
A BILL FOR AN ACT

RELATING TO THE FILM INDUSTRY.

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

1 SECTION 1. Chapter 46, Hawaii Revised Statutes, is amended
2 by adding a new section to part V to be appropriately designated
3 and to read as follows:

4 "§46- Motion picture, digital media, and film
5 production income tax credit; waiver of permitting fees. (a)
6 Notwithstanding any law to the contrary, each county shall waive
7 any applicable permitting fees for film activity conducted on
8 county lands by a qualified production that qualifies for the
9 tax credit under section 235-17.

10 (b) For the purposes of this section, "qualified
11 production" shall have the same meaning as in section 235-17."

12 SECTION 2. Chapter 237, Hawaii Revised Statutes, is
13 amended by adding a new section to be appropriately designated
14 and to read as follows:

15 "§237- Exemption for entertainment payroll companies.
16 There shall be exempted from, and excluded from the measure of,



1 the taxes imposed by this chapter all of the gross proceeds
2 arising from entertainment payroll companies."

3 SECTION 3. Section 235-9, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "**§235-9 Exemptions; generally.** Except as provided in
6 sections 235-61 to 235-67 relating to withholding and collection
7 of tax at source, and section 235-2.4 relating to "unrelated
8 business taxable income", the following persons and
9 organizations shall not be taxable under this chapter: banks,
10 building and loan associations, financial services loan
11 companies, financial corporations, small business investment
12 companies, trust companies, mortgage loan companies, financial
13 holding companies, subsidiaries of financial holding companies
14 as defined in chapter 241, and development companies taxable
15 under chapter 241; insurance companies, agricultural cooperative
16 associations, and fish marketing associations exclusively
17 taxable under other laws [~~and persons engaged in the business~~
18 ~~of motion picture and television film production as defined by~~
19 ~~the director of taxation]."~~

20 SECTION 4. Section 235-17, Hawaii Revised Statutes, is
21 amended as follows:



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

2 "(a) Any law to the contrary notwithstanding, there shall
3 be allowed to each taxpayer subject to the taxes imposed by this
4 chapter, an income tax credit that shall be deductible from the
5 taxpayer's net income tax liability, if any, imposed by this
6 chapter for the taxable year in which the credit is properly
7 claimed. The amount of the credit shall be:

8 (1) Twenty-two per cent of the qualified production costs
9 incurred by a qualified production in any county of
10 the State with a population of over seven hundred
11 thousand; or

12 (2) Twenty-seven per cent of the qualified production
13 costs incurred by a qualified production in any county
14 of the State with a population of seven hundred
15 thousand or less[-];

16 provided that a qualified production with a workforce of at
17 least eighty per cent local hires shall be credited an
18 additional five per cent of the qualified production costs
19 incurred.

20 A qualified production occurring in more than one county
21 may prorate its expenditures based upon the amounts spent in



1 each county, if the population bases differ enough to change the
2 percentage of tax credit.

3 In the case of a partnership, S corporation, estate, or
4 trust, the tax credit allowable is for qualified production
5 costs incurred by the entity for the taxable year. The cost
6 upon which the tax credit is computed shall be determined at the
7 entity level. Distribution and share of credit shall be
8 determined by rule.

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

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

16 2. By amending subsection (d) to read:

17 "(d) To qualify for this tax credit, a production shall:

18 (1) Meet the definition of a qualified production
19 specified in subsection (o);

20 (2) Have qualified production costs totaling at least
21 \$100,000;



- 1 (3) Provide the State a qualified Hawaii promotion, which
2 shall be at a minimum, a shared-card, end-title screen
3 credit, where applicable;
- 4 (4) Provide evidence of reasonable efforts to hire local
5 talent and crew;
- 6 (5) Provide evidence when making any claim for products or
7 services acquired or rendered outside of this State
8 that reasonable efforts were unsuccessful to secure
9 and use comparable products or services within this
10 State;
- 11 (6) Provide evidence of financial or in-kind contributions
12 or educational or workforce development efforts, in
13 partnership with related local industry labor
14 organizations, educational institutions, or both,
15 toward the furtherance of the local film and
16 television and digital media industries;
- 17 (7) Provide evidence of contacting all local labor unions
18 servicing Hawaii's film industry before the start date
19 of production;



1 [~~(7)~~] (8) Provide evidence of reasonable efforts to comply
2 with all applicable requirements under title 14,
3 including tax return filing and payments; and
4 [~~(8)~~] (9) Provide complete responses to the department of
5 taxation's inquiries and document requests, in the
6 form prescribed by the department, no later than
7 ninety days from the inquiry or request;
8 provided that a taxpayer shall be given notice of and an
9 opportunity to cure any failure to meet the requirements of this
10 subsection, including chapter 237, within thirty days of receipt
11 of the notice; provided further that nothing in this subsection
12 shall be interpreted as waiving any act required by this
13 section."

