

JAN 23 2025

A BILL FOR AN ACT

RELATING TO TAXATION.

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

1 PART I

2 SECTION 1. The purpose of this Act is to enhance Hawaii's
3 status as a premier destination for film, television, and
4 digital media production by modernizing the State's film and
5 media production tax credits. This Act boosts the current
6 incentives with an additional five per cent in credits for
7 productions that meet the minimum filming requirements at a
8 qualified production facility of the scale identified in the
9 city and county of Honolulu's Ordinance 25-1.

10 This Act encourages workforce development in film and media
11 production, particularly on Oahu's west side and on the neighbor
12 islands, by fostering local talent pipelines, supporting
13 educational partnerships, and incentivizing the hiring of Hawaii
14 residents in production roles.

15 Finally, this Act also recognizes the critical role of
16 privately financed investments in film production
17 infrastructure, such as the planned development of a



1 state-of-the-art production facility on University of Hawaii
2 lands at West Oahu, in strengthening Hawaii's capacity to
3 support high-quality productions. The adoption of
4 Ordinance 25-1 by the city and county of Honolulu to incentivize
5 film studio development underscores the alignment of state and
6 local efforts to build a robust and sustainable media industry.
7 By enhancing Hawaii's film, television, and digital media tax
8 credits in partnership with the city and county of Honolulu,
9 this Act will create a favorable economic climate for private
10 investment, ensure long-term industry growth, and expand
11 opportunities for local workers and communities across the
12 islands.

13 PART II

14 SECTION 2. Section 235-17, Hawaii Revised Statutes, is
15 amended as follows:

16 1. By amending subsection (a) to read:

17 "(a) Any law to the contrary notwithstanding, there shall
18 be allowed to each taxpayer subject to the taxes imposed by this
19 chapter, an income tax credit that shall be deductible from the
20 taxpayer's net income tax liability, if any, imposed by this
21 chapter for the taxable year in which the credit is properly



1 claimed. The amount of the credit shall be~~[+]~~ equal to the sum
2 of the following:

3 (1) Either:

4 (A) Twenty-two per cent of the qualified production
5 costs incurred by a qualified production in any
6 county of the State with a population of over
7 seven hundred thousand; or

8 ~~[+2+]~~ (B) Twenty-seven per cent of the qualified production
9 costs incurred by a qualified production in any county
10 of the State with a population of seven hundred
11 thousand or less~~[+]~~; and

12 (2) An additional five per cent of the qualified
13 production costs incurred by a qualified production
14 that utilizes qualified production facilities located
15 within the State of Hawaii.

16 A qualified production occurring in more than one county may
17 prorate its expenditures based upon the amounts spent in each
18 county, if the population bases differ enough to change the
19 percentage of tax credit.

20 In the case of a partnership, S corporation, estate, or
21 trust, the tax credit allowable is for qualified production



1 costs incurred by the entity for the taxable year. The cost
2 upon which the tax credit is computed shall be determined at the
3 entity level. Distribution and share of credit shall be
4 determined by rule.

5 If a deduction is taken under section 179 (with respect to
6 election to expense depreciable business assets) of the Internal
7 Revenue Code of 1986, as amended, no tax credit shall be allowed
8 for those costs for which the deduction is taken.

9 The basis for eligible property for depreciation of
10 accelerated cost recovery system purposes for state income taxes
11 shall be reduced by the amount of credit allowable and claimed."

12 2. By amending subsection (1) to read:

13 "(1) Total tax credits claimed per qualified production
14 shall not exceed [~~\$17,000,000.~~] \$ _____."

15 3. By amending subsections (n) and (o) to read:

16 "(n) The total amount of tax credits allowed under this
17 section in any particular year shall be [~~\$50,000,000.~~]
18 \$ _____; however, if the total amount of credits applied for
19 in any particular year exceeds the aggregate amount of credits
20 allowed for that year under this section, the excess shall be
21 treated as having been applied for in the subsequent year and



1 shall be claimed in the subsequent year; provided that no excess
2 shall be allowed to be claimed after December 31, 2032.

3 (o) For the purposes of this section:

4 "Commercial":

5 (1) Means an advertising message that is filmed using
6 film, videotape, or digital media, for dissemination
7 via television broadcast or theatrical distribution;

8 (2) Includes a series of advertising messages if all parts
9 are produced at the same time over the course of six
10 consecutive weeks; and

11 (3) Does not include an advertising message with
12 Internet-only distribution.

13 "Digital media" means production methods and platforms
14 directly related to the creation of cinematic imagery and
15 content, specifically using digital means, including but not
16 limited to digital cameras, digital sound equipment, and
17 computers, to be delivered via film, videotape, interactive game
18 platform, or other digital distribution media.

