JOSH GREEN, M.D.
GOVERNOR

SYLVIA LUKE
LT. GOVERNOR

GARY S. SUGANUMA
DIRECTOR OF TAXATION

KRISTEN ROSS SAKAMOTO
DEPUTY DIRECTOR

STATE OF HAWAI'I
DEPARTMENT OF TAXATION
Ka 'Oihana 'Auhau
P.O. BOX 259
HONOLULU, HAWAI'I 96809
PHONE NO: (808) 587-1530
FAX NO: (808) 587-1584

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RE: General Excise Tax Exemption for Motion Picture Project Employers

This Tax Information Release (TIR) provides guidance on the general excise tax (GET) exemption for certain employment-related costs received by a motion picture project employer under section 237-24.75(4), Hawaii Revised Statutes (HRS), as enacted by Act 185, Session Laws of Hawaii 2026, and whether employer-related costs paid by a client company to a motion picture project employer may be claimed as qualified production costs for the motion picture, digital media, and film production income tax credit (the "Film Credit") under section 235-17, HRS.

GET Exemption for Payments to a Motion Picture Project Employer

Section 237-24.75(4), HRS, provides a GET exemption for:

> Amounts received by a motion picture project employer from a client company that represent reimbursements for costs paid or incurred by the client company for reasonable employment-related costs of motion picture project workers or loan-out companies, including but not limited to employee wages or salaries, payroll taxes, insurance premiums, and employment benefits, such as retirement, vacation, sick leave, health benefits, and comparable benefits; provided that this exemption shall not apply to amounts paid for services, administration, overhead, profit, markups, or similar fees.

The term "motion picture project employer" is defined in Internal Revenue Code (IRC) section 3512 as "any person" if:

(A) such person (directly or through affiliates)--
(i) is a party to a written contract covering the services of motion picture project workers with respect to motion picture projects in the course of a client's trade or business,
(ii) is contractually obligated to pay remuneration to the motion picture project workers without regard to payment or reimbursement by any other person,
(iii) controls the payment (within the meaning of section 3401(d)(1)) of

remuneration to the motion picture project workers and pays such remuneration from its own account or accounts,
(iv) is a signatory to one or more collective bargaining agreements with a labor organization (as defined in 29 U.S.C. 152(5)) that represents motion picture project workers, and
(v) has treated substantially all motion picture project workers that such person pays as employees and not as independent contractors during such calendar year for purposes of determining employment taxes under this subtitle, and

(B) at least 80 percent of all remuneration (to which section 3121 applies) paid by such person in such calendar year is paid to motion picture project workers.

The term "motion picture project worker" is defined in IRC section 3512 as "any individual who provides services on motion picture projects for clients who are not affiliated with the motion picture project employer."

The term "loan-out company" is defined in section 237-1, HRS, as "a wholly-owned entity formed on behalf of a person that serves as a separate entity that constitutes the person's means of entering a contract with a third party for the purpose of providing services to the third party."

Based on the foregoing, payments received by a taxpayer for employment-related costs may qualify for the GET exemption under section 237-24.75(4), HRS, if:

1. The taxpayer is a motion picture project employer, as defined in IRC section 3512;
2. The payments were received by the taxpayer from a client company; and
3. The payments are reimbursement for reasonable employment-related costs paid by the taxpayer to motion picture project workers or loan-out companies.

As noted above, the GET exemption applies to amounts that represent reimbursements for employment-related costs, including wages, salaries, payroll taxes, insurance premiums, and employment benefits; the GET exemption does not apply to amounts received by a motion picture project employer for services, administration, overhead, profit, markups, or other similar fees.

Example 1: TalentForce, a motion picture project employer, receives $1,000,000 from Wave Rider Films, Inc., a production company. The $1,000,000 payment consists of a reimbursement of $750,000 in employment-related costs paid by TalentForce to motion picture project workers and $250,000 for TalentForce's services and fees. TalentForce may claim a GET exemption under section 237-24.75, HRS, for the $750,000 in employment-related costs it received from Wave Rider Films, Inc., but will be subject to GET for the $250,000 received for services and fees.

The GET exemption may only be claimed by a motion picture project employer for amounts it receives; the GET exemption does not extend to motion picture project workers and loan-out companies. Motion picture project workers, other than employees who receive salaries or wages from their employer[1], and loan-out companies are subject to GET on their gross income unless an exemption applies. Further, persons making payments to a loan-out company and claiming the Film Credit under section 235-17, HRS, are required, under section 237-30.7, HRS, to withhold an amount equal to the highest rate of tax plus any applicable county surcharge on all payments made to the loan-out company for services performed in the State.

> **Example 2**: TalentForce, a motion picture project employer, receives $500,000 from Tiny Films, Inc., a production company. The $500,000 payment consists of a reimbursement of $450,000 in employment-related costs paid by TalentForce to LOC, LLC, a loan-out company, and $50,000 for TalentForce's services and fees. TalentForce may claim a GET exemption under section 237-24.75, HRS, for the $450,000 it received in employment-related costs from Tiny Films, Inc., but will be subject to GET for the $50,000 received for services and fees. LOC, LLC will be subject to GET on the $450,000 it receives, and Tiny Films, Inc. is required to withhold 4.5 percent of the $450,000 and remit the tax to DOTAX.

Film Credit Claims for Payments to a Motion Picture Project Employer

Notwithstanding the GET exemption under section 237-24.75(4), HRS, payments made by a qualified production to a motion picture project employer for reimbursement of employment-related costs may be claimed as "qualified production costs" for purposes of the film credit if the payment from the motion picture project employer to the motion picture project worker or loan-out company is subject to GET at the highest tax rate or subject to Hawaiʻi income tax if not subject to GET. Fringe benefits paid to a motion picture project worker may be claimed as qualified production costs to the extent the fringe benefits are reported as wages and are subject to Hawaiʻi income tax.

> **Example 3**: Assume the same facts as in Example 1. Assume further that Wave Rider Films, Inc. is a qualified production and that the $750,000 in employment-related costs paid by Wave Rider Films, Inc. is for wages for motion picture project workers, which are subject to Hawaiʻi income tax. The $750,000 paid by Wave Rider Films, Inc. to TalentForce for wages may be claimed as qualified production costs because the wages are subject to Hawaiʻi income tax. Additionally, the $250,000 paid by Wave Rider Films, Inc. to TalentForce for services and fees may be claimed as qualified production costs because TalentForce is subject to GET at the highest rate for the $250,000.

> **Example 4**: Assume the same facts as in Example 2, and assume further that Tiny Films, Inc. is a qualified production. The $450,000 paid by Tiny Films, Inc. to TalentForce for reimbursement for employment-related costs paid to LOC, LLC may be claimed as

[1] Section 237-24, HRS, provides that amounts received as salaries or wages for services rendered by an employee to an employer are not subject to GET.

qualified production costs because LOC, LLC is subject to GET at the highest tax rate for the $450,000 it received. Additionally, the $50,000 paid by Tiny Films, Inc. to TalentForce for services and fees may be claimed as qualified production costs because TalentForce is subject to GET at the highest rate for the $50,000.

If you have any questions about this TIR, please contact the Rules Office at 808-587-1530, or email at Tax.Rules.Office@hawaii.gov.

GARY S. SUGANUMA
Director of Taxation