taxable year, with one-half of the amount of credit allowed being claimed in each year. If the amount of the credit is at least five million dollars, the credit shall be claimed over a three year period beginning in the first taxable year in which the credit may be claimed and in the next two succeeding taxable years, with one-third of the amount of the credit allowed being claimed in each year.

Section 2. Paragraph 5 of subdivision (a) of section 24 of the tax law, as amended by section 2 of part M of chapter 59 of the laws of 2022, is amended to read as follows:

(5) For the period two thousand fifteen through two thousand ~~twenty-nine~~ **thirty-four**, in addition to the amount of credit established in paragraph two of this subdivision, a taxpayer shall be allowed a credit equal to (i) the product (or pro rata share of the product, in the case of a member of a partnership) of ten percent and the ~~amount of~~ wages ~~or~~ , salaries ~~or other compensation constituting qualified production costs as defined in paragraph two~~

of subdivision (b) of this section, paid to individuals directly employed ~~(excluding those employed as writers, directors, music directors, producers and performers, including background actors with no scripted lines)~~ by a qualified film production company or a qualified independent film production company for services performed by those individuals in one of the counties specified in this paragraph in connection with a qualified film with a minimum budget of five hundred thousand dollars , *and (ii) the product (or pro rata share of the product, in the case of a member of a partnership) of ten percent and the qualified production costs (excluding wages, salaries or other compensation) paid or incurred in the production of a qualified film where the property constituting such qualified production costs was used, and the services constituting such qualified production costs were performed in any of the counties specified in this paragraph in connection with a qualified film with a minimum budget of five hundred thousand dollars where the majority of principal photography shooting days in the production of such film were shot in any of the counties specified in this paragraph. Provided, however, that the aggregate total eligible qualified production costs constituting wages, salaries or other compensation, for writers, directors, composers, producers, and performers shall not exceed forty percent of the aggregate sum total of all other qualified production costs.* For purposes of ~~this additional~~ *the credit*, the services must be performed *and the property must be used* in one or more of the following counties: Albany, Allegany, Broome, Cattaraugus, Cayuga, Chautauqua, Chemung, Chenango, Clinton, Columbia, Cortland, Delaware, Dutchess, Erie, Essex, Franklin, Fulton, Genesee, Greene, Hamilton, Herkimer, Jefferson, Lewis, Livingston, Madison, Monroe, Montgomery, Niagara, Oneida, Onondaga, Ontario, Orange, Orleans, Oswego, Otsego, Putnam, Rensselaer, Saratoga, Schenectady, Schoharie, Schuyler, Seneca, St. Lawrence, Steuben, Sullivan, Tioga, Tompkins, Ulster, Warren, Washington, Wayne, Wyoming, or Yates. ~~The aggregate amount of tax credits allowed pursuant to the authority of this paragraph shall be five million dollars each year during the period two thousand fifteen through two thousand twenty-nine of the annual allocation made available to the program pursuant to paragraph four of subdivision (e) of this section. Such aggregate amount of credits shall be allocated by the governor's office for motion picture and television development among taxpayers in order of priority based upon the date of filing an application for allocation of film production credit with such office. If the total amount of allocated credits applied for under this paragraph in any year exceeds the aggregate amount of tax credits allowed for such year under this paragraph, such excess shall be treated as having been applied for on the first day of the next year. If the total amount of allocated tax credits applied for under this paragraph at the conclusion of any year is less than five million dollars, the remainder shall be treated as part of the annual allocation made available to the program pursuant to paragraph four of subdivision (e) of this section. However, in no event may the total of the credits allocated under this paragraph and the credits allocated under paragraph five of subdivision (a) of section thirty-one of this article exceed five million dollars in any year during the period two thousand fifteen through two thousand twenty-nine.~~

Section 2-a. Paragraph 1 of subdivision (b) of section 24 of the tax law, as amended by section 4 of part B of chapter 59 of the laws of 2013, is amended to read as follows:

(1) "Qualified production costs" means production costs only to the extent such costs are attributable to the use of tangible property or the performance of services within the state directly and predominantly in the production (including pre-production and post production) of a qualified film. *In the case of an eligible relocated television series, the term "qualified production costs" shall include, in the first season that the eligible relocated television series is produced in New York after relocation, qualified relocation costs. Provided, however, that the aggregate total eligible qualified production costs for producers, writers, directors, performers (other than background actors with no scripted lines), and composers shall not exceed forty percent of the aggregate sum total of all other qualified production costs.*

