



THE FILM ENTREPRENEUR[®]

A NEWSLETTER FOR THE INDEPENDENT FILMMAKER AND INVESTOR

VOL. 15, No. 5

FALL 2008

Federal Tax Incentive (Section 181) Update

Attorney Hal "Corky" Kessler has sent *TFE* this update on the Federal Tax Incentive which has been extended for one year and amended.. The provisions are as follows:

"Special Expensing Rules for Certain Film and Television Productions. Under current law, a producer can elect to take a single-year deduction of up to \$15M production costs incurred in the U.S. If the production costs are over \$15M, this deduction does not apply. The maximum deduction is increased to \$20M if the costs are significantly incurred in economically depressed areas. No other depreciation or amortization is allowed for a production for which this deduction is taken. The provision expires December 31, 2008. The proposal would extend the provision to the end of 2009. The proposal would also allow expensing of the first \$15M (\$20M if the costs are significantly incurred in economically depressed areas), regardless of the ultimate cost of the film. The proposal is effective for taxable years beginning after December 31, 2007." Corky points out that the good news is that you will get the benefit of the first \$15M (or \$20M) of a loss regardless of how large the film's budget is. Also, the benefits extend to any film or television project that began production on or after January 1, 2008.

In the past, your Section 199 taxable income deductions as to dollars received on a film was limited to 50% of the investor's W-2 wages or the equivalent of same. Section 199 was amended to remove that 50% limit. There is no limit moving forward. The taxable income deduction is 6% from years 2007 to 2010 and 9% from 2010 forward. In addition, Puerto Rico is once again allowed to take advantage of Section 199: "Deduction Allowable with Respect to Income Attributable to Domestic Production Activities in Puerto Rico. The bill extends a provision allowing a section 199 domestic production activities deduction for activities in Puerto Rico. This provision expired on December 31, 2007. The proposal would extend the provision to the end of 2009. The proposal is effective for tax years beginning after December 31, 2007."

If you have any questions regarding the extension of Section 181 or the Section 199 amendment, feel free to contact Corky at ckessler@lgattorneys.com. ■