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# A BILL FOR AN ACT

RELATING TO THE MOTION PICTURE, DIGITAL MEDIA, AND FILM  
PRODUCTION INCOME TAX CREDIT.

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

- 1 SECTION 1. Section 235-17, Hawaii Revised Statutes, is  
2 amended as follows:
- 3 1. By amending subsection (a) to read:
- 4 "(a) Any law to the contrary notwithstanding, there shall  
5 be allowed to each taxpayer subject to the taxes imposed by this  
6 chapter, an income tax credit that shall be deductible from the  
7 taxpayer's net income tax liability, if any, imposed by this  
8 chapter for the taxable year in which the credit is properly  
9 claimed. The amount of the credit shall be:
- 10 (1) Twenty-two per cent of the qualified production costs  
11 incurred by a qualified production in any county of  
12 the State with a population of over seven hundred  
13 thousand; or
- 14 (2) Twenty-seven per cent of the qualified production  
15 costs incurred by a qualified production in any county



1 of the State with a population of seven hundred  
2 thousand or less[-];  
3 provided that a qualified production with a workforce of at  
4 least eighty per cent local hires shall be credited an  
5 additional five per cent of the qualified production costs  
6 incurred.

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

11 In the case of a partnership, S corporation, estate, or  
12 trust, the tax credit allowable is for qualified production  
13 costs incurred by the entity for the taxable year. The cost  
14 upon which the tax credit is computed shall be determined at the  
15 entity level. Distribution and share of credit shall be  
16 determined by rule.

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



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

4 2. By amending subsection (h) to read:

5 "(h) Every taxpayer claiming a tax credit under this  
6 section for a qualified production shall, no later than ninety  
7 days following the end of each taxable year in which qualified  
8 production costs were expended, submit [a]:

9 (1) A written, sworn statement to the department of  
10 business, economic development, and tourism that  
11 identifies:

12 [~~1~~] (A) All qualified production costs as provided by  
13 subsection (a), if any, incurred in the previous  
14 taxable year;

15 [~~2~~] (B) The amount of tax credits claimed pursuant to  
16 this section, if any, in the previous taxable  
17 year; and

18 [~~3~~] (C) The number of total hires versus the number of  
19 local hires by category and by county[~~-~~]; and

20 (2) An independent third-party certification issued by a  
21 qualified certified public accountant, that verifies



1           the information described in paragraph (1) and other  
2           representations made for the purposes of claiming the  
3           credit under this section, using procedures prescribed  
4           by the department of business, economic development,  
5           and tourism and the department of taxation.

6 This information may be reported from the department of  
7 business, economic development, and tourism to the legislature  
8 pursuant to subsection (i)(4)."

9           3. By amending subsection (l) to read:

10           "(l) Total tax credits claimed per qualified production  
11 shall not exceed [~~\$17,000,000.~~] \$20,000,000; provided that this  
12 limit shall not apply to any qualified production that incurs at  
13 least \$60,000,000 of qualified production costs."

14           4. By amending subsections (n) and (o) to read:

15           "(n) The total amount of tax credits allowed under this  
16 section in any particular year shall be [~~\$50,000,000; however,~~  
17 ~~if~~] \$60,000,000; provided that:

18           (1) If the total amount of credits applied for in any  
19 particular year exceeds the aggregate amount of  
20 credits allowed for that year under this section, the  
21 excess shall be treated as having been applied for in



1 the subsequent year and shall be claimed in the  
2 subsequent year; and  
3 (2) If the total amount of credits claimed in any  
4 particular year is less than the aggregate amount of  
5 credits allowed for that year under this section, the  
6 unused amount, equal to the difference between the  
7 aggregate cap for that year and the total credits  
8 claimed in that year, shall be added to the aggregate  
9 amount of credits allowed for the subsequent year;  
10 provided further that no excess shall be allowed to be claimed  
11 and no unused amounts shall be added to the aggregate amounts of  
12 credit allowed for the subsequent year after December 31,  
13 [~~2032.~~] 2037.

14 (o) For the purposes of this section:

15 "Commercial":

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

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



1 (3) Does not include an advertising message with  
2 Internet-only distribution.

3 "Digital media" means production methods and platforms  
4 directly related to the creation of cinematic imagery and  
5 content, specifically using digital means, including but not  
6 limited to digital cameras, digital sound equipment, and  
7 computers, to be delivered via film, videotape, interactive game  
8 platform, or other digital distribution media.

9 "Post-production" means production activities and services  
10 conducted after principal photography is completed, including  
11 but not limited to editing, film and video transfers,  
12 duplication, transcoding, dubbing, subtitling, credits, closed  
13 captioning, audio production, special effects (visual and  
14 sound), graphics, and animation.

