

108TH CONGRESS  
1ST SESSION

# H. R. 715

To amend the Internal Revenue Code of 1986 to allow a United States independent film and television production wage credit.

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## IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 12, 2003

Mr. DREIER (for himself, Mr. RANGEL, Ms. DUNN, Mr. BERMAN, Mr. FOLEY, Mr. MATSUI, Mrs. BONO, Mr. BECERRA, Mr. WELLER, Mr. ABERCROMBIE, Mr. BACA, Mr. BLUMENAUER, Ms. BORDALLO, Mr. BOUCHER, Mr. CALVERT, Mrs. CAPPs, Mr. COBLE, Mr. DOYLE, Mr. FARR, Mr. FILNER, Mr. FROST, Mr. GIBBONS, Mr. GREENWOOD, Ms. HARMAN, Mr. JOHN, Mrs. JOHNSON of Connecticut, Mr. KELLER, Mr. LANTOS, Mr. MCINTYRE, Mr. MCKEON, Mr. MCGOVERN, Ms. MILLENDER-MCDONALD, Mrs. MYRICK, Mr. NADLER, Mr. PRICE of North Carolina, Mr. RADANOVICH, Ms. ROYBAL-ALLARD, Mr. SCHIFF, Mr. SHERMAN, Ms. SLAUGHTER, Mr. SMITH of Texas, Mr. TAUZIN, Mr. THOMPSON of California, Ms. WATSON, Mr. WAXMAN, Mr. WEXLER, and Ms. WOOLSEY) introduced the following bill; which was referred to the Committee on Ways and Means

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## A BILL

To amend the Internal Revenue Code of 1986 to allow a United States independent film and television production wage credit.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “United States Inde-  
3 pendent Film and Television Production Incentive Act of  
4 2003”.

5 **SEC. 2. TAX INCENTIVES FOR QUALIFIED UNITED STATES**  
6 **INDEPENDENT FILM AND TELEVISION PRO-**  
7 **DUCTION.**

8 (a) IN GENERAL.—Subpart D of part IV of sub-  
9 chapter A of chapter 1 of the Internal Revenue Code of  
10 1986 (relating to business related credits) is amended by  
11 adding at the end the following new section:

12 **“SEC. 45G. UNITED STATES INDEPENDENT FILM AND TELE-**  
13 **VISION PRODUCTION WAGE CREDIT.**

14 “(a) AMOUNT OF CREDIT.—

15 “(1) IN GENERAL.—For purposes of section 38,  
16 the United States independent film and television  
17 production wage credit determined under this section  
18 with respect to any taxpayer for any taxable year is  
19 an amount equal to 25 percent of the qualified  
20 wages paid or incurred per qualified United States  
21 independent film and television production during  
22 such taxable year.

23 “(2) HIGHER PERCENTAGE FOR PRODUCTION  
24 EMPLOYMENT IN CERTAIN AREAS.—In the case of  
25 qualified employees in any qualified United States  
26 independent film and television production located in

1 an area eligible for designation as a low-income com-  
2 munity under section 45D or eligible for designation  
3 by the Delta Regional Authority as a distressed  
4 county or isolated area of distress, paragraph (1)  
5 shall be applied by substituting ‘35 percent’ for ‘25  
6 percent’.

7 “(b) ONLY FIRST \$25,000 OF WAGES PER PRODUC-  
8 TION TAKEN INTO ACCOUNT.—With respect to each quali-  
9 fied United States independent film and television produc-  
10 tion, the amount of qualified wages paid or incurred to  
11 each qualified employee or personal service corporation  
12 which may be taken into account per such production shall  
13 not exceed \$25,000.

14 “(c) QUALIFIED WAGES.—For purposes of this sec-  
15 tion—

16 “(1) IN GENERAL.—The term ‘qualified wages’  
17 means—

18 “(A) any wages paid or incurred by an em-  
19 ployer for services performed in the United  
20 States by an employee while such employee is a  
21 qualified employee,

22 “(B) the employee fringe benefit expenses  
23 of the employer allocable to such services per-  
24 formed by such employee,

1           “(C) any payments made to personal serv-  
2           ice corporations as defined in section  
3           269A(b)(1) for services performed in the United  
4           States, and

5           “(D) remuneration, other than wages, for  
6           services personally rendered in the United  
7           States.

8           “(2) QUALIFIED EMPLOYEE.—

9           “(A) IN GENERAL.—The term ‘qualified  
10           employee’ means, with respect to any period,  
11           any individual who renders personal services if  
12           substantially all of such services are performed  
13           during such period in an activity related to any  
14           qualified United States independent film and  
15           television production.

16           “(B) CERTAIN INDIVIDUALS NOT ELIGI-  
17           BLE.—Such term shall not include—

18                   “(i) any individual described in sub-  
19                   paragraph (A), (B), or (C) of section  
20                   51(i)(1), and

21                   “(ii) any 5-percent owner (as defined  
22                   in section 416(i)(1)(B).

23           “(3) COORDINATION WITH OTHER WAGE CRED-  
24           ITS.—No credit shall be allowed under any other  
25           provision of this chapter for wages paid to any em-

1        ployee during any taxable year if the employer is al-  
2        lowed a credit under this section for any of such  
3        wages.

4            “(4) WAGES.—The term ‘wages’ has the same  
5        meaning as when used in section 51.