14 3. By amending subsection (h) to read:

15 "(h) Every taxpayer claiming a tax credit under this
16 section for a qualified production shall, no later than ninety
17 days following the end of each taxable year in which qualified
18 production costs were expended, submit a written, sworn
19 statement to the department of business, economic development,
20 and tourism that identifies:



- 1 (1) All qualified production costs as provided by
- 2 subsection (a), if any, incurred in the previous
- 3 taxable year;
- 4 (2) The amount of tax credits claimed pursuant to this
- 5 section, if any, in the previous taxable year; and
- 6 (3) The number of total hires versus the number of local
- 7 hires by category and by county.

8 If the qualified production costs of a taxpayer exceed
 9 \$1,000,000 in a taxable year, the written, sworn statement shall
 10 be accompanied by an independent third-party certificate, issued
 11 by a certified public accountant, that verifies all
 12 representations made for the purpose of claiming the credit
 13 under this section. The certificate shall be prepared and
 14 submitted in accordance with standards and procedures prescribed
 15 by the department of business, economic development, and tourism
 16 and the department of taxation. This information may be
 17 reported from the department of business, economic development,
 18 and tourism to the legislature pursuant to subsection (i) (4)."

19 4. By amending subsections (n) and (o) to read:
 20 "(n) The total amount of tax credits allowed under this
 21 section in any particular year shall be [~~\$50,000,000; however,~~



1 ~~if~~] \$ _____ ; provided that beginning on January 1, 2028,
2 there shall be an annual one-sixth reduction of the total amount
3 allowed, over a five-year period. If the total amount of
4 credits applied for in any particular year exceeds the aggregate
5 amount of credits allowed for that year under this section, the
6 excess shall be treated as having been applied for in the
7 subsequent year and shall be claimed in the subsequent year;
8 provided that no excess shall be allowed to be claimed after
9 December 31, 2032.

10 (o) For the purposes of this section:

11 "Commercial":

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

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

18 (3) Does not include an advertising message with
19 Internet-only distribution.

20 "Digital media" means production methods and platforms
21 directly related to the creation of cinematic imagery and



1 content, specifically using digital means, including but not
2 limited to digital cameras, digital sound equipment, and
3 computers, to be delivered via film, videotape, interactive game
4 platform, or other digital distribution media.

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

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

19 "Qualified production":

20 (1) Means a production, with expenditures in the State,
21 for the total or partial production of a feature-



1 length motion picture, short film, made-for-television
2 movie, commercial, music video, interactive game,
3 television (including broadcast and streaming
4 platforms) series pilot, single season (up to
5 twenty-two episodes[~~}]~~ for broadcast television and up
6 to eight episodes for an ongoing series for streaming
7 platforms) of a [~~television~~] series [~~regularly~~] filmed
8 in the State [~~if~~]. If the number of episodes per
9 single season for a broadcast television series
10 exceeds twenty-two, and if the number of episodes per
11 single season for a streaming platform series exceeds
12 eight, additional episodes for the same season shall
13 constitute a separate qualified production[~~}]~~.
14 "Qualified production" also includes a television or
15 streaming platform special, single [~~television~~]
16 episode that is not part of a television or streaming
17 platform series regularly filmed or based in the
18 State, national magazine show, [~~or~~] and national talk
19 show. For the purposes of subsections (d) and (1),
20 each of the aforementioned qualified production



1 categories shall constitute separate, individual
2 qualified productions; and

3 (2) Does not include:

4 (A) News;

5 (B) Public affairs programs;

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

7 (D) Televised sporting events or activities;

8 (E) Productions that solicit funds;

9 (F) Productions produced primarily for industrial,
10 corporate, institutional, or other private
11 purposes; and

12 (G) Productions that include any material or
13 performance prohibited by chapter 712.

14 "Qualified production costs" means the costs incurred by a
15 qualified production within the State that are subject to the
16 general excise tax under chapter 237 at the highest rate of tax
17 or income tax under this chapter if the costs are not subject to
18 general excise tax and that have not been financed by any
19 investments for which a credit was or will be claimed pursuant
20 to section 235-110.9. "Qualified production costs" include but
21 are not limited to:



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



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

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

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

12 "Streaming platform" means an online provider of media
13 content that delivers the content via internet connection to the
14 subscriber's computer, television, or mobile device."

15 SECTION 5. Section 237-13, Hawaii Revised Statutes, is
16 amended to read as follows:

17 "**§237-13 Imposition of tax.** There is hereby levied and
18 shall be assessed and collected annually privilege taxes against
19 persons on account of their business and other activities in the
20 State measured by the application of rates against values of



1 products, gross proceeds of sales, or gross income, whichever is
2 specified, as follows:

3 (1) Tax on manufacturers.

