

postnewyork.org

# The Empire State Film Post Production Credit

---

THE NEW YORK STATE

POST PRODUCTION CREDIT

## How the New Post Production Tax Credit Works

Legislation enacted in August 2010 has created a new NY State Post Production tax credit program. Up to \$7 million per year for calendar years 2010-2014 inclusive will be available to the program. This program is entirely separate from the New York State Film Production tax credit program, and applicants to that program may NOT apply to both programs for the same project. For information on the New York State Film Production credit, go to <http://www.nylovesfilm.com/tax/postProduction.htm>

*How much is the credit?*

The NY State Post Production credit is a fully refundable 10% tax credit on qualified post production costs paid in the production of a qualified film at a qualified post production facility in New York State.

*What is a "qualified film"?*

The incentive applies to post production costs incurred in the creation of certain kinds of film and television projects in New York State. Eligible productions include:

- Feature Films
- Episodic television series
- Television pilots and presentations
- Television movies and miniseries

Certain categories of productions are excluded from the program, including but not limited to documentaries, news or current affairs programs, interview or talk shows, instructional videos, sport shows or events, daytime soap operas, reality programs, commercials, music videos.

*What is a qualified post production facility?*

**"Post production facility"** means a building and/or complex of buildings and their improvements in which films are intended to be post produced.

**“Qualified Post Production Facility”** means a post production facility located in the state, engaged in finishing a qualified film.

*What kind of costs qualify?*

**“Post Production Costs”** means production of original content for a qualified film employing traditional, emerging and new workflow techniques used in post-production for picture, sound and music editorial, rerecording and mixing, visual effects, graphic design, original scoring, animation, and musical composition; but shall not include the editing of previously produced content for a qualified film.

Post Production Costs qualify for the credit ONLY to the extent they are incurred for post production work actually done in New York State; work done by or contracted out to vendors, employees, service providers or any parties located outside NY State is not qualified, and costs related to such work is not eligible for the tax credit.

*Are there any project caps or other restrictions?*

No, there are no per project caps, and there is rollover in the annual \$7 million allocation going forward until 2014.

*Who can apply?*

**“Qualified film production company”** means a corporation, partnership, limited partnership, or other entity or individual which or who is principally engaged in the production of a qualified film and controls the qualified film during production.

*What are the program threshold requirements?*

In order to be eligible for the credit, the qualified post production costs (as defined on Post Form B) incurred at a qualified post production facility in NY State must meet or exceed 75% of the total post production costs paid or incurred in the post production of the qualified film at any post production facility anywhere.

*When can I apply?*

An application can be filed NO SOONER than 60 days before the start of principal photography on the qualified film, but NO LATER than the last day of principal photography (or, in the case of a television series, no later than the last day of principal photography on the first episode of the series).

---

\* § 31. Empire state film post production credit. (a) Allowance of credit. (1) A taxpayer which is a qualified film production company, and which is subject to tax under article nine-A or twenty-two of this chapter, unless eligible for the credit under section twenty-four of this article with respect to the qualified film, shall be allowed a credit against such tax, pursuant to the provisions referenced in subdivision (c) of this section to be computed as provided in this subdivision.

(2) The amount of the credit shall be the product (or pro rata share of the product, in the case of a member of a partnership) of ten percent and the qualified post production costs paid in the production of a qualified film at a qualified post production facility.

(3) A taxpayer shall not be eligible for the credit established by this section unless the qualified post production costs at a qualified post production facility meet or exceed seventy-five percent of the total post production costs paid or incurred in the post production of the qualified film at any post production facility. The credit shall be allowed for the taxable year in which the production of such qualified film is completed.

(4) No qualified post production costs used by a taxpayer either as the basis for the allowance of the credit provided for under this section or used in the calculation of the credit provided for under this section shall be used by such taxpayer to claim any other credit allowed pursuant to this chapter.

(b) Definitions. As used in this section the following terms shall have the following meanings:

(1) "Qualified film production company" and "qualified film" shall have the same meaning as are ascribed to such terms by section twenty-four of this article.

(2) "Post production costs" means production of original content for a qualified film employing traditional, emerging and new workflow techniques used in post-production for picture, sound and music editorial, rerecording and mixing, visual effects, graphic design, original scoring, animation, and musical composition; but shall not include the editing of previously produced content for a qualified film.

(3) "Post production facility" means a building and/or complex of buildings and their improvements on which film are intended to be post produced.

(4) "Qualified post production facility" means a post production facility located in the state, engaged in finishing a qualified film.

(c) Notwithstanding any other provision of law to the contrary, the aggregate amount of tax credits available under this section shall not exceed the amounts allowed pursuant to subdivision (e) of section seven of part P of chapter sixty of the laws of two thousand four and shall be allocated in the same manner as provided for in subdivision (a) of section seven of part P of chapter sixty of the laws of two thousand four.

(d) Cross-references. For application of the credit provided for in this section, see the following provisions of this chapter:

(1) article 9-A: section 210: subdivision 41.

(2) article 22: section 606: subsection (qq).

\* NB There are 2 § 31's