Section 3. Paragraph 2 of subdivision (b) of section 24 of the tax law, as added by section 1 of part P of chapter 60 of the laws of 2004, is amended to read as follows:

(2) "Production costs" means any costs for tangible property used and services performed directly and predominantly in the production (including pre-production and post production) of a qualified film. "Production costs" shall not include (i) costs for a story, script or scenario to be used for a qualified film and (ii) wages or salaries or other compensation for writers, directors, ~~including music directors composers, producers~~ and performers (other than background actors with no scripted lines) *to the extent those wages or salaries or other compensation exceed five hundred thousand dollars per individual.* "Production costs" generally include technical and crew production costs, such as expenditures for film production facilities, or any part thereof, props, makeup, wardrobe, film processing, camera, sound recording, set construction, lighting, shooting, editing and meals, *and shall include the wages, salaries or other compensation of no more than two producers per qualified film, not to exceed five hundred thousand dollars per producer, where only one of whom is the principal individual responsible for overseeing the creative and managerial process of production of the qualified film and only one of whom is the principal individual responsible for the day-to-day operational management of production of the qualified film; provided, however, that such producers are not compensated for any other position on the qualified film by a qualified film production company or a qualified independent film production company for services performed.*

Section 4. Paragraph 8 of subdivision (b) of section 24 of the tax law, as added by section 2 of part B of chapter 59 of the laws of 2013, is amended to read as follows:

(8) "Relocated television production" shall mean, notwithstanding the limitations in subparagraph (i) of paragraph three of this subdivision, a television production that is a talk or variety program that filmed at least ~~five~~ *two* seasons outside the state prior to its first relocated season in New York, the episodes are filmed before a studio audience of two hundred or more, and the relocated television production incurs (i) at least thirty million dollars in annual production costs in the state, or (ii) at least ten million dollars in capital expenditures at a qualified production facility in the state.

Section 5. Subdivision (b) of section 24 of the tax law is amended by adding a new paragraph 9 to read as follows:

(9) "Eligible relocated television series" shall mean the first two years of a regularly occurring production intended to run in its initial broadcast, regardless of the medium or mode of its distribution, in a series of narrative and/or thematically related episodes, each of which has a running time of at least thirty minutes in length (inclusive of commercial advertisement and interstitial programming, if any), which had filmed a minimum of six episodes of the television series outside the state immediately prior to relocating to the state, where the television series had a total minimum budget of at least one million dollars per episode. For the purposes of this definition only, a television series produced by and for media services providers described as streaming services and/or digital platforms (and excluding network/cable) shall mean a regularly occurring production intended to run in its initial release in a series of narrative and/or thematically related episodes, the aggregate length of which is at least seventy-five minutes, although the episodes themselves may vary in duration from the thirty minutes specified for network/cable production.

Section 5-a. Subdivision (b) of section 24 of the tax law is amended by adding a new paragraph 10 to read as follows:

(10) "Qualified relocation costs" means the costs incurred, excluding wages, salaries and other compensation, in the first season that an eligible relocated television series relocates to New York including such costs incurred to transport sets, props and wardrobe to New York and other costs as determined by the department of economic development to the extent such costs do not exceed six

million dollars.

Section 6. Paragraph 4 of subdivision (e) of section 24 of the tax law, as amended by section 3 of part M of chapter 59 of the laws of 2022, is amended to read as follows:

