

MN H 9 a, Enacted

Minnesota

SUMMARY: Relates to taxation; provides for financing and operation of state and local government; provides conformity and nonconformity to certain federal tax law changes; modifies individual income and corporate franchise taxes, sales and use taxes, partnership taxes, special and excise taxes, property taxes, local government aids, and provisions related to local taxes, tax increment financing, public finance, and other miscellaneous taxes and tax provisions; modifies certain income tax credits. ~ SAME AS: #MN S 26 a

Changes in Bill text reflected as:

~~Text Deleted~~

Text Added

~~Text Vetoed~~

Current Legislative Status

06/14/2021 INTRODUCED.

06/14/2021 To HOUSE Committee on WAYS AND MEANS.

06/28/2021 From HOUSE Committee on WAYS AND MEANS: Do pass as amended.

06/28/2021 In HOUSE. Second Reading.

06/29/2021 HOUSE Rule 1.21, placed on calendar for the day, Wednesday, June 30, 2021.

06/29/2021 HOUSE Rule 1.21, placed on calendar for the day, Tuesday, June 29, 2021.

06/29/2021 Laid on Table.

06/30/2021 Removed from table.

06/30/2021 Amended on HOUSE floor.

06/30/2021 Passed HOUSE. *****To SENATE.

06/30/2021 In SENATE. Second Reading.

06/30/2021 Passed SENATE.

07/01/2021 *****To GOVERNOR.

07/01/2021 Signed by GOVERNOR.

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session: Minnesota 92nd Legislature - 2021 First Special Session

cite: 2021 MN H 9 a

Enacted July 1, 2021

Marquart

CHAPTER 14--H.F.No. 9

***** TEXT OMITTED. DOES NOT PERTAIN TO FILM *****

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA: ARTICLE 1

FEDERAL CONFORMITY; INDIVIDUAL INCOME AND CORPORATE FRANCHISE TAXES

***** TEXT OMITTED. DOES NOT PERTAIN TO FILM *****

Sec. 3. *[116U.27] FILM PRODUCTION CREDIT.*

Subdivision 1. Definitions.

- (a) For purposes of this section, the following terms have the meanings given.*
- (b) "Allocation certificate" means a certificate issued by the commissioner to a taxpayer upon receipt of an initial application for a credit for a project that has not yet been completed.*
- (c) "Application" means the application for a credit under subdivision 4.*
- (d) "Commissioner" means the commissioner of employment and economic development.*
- (e) "Credit certificate" means a certificate issued by the commissioner upon submission of the cost verification report in subdivision 4, paragraph (e).*
- (f) "Eligible production costs" means eligible production costs as defined in section 116U.26, paragraph (b), clause (1), incurred in Minnesota that are directly attributable to the production of a film project in Minnesota.*
- (g) "Film" has the meaning given in section 116U.26, paragraph (b), clause (2).*

(h) "Project" means a film:

- (1) that includes the promotion of Minnesota;*
- (2) for which the taxpayer has expended at least \$1,000,000 in the taxable year for eligible production costs; and*
- (3) to the extent practicable, that employs Minnesota residents.*

(i) "Promotion of Minnesota" or "promotion" means visible display of a static or animated logo, approved by the commissioner and lasting approximately five seconds, that promotes Minnesota within its presentation in the end credits before the below-the-line crew crawl for the life of the project.

Subd. 2. Credit allowed. A taxpayer is eligible for a credit up to 25 percent of eligible production costs paid in a taxable year. A taxpayer may only claim a credit if the taxpayer was issued a credit certificate under subdivision 4.

Subd. 3. Credit assignable. The recipient of a credit certificate may assign the certificate to another taxpayer before any amount of the credit is claimed. The assignee is allowed the credit under section 290.06, subdivision 39, or 2971.20, subdivision 4. An assignment is not valid unless the assignee notifies the commissioner of revenue within 30 days of the date that the assignment is made. The commissioner of revenue shall prescribe the forms necessary for notifying the commissioner of revenue of the assignment of a credit certificate and for claiming a credit by assignment.

Subd. 4. Applications; allocations.

(a) To qualify for a credit under this section, a taxpayer must submit to the commissioner an application for a credit in the form prescribed by the commissioner, in consultation with the commissioner of revenue.

(b) Upon approving an application for a credit that meets the requirements of this section, the commissioner shall issue allocation certificates that:

- (1) verify eligibility for the credit;*
- (2) state the amount of credit anticipated for the eligible project, with the credit amount up to 25 percent of eligible project costs; and*
- (3) state the taxable year in which the credit is allocated.*

The commissioner must consult with Minnesota Film and TV Board prior to issuing an allocation certificate.

(c) The commissioner must not issue allocation certificates for

more than \$4,950,000 of credits each year. If the entire amount is not allocated in that taxable year, any remaining amount is available for allocation for the four following taxable years until the entire allocation has been made. The commissioner must not award any credits for taxable years beginning after December 31, 2024, and any unallocated amounts cancel on that date.

- (d) The commissioner must allocate credits on a first-come, first-served basis.*
- (e) Upon completion of a project, the taxpayer shall submit to the commissioner a report prepared by an independent certified public accountant licensed in the state of Minnesota to verify the amount of eligible production costs related to the project. The report must be prepared in accordance with generally accepted accounting principles. Upon receipt and review of the cost verification report, the commissioner shall determine the final amount of eligible production costs and issue a credit certificate to the taxpayer. The credit may not exceed the anticipated credit amount on the allocation certificate.*

If the credit is less than the anticipated amount on the allocation credit, the difference is returned to the amount available for allocation under paragraph (c). To claim the credit under section 290.06, subdivision 39, or 2971.20, subdivision 4, a taxpayer must include a copy of the credit certificate as part of the taxpayer's return.

