

Domestic Film Production Incentive Program

Revised Section 181 of the Internal Revenue Code

PRIMARY BENEFITS

Qualifying Film Expenses Immediately Deductible.

Producers or active financial participants in qualifying film and television productions may elect to immediately deduct the cost of qualifying film expenditures in the year the expenditure occurs.



- Qualified film and television productions include any film or video tape production of a motion picture or television show whose costs would otherwise be required to be capitalized but for section 181. Only the first 44 episodes, including the pilot production, of a television series are eligible under the law.
- In the case of a film co-produced by multiple investors, the deduction for qualifying expenditures must be allocated among the owners of the film in a manner that reasonably reflects each owner's proportionate investment and economic interest in the film.
- Qualified films do not include sexually explicit productions as defined in section 2257 of title 18 of the U.S. Code.

Qualifying Expenses Include the First \$15 Million of Expenditures.

The proposal applies to the first \$15 million in production costs for qualifying film or television productions. This is a major expansion from the previous law which only applied to productions with production costs under \$15 million.

- A higher expenditure cap of \$20 million applies to productions the aggregate costs of which are "significantly incurred" in: a) areas eligible for designation as a low-income community under the New Markets Tax Credit program,¹ or b) areas eligible for designation by the Delta Regional Authority as a distressed county or isolated area of distress.

- As defined by the New Markets Tax Credit program, qualifying low-income communities include any census tract if (a) the poverty rate for such tracts is at least 20%; or (b) (1) in the case of census tracts not located within a metropolitan area, the median family income for the tract does not exceed 80% of statewide median family income, or (2) in the case of a tract located within



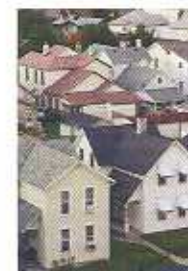
a metropolitan area, the median family income for the tract does not exceed 80% of the greater of statewide median family income or the metropolitan area

median family income. Information on qualifying communities can be found at:

http://www.cdfifund.gov/what_we_do/programs_id.asp?programID=5

- A list of areas eligible under the Delta Regional Authority statute as distressed counties or isolated areas of distress can be found at: <http://www.dra.gov/about/maps.aspx>

- The IRS temporary regulations (T.D. 9312) outline two alternative tests to determine if costs are "significantly incurred" in qualifying low-income areas. The first test is based upon production costs and establishes a 20% threshold for the test. It compares production costs incurred in first-unit principal photography that takes place in a designated area to all production costs incurred in first-unit principal photography. This does not include preproduction, editing and post-production costs. The second test is based upon the number of days of principal photography. If at least 50% of the total days of principal photography take place in the designated area, the production will be deemed to satisfy the significantly occurred test.



Definition of Qualifying Production. To qualify, at least 75% of the total compensation expended on the production must be for services performed in the United States.

- Qualifying compensation includes payments for services performed in the United States by actors, directors, producers, and other relevant production personnel. Compensation does not include participations and residuals.²

Tax Benefit Duration. This revised domestic film production incentive program – covering the first \$15 million of costs of all productions -- will be in effect for qualifying productions commencing after December 31, 2007 and before January 1, 2010.

THIS HANDOUT IS FOR INFORMATIONAL PURPOSES ONLY AND SHOULD NOT BE VIEWED AS TAX ADVICE WITH RESPECT TO YOUR PRODUCTION ACTIVITIES. FOR SUCH ADVICE, YOU SHOULD CONSULT WITH YOUR TAX ADVISOR.

¹ As defined in section 45A of the Internal Revenue Code.

² As defined in section 187(g)(7)(B) of the Internal Revenue Code