(4) Additional pool 2 - The aggregate amount of tax credits allowed in subdivision (a) of this section shall be increased by an additional four hundred twenty million dollars in each year starting in two thousand ten through two thousand ~~twenty-nine~~ *twenty-three and seven hundred million dollars each year starting in two thousand twenty-four through two thousand thirty-four*, provided however, seven million dollars of the annual allocation shall be available for the empire state film post production credit pursuant to section thirty-one of this article in two thousand thirteen and two thousand fourteen, twenty-five million dollars of the annual allocation shall be available for the empire state film post production credit pursuant to section thirty-one of this article in each year starting in two thousand fifteen through two thousand ~~twenty-nine and~~ *twenty-three, and forty-five million dollars of the annual allocation shall be available for the empire state film post production credit pursuant to section thirty-one of this article in each year starting in two thousand twenty-four through two thousand thirty-four. Provided further*, five million dollars of the annual allocation shall be made available for the television writers' and directors' fees and salaries credit pursuant to section twenty-four-b of this article in each year starting in two thousand twenty through two thousand ~~twenty-nine~~ *thirty-four*. This amount shall be allocated by the ~~governor's office for motion picture and television~~ *department of economic* development among taxpayers in accordance with subdivision (a) of this section. If the commissioner of economic development determines that the aggregate amount of tax credits available from additional pool 2 for the empire state film production tax credit have been previously allocated, and determines that the pending applications from eligible applicants for the empire state film post production tax credit pursuant to section thirty-one of this article is insufficient to utilize the balance of unallocated empire state film post production tax credits from such pool, the remainder, after such pending applications are considered, shall be made available for allocation in the empire state film tax credit pursuant to this section, subdivision twenty of section two hundred ten-B and subsection (gg) of section six hundred six of this chapter. Also, if the commissioner of economic development determines that the aggregate amount of tax credits available from additional pool 2 for the empire state film post production tax credit have been previously allocated, and determines that the pending applications from eligible applicants for the empire state film production tax credit pursuant to this section is insufficient to utilize the balance of unallocated film production tax credits from such pool, then all or part of the remainder, after such pending applications are considered, shall be made available for allocation for the empire state film post production credit pursuant to this section, subdivision thirty-two of section two hundred ten-B and subsection (qq) of section six hundred six of this chapter. The ~~governor's office for motion picture and television~~ *department of economic* development must notify taxpayers of their allocation year and include the allocation year on the certificate of tax credit. Taxpayers eligible to claim a credit must report the allocation year directly on their empire state film production credit tax form for each year a credit is claimed and include a copy of the certificate with their tax return. In the case of a qualified film that receives funds from additional pool 2, no empire state film production credit shall be claimed before the later of **(1)** the taxable year the production of the qualified film is complete, or **(2)** the taxable year *immediately following that includes the last day of* the allocation year for which the film has been allocated credit by the ~~governor's office for motion picture and television~~ *department of economic* development.

Section 7. Paragraph 4 of subdivision (e) of section 24 of the tax law, as amended by section 4 of part M of chapter 59 of the laws of 2022, is amended to read as follows:

(4) Additional pool 2 - The aggregate amount of tax credits allowed in subdivision (a) of this section shall be increased by an additional four hundred twenty million dollars in each year starting in two thousand ten through two thousand ~~twenty-nine~~ *twenty-three and seven hundred million dollars in each year starting in two thousand twenty-four through two thousand thirty-four*, provided however, seven million dollars of the annual allocation shall be available for the empire state film post production credit pursuant to section

thirty-one of this article in two thousand thirteen and two thousand fourteen ~~and~~, twenty-five million dollars of the annual allocation shall be available for the empire state film post production credit pursuant to section thirty-one of this article in each year starting in two thousand fifteen through two thousand ~~twenty-nine~~ *twenty-three, and forty-five million dollars of the annual allocation shall be available for the empire state film post production credit pursuant to section thirty-one of this article in each year starting in two thousand twenty-four through two thousand thirty-four*. This amount shall be allocated by the ~~governor's office for motion picture and television~~ *department of economic* development among taxpayers in accordance with subdivision (a) of this section. If the commissioner of economic development determines that the aggregate amount of tax credits available from additional pool 2 for the empire state film production tax credit have been previously allocated, and determines that the pending applications from eligible applicants for the empire state film post production tax credit pursuant to section thirty-one of this article is insufficient to utilize the balance of unallocated empire state film post production tax credits from such pool, the remainder, after such pending applications are considered, shall be made available for allocation in the empire state film tax credit pursuant to this section, subdivision twenty of section two hundred ten-B and subsection (gg) of section six hundred six of this chapter. Also, if the commissioner of economic development determines that the aggregate amount of tax credits available from additional pool 2 for the empire state film post production tax credit have been previously allocated, and determines that the pending applications from eligible applicants for the empire state film production tax credit pursuant to this section is insufficient to utilize the balance of unallocated film production tax credits from such pool, then all or part of the remainder, after such pending applications are considered, shall be made available for allocation for the empire state film post production credit pursuant to this section, subdivision thirty-two of section two hundred ten-B and subsection (qq) of section six hundred six of this chapter. The ~~governor's office for motion picture and television~~ *department of economic* development must notify taxpayers of their allocation year and include the allocation year on the certificate of tax credit. Taxpayers eligible to claim a credit must report the allocation year directly on their empire state film production credit tax form for each year a credit is claimed and include a copy of the certificate with their tax return. In the case of a qualified film that receives funds from additional pool 2, no empire state film production credit shall be claimed before the later of *(1)* the taxable year the production of the qualified film is complete, or *(2)* the taxable year ~~immediately following that includes the last day of~~ the allocation year for which the film has been allocated credit by the ~~governor's office for motion picture and television~~ *department of economic* development.

