HOUSE OF REPRESENTATIVES
TWENTY-EIGHTH LEGISLATURE, 2015
STATE OF HAWAII

H.B. NO. 785

A BILL FOR AN ACT

RELATING TO INCOME TAX CREDITS.

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

SECTION 1. Section 235-17, Hawaii Revised Statutes, is amended as follows:

1. By amending subsection (a) to read:

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

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

(2) [~~Twenty-five~~] Twenty-seven and one-half per cent of the qualified production costs incurred by a qualified production in any county of the State with a population of seven hundred thousand or less.

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

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

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

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

2. By amending subsection (h) to read:

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

(1) All qualified production costs as provided by subsection (a), if any, incurred in the previous taxable year;

(2) The amount of tax credits claimed pursuant to this section, if any, in the previous taxable year; and

(3) The number of total hires versus the number of local hires by category and by county[~~.~~]; provided that the taxpayer shall verify the county residency of local hires.

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

SECTION 2. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 3. This Act, upon its approval, shall apply to taxable years beginning after December 31, 2014.

INTRODUCED BY: ______________________

JAN 2 6 2015

H.B. NO. 785

Report Title:
Motion Picture Income Tax Credit

Description:
Raises the motion picture income tax credit for productions in a county with a population of seven hundred thousand or less. Requires the taxpayer claiming the tax credit to verify the county residency of local hires.

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

DAVID Y. IGE
GOVERNOR

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LT. GOVERNOR

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To: The Honorable Derek S.K. Kawakami, Chair
and Members of the House Committee on Economic Development and Business

Date: Friday, February 13, 2015
Time: 9:00 A.M.
Place: Conference Room 312, State Capitol

From: Maria E. Zielinski, Director
Department of Taxation

Re: H.B. 785, Relating to Income Tax Credits

The Department of Taxation (Department) appreciates the intent of H.B. 785 and provides the following comments for your consideration.

H.B. 785, amends the motion picture, digital media, and film production tax credit (film tax credit) amount from twenty five per cent to an twenty-seven and one-half per cent of the qualified production costs incurred in a county with a population of 700,000 or less. H.B. 785 also amends section 235-17 (h) (1), Hawaii Revised Statutes, to require every taxpayer claiming the film tax credit to verify the county residency of local hires. H.B. 785, if adopted, will take effect upon its approval and apply to taxable years beginning after December 31, 2014.

The Department notes that in an effort to encourage the growth of the film and creative media industries, the Legislature passed Act 89, Session Laws of Hawaii 2013 (Act 89). Act 89 did the following: (1) increased the film tax credit amount from fifteen per cent to twenty per cent of the qualified production costs incurred in a county with a population over 700,000, and from twenty per cent to twenty-five per cent of the qualified production costs incurred in a county with a population of 700,000 or less; (2) increased the tax credit cap from $8 million to $15 million per qualified production; and (3) extended the sunset date of Act 88, SLH 2006, from January 1, 2016 to January 1, 2019. Act 89 applies to taxable years beginning after December 31, 2012.

The Department suggests that H.B. 785, if adopted, apply to taxable years beginning after December 31, 2015. This will give the Department time to make the necessary form changes and computer enhancements.

Thank you for the opportunity to provide comments.

DAVID Y. IGE
GOVERNOR

LUIS P. SALAVERIA
DIRECTOR

MARY ALICE EVANS
DEPUTY DIRECTOR

DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT & TOURISM

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Statement of
LUIS P. SALAVERIA
Director
Department of Business, Economic Development and Tourism
before the
HOUSE COMMITTEES ON ECONOMIC DEVELOPMENT AND BUSINESS AND TOURISM
Friday, February 13, 2015
9:00 AM
State Capitol, Conference Room 312

In consideration of
HB785
RELATING TO INCOME TAX CREDITS.

Chairs Kawakami and Brower, Vice Chairs Kong and Ohno, Members of the Committees.

The Department of Business, Economic Development and Tourism (DBEDT) offer comments on HB 785 which seeks to increase the refundable production tax credit under HRS 235-17 to 27.5 percent for the Neighbor Islands only.

