

1 AN ACT relating to taxation for motion pictures and entertainment productions.

2 ***Be it enacted by the General Assembly of the Commonwealth of Kentucky:***

3 ➔Section 1. KRS 139.538 is amended to read as follows:

- 4 (1) It is the intent and purpose of the General Assembly in enacting this section and
5 KRS 139.990(5), to encourage the motion picture industry to choose locations in the
6 Commonwealth for ~~the~~ filming or producing ~~of~~ motion pictures, by providing an
7 exemption from sales and use taxes. The exemption is accomplished by granting a
8 refundable credit for sales and use taxes paid on purchases made in connection with
9 the filming or producing of motion pictures in Kentucky.
- 10 (2) (a) On or after April 27, 2018, and until July 1, 2022, the department shall not
11 accept any new applications as provided by subsection (4) of this section.
- 12 (b) On or before June 1, 2019, the department shall provide the following
13 information to the Interim Joint Committee on Appropriations and Revenue
14 for all fiscal years data is available:
- 15 1. The name of the motion picture company;
 - 16 2. The filming location or locations in this state;
 - 17 3. A brief description of the production;
 - 18 4. The amount of sales and use tax refunded; and
 - 19 5. The total amount of all sales and use tax refunded to motion picture
20 production companies during each fiscal year reported.
- 21 (3) As used in this section and KRS 139.990(5):
- 22 (a) "Financial institution" means any bank or savings and loan institution in the
23 Commonwealth which carries FDIC or FSLIC insurance;
- 24 (b) "Motion picture production company" means a company engaged in the
25 business of producing motion pictures intended for a theatrical release or for
26 exhibition on national television either by a network or for national
27 syndication, or television programs which will serve as a pilot for or a

1 segment of a nationally televised dramatic series, either by a network or for
2 national syndication; and

3 (c) "Secretary" means the secretary of the Kentucky Finance and Administration
4 Cabinet.

5 (4) Any motion picture production company that intends to film all or parts of a motion
6 picture in the Commonwealth and desires to receive the credit provided for in
7 subsection (7) of this section shall, prior to the commencement of filming:

8 (a) Provide the department with the address of a Kentucky location at which
9 records of expenditures qualifying for the tax credit will be maintained, and
10 ~~[with]~~ the name of the individual maintaining these records; and

11 (b) File an application for the tax credit within sixty (60) days after the
12 completion of filming or production in Kentucky. The application shall
13 include a final expenditure report providing documentation for expenditures in
14 accordance with administrative regulations promulgated by the department.

15 (5) To qualify as a basis for the financial incentive, expenditures must be made by
16 check drawn upon any Kentucky financial institution.

17 (6) The twelve (12) month period during which expenditures may qualify for the tax
18 credit shall begin on the date of the earliest expenditure reported.

19 (7) Any motion picture production company which films or produces one (1) or more
20 motion pictures in the Commonwealth during any twelve (12) month period shall,
21 upon making application therefor and meeting the other requirements prescribed in
22 this section, be entitled to a refundable tax credit equal to the amount of Kentucky
23 sales and use tax paid for purchases made in connection with the filming or
24 production of a motion picture.

25 (8) The department shall, within sixty (60) days following the receipt of an application
26 for a credit for sales and use tax paid, calculate the total expenditures of the motion
27 picture production company for which there is documentation for funds expended in

1 the Commonwealth, calculate the amount of credit to which the applicant is
2 entitled, and certify the amount of the credit to the secretary. In the case of an audit,
3 as provided for in subsection (13) of this section, the department shall certify the
4 amount of the credit due to the secretary within one hundred eighty (180) days
5 following the receipt of the motion picture production company's application.

6 (9) Upon receipt of the certification of the amount of credit from the department, the
7 secretary shall cause the refund of sales taxes paid to be remitted to the motion
8 picture production company. For purposes of payment and funding thereof, the
9 credit shall be paid in the same manner as other claims on the State Treasury are
10 paid. They shall not be charged against any appropriation but shall be deducted
11 from tax receipts for the current fiscal year.

12 (10) The sales and use taxes paid by the motion picture production company for which a
13 refundable tax credit is granted shall be deemed not to have been legally paid into
14 the State Treasury, and the refund of the credit shall not be in violation of Section
15 59 of the Kentucky Constitution.

16 (11) Any tax credit or part thereof paid to a motion picture production company as a
17 result of error by the department shall be repaid by such company to the secretary.

18 (12) Any tax credit or part thereof paid to a motion picture production company as a
19 result of error or fraudulent statements made by the motion picture production
20 company shall be repaid by such company to the secretary, together with interest, at
21 the tax interest rate provided for in KRS 131.010(6).

22 (13) The department may require that reported expenditures and the application for the
23 tax credit from a motion picture production company be subjected to an audit by the
24 department auditors to verify expenditures.

25 (14) For companies in the business of producing films or television shows other than
26 those which would qualify them for the credit under the definition of "motion
27 picture production company," the department may require separate accounting

- 1 records for the reporting of expenditures made in connection with the application
2 for a refundable tax credit.
- 3 (15) The department may promulgate appropriate administrative regulations to carry out
4 the intent and purposes of this section.