19 "Post-production" means production activities and services
20 conducted after principal photography is completed, including
21 but not limited to editing, film and video transfers,



1 duplication, transcoding, dubbing, subtitling, credits, closed
2 captioning, audio production, special effects (visual and
3 sound), graphics, and animation.

4 "Production" means a series of activities that are directly
5 related to the creation of visual and cinematic imagery to be
6 delivered via film, videotape, or digital media and to be sold,
7 distributed, or displayed as entertainment or the advertisement
8 of products for mass public consumption, including but not
9 limited to scripting, casting, set design and construction,
10 transportation, videography, photography, sound recording,
11 interactive game design, and post-production.

12 "Production facility" means a building or complex of
13 buildings and associated backlot facilities on real property
14 situated within the State in which pre-production, production,
15 and post-production activities occur, that contain:

16 (1) At least one sound stage;

17 (2) Pre-production, production, and post-production
18 offices;

19 (3) Catering or dining facilities;

20 (4) Parking;

21 (5) Facades; and



1 (6) Mill space,
2 and that is closed to the general public and is within a
3 footprint of the site plan that forms a secure compound that is
4 clearly delineated with a tall perimeter enclosure. The term
5 excludes buildings and facilities that are not used for
6 pre-production, production, and post-production activities, but
7 are constructed or used in connection with the production
8 facility, including hotel and lodging facilities, or portions
9 thereof.

10 "Qualified production":

11 (1) Means a production, with expenditures in the State,
12 for the total or partial production of a
13 feature-length motion picture, short film,
14 made-for-television movie, commercial, music video,
15 interactive game, television series pilot, single
16 season (up to twenty-two episodes) of a television
17 series regularly filmed in the State (if the number of
18 episodes per single season exceeds twenty-two,
19 additional episodes for the same season shall
20 constitute a separate qualified production),
21 television special, single television episode that is



1 not part of a television series regularly filmed or
2 based in the State, national magazine show, or
3 national talk show. For the purposes of subsections
4 (d) and (l), each of the aforementioned qualified
5 production categories shall constitute separate,
6 individual qualified productions; and

7 (2) Does not include:

- 8 (A) News;
- 9 (B) Public affairs programs;
- 10 (C) Non-national magazine or talk shows;
- 11 (D) Televised sporting events or activities;
- 12 (E) Productions that solicit funds;
- 13 (F) Productions produced primarily for industrial,
14 corporate, institutional, or other private
15 purposes; and
- 16 (G) Productions that include any material or
17 performance prohibited by chapter 712.

18 "Qualified production costs" means the costs incurred by a
19 qualified production within the State that are subject to the
20 general excise tax under chapter 237 at the highest rate of tax
21 or income tax under this chapter if the costs are not subject to



1 general excise tax and that have not been financed by any
2 investments for which a credit was or will be claimed pursuant
3 to section 235-110.9. Qualified production costs include but
4 are not limited to:

5 (1) Costs incurred during preproduction such as location
6 scouting and related services;

7 (2) Costs of set construction and operations, purchases or
8 rentals of wardrobe, props, accessories, food, office
9 supplies, transportation, equipment, and related
10 services;

11 (3) Wages or salaries of cast, crew, and musicians;

12 (4) Costs of photography, sound synchronization, lighting,
13 and related services;

14 (5) Costs of editing, visual effects, music, other
15 post-production, and related services;

16 (6) Rentals and fees for use of local facilities and
17 locations, including rentals and fees for use of state
18 and county facilities and locations that are not
19 subject to general excise tax under chapter 237 or
20 income tax under this chapter;

21 (7) Rentals of vehicles and lodging for cast and crew;



(8) Airfare for flights to or from Hawaii, and interisland flights;

(9) Insurance and bonding;

(10) Shipping of equipment and supplies to or from Hawaii, and interisland shipments; and

(11) Other direct production costs specified by the department in consultation with the department of business, economic development, and tourism;

provided that any government-imposed fines, penalties, or interest that are incurred by a qualified production within the State shall not be "qualified production costs". "Qualified production costs" does not include any costs funded by any grant, forgivable loan, or other amounts not included in gross income for purposes of this chapter.

"Qualified production facility" means a production facility engaged in the production of a qualified production; provided that the production facility:

(1) Is located within the State;

(2) Is constructed after December 31, 2024;

(3) Is located on real property that:

(A) Is a minimum of ten acres in size; and



(B) Has been leased or purchased from the United States, the State, or any political subdivision thereof; and

(4) Cost a minimum of \$100,000,000 to design and construct."

