

Chapter 63 of the Acts of 2007

AN ACT PROVIDING INCENTIVES TO THE MOTION PICTURE INDUSTRY.

Whereas,

The deferred operation of this act would tend to defeat its purpose, which is to promote the Massachusetts motion picture industry, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same as follows:

SECTION 1. Section 6 of chapter 62 of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by inserting after the word “video”, in line 401, the following words:- , digital media project.

SECTION 2. Paragraph (2) of subsection (1) of said section 6 of said chapter 62, as so appearing, is hereby amended by striking out the second sentence and inserting in place thereof the following sentence:- The credit shall be equal to 25 per cent of the total aggregate payroll paid by a motion picture production company that constitutes Massachusetts source income, when total production costs incurred in the commonwealth equal or exceed \$50,000 during the taxable year.

SECTION 3. Paragraph (4) of said subsection (1) of said section 6 of said chapter 62, as so appearing, is hereby further amended by striking out the first sentence and inserting in place thereof the following sentence:- The tax credit shall be taken against the taxes imposed under this chapter and shall, at the election of the taxpayer, be refundable to the extent provided for in section 6L.

SECTION 4. Said subsection (1) of said section 6 of said chapter 62, as so appearing, is hereby further amended by striking out paragraph (6).

SECTION 5. Said chapter 62 is hereby further amended by inserting after section 6K the following section:-

Section 6L. (a) This section shall apply to credits earned under subsection (1) of section 6.

(b) At the written election of a taxpayer entitled to a credit under subsection (1) of section 6, the commissioner shall apply the credit against the liability of the taxpayer as determined on its return, as first reduced by any other available credits, and shall then refund to the taxpayer 90 per cent of the balance of the credits.

(c) The commissioner may require substantiation of a taxpayer’s claim for refund under subsection (b) before payment of the refund. No interest shall accrue on the refund under section 40 of chapter 62C before the commissioner’s receipt of the substantiation he requested.

(d) The commissioner may adopt regulations or other guidelines as he deems necessary to implement this section. The commissioner shall submit any proposed regulations to the joint committee on revenue and the house and senate committees on ways and means before their adoption by the department. The regulations shall be accompanied by a summary which clearly instructs the taxpayer of his rights under this section.

SECTION 6. Chapter 63 of the General Laws is hereby amended by inserting after section 32D the following section:-

Section 32E. (a) This section shall apply to credits earned under section 38T.

(b) At the written election of a taxpayer entitled to a credit under section 38T, the commissioner shall apply the credit against the liability of the taxpayer as determined on its return, as first reduced by any other available credits, and shall then refund to the taxpayer 90 per cent of the balance of credits.

(c) The commissioner may require substantiation of a taxpayer's claim for a refund under subsection (b) before payment of the refund. No interest shall accrue on a refund under section 40 of chapter 62C before the commissioner's receipt of the substantiation requested.

(d) The commissioner shall promulgate regulations or other guidelines as he deems necessary to implement this section. The commissioner shall submit any proposed regulations to the joint committee on revenue and the house and senate committees on ways and means before their adoption by the department. The regulations shall be accompanied by a summary which clearly instructs the taxpayer of his rights under this section.

SECTION 7. Section 38T of said chapter 63, as appearing in the 2006 Official Edition, is hereby amended by inserting after the word "video", in line 14, the following words:- , a digital media project.

SECTION 8. Subsection (b) of said section 38T of said chapter 63, as so appearing, is hereby amended by striking out the second sentence and inserting in place thereof the following sentence:- The credit shall be equal to 25 per cent of the total aggregate payroll paid by a motion picture production company that constitutes Massachusetts source income, when total production costs incurred in the commonwealth equal or exceed \$50,000 during the taxable year.

SECTION 9. Subsection (d) of said section 38T of said chapter 63, as so appearing, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:- The tax credit shall be taken against the taxes imposed under this chapter and shall, at the election of the taxpayer, be refundable to the extent provided for in section 32E.

SECTION 10. Said section 38T of said chapter 63, as so appearing, is hereby further amended by striking out subsection (f).

SECTION 11. Section 1 of chapter 64H of the General Laws, as so appearing, is hereby amended by inserting after the word "video", in line 50, the following words:- , a digital media project.

SECTION 12. Section 6 of said chapter 64H, as so appearing, is hereby amended by striking out, in lines 576 and 592, the figure "\$250,000" and inserting in place thereof, in each instance, the following figure:- \$50,000.

SECTION 13. Notwithstanding any general or special law to the contrary, the commissioner of revenue shall annually, not later than December 31, report in writing to the house and senate committee on ways and means on the status of the film tax credit established pursuant to section 6 of chapter 62, inserted by section 2 of chapter 158 of the acts of 2005, section 38T of chapter 63 and section 6 of chapter 64H of the General Laws. The report shall include, but not be limited to, the motion picture production activity generated by the tax credits and the net revenue impact of the tax credits.

SECTION 14. Notwithstanding any general or special law to the contrary, the commissioner of revenue shall promulgate regulations or other guidelines regarding the transition from a tax credit system in which unused tax credits are transferable, to a system in which unused credits, pursuant to this act, are at the election of the taxpayer, refundable or transferable, as described in section 6L of chapter 62 and section 32E of chapter 63. The commissioner shall submit the regulations to the joint committee on revenue and the house and senate committees on ways and means before adoption by the department. The regulations shall be accompanied by a summary which clearly instructs the taxpayer of his rights under this section.

SECTION 15. Chapter 158 of the acts of 2005 is hereby amended by striking out section 9 and inserting in

place thereof the following section:-

Section 9. This act shall be effective for tax years beginning on or after January 1, 2006 and before January 1, 2023, but credits allowed pursuant to this act may be carried forward pursuant to sections 1 and 2 after January 1, 2023.

SECTION 16. Section 15 shall take effect as of January 1, 2006. The remainder of this act shall be effective for tax years beginning on or after January 1, 2007.

Approved July 20, 2007.

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