

# Domestic Film Production Incentive Program

## New Section 181 of the Internal Revenue Code

### A Brief Guide to the Tax Provision

***Qualifying Film Expenses Immediately Deductible.*** Investors in qualifying film and television productions may elect to immediately deduct the cost of qualifying film expenditures in the year the expenditure occurs.

- Qualified film and television productions<sup>1</sup> include any production of a motion picture (whether released theatrically or directly to video cassette or any other format); miniseries; scripted, dramatic television episode; or movie of the week. Only the first 44 episodes, including the pilot production, of a scripted dramatic series would be eligible under this Act.
- In the case of a film co-produced by multiple investors, the deduction for qualifying expenditures must be allocated among the owners of the film in a manner that reasonably reflects each owner's proportionate investment and economic interest in the film.
- Qualified films do not include sexually explicit productions as defined in section 2257 of title 18 of the U.S. Code.

***Qualifying Expenses Generally Capped at \$15 million.*** The proposal applies only to qualifying film or television productions the aggregate cost of which does not exceed \$15 million.

- A higher expenditure cap of \$20 million applies to productions the aggregate costs of which are "significantly incurred" in: a) areas eligible for designation as a low-income community under the New Markets Tax Credit program,<sup>2</sup> or b) areas eligible for designation by the Delta Regional Authority as a distressed county or isolated area of distress.
- As defined by the New Markets Tax Credit program, qualifying low-income communities include any census tract if (a) the poverty rate for such tracts is at least 20 percent; or (b) (1) in the case of census tracts not located with a metropolitan area, the median family income for the tract does not exceed 80% of statewide median family income, or (2) in the case of a tract located with a metropolitan area, the median family income for the tract does not exceed 80% of the greater of statewide median family income or the metropolitan area median family income. A list of qualifying areas can be found at: <http://www.cdfifund.gov/mapping/mapping.asp>
- A list of areas eligible under the Delta Regional Authority statute as distressed counties or isolated areas of distress can be found at: [http://www.dra.gov/dra\\_coverage\\_map.html](http://www.dra.gov/dra_coverage_map.html)

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<sup>1</sup> Productions described in section 168(f)(3) of the Internal Revenue Code

<sup>2</sup> As defined in section 45A of the Internal Revenue Code.

***Qualifying Compensation Rule.*** To qualify, at least 75 percent of the total compensation expended on the production must be for services performed in the United States.

- Qualifying compensation includes payments for services performed in the United States by actors, directors, producers, and other relevant production personnel. Compensation does not include participations and residuals.<sup>3</sup>

***Tax Benefit Duration.*** This new domestic film production incentive program will be in effect for qualifying productions commencing after October 22, 2004 and before January 1, 2009.

**THIS HANDOUT IS FOR INFORMATIONAL PURPOSES ONLY AND SHOULD NOT BE VIEWED AS TAX ADVICE WITH RESPECT TO YOUR PRODUCTION ACTIVITIES. FOR SUCH ADVICE, YOU SHOULD CONSULT WITH YOUR TAX ADVISOR.**

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<sup>3</sup> As defined in section 167(g)(7(B) of the Internal Revenue Code