PART III

SECTION 3. During the 1980s and 1990s, the legislature recognized the unfairness of having the general excise tax apply to payroll reimbursements and enacted exemptions specific to several discrete industries. Act 175, Session Laws of Hawaii 1988, now codified as section 237-23.5, Hawaii Revised Statutes, provides that the general excise tax does not apply to common paymasters that are reimbursed by related corporations that actually employ the workers paid. Act 351, Session Laws of Hawaii 1989, now codified as section 237-24.7(1), Hawaii Revised Statutes, provides that the general excise tax does not apply to amounts received for employee wages, salaries, payroll taxes, insurance premiums, and benefits, including retirement, vacation, sick pay, and health benefits, by a hotel operator. Act 252, Session Laws of Hawaii 1992, now codified as section 237-24.7(4), Hawaii Revised Statutes, provides that the



1 general excise tax does not apply to similar amounts received by
2 an orchard operator. Act 214, Session Laws of Hawaii 1998, now
3 codified as section 237-24.7(8), Hawaii Revised Statutes,
4 provides that the general excise tax does not apply to similar
5 amounts received by a management company from related entities
6 selling telecommunications services.

7 In the preamble to Act 214, Session Laws of Hawaii 1998,
8 the legislature discussed the exemptions for hotel and orchard
9 operators and then stated, "It is important that the same
10 exemption be extended to telecommunications businesses, because
11 of the highly mobile nature of telecommunications jobs. Also,
12 the general excise tax was never intended to serve, in effect,
13 as a tax on payrolls."

14 The legislature notes that, in Tax Information Release
15 No. 2024-04, the department of taxation has stated that the
16 general excise tax applies to all amounts that a payroll service
17 company receives from a film production company, unless there is
18 a specific statutory exemption for those amounts.

19 Accordingly, the purpose of this part is to exempt from the
20 general excise tax reimbursement to a motion picture project



1 employer for employee wages, salaries, payroll taxes, insurance
2 premiums, and employment benefits.

3 SECTION 4. Section 237-24.75, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "**§237-24.75 Additional exemptions.** In addition to the
6 amounts exempt under section 237-24, this chapter shall not
7 apply to:

- 8 (1) Amounts received as a beverage container deposit
9 collected under chapter 342G, part VIII;
- 10 (2) Amounts received by the operator of the Hawaii
11 convention center for reimbursement of costs or
12 advances made pursuant to a contract with the Hawaii
13 tourism authority under section 201B-7; ~~and~~
- 14 (3) Amounts received by a professional employer
15 organization that is registered with the department of
16 labor and industrial relations pursuant to chapter
17 373L, from a client company equal to amounts that are
18 disbursed by the professional employer organization
19 for employee wages, salaries, payroll taxes, insurance
20 premiums, and benefits, including retirement,
21 vacation, sick leave, health benefits, and similar



1 employment benefits with respect to covered employees
2 at a client company; provided that this exemption
3 shall not apply to amounts received by a professional
4 employer organization after:

5 (A) Notification from the department of labor and
6 industrial relations that the professional
7 employer organization has not fulfilled or
8 maintained the registration requirements under
9 this chapter; or

10 (B) A determination by the department that the
11 professional employer organization has failed to
12 pay any tax withholding for covered employees or
13 any federal or state taxes for which the
14 professional employer organization is
15 responsible.

16 As used in this paragraph, "professional employer
17 organization", "client company", and "covered
18 employee" shall have the meanings provided in
19 section 373L-1[~~7~~]; and

20 (4) Amounts received by a motion picture project employer
21 from a client equal to amounts that are disbursed by



1 the motion picture project employer for employee
2 wages, salaries, payroll taxes, insurance premiums,
3 and benefits, including retirement, vacation, sick
4 leave, health benefits, and similar employment
5 benefits with respect to motion picture project
6 workers at a client.

7 As used in this paragraph, "motion picture
8 project employer", "client", and "motion picture
9 project worker" shall have the same meaning as in
10 section 3512 of the Internal Revenue Code of 1986, as
11 amended."

12 PART IV

13 SECTION 5. Statutory material to be repealed is bracketed
14 and stricken. New statutory material is underscored.

15 SECTION 6. This Act shall take effect upon its approval;
16 provided that:

- 17 (1) Section 2 shall apply to taxable years beginning after
18 December 31, 2024; and



S.B. NO. 1629

1 (2) Section 4 shall take effect on July 1, 2025.

2

INTRODUCED BY: Carol Fuhsman



S.B. NO. 1629

Report Title:

Income Tax; Motion Picture, Digital Media, and Film Production
Income Tax Credit; General Excise Tax; Partial Exemption for
Motion Picture Project Employers

Description:

Increases the motion picture, digital media, and film production income tax credit for qualified productions that utilize qualified production facilities located within the State. Changes the cap amount and aggregate cap amount of the motion picture, digital media, and film production income tax credit to unspecified amounts. Exempts from the general excise tax reimbursement to a motion picture project employer for employee wages, salaries, payroll taxes, insurance premiums, and employment benefits.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