6            “(5) EMPLOYEE FRINGE BENEFIT EXPENSES.—  
7        The term ‘employee fringe benefit expenses’ means  
8        the amount allowable as a deduction under this  
9        chapter to the employer for any taxable year with re-  
10       spect to—

11            “(A) employer contributions under stock  
12        bonus, pension, profit-sharing, or annuity plan,

13            “(B) employer-provided coverage under  
14        any accident or health plan for employees, and

15            “(C) the cost of life or disability insurance  
16        provided to employees.

17        Any amount treated as wages under paragraph  
18        (1)(A) shall not be taken into account under this  
19        subparagraph.

20            “(d) QUALIFIED UNITED STATES INDEPENDENT  
21        FILM AND TELEVISION PRODUCTION.—For purposes of  
22        this section—

23            “(1) IN GENERAL.—The term ‘qualified United  
24        States independent film and television production’  
25        means any production of any motion picture (wheth-

1 er released theatrically or directly to video cassette  
2 or any other format), television or cable program-  
3 ming, mini series, episodic television, movie of the  
4 week, or pilot production for any of the preceding  
5 productions if—

6 “(A) 75 percent of the total wages of the  
7 production are qualified wages,

8 “(B) the production is created primarily  
9 for use as public entertainment or for edu-  
10 cational purposes, and

11 “(C) the total cost of wages of the produc-  
12 tion is more than \$200,000 but less than  
13 \$10,000,000.

14 Such term shall not include any production if  
15 records are required under section 2257 of title 18,  
16 United States Code, to be maintained with respect  
17 to any performer in such production (reporting of  
18 books, films, etc. with sexually explicit conduct). For  
19 purposes of subparagraph (A), no day of photog-  
20 raphy shall be considered a day of principal photog-  
21 raphy unless the cost of wages for the production for  
22 that day exceeds the average daily cost of wages for  
23 such production.

24 “(2) PUBLIC ENTERTAINMENT.—The term  
25 ‘public entertainment’ includes a motion picture

1 film, video tape, or television program intended for  
2 initial broadcast via the public broadcast spectrum  
3 or delivered via cable distribution, or productions  
4 that are submitted to a national organization in ex-  
5 istence on July 27, 2001, that rates films for violent  
6 or adult content. Such term does not include any  
7 film or tape the market for which is primarily top-  
8 ical, is otherwise essentially transitory in nature, or  
9 is produced for private noncommercial use.

10 “(3) INFLATION ADJUSTMENT.—

11 “(A) IN GENERAL.—In the case of any  
12 taxable year beginning in a calendar year after  
13 2003, the \$10,000,000 amount contained in  
14 paragraph (1)(C) shall be increased by an  
15 amount equal to—

16 “(i) such dollar amount, multiplied by

17 “(ii) the cost-of-living adjustment  
18 under section 1(f)(3) for the calendar year  
19 in which the taxable year begins, deter-  
20 mined by substituting ‘calendar year 2002’  
21 for ‘calendar year 1992’ in subparagraph  
22 (B) thereof.

23 “(B) ROUNDING.—If any increase deter-  
24 mined under subparagraph (A) is not a multiple

1           of \$500,000, such amount shall be rounded to  
2           the nearest multiple of \$500,000.

3           “(e) CONTROLLED GROUPS.—For purposes of this  
4 section—

5           “(1) all employers treated as a single employer  
6 under subsection (a) or (b) of section 52 shall be  
7 treated as a single employer for purposes of this  
8 subpart, and

9           “(2) the credit (if any) determined under this  
10 section with respect to each such employer shall be  
11 its proportionate share of the wages giving rise to  
12 such credit.

13           “(f) APPLICATION OF CERTAIN OTHER RULES.—For  
14 purposes of this section, rules similar to the rules of sec-  
15 tion 51(k) and subsections (c) and (d) of section 52 shall  
16 apply.”.

17           (b) CREDIT TREATED AS BUSINESS CREDIT.—Sec-  
18 tion 38(b) of the Internal Revenue Code of 1986 is amend-  
19 ed by striking “plus” at the end of paragraph (14), by  
20 striking the period at the end of paragraph (15) and in-  
21 serting “, plus”, and by adding at the end the following  
22 new paragraph:

23           “(16) the United States independent film and  
24 television production wage credit determined under  
25 section 45G(a).”.

1 (c) NO CARRYBACKS.—Subsection (d) of section 39  
2 of the Internal Revenue Code of 1986 (relating to  
3 carryback and carryforward of unused credits) is amended  
4 by adding at the end the following:

5 “(11) NO CARRYBACK OF SECTION 45G CREDIT  
6 BEFORE EFFECTIVE DATE.—No portion of the un-  
7 used business credit for any taxable year which is  
8 attributable to the United States independent film  
9 and television production wage credit determined  
10 under section 45G may be carried back to a taxable  
11 year ending before the date of the enactment of sec-  
12 tion 45G.”.

13 (d) DENIAL OF DOUBLE BENEFIT.—Subsection (a)  
14 of section 280C of the Internal Revenue Code of 1986 is  
15 amended by inserting “45G(a),” after “45A(a),”.

16 (e) CONFORMING AMENDMENT.—The table of sec-  
17 tions for subpart D of part IV of subchapter A of chapter  
18 1 of the Internal Revenue Code of 1986 is amended by  
19 adding at the end the following new item:

“Sec. 45G. United States independent film and television produc-  
tion wage credit.”.

20 (f) EFFECTIVE DATE.—The amendments made by  
21 this section shall apply to amounts paid or incurred after  
22 the date of the enactment of this Act in taxable years end-  
23 ing after such date.

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