4 (A) Upon every person engaging or continuing within
5 the State in the business of manufacturing,
6 including compounding, canning, preserving,
7 packing, printing, publishing, production as
8 defined in section 235-17, milling, processing,
9 refining, or preparing for sale, profit, or
10 commercial use, either directly or through the
11 activity of others, in whole or in part, any
12 article or articles, substance or substances,
13 commodity or commodities, the amount of the tax
14 to be equal to the value of the articles,
15 substances, or commodities, manufactured,
16 compounded, canned, preserved, packed, printed,
17 milled, processed, refined, or prepared for sale,
18 as shown by the gross proceeds derived from the
19 sale thereof by the manufacturer or person
20 compounding, preparing, or printing them,
21 multiplied by one-half of one per cent.



1 (B) The measure of the tax on manufacturers is the
2 value of the entire product for sale.

3 (2) Tax on business of selling tangible personal property;
4 producing.

5 (A) Upon every person engaging or continuing in the
6 business of selling any tangible personal
7 property whatsoever, there is likewise hereby
8 levied, and shall be assessed and collected, a
9 tax equivalent to four per cent of the gross
10 proceeds of sales of the business; provided that,
11 in the case of a wholesaler, the tax shall be
12 equal to one-half of one per cent of the gross
13 proceeds of sales of the business; and provided
14 further that insofar as the sale of tangible
15 personal property is a wholesale sale under
16 section 237-4(a)(8), the tax shall be one-half of
17 one per cent of the gross proceeds. Upon every
18 person engaging or continuing within this State
19 in the business of a producer, the tax shall be
20 equal to one-half of one per cent of the gross



1 proceeds of sales of the business, or the value
2 of the products, for sale.

3 (B) Gross proceeds of sales of tangible property in
4 interstate and foreign commerce shall constitute
5 a part of the measure of the tax imposed on
6 persons in the business of selling tangible
7 personal property, to the extent, under the
8 conditions, and in accordance with the provisions
9 of the Constitution of the United States and the
10 Acts of the Congress of the United States which
11 may be now in force or may be hereafter adopted,
12 and whenever there occurs in the State an
13 activity to which, under the Constitution and
14 Acts of Congress, there may be attributed gross
15 proceeds of sales, the gross proceeds shall be so
16 attributed.

17 (C) No manufacturer or producer, engaged in such
18 business in the State and selling the
19 manufacturer's or producer's products for
20 delivery outside of the State (for example,
21 consigned to a mainland purchaser via common



1 carrier f.o.b. Honolulu), shall be required to
2 pay the tax imposed in this chapter for the
3 privilege of so selling the products, and the
4 value or gross proceeds of sales of the products
5 shall be included only in determining the measure
6 of the tax imposed upon the manufacturer or
7 producer.

8 (D) A manufacturer or producer, engaged in such
9 business in the State, shall pay the tax imposed
10 in this chapter for the privilege of selling its
11 products in the State, and the value or gross
12 proceeds of sales of the products, thus subjected
13 to tax, may be deducted insofar as duplicated as
14 to the same products by the measure of the tax
15 upon the manufacturer or producer for the
16 privilege of manufacturing or producing in the
17 State; provided that no producer of agricultural
18 products who sells the products to a purchaser
19 who will process the products outside the State
20 shall be required to pay the tax imposed in this



1 chapter for the privilege of producing or selling
2 those products.

3 (E) A taxpayer selling to a federal cost-plus
4 contractor may make the election provided for by
5 paragraph (3) (C), and in that case the tax shall
6 be computed pursuant to the election,
7 notwithstanding this paragraph or paragraph (1)
8 to the contrary.

9 (F) The department, by rule, may require that a
10 seller take from the purchaser of tangible
11 personal property a certificate, in a form
12 prescribed by the department, certifying that the
13 sale is a sale at wholesale; provided that:

14 (i) Any purchaser who furnishes a certificate
15 shall be obligated to pay to the seller,
16 upon demand, the amount of the additional
17 tax that is imposed upon the seller whenever
18 the sale in fact is not at wholesale; and

19 (ii) The absence of a certificate in itself shall
20 give rise to the presumption that the sale



1 is not at wholesale unless the sales of the
2 business are exclusively at wholesale.

3 (3) Tax upon contractors.

4 (A) Upon every person engaging or continuing within
5 the State in the business of contracting, the tax
6 shall be equal to four per cent of the gross
7 income of the business.

8 (B) In computing the tax levied under this paragraph,
9 there shall be deducted from the gross income of
10 the taxpayer so much thereof as has been included
11 in the measure of the tax levied under
12 subparagraph (A), on another taxpayer who is a
13 contractor, as defined in section 237-6; provided
14 that any person claiming a deduction under this
15 paragraph shall be required to show in the
16 person's return the name and general excise
17 number of the person paying the tax on the amount
18 deducted by the person.