15 "Production" means a series of activities that are directly  
16 related to the creation of visual and cinematic imagery to be  
17 delivered via film, videotape, or digital media and to be sold,  
18 distributed, or displayed as entertainment or the advertisement  
19 of products for mass public consumption, including but not  
20 limited to scripting, casting, set design and construction,



1 transportation, videography, photography, sound recording,  
2 interactive game design, and post-production.

3 "Qualified production":

4 (1) Means a production, with expenditures in the State,  
5 for the total or partial production of a  
6 feature-length motion picture, short film,  
7 made-for-television movie, commercial, music video,  
8 interactive game, broadcast television or streaming  
9 platform series pilot, single season (up to twenty-two  
10 episodes[+] for a broadcast television series and up  
11 to eight episodes for an ongoing series for streaming  
12 platforms) of a [~~television~~] series [~~regularly~~] filmed  
13 in the State [~~if~~]. If the number of episodes per  
14 single season exceeds twenty-two[7] for a broadcast  
15 television series or eight for a streaming platform  
16 series, additional episodes for the same season shall  
17 constitute a separate qualified production[7].

18 "Qualified production" includes a broadcast television  
19 or streaming platform special, single [~~television~~]  
20 episode that is not part of a broadcast television or  
21 streaming platform series regularly filmed or based in



1 the State, national magazine show, [~~or~~] and national  
2 talk show. For the purposes of subsections (d) and  
3 (1), each of the [~~aforementioned~~] qualified production  
4 categories in this paragraph shall constitute  
5 separate, individual qualified productions; and

6 (2) Does not include:

7 (A) News;

8 (B) Public affairs programs;

9 (C) Non-national magazine or talk shows;

10 (D) Televised sporting events or activities;

11 (E) Productions that solicit funds;

12 (F) Productions produced primarily for industrial,  
13 corporate, institutional, or other private  
14 purposes; and

15 (G) Productions that include any material or  
16 performance prohibited by chapter 712.

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



1 investments for which a credit was or will be claimed pursuant  
2 to section 235-110.9. [~~Qualified production costs~~] "Qualified  
3 production costs" include but are not limited to:

- 4 (1) Costs incurred during preproduction such as location  
5 scouting and related services;
- 6 (2) Costs of set construction and operations, purchases or  
7 rentals of wardrobe, props, accessories, food, office  
8 supplies, transportation, equipment, and related  
9 services;
- 10 (3) Wages or salaries of cast, crew, and musicians;
- 11 (4) Costs of photography, sound synchronization, lighting,  
12 and related services;
- 13 (5) Costs of editing, visual effects, music, other  
14 post-production, and related services;
- 15 (6) Rentals and fees for use of local facilities and  
16 locations, including rentals and fees for use of state  
17 and county facilities and locations that are not  
18 subject to general excise tax under chapter 237 or  
19 income tax under this chapter;
- 20 (7) Rentals of vehicles and lodging for cast and crew;



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

3 (9) Insurance and bonding;

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

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

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

16 "Streaming platform" means an online provider of  
17 entertainment, including but not limited to movies and music,  
18 that delivers content via an internet connection to the  
19 subscriber's computer, television, or mobile device."

20 SECTION 2. Section 237-24.75, Hawaii Revised Statutes, is  
21 amended to read as follows:



1           "**§237-24.75 Additional exemptions.** In addition to the  
2 amounts exempt under section 237-24, this chapter shall not  
3 apply to:

4           (1) Amounts received as a beverage container deposit  
5           collected under chapter 342G, part VIII;

6           (2) Amounts received by the operator of the Hawaii  
7           convention center for reimbursement of costs or  
8           advances made pursuant to a contract with the Hawaii  
9           tourism authority under section 201B-7; [~~and~~]

10          (3) Amounts received by a professional employer  
11          organization that is registered with the department of  
12          labor and industrial relations pursuant to chapter  
13          373L, from a client company equal to amounts that are  
14          disbursed by the professional employer organization  
15          for employee wages, salaries, payroll taxes, insurance  
16          premiums, and benefits, including retirement,  
17          vacation, sick leave, health benefits, and similar  
18          employment benefits with respect to covered employees  
19          at a client company; provided that this exemption  
20          shall not apply to amounts received by a professional  
21          employer organization after:



1 (A) Notification from the department of labor and  
2 industrial relations that the professional  
3 employer organization has not fulfilled or  
4 maintained the registration requirements under  
5 this chapter; or

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

12 As used in this paragraph, "professional employer  
13 organization", "client company", and "covered  
14 employee" shall have the meanings provided in section  
15 373L-1[-]; and