DBEDT recognizes the struggle of our Neighbor Island communities since the majority of film production takes place on the island of Oahu. The industry and the Hawaii Film Office pushed for a 5 percent differential when the credit was established in 2006 in an effort to drive production to the Neighbor Islands and showcase the beauty and diversity that exists across our island state. We worked to retain that extra differential when the credit was increased in 2013. We believe the current 25 percent credit for the Neighbor Islands offers significant savings to production and still maintains a sustainable and fiscally responsible level for this incentive.

DBEDT defers to B&F on the fiscal impact of the proposed increase.

SUBJECT: INCOME, Increase motion picture, digital media and film production credit

BILL NUMBER: HB 785

INTRODUCED BY: Woodson & Kawakami

BRIEF SUMMARY: Amends HRS section 235-17 to increase the motion picture, digital media, and film production tax credit from 25% to 27.5% for costs incurred in a county with a population of 700,000 or less. Requires the taxpayer claiming the credit to verify the county of residency of local hires.

EFFECTIVE DATE: Tax years beginning after December 31, 2014

STAFF COMMENTS: The legislature by Act 107, SLH 1997, enacted an income tax credit of 4% for costs incurred as a result of producing a motion picture or television film in the state and 7.25% for transient accommodations rented in connection with such activity. The credit was adopted largely to address the impost of the state's general excise tax on goods and services used by film producers. The legislature by Act 88, SLH 2006, increased the 4% credit to 15% in a county with a population over 700,000 and to 20% in a county with a population of 700,000 or less. Act 88 also repealed the income tax credit for transient accommodations and expanded the credit to include commercials and digital media productions, and limited the credit to $8 million per qualified production. Act 89, SLH 2013, increased the motion picture, digital media, and film production tax credit from 15% to 20% for the costs incurred in a county with a population over 700,000 and from 20% to 25% for costs incurred in a county with a population of 700,000 or less; and increased the total tax credits that may be claimed per qualified production from $8 million to $15 million. The act also extended the motion picture, digital media and film production credit from 12/31/15 to 12/ 31/18.

This measure proposes to increase the credit from 25% to 27.5% in a county with a population of 700,000 or less. These credits have been morphing and expanding since they "got their foot in the door" in 1997. It should be remembered that these credits are a drain on the state treasury.

Sponsors try to make an argument that Hawaii needs to enact such incentives to compete for this type of business, but one has to ask, "At what price?" There are insufficient resources to catch up on the backlog of school repairs and maintenance, to fund social programs and not being able to provide tax relief to residents. Yet lawmakers are willing to subsidize film production, as proposed in this measure, and tighten the screws on everyone else to fund the subsidies.

While film producers may moan that they will lose money without the proposed tax credits, is there any offer to share the wealth when a film makes millions of dollars? If promoters of the film industry would just do their job in outlining the advantages of doing this type of work in Hawaii and address some of the costly barriers by correcting them, such tax incentives would not be necessary. From permitting to skilled labor to facilitating transportation of equipment, there are ways to address the current drawbacks of filming in Hawaii. Unless these intrinsic elements are addressed, movie makers will probably demand subsidies, such as this incentive. Unfortunately, they come at the expense of all taxpayers and industries struggling to survive in Hawaii.

So while there may be the promise of a new industry and increased career opportunities, lawmakers must return to the cold hard reality of solving the problems at hand. The long and short of it is that due in large part to the irresponsibility of handling state finances in the past, taxpayers cannot afford proposals like this. Thanks to the gushing generosity of those lawmakers who gave the state's bank away in all sorts of tax incentive schemes in recent years, taxpayers have had to bear increasing tax burdens.

Instead of creating sustainable economic development incentives, the film tax credits waste money that could otherwise create an environment that is nurturing for all business activity, activity that lasts more than the six or eight months of a production. The overall tax burden could be lowered not only for families but for the businesses that provide long-term employment for Hawaii's people.

Digested 2/12/2015