208.1459 Eligible production company; tax credit.

Sec. 459. (1) Until September 30, 2015, the Michigan film office, with the concurrence of the state treasurer, may enter into an agreement with an eligible production company providing the company with a credit against the tax imposed by this act for qualified job training expenditures, as provided under this section. To qualify for the credit under this section, a company shall meet all of the following requirements:

(a) Make qualified job training expenditures for a state certified qualified production.

(b) After completion of the production of the state certified qualified production in this state, submit to the office an application in a form determined by the office with information regarding the qualified job training expenditures, including employment, salary, and related information required by the office.

(c) Receive a qualified job training expenditures certificate from the office under subsection (5).

(d) Submit the qualified job training expenditure certificate issued by the office under subsection (5) to the department under subsection (7).

(e) Shall not be delinquent in a tax or other obligation owed to this state or be owned or under common control of an entity that is delinquent in a tax or other obligation owed to this state.

(2) Before the effective date of the amendatory act that added this language, for a qualified job training expenditure made by a company, the company may claim a tax credit equal to 50% of the qualified job training expenditure. On and after the effective date of the amendatory act that added this language, for a qualified job training expenditure made by a company, the company may claim a tax credit of up to 50% of the qualified job training expenditure as determined by the Michigan film office, with the concurrence of the state treasurer. A company shall not claim a credit under this section for any of the following:

(a) A direct expenditure, or qualified personnel expenditure, for which the company claims a credit under section 455.

(b) A direct expenditure, or qualified personnel expenditure, for which the company claims a credit under section 367 of the income tax act of 1967, 1967 PA 281, MCL 206.367.

(c) A direct expenditure, or qualified personnel expenditure, for which another taxpayer claims a credit under this section, a credit under section 455, or a credit under section 367 of the income tax act of 1967, 1967 PA 281, MCL 206.367.

(3) A taxpayer seeking a credit under this section may submit an application to enter into an agreement under this section to the Michigan film office. The application shall be submitted, prior to making qualified job training expenditures, in a form prescribed by the Michigan film office and shall be accompanied by a $100.00 application fee and all of the information and records requested by the office. An application fee received by the office under this subsection shall be deposited in the Michigan film promotion fund. The office shall not process the application until it is complete. If the office, with the concurrence of the state treasurer, determines to enter into an agreement under this section, the agreement shall provide for all of the following:

(a) A unique number assigned to the state certified qualified production for which qualified job training expenditures were incurred by the company.

(b) A detailed description of the state certified qualified production and the qualified job training expenditures.

(c) A requirement that the company provide the office with the information and independent certification the office and the department deem necessary to verify qualified job training expenditures and eligibility for the credit under this section.

(4) In determining whether to authorize a credit under this section, the Michigan film office and the state treasurer shall consider all of the following:

(a) The extent to which the state certified qualified production and qualified job training expenditure may have the effect of promoting economic development or job creation in this state.

(b) The extent to which the credit may assist in attracting additional private investment for the production of motion pictures, videos, television programs, and digital media in this state.

(c) The extent to which the credit will encourage the development of film, video, television, and digital media production and postproduction expertise in this state.

(5) If the Michigan film office determines that a company has complied with the terms of an agreement entered into under this section, the office shall issue a qualified job training expenditure certificate to the
personnel. Similar personnel below the line crew does not include a producer, director, writer, actor, or other similar personnel. Assistant propmaster, assistant audio mixer, assistant boom person, assistant key for special effects, and other similar personnel. Script supervisor, set construction foreperson, lead set dresser, assistant key for wardrobe, scenic foreperson, best boy, grip best boy, dolly grip, rigging grip, assistant key for makeup, assistant key for hair, assistant camera operator, digital imaging technician, camera operator working with a director of photography, electric editor, sound effects editor, sound mixer, steadicam operator, first assistant camera operator, second assistant camera operator, digital imaging technician, camera operator working with a director of photography, electric best boy, grip best boy, dolly grip, rigging grip, assistant key for makeup, assistant key for hair, assistant script supervisor, set construction foreperson, lead set dresser, assistant key for wardrobe, scenic foreperson, assistant propmaster, assistant audio mixer, assistant boom person, assistant key for special effects, and other similar personnel. Below the line crew does not include a producer, director, writer, actor, or other similar personnel.

(f) "Eligible production company" means that term as defined in section 455.

(c) "Michigan film office" or "office" means the Michigan film office created under chapter 2A of the Michigan strategic fund act, 1984 PA 270, MCL 125.2029 to 125.2029g.
(d) "Michigan film promotion fund" means the fund created under chapter 2A of the Michigan strategic fund act, 1984 PA 270, MCL 125.2029 to 125.2029g.

(e) "Qualified job training expenditure" means salary and other expenditures paid by an eligible production company to provide qualified personnel with on-the-job training as a member of the below the line crew for a state certified qualified production that is intended to upgrade or enhance the skills of the qualified personnel and address deficiencies in skills among residents of this state as determined by the office.

(f) "Qualified personnel" means a person who has resided in this state for not less than 12 months, who has legal status for employment, and who demonstrates sufficient prior experience or training in the film and digital media industry, as certified by the Michigan film office. Qualified personnel includes, but is not limited to, a person who has completed a training program at a Michigan proprietary school licensed by the department of labor and economic growth that offers a program of instruction in film and video production and has been designated with a classification of instructional programs code of 50 by the department of labor and economic growth and a person in an advanced crew position that meets the residency requirements of this subdivision and is hired and mentored by a key or supervisor. Qualified personnel do not include a person with fewer than 1 or more than 4 film credits in the same below the line crew position for which the eligible production company claimed a credit under this section.

(g) "Qualified personnel expenditure" means that term as defined under section 455.

(h) "State certified qualified production" means that term as defined in section 455.


Compiler's note: Enacting section 1 of Act 77 of 2011 provides:

"Enacting section 1. Sections 409, 455, and 510 of the Michigan business tax act, 2007 PA 36, MCL 208.1409, 208.1455, and 208.1510, as amended by this amendatory act, are retroactive and effective May 26, 2011. This provision is curative and is intended to express the original intent of the legislature concerning the application of 2011 PA 39."

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