19 (C) In computing the tax levied under this paragraph
20 against any federal cost-plus contractor, there
21 shall be excluded from the gross income of the



1 contractor so much thereof as fulfills the
2 following requirements:
3 (i) The gross income exempted shall constitute
4 reimbursement of costs incurred for
5 materials, plant, or equipment purchased
6 from a taxpayer licensed under this chapter,
7 not exceeding the gross proceeds of sale of
8 the taxpayer on account of the transaction;
9 and
10 (ii) The taxpayer making the sale shall have
11 certified to the department that the
12 taxpayer is taxable with respect to the
13 gross proceeds of the sale, and that the
14 taxpayer elects to have the tax on gross
15 income computed the same as upon a sale to
16 the state government.
17 (D) A person who, as a business or as a part of a
18 business in which the person is engaged, erects,
19 constructs, or improves any building or
20 structure, of any kind or description, or makes,
21 constructs, or improves any road, street,

1 sidewalk, sewer, or water system, or other
2 improvements on land held by the person (whether
3 held as a leasehold, fee simple, or otherwise),
4 upon the sale or other disposition of the land or
5 improvements, even if the work was not done
6 pursuant to a contract, shall be liable to the
7 same tax as if engaged in the business of
8 contracting, unless the person shows that at the
9 time the person was engaged in making the
10 improvements the person intended, and for the
11 period of at least one year after completion of
12 the building, structure, or other improvements
13 the person continued to intend to hold and not
14 sell or otherwise dispose of the land or
15 improvements. The tax in respect of the
16 improvements shall be measured by the amount of
17 the proceeds of the sale or other disposition
18 that is attributable to the erection,
19 construction, or improvement of such building or
20 structure, or the making, constructing, or
21 improving of the road, street, sidewalk, sewer,



1 or water system, or other improvements. The
2 measure of tax in respect of the improvements
3 shall not exceed the amount which would have been
4 taxable had the work been performed by another,
5 subject as in other cases to the deductions
6 allowed by subparagraph (B). Upon the election
7 of the taxpayer, this paragraph may be applied
8 notwithstanding that the improvements were not
9 made by the taxpayer, or were not made as a
10 business or as a part of a business, or were made
11 with the intention of holding the same. However,
12 this paragraph shall not apply in respect of any
13 proceeds that constitute or are in the nature of
14 rent, which shall be taxable under paragraph (9);
15 provided that insofar as the business of renting
16 or leasing real property under a lease is taxed
17 under section 237-16.5, the tax shall be levied
18 by section 237-16.5.

19 (4) Tax upon theaters, amusements, radio broadcasting
20 stations, etc.



- 1 (A) Upon every person engaging or continuing within
2 the State in the business of operating a theater,
3 opera house, moving picture show, vaudeville,
4 amusement park, dance hall, skating rink, radio
5 broadcasting station, or any other place at which
6 amusements are offered to the public, the tax
7 shall be equal to four per cent of the gross
8 income of the business, and in the case of a sale
9 of an amusement at wholesale under section 237-
10 4(a) (13), the tax shall be one-half of one per
11 cent of the gross income.
- 12 (B) The department may require that the person
13 rendering an amusement at wholesale take from the
14 licensed seller a certificate, in a form
15 prescribed by the department, certifying that the
16 sale is a sale at wholesale; provided that:
- 17 (i) Any licensed seller who furnishes a
18 certificate shall be obligated to pay to the
19 person rendering the amusement, upon demand,
20 the amount of additional tax that is imposed



1 upon the seller whenever the sale is not at
2 wholesale; and

3 (ii) The absence of a certificate in itself shall
4 give rise to the presumption that the sale
5 is not at wholesale unless the person
6 rendering the sale is exclusively rendering
7 the amusement at wholesale.

8 (5) Tax upon sales representatives, etc. Upon every
9 person classified as a representative or purchasing
10 agent under section 237-1, engaging or continuing
11 within the State in the business of performing
12 services for another, other than as an employee, there
13 is likewise hereby levied and shall be assessed and
14 collected a tax equal to four per cent of the
15 commissions and other compensation attributable to the
16 services so rendered by the person.

17 (6) Tax on service business.
18 (A) Upon every person engaging or continuing within
19 the State in any service business or calling
20 including professional services not otherwise
21 specifically taxed under this chapter, there is



1 likewise hereby levied and shall be assessed and
2 collected a tax equal to four per cent of the
3 gross income of the business, and in the case of
4 a wholesaler under section 237-4(a)(10), the tax
5 shall be equal to one-half of one per cent of the
6 gross income of the business.

7 (B) The department may require that the person
8 rendering a service at wholesale take from the
9 licensed seller a certificate, in a form
10 prescribed by the department, certifying that the
11 sale is a sale at wholesale; provided that:

12 (i) Any licensed seller who furnishes a
13 certificate shall be obligated to pay to the
14 person rendering the service, upon demand,
15 the amount of additional tax that is imposed
16 upon the seller whenever the sale is not at
17 wholesale; and

18 (ii) The absence of a certificate in itself shall
19 give rise to the presumption that the sale
20 is not at wholesale unless the person



1 rendering the sale is exclusively rendering
2 services at wholesale.