16 (4) Amounts received by a motion picture project employer  
17 from a client company that represent reimbursements  
18 for costs paid or incurred by the client company for  
19 reasonable employment-related costs of motion picture  
20 project workers or loan-out companies, including but  
21 not limited to employee wages or salaries, payroll



1 taxes, insurance premiums, and employment benefits,  
2 such as retirement, vacation, sick leave, health  
3 benefits, and comparable benefits; provided that this  
4 exemption shall not apply to amounts paid for  
5 services, administration, overhead, profit, markups,  
6 or similar fees. For the purposes of this paragraph,  
7 "motion picture project employer" and "motion picture  
8 project worker" have the same meanings as those terms  
9 are defined in section 3512 of the Internal Revenue  
10 Code of 1986, as amended."

11 SECTION 3. Act 88, Session Laws of Hawaii 2006, as amended  
12 by section 3 of Act 89, Session Laws of Hawaii 2013, as amended  
13 by section 3 of Act 143, Session Laws of Hawaii 2017, as amended  
14 by section 4 of Act 217, Session Laws of Hawaii 2022, is amended  
15 by amending section 4 to read as follows:

16 "SECTION 4. This Act shall take effect on July 1, 2006;  
17 provided that:

- 18 (1) Section 2 of this Act shall apply to qualified  
19 production costs incurred on or after July 1, 2006,  
20 and before January 1, [~~2033;~~] 2038; and



1           (2) This Act shall be repealed on January 1, [~~2033,~~] 2038,  
2           and section 235-17, Hawaii Revised Statutes, shall be  
3           reenacted in the form in which it read on the day  
4           before the effective date of this Act."

5           SECTION 4. Act 143, Session Laws of Hawaii 2017, is  
6           amended by amending section 6 to read as follows:

7           "~~SECTION 6. [No later than January 1, 2018, and each~~  
8           ~~January 1 thereafter, each film production that has production~~  
9           ~~expenditures of \$1,000,000 or more and is claiming a tax credit~~  
10           ~~pursuant to section 235-17, Hawaii Revised Statutes, shall~~  
11           ~~obtain an independent third party certification of qualified~~  
12           ~~production costs eligible for the motion picture, digital media,~~  
13           ~~and film production income tax credit in the form of a tax~~  
14           ~~opinion, as required under section 235-17(h), Hawaii Revised~~  
15           ~~Statutes, submitted to the department of business, economic~~  
16           ~~development, and tourism.] Repealed."~~

17           SECTION 5. If the total amount of motion picture, digital  
18           media, and film production income tax credits claimed in any  
19           particular year is less than the aggregate amount of credits  
20           allowed for that year pursuant to section 235-17(n), Hawaii  
21           Revised Statutes, the unused amount, equal to the difference



1 between the aggregate cap for that year and the total credits  
2 claimed in that year, shall be added to the aggregate amount of  
3 credits allowed for the subsequent year.

4 SECTION 6. Statutory material to be repealed is bracketed  
5 and stricken. New statutory material is underscored.

6 SECTION 7. This Act shall take effect upon its approval;  
7 provided that:

8 (1) Section 1 shall apply to costs incurred after  
9 December 31, 2025; and

10 (2) Section 5 shall apply retroactively to costs incurred  
11 after December 31, 2023.



**Report Title:**

DOTAX; DBEDT; Motion Picture, Digital Media, and Film Production Income Tax Credit; Qualified Production; Costs; Third-Party Certification; General Excise Tax; Loan-Out Companies

**Description:**

Amends the Motion Picture, Digital Media, and Film Production Income Tax Credit (tax credit) by, beginning for costs incurred after 12/31/2025, providing an additional credit to qualified productions with a workforce of at least eighty percent local hires; requiring each taxpayer claiming the tax credit to submit an independent third-party certification verifying certain information to the Department of Business, Economic Development, and Tourism; increasing the per-production cap amount to \$20,000,000 and excluding qualified productions that incur at least \$60,000,000 of qualified production costs from the per-production cap amount; changing the aggregate cap amount to \$60,000,000; providing that, beginning for costs incurred after 12/31/2023, if the total amount of tax credits claimed in a year is less than the aggregate cap amount, the cap for the subsequent year shall be increased by the unclaimed amount; defining "streaming platform" and amending the definition of "qualified production" to include certain streaming productions; and extending the sunset date of the tax credit to 1/1/2038. Exempts from the general excise tax certain amounts received by a motion picture project employer from a client company that represent reimbursements for costs paid or incurred by the client company for reasonable employment-related costs of motion picture project workers or loan-out companies. (CD1)

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