Section 8. Paragraph 2 of subdivision (a) of section 31 of the tax law, as amended by section 5 of part M of chapter 59 of the laws of 2020, is amended to read as follows:

(2) The amount of the credit shall be the product (or pro rata share of the product, in the case of a member of a partnership) of ~~twenty-five~~ *thirty* percent and the qualified post production costs paid in the production of a qualified film at a qualified post production facility located within the metropolitan commuter transportation district as defined in section twelve hundred sixty-two of the public authorities law or ~~thirty~~ *thirty-five* percent and the qualified post production costs paid in the production of a qualified film at a qualified post production facility located elsewhere in the state.

Section 9. Paragraph 6 of subdivision (a) of section 31 of the tax law, as amended by section 6 of part M of chapter 59 of the laws of 2022, is amended to read as follows:

(6) For the period two thousand fifteen through two thousand ~~twenty-nine~~ *thirty-four*, in addition to the amount of credit established in paragraph two of this subdivision, a taxpayer shall be allowed a credit equal to the product (or pro rata share of the product, in the case of a member of a partnership) of ten percent and the amount of wages or salaries paid to individuals directly employed (excluding those employed as writers, directors, ~~music directors~~ *composers*, producers and performers, ~~including other than~~ background actors with no scripted lines) for services performed by those individuals in one of the counties specified in this paragraph in connection with the post production work on a qualified film with a minimum budget of five hundred thousand dollars at a qualified post production facility in one of the counties listed in

this paragraph. For purposes of this additional credit, the services must be performed in one or more of the following counties: Albany, Allegany, Broome, Cattaraugus, Cayuga, Chautauqua, Chemung, Chenango, Clinton, Columbia, Cortland, Delaware, Dutchess, Erie, Essex, Franklin, Fulton, Genesee, Greene, Hamilton, Herkimer, Jefferson, Lewis, Livingston, Madison, Monroe, Montgomery, Niagara, Oneida, Onondaga, Ontario, Orange, Orleans, Oswego, Otsego, Putnam, Rensselaer, Saratoga, Schenectady, Schoharie, Schuylers, Seneca, St. Lawrence, Steuben, Sullivan, Tioga, Tompkins, Ulster, Warren, Washington, Wayne, Wyoming, or Yates. ~~The aggregate amount of tax credits allowed pursuant to the authority of this paragraph shall be five million dollars each year during the period two thousand fifteen through two thousand twenty-nine of the annual allocation made available to the empire state film post production credit pursuant to paragraph four of subdivision (c) of section twenty-four of this article. Such aggregate amount of credits shall be allocated by the governor's office for motion picture and television development among taxpayers in order of priority based upon the date of filing an application for allocation of post production credit with such office. If the total amount of allocated credits applied for under this paragraph in any year exceeds the aggregate amount of tax credits allowed for such year under this paragraph, such excess shall be treated as having been applied for on the first day of the next year. If the total amount of allocated tax credits applied for under this paragraph at the conclusion of any year is less than five million dollars, the remainder shall be treated as part of the annual allocation for two thousand seventeen made available to the empire state film post production credit pursuant to paragraph four of subdivision (c) of section twenty-four of this article. However, in no event may the total of the credits allocated under this paragraph and the credits allocated under paragraph five of subdivision (a) of section twenty-four of this article exceed five million dollars in any year during the period two thousand fifteen through two thousand twenty-nine.~~

Section 9-a. Paragraph 3 of subdivision (b) of section 24 of the tax law, as amended by section 5 of part F of chapter 59 of the laws of 2021, is amended to read as follows:

(3) "Qualified film" means a feature-length film, television film, relocated television production, television pilot or television series, regardless of the medium by means of which the film, pilot or series is created or conveyed. For the purposes of the credit provided by this section only, a "qualified film" whose majority of principal photography shooting days in the production of the qualified film are shot in Westchester, Rockland, Nassau, or Suffolk county or any of the five New York City boroughs shall have a minimum budget of one million dollars. A "qualified film", whose majority of principal photography shooting days in the production of the qualified film are shot in any other county of the state than those listed in the preceding sentence shall have a minimum budget of two hundred fifty thousand dollars. "Qualified film" shall not include: (i) a documentary film, news or current affairs program, interview or talk program, "how-to" (i.e., instructional) film or program, film or program consisting primarily of stock footage, sporting event or sporting program, game show, award ceremony, film or program intended primarily for industrial, corporate or institutional end-users, fundraising film or program, daytime drama (i.e., daytime "soap opera"), commercials, music videos or "reality" program; (ii) a production for which records are required under section 2257 of title 18, United States code, to be maintained with respect to any performer in such production (reporting of books, films, etc. with respect to sexually explicit conduct); or (iii) other than a relocated television production, a television series commonly known as variety entertainment, variety sketch and variety talk, i.e., a program with components of improvisational or scripted content (monologues, sketches, interviews), either exclusively or in combination with other entertainment elements such as musical performances, dancing, cooking, crafts, pranks, stunts, and games and which may be further defined in regulations of the commissioner of economic development. However, a qualified film shall include a television series as described in subparagraph (iii) of this paragraph only if an application for such series has been deemed conditionally eligible for the tax credit under this section prior to April first, two thousand twenty, such series remains in continuous production for each season, and an annual application for each season of such series is continually submitted for such series after April first, two thousand twenty. ***A series that changes either or both the title of the series or the principal cast prior to March thirty-first, two thousand twenty-three, shall be***

considered to remain in continuous production for each season, provided the series films at the same location as prior seasons, is produced by the same entity, and retains at least eighty percent of the staff from the prior season.

Section 10. This act shall take effect immediately and shall apply to initial applications received on or after April 1, 2023; provided, however, that the amendments to paragraph 4 of subdivision (e) of section 24 of the tax law made by section six of this act shall take effect on the same date and in the same manner as section 6 of chapter 683 of the laws of 2019, as amended, takes effect.

TEXT OMITTED, DOES NOT PERTAIN TO FILM

SUBPART C

Section 1. Paragraph 1 of subdivision (a) of section 28 of the tax law, as amended by section 1 of part AAA of chapter 59 of the laws of 2019, is amended to read as follows:

(1) A taxpayer which is a qualified commercial production company, or which is a sole proprietor of a qualified commercial production company, and which is subject to tax under article nine-A or twenty-two of this chapter, shall be allowed a credit against such tax, pursuant to the provisions referenced in subdivision (c) of this section, to be computed as provided in this section. Provided, however, to be eligible for such credit, at least seventy-five percent of the production costs (excluding post production costs) paid or incurred directly and predominantly in the actual filming or recording of the qualified commercial must be costs incurred in New York state. The tax credit allowed pursuant to this section shall apply to taxable years beginning before January first, two thousand ~~twenty-four~~ **twenty-nine**.

Section 2. Paragraph (c) of subdivision 23 of section 210-B of the tax law, as amended by chapter 518 of the laws of 2018, is amended to read as follows:

(c) Expiration of credit. The credit allowed under this subdivision shall not be applicable to taxable years beginning on or after January first, two thousand ~~twenty-four~~ **twenty-nine**.

Section 3. Paragraph 1 of subsection (jj) of section 606 of the tax law, as amended by chapter 518 of the laws of 2018, is amended to read as follows:

(1) Allowance of credit. A taxpayer that is eligible pursuant to the provisions of section twenty-eight of this chapter shall be allowed a credit to be computed as provided in such section against the tax imposed by this article. The tax credit allowed pursuant to this section shall apply to taxable years beginning before January first, two thousand ~~twenty-four~~ **twenty-nine**.

Section 4. This act shall take effect immediately.

TEXT OMITTED, DOES NOT PERTAIN TO FILM