Frequently Asked Questions

What is Section 181 of the Tax Code?

Established in 2004 and renewed yearly, Section 181 is fairly simple. It eliminates the investor's tax bill by investing in a television or film production. An investor can deduct their *film investment* from their *passive income* earned that same year invested, and if actively involved in the production, the investor may also deduct their investment from their active income earned that same year invested. Investors can be an individual or a business. The film's corporation must issue K-1's to investors in order for investors to take advantage of the tax act's deductions. The act allows the current deduction of all cost by the taxpayer if the film. It permits a 100% write-off for the first $15 million of the cost of producing a film in the U.S. Consult an accountant that is familiar with Section 181 Tax Code. Knowledge is key to this benefit.

How does Section 181 of the Tax Code Work?

For example, if $500K is spent on a film in 2016 and the investor is active in the production or made active, they can write it off as an expense against their taxes. If that investor is in a 35% tax bracket, they will save $175K from that $500K investment.

That is because you can create 100% of a tax loss when you invest under Section 181.

What are the Section 181 Tax Deduction key points an investor should know?

- 100% of the motion picture costs are deductible in the same year of investment.
- 75% of the motion picture must be shot in the US to qualify for Section 181
- There is a $15 to $20 million budget cap.
- There is no minimum film production budget cost.
- TV pilots, TV episodes (up to 44), short films, music videos and feature films all qualify
- Section 181 can be applied to active income or passive income.
- Investors can be either individuals or businesses.
- Section 181 is retroactive to 2004 and was just renewed as part of the 'Fiscal Cliff' Bill
- There is no expectation for film distribution or film completion.
- The motion picture's corporation issues Schedule K-1's to the investors so they can take advantage of Section 181.

How does Section 181 effect the investment?

Section 181 minimizes an investor's risk considerably. For example, let's say a production is shooting in a state with 40% state rebate and the investor is using Section 181. If that investor is in the 35% tax bracket, then they could have an assurance that 75% of the money is returned to them before the film is distributed and hits the market.

When do productions need to commence to qualify for the new incentive?

The incentive includes qualified productions that begin before January 1, 2017.

When, where, and how does the “election” to immediately deduct the qualifying expenditures apply?

The election is to be made on the tax return for the taxable year in which the production costs are first incurred. The election must be made by the due date (including extensions of time) of such return. Deadline for 2016 is December 30.

What tax form do I need to fill out to get the incentive?

Currently, there is no specific form to fill out. The IRS temporary regulations require that you declare in a separate statement that you are electing to utilize Section 181. The legislative history also states that: “deducting qualifying costs on the appropriate tax return shall constitute a valid election.” Therefore, deducting the production costs (that would otherwise be capitalized) on your tax return will qualify as electing to take advantage of this incentive.

Does it apply to all productions (e.g., big budget productions)?

Yes, as mentioned above, the immediate write-off provision now applies to the first $15 million (or $20 million in low income or distressed areas) of costs for all productions regardless of the aggregate cost of the project.

What happens in the case of a co-production or a film financed by multiple investors?

The $15 million ($20 million) threshold refers to the qualifying film. The benefits of the provision must be allocated among the owners of a film in a manner that reasonably reflects each owner’s proportionate investment in and economic interest in the film.