3 (C) Where any person is engaged in the business of
4 selling interstate or foreign common carrier
5 telecommunication services within and without the
6 State, other than as a home service provider, the
7 tax shall be imposed on that portion of gross
8 income received by a person from service which is
9 originated or terminated in this State and is
10 charged to a telephone number, customer, or
11 account in this State notwithstanding any other
12 state law (except for the exemption under section
13 237-23(a)(1)) to the contrary. If, under the
14 Constitution and laws of the United States, the
15 entire gross income as determined under this
16 paragraph of a business selling interstate or
17 foreign common carrier telecommunication services
18 cannot be included in the measure of the tax, the
19 gross income shall be apportioned as provided in
20 section 237-21; provided that the apportionment



1 factor and formula shall be the same for all
2 persons providing those services in the State.
3 (D) Where any person is engaged in the business of a
4 home service provider, the tax shall be imposed
5 on the gross income received or derived from
6 providing interstate or foreign mobile
7 telecommunications services to a customer with a
8 place of primary use in this State when the
9 services originate in one state and terminate in
10 another state, territory, or foreign country;
11 provided that all charges for mobile
12 telecommunications services which are billed by
13 or for the home service provider are deemed to be
14 provided by the home service provider at the
15 customer's place of primary use, regardless of
16 where the mobile telecommunications originate,
17 terminate, or pass through; provided further that
18 the income from charges specifically derived from
19 interstate or foreign mobile telecommunications
20 services, as determined by books and records that
21 are kept in the regular course of business by the



1 home service provider in accordance with section
2 239-24, shall be apportioned under any
3 apportionment factor or formula adopted under
4 subparagraph (C). Gross income shall not
5 include:

6 (i) Gross receipts from mobile
7 telecommunications services provided to a
8 customer with a place of primary use outside
9 this State;

10 (ii) Gross receipts from mobile
11 telecommunications services that are subject
12 to the tax imposed by chapter 239;

13 (iii) Gross receipts from mobile
14 telecommunications services taxed under
15 section 237-13.8; and

16 (iv) Gross receipts of a home service provider
17 acting as a serving carrier providing mobile
18 telecommunications services to another home
19 service provider's customer.

20 For the purposes of this paragraph, "charges for
21 mobile telecommunications services", "customer",



1 "home service provider", "mobile
2 telecommunications services", "place of primary
3 use", and "serving carrier" have the same meaning
4 as in section 239-22.

5 (7) Tax on insurance producers. Upon every person engaged
6 as a licensed producer pursuant to chapter 431, there
7 is hereby levied and shall be assessed and collected a
8 tax equal to 0.15 per cent of the commissions due to
9 that activity.

10 (8) Tax on receipts of sugar benefit payments. Upon the
11 amounts received from the United States government by
12 any producer of sugar (or the producer's legal
13 representative or heirs), as defined under and by
14 virtue of the Sugar Act of 1948, as amended, or other
15 Acts of the Congress of the United States relating
16 thereto, there is hereby levied a tax of one-half of
17 one per cent of the gross amount received; provided
18 that the tax levied hereunder on any amount so
19 received and actually disbursed to another by a
20 producer in the form of a benefit payment shall be
21 paid by the person or persons to whom the amount is



1 actually disbursed, and the producer actually making a
2 benefit payment to another shall be entitled to claim
3 on the producer's return a deduction from the gross
4 amount taxable hereunder in the sum of the amount so
5 disbursed. The amounts taxed under this paragraph
6 shall not be taxable under any other paragraph,
7 subsection, or section of this chapter.

8 (9) Tax on other business. Upon every person engaging or
9 continuing within the State in any business, trade,
10 activity, occupation, or calling not included in the
11 preceding paragraphs or any other provisions of this
12 chapter, there is likewise hereby levied and shall be
13 assessed and collected, a tax equal to four per cent
14 of the gross income thereof. In addition, the rate
15 prescribed by this paragraph shall apply to a business
16 taxable under one or more of the preceding paragraphs
17 or other provisions of this chapter, as to any gross
18 income thereof not taxed thereunder as gross income or
19 gross proceeds of sales or by taxing an equivalent
20 value of products, unless specifically exempted."



1 SECTION 6. Section 237-24.75, Hawaii Revised Statutes, is
2 amended to read as follows:

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

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



1 shall not apply to amounts received by a professional
2 employer organization after:

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

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

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

18 (4) Amounts received by a motion picture project employer
19 from a client equal to amounts that are disbursed by
20 the motion picture project employer for employee
21 wages, salaries, payroll taxes, insurance premiums,



1 and benefits, including retirement, vacation, sick
2 leave, health benefits, and similar employment
3 benefits with respect to motion picture project
4 workers at a client and for payments to loan-out
5 companies.