Subd. 5. Report required. By January 15, 2025, the commissioner of revenue, in consultation with the commissioner, must provide a report to the chairs and ranking minority members of the legislative committees with jurisdiction over economic development and taxes. The report must comply with sections 3.195 and 3.197, and must detail the following:

- (1) the amount of credit certifications issued annually;*
- (2) the number of applications submitted, the number of allocation certificates issued, the amount of allocation certificates issued, the number of reports submitted upon completion of a project, and the number of credit certificates issued;*
- (3) the types of projects eligible for the credit;*
- (4) the total economic impact of the credit in Minnesota, including the calendar year over calendar year percentage changes in the number of jobs held by Minnesota residents in businesses having a primary North American Industry Classification System code of 512110 as reported to the commissioner, for calendar years 2019 through 2023;*
- (5) the number of taxpayers per tax type which are assignees of*

credit certificates under subdivision 3;

- (6) annual Minnesota taxes paid by businesses having a primary North American Industry Classification System code of 512110, for taxable years beginning after December 31, 2018, and before January 1, 2024; and*
- (7) any other information the commissioner of revenue, in consultation with the commissioner, deems necessary for purposes of claiming and administering the credit.*

Subd. 6. Appropriation. Beginning in fiscal year 2022, \$50,000 is annually appropriated from the general fund to the commissioner of revenue for a transfer to the Department of Employment and Economic Development for costs associated with personnel and administrative expenses related to administering the credit. This subdivision expires on June 30, 2025.

Subd. 7. Expiration. Subdivisions 1 to 5 expire January 1, 2025, for taxable years beginning after December 31, 2024.

EFFECTIVE DATE. This section is effective for taxable years beginning after December 31, 2020, and before January 1, 2025, except that the requirement to provide the report required in subdivision 5 expires July 1, 2025.

******* TEXT OMITTED. DOES NOT PERTAIN TO FILM *******

Sec. 9. Minnesota Statutes 2020, section 290.06, is amended by adding a subdivision to read:

Subd. 39. Film production credit.

- (a) A taxpayer, including a taxpayer to whom a credit has been assigned under section 116U.27, subdivision 3, may claim a credit against the tax imposed by this chapter equal to the amount certified on a credit certificate under section 116U.27, subject to the limitations in this subdivision.*
- (b) The credit is limited to the liability for tax, as computed under this chapter, for the taxable year. If the amount of the credit determined under this subdivision for any taxable year exceeds this limitation, the excess is a film production credit carryover to each of the five succeeding taxable years. The entire amount of the excess unused credit for the taxable year is carried first to the earliest of the taxable years to which the credit may be carried and then to each successive year to which the credit may be carried. The amount of the unused credit that may be added under this paragraph must not exceed the taxpayer's liability for tax, less any film production credit for the taxable year.*
- (c) Credits allowed to a partnership, a limited liability company taxed as a partnership, or an S corporation are passed through to the partners, members, shareholders, or owners, respectively, pro rata to each based on the partner's, member's, shareholder's, or owner's share of the entity's assets, or as specially allocated in the organizational documents or any other executed agreement, as of the last day of the taxable year.*

(d) Notwithstanding the approval and certification by the commissioner of employment and economic development under section 116U.27, the commissioner may utilize any audit and examination powers under chapter 270C or 289A to the extent necessary to verify that the taxpayer is eligible for the credit and to assess the amount of any improperly claimed credit. The commissioner may only assess the original recipient of the credit certificate for the amount of improperly claimed credits. The commissioner may not assess a credit certificate assignee for any amount of improperly claimed credits, and an assignee's claim for credit is not affected by the commissioner's assessment of improperly claimed credits against the assignor.

(e) This subdivision expires January 1, 2025, for taxable years beginning after December 31, 2024, except that the expiration of this section does not affect the commissioner of revenue's authority to audit or power of examination and assessment for credits claimed under this subdivision.

EFFECTIVE DATE. *This section is effective for taxable years beginning after December 31, 2020, and before January 1, 2025.*

***** TEXT OMITTED. DOES NOT PERTAIN TO FILM *****

Sec. 14. Minnesota Statutes 2020, section 2971.20, is amended by adding a subdivision to read:

Subd. 4. Film production credit.

(a) A taxpayer may claim a credit against the premiums tax imposed under this chapter equal to the amount indicated on the credit certificate statement issued to the company under section 116U.27. If the amount of the credit exceeds the taxpayer's liability for tax under this chapter, the excess is a credit carryover to each of the five succeeding taxable years. The entire amount of the excess unused credit for the taxable year must be carried first to the earliest of the taxable years to which the credit may be carried and then to each successive year to which the credit may be carried. This credit does not affect the calculation of fire state aid under section 477B.03 and police stateaid under section 477C.03.

(b) This subdivision expires January 1, 2025, for taxable years beginning after and premiums received after December 31, 2024.

EFFECTIVE DATE. *This section is effective for taxable years beginning after and for premiums received after December 31, 2020, and before January 1, 2025.*