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

10 SECTION 7. Act 88, Session Laws of Hawaii 2006, as amended
11 by Act 89, Session Laws of Hawaii 2013, as amended by Act 143,
12 Session Laws of Hawaii 2017, as amended by Act 217, Session Laws
13 of Hawaii 2022, is amended by amending section 4 to read as
14 follows:

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

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

20 (2) This Act shall be repealed on January 1, 2033~~[, and~~
21 ~~section 235-17, Hawaii Revised Statutes, shall be~~



1 ~~reenacted in the form in which it read on the day~~
2 ~~before the effective date of this Act]."~~

3 SECTION 8. Act 143, Session Laws of Hawaii 2017, is
4 amended by amending section 6 to read as follows:

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

15 SECTION 9. Section 235-17, Hawaii Revised Statutes, is
16 repealed.

17 ~~["**§235-17 Motion picture, digital media, and film**~~
18 ~~**production income tax credit.** (a) Any law to the contrary~~
19 ~~notwithstanding, there shall be allowed to each taxpayer subject~~
20 ~~to the taxes imposed by this chapter, an income tax credit that~~
21 ~~shall be deductible from the taxpayer's net income tax~~



1 ~~liability, if any, imposed by this chapter for the taxable year~~
2 ~~in which the credit is properly claimed. The amount of the~~
3 ~~credit shall be:~~

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

8 ~~(2) 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.~~

12 ~~A qualified production occurring in more than one county may~~
13 ~~prorate its expenditures based upon the amounts spent in each~~
14 ~~county, if the population bases differ enough to change the~~
15 ~~percentage of tax credit.~~

16 ~~In the case of a partnership, S corporation, estate, or~~
17 ~~trust, the tax credit allowable is for qualified production~~
18 ~~costs incurred by the entity for the taxable year. The cost~~
19 ~~upon which the tax credit is computed shall be determined at the~~
20 ~~entity level. Distribution and share of credit shall be~~
21 ~~determined by rule.~~



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

5 ~~The basis for eligible property for depreciation of~~
6 ~~accelerated cost recovery system purposes for state income taxes~~
7 ~~shall be reduced by the amount of credit allowable and claimed.~~

8 ~~(b) The credit allowed under this section shall be claimed~~
9 ~~against the net income tax liability for the taxable year. For~~
10 ~~the purposes of this section, "net income tax liability" means~~
11 ~~net income tax liability reduced by all other credits allowed~~
12 ~~under this chapter.~~

13 ~~(c) If the tax credit under this section exceeds the~~
14 ~~taxpayer's income tax liability, the excess of credits over~~
15 ~~liability shall be refunded to the taxpayer; provided that no~~
16 ~~refunds or payment on account of the tax credits allowed by this~~
17 ~~section shall be made for amounts less than \$1. All claims,~~
18 ~~including any amended claims, for tax credits under this section~~
19 ~~shall be filed on or before the end of the twelfth month~~
20 ~~following the close of the taxable year for which the credit may~~
21 ~~be claimed. Failure to comply with any of the foregoing~~



1 ~~provision shall constitute a waiver of the right to claim the~~
2 ~~credit.~~

3 ~~(d) To qualify for this tax credit, a production shall:~~

4 ~~(1) Meet the definition of a qualified production~~
5 ~~specified in subsection (c);~~

6 ~~(2) Have qualified production costs totaling at least~~
7 ~~\$100,000;~~

8 ~~(3) Provide the State a qualified Hawaii promotion, which~~
9 ~~shall be at a minimum, a shared card, end title screen~~
10 ~~credit, where applicable;~~

11 ~~(4) Provide evidence of reasonable efforts to hire local~~
12 ~~talent and crew;~~

13 ~~(5) Provide evidence when making any claim for products or~~
14 ~~services acquired or rendered outside of this State~~
15 ~~that reasonable efforts were unsuccessful to secure~~
16 ~~and use comparable products or services within this~~
17 ~~State;~~

18 ~~(6) Provide evidence of financial or in-kind contributions~~
19 ~~or educational or workforce development efforts, in~~
20 ~~partnership with related local industry labor~~
21 ~~organizations, educational institutions, or both,~~



1 ~~toward the furtherance of the local film and~~
2 ~~television and digital media industries;~~

3 ~~(7) Provide evidence of reasonable efforts to comply with~~
4 ~~all applicable requirements under title 14, including~~
5 ~~tax return filing and payments; and~~

6 ~~(8) Provide complete responses to the department of~~
7 ~~taxation's inquiries and document requests, in the~~
8 ~~form prescribed by the department, no later than~~
9 ~~ninety days from the inquiry or request;~~

10 ~~provided that a taxpayer shall be given notice of and an~~
11 ~~opportunity to cure any failure to meet the requirements of this~~
12 ~~subsection, including chapter 237, within thirty days of receipt~~
13 ~~of the notice; provided further that nothing in this subsection~~
14 ~~shall be interpreted as waiving any act required by this~~
15 ~~section.~~

16 ~~(e) On or after July 1, 2006, no qualified production cost~~
17 ~~that has been financed by investments for which a credit was~~
18 ~~claimed by any taxpayer pursuant to section 235-110.9 is~~
19 ~~eligible for credits under this section.~~

20 ~~(f) To receive the tax credit, the taxpayer shall first~~
21 ~~prequalify the production for the credit by registering with the~~



1 ~~department of business, economic development, and tourism during~~
2 ~~the development or preproduction stage.~~

3 ~~(g) The director of taxation shall prepare forms as may be~~
4 ~~necessary to claim a credit under this section. The director~~
5 ~~may also require the taxpayer to furnish information to~~
6 ~~ascertain the validity of the claim for credit made under this~~
7 ~~section and may adopt rules necessary to effectuate the purposes~~
8 ~~of this section pursuant to chapter 91.~~

9 ~~(h) Every taxpayer claiming a tax credit under this~~
10 ~~section for a qualified production shall, no later than ninety~~
11 ~~days following the end of each taxable year in which qualified~~
12 ~~production costs were expended, submit a written, sworn~~
13 ~~statement to the department of business, economic development,~~
14 ~~and tourism that identifies:~~

- 15 ~~(1) All qualified production costs as provided by~~
16 ~~subsection (a), if any, incurred in the previous~~
17 ~~taxable year;~~
- 18 ~~(2) The amount of tax credits claimed pursuant to this~~
19 ~~section, if any, in the previous taxable year; and~~
- 20 ~~(3) The number of total hires versus the number of local~~
21 ~~hires by category and by county.~~



1 ~~This information may be reported from the department of~~
2 ~~business, economic development, and tourism to the legislature~~
3 ~~pursuant to subsection (i) (4).~~

4 ~~(i) The department of business, economic development, and~~
5 ~~tourism shall:~~

6 ~~(1) Maintain records of the names of the taxpayers and~~
7 ~~qualified productions thereof claiming the tax credits~~
8 ~~under subsection (a);~~

9 ~~(2) Obtain and total the aggregate amounts of all~~
10 ~~qualified production costs per qualified production~~
11 ~~and per qualified production per taxable year;~~

12 ~~(3) Provide a letter to the director of taxation~~
13 ~~specifying the amount of the tax credit per qualified~~
14 ~~production for each taxable year that a tax credit is~~
15 ~~claimed and the cumulative amount of the tax credit~~
16 ~~for all years claimed; and~~

17 ~~(4) Submit a report to the legislature no later than~~
18 ~~twenty days prior to the convening of each regular~~
19 ~~session detailing the non-aggregated qualified~~
20 ~~production costs that form the basis of the tax credit~~
21 ~~claims and expenditures, itemized by taxpayer, in a~~



1 ~~redacted format to preserve the confidentiality and~~
2 ~~that shall include the dollar amount claimed, name of~~
3 ~~company, and name of the qualified production of the~~
4 ~~taxpayers claiming the credit.~~

5 ~~(j) Upon each determination required under subsection (i),~~
6 ~~the department of business, economic development, and tourism~~
7 ~~shall issue a letter to the taxpayer, regarding the qualified~~
8 ~~production, specifying the qualified production costs and the~~
9 ~~tax credit amount qualified for in each taxable year a tax~~
10 ~~credit is claimed; provided that the department of business,~~
11 ~~economic development, and tourism shall issue the letter to the~~
12 ~~taxpayer no later than seven months after receipt of the~~
13 ~~taxpayer's statement under subsection (h). The taxpayer for~~
14 ~~each qualified production shall file the letter with the~~
15 ~~taxpayer's tax return for the qualified production to the~~
16 ~~department of taxation. Notwithstanding the authority of the~~
17 ~~department of business, economic development, and tourism under~~
18 ~~this section, the director of taxation may audit and adjust the~~
19 ~~tax credit amount to conform to the information filed by the~~
20 ~~taxpayer.~~



1 ~~(k) Each taxpayer claiming a tax credit under this section~~
2 ~~shall submit to the department of business, economic~~
3 ~~development, and tourism a fee for the motion picture, digital~~
4 ~~media, and film production income tax credit in an amount equal~~
5 ~~to 0.2 per cent of the tax credit claimed by the qualified~~
6 ~~production no later than the deadline stated in subsection (c).~~
7 ~~The department of business, economic development, and tourism~~
8 ~~may prescribe the form and method by which this fee is remitted,~~
9 ~~including through electronic means. The fees collected under~~
10 ~~this subsection shall be deposited into the Hawaii film and~~
11 ~~creative industries development special fund under section 201-~~
12 ~~113.~~

13 ~~(l) Total tax credits claimed per qualified production~~
14 ~~shall not exceed \$17,000,000.~~

15 ~~(m) Qualified productions shall comply with subsections~~
16 ~~(d), (e), (f), (h), and (k).~~

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



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

4 ~~(e) For the purposes of this section:~~

5 ~~"Commercial":~~

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

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

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

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

20 ~~"Post-production" means production activities and services~~
21 ~~conducted after principal photography is completed, including~~



1 ~~but not limited to editing, film and video transfers,~~
2 ~~duplication, transcoding, dubbing, subtitling, credits, closed~~
3 ~~captioning, audio production, special effects (visual and~~
4 ~~sound), graphics, and animation.~~

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

13 ~~"Qualified production":~~

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



1 ~~same season shall constitute a separate qualified~~
2 ~~production), television special, single television~~
3 ~~episode that is not part of a television series~~
4 ~~regularly filmed or based in the State, national~~
5 ~~magazine show, or national talk show. For the~~
6 ~~purposes of subsections (d) and (l), each of the~~
7 ~~above-mentioned qualified production categories shall~~
8 ~~constitute separate, individual qualified productions;~~
9 ~~and~~

10 ~~(2) Does not include:~~

11 ~~(A) News;~~

12 ~~(B) Public affairs programs;~~

13 ~~(C) Non-national magazine or talk shows;~~

14 ~~(D) Televised sporting events or activities;~~

15 ~~(E) Productions that solicit funds;~~

16 ~~(F) Productions produced primarily for industrial,~~
17 ~~corporate, institutional, or other private~~
18 ~~purposes; and~~

19 ~~(G) Productions that include any material or~~
20 ~~performance prohibited by chapter 712.~~



1 ~~"Qualified production costs" means the costs incurred by a~~
2 ~~qualified production within the State that are subject to the~~
3 ~~general excise tax under chapter 237 at the highest rate of tax~~
4 ~~or income tax under this chapter if the costs are not subject to~~
5 ~~general excise tax and that have not been financed by any~~
6 ~~investments for which a credit was or will be claimed pursuant~~
7 ~~to section 235-110.9. Qualified production costs include but~~
8 ~~are not limited to:~~

- 9 ~~(1) Costs incurred during preproduction such as location~~
10 ~~scouting and related services;~~
- 11 ~~(2) Costs of set construction and operations, purchases or~~
12 ~~rentals of wardrobe, props, accessories, food, office~~
13 ~~supplies, transportation, equipment, and related~~
14 ~~services;~~
- 15 ~~(3) Wages or salaries of cast, crew, and musicians;~~
- 16 ~~(4) Costs of photography, sound synchronization, lighting,~~
17 ~~and related services;~~
- 18 ~~(5) Costs of editing, visual effects, music, other post-~~
19 ~~production, and related services;~~
- 20 ~~(6) Rentals and fees for use of local facilities and~~
21 ~~locations, including rentals and fees for use of state~~



1 ~~and county facilities and locations that are not~~
2 ~~subject to general excise tax under chapter 237 or~~
3 ~~income tax under this chapter;~~

4 ~~(7) Rentals of vehicles and lodging for cast and crew;~~
5 ~~(8) Airfare for flights to or from Hawaii, and interisland~~
6 ~~flights;~~

7 ~~(9) Insurance and bonding;~~

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

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

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

19 SECTION 10. Statutory material to be repealed is bracketed
20 and stricken. New statutory material is underscored.

1 SECTION 11. This Act shall take effect on July 1, 3000;
2 provided that:

3 (1) Sections 1, 2, 5, and 6 shall be repealed on January
4 1, 2033, and sections 237-13 and 237-24.75, Hawaii
5 Revised Statutes, shall be reenacted in the form in
6 which they read on the day before the effective date
7 of this Act;

8 (2) Section 3 shall take effect on January 1, 2033, and
9 apply to taxable years beginning after December 31,
10 2032;

11 (3) Section 4 shall apply to taxable years beginning after
12 December 31, 2025 and be repealed on December 31,
13 2032, and section 235-17, Hawaii Revised Statutes,
14 shall be reenacted in the form in which it read on the
15 day before the effective date of this Act; and

16 (4) Section 9 shall take effect on January 1, 2033.



Report Title:

Counties; Permitting Fees; Entertainment Payroll Companies; Unions; General Excise Tax; Motion Picture, Digital Media, and Film Production Income Tax Credit; Broadcast and Streaming Platforms; Income Tax; Exemptions

Description:

Requires counties to waive permitting fees for certain film activity. Exempts entertainment payroll companies from the GET. Repeals an income tax exemption for persons engaged in the business of motion picture and television film production for taxable years beginning after 12/31/2023. Amends the Motion Picture, Digital Media, and Film Production Income Tax Credit by providing an additional credit to qualified productions with a workforce of at least eighty percent local hires; requiring productions to contact all local labor unions servicing Hawaii's film industry to qualify for the credit; requiring qualified production costs of a taxpayer that exceed \$1,000,000 to be certified by a CPA, rather than via tax opinion; increasing the aggregate cap amount on credits allowed in any given year, ramped down by one-sixth over five years beginning on 1/1/2028; and including broadcast and streaming platform productions under the credit. Applies the GET rate for manufacturers to productions. Exempts from the GET amounts received by a motion picture project employer from a client equal to amounts that are disbursed by the motion picture project employer for employee wages, salaries, payroll taxes, insurance premiums, and employment benefits and payments to loan-out companies. Repeals certain tax exemptions and the Motion Picture, Digital Media, and Film Production Income Tax Credit on 1/1/2033. Appropriates funds. Effective 7/1/3000. (HD2)

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