



This document is scheduled to be published in the Federal Register on 12/07/2012 and available online at <http://federalregister.gov/a/2012-29630>, and on [FDsys.gov](http://FDsys.gov)

[4830-01-p]

## DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 9603]

RIN 1545-BJ23

Deduction for Qualified Film and Television Production Costs

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulations and removal of temporary regulations.

SUMMARY: This document contains final regulations relating to deductions for the cost of producing qualified film and television productions. These final regulations reflect changes to the law made by the Tax Extenders and Alternative Minimum Tax Relief Act of 2008 and affect taxpayers that produce films and television productions within the United States.

DATES: Effective Date: These regulations are effective on **[INSERT DATE OF PUBLICATION OF THIS DOCUMENT IN THE FEDERAL REGISTER]**.

Applicability Dates: For dates of applicability, see §1.181-6.

FOR FURTHER INFORMATION CONTACT: Bernard P. Harvey, (202) 622-4930 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

### **Background**

This document contains final regulations that amend 26 CFR part 1 to reflect amendments made to section 181 of the Internal Revenue Code of 1986 (Code) by

section 502 of the Tax Extenders and Alternative Minimum Tax Relief Act of 2008, Public Law No. 110-343 (122 Stat. 3765) (October 3, 2008).

On October 19, 2011, the IRS and the Treasury Department published in the **Federal Register** (TD 9552, 76 FR 64816) temporary regulations amending the rules under section 181 for deductions relating to the cost of producing qualified film and television productions to reflect section 502 of the Tax Extenders and Alternative Minimum Tax Relief Act of 2008. A notice of proposed rulemaking (REG-146297-09) cross-referencing the temporary regulations was published in the **Federal Register** (76 FR 64879) on the same day. No comments were received from the public in response to the notice of proposed rulemaking. No public hearing was requested or held. The proposed regulations under section 181 are adopted by this Treasury decision and the corresponding temporary regulations are removed.

#### **Effective/Applicability Date**

These final regulations apply to qualified film and television productions to which section 181 is applicable and for which the first day of principal photography or in-between animation occurs on or after **[INSERT DATE OF PUBLICATION OF THIS DOCUMENT IN THE FEDERAL REGISTER]**. The owner of a qualified film or television production may apply the final regulations to productions to which section 181 applies and for which principal photography or, for an animated production, in-between animation commenced before **[INSERT DATE OF PUBLICATION OF THIS DOCUMENT IN THE FEDERAL REGISTER]**.

#### **Special Analyses**

It has been determined that this Treasury decision is not a significant regulatory action as defined in Executive Order 12866, as supplemented by Executive Order 13563. Therefore, a regulatory assessment is not required. It also has been determined that section 553(b) and (d) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations. Because the regulations do not impose a collection of information on small entities, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. Pursuant to section 7805(f) of the Code, the notice of proposed rulemaking that preceded these final regulations was submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business, and no comments were received.

#### **Drafting Information**

The principal author of these regulations is Bernard P. Harvey, Office of Associate Chief Counsel (Income Tax and Accounting). However, other personnel from the IRS and the Treasury Department participated in their development.

#### **List of Subjects in 26 CFR Part 1**

Income taxes, Reporting and recordkeeping requirements.

#### **Adoption of Amendments to the Regulations**

Accordingly, 26 CFR part 1 is amended as follows:

##### **PART 1--INCOME TAXES**

Paragraph 1. The authority citation for part 1 continues to read in part as follows:

Authority: 26 U.S.C. 7805 \* \* \*

Par. 2. Section 1.181-0 is amended by:

1. Adding the entries for §1.181-1 paragraphs (a)(6), (b)(1)(ii) and (c)(2).

2. Revising the entry for §1.181-6 paragraph (b) and removing paragraph (c).

The revision and additions to read as follows:

**§ 1.181-0 Table of contents.**

\* \* \* \* \*

§1.181-1 Deduction for qualified film and television production costs.

(a) \* \* \*

(6) Post-amendment production.

\* \* \* \* \*

(b) \* \* \*

(1) \* \* \*

(ii) Post-amendment production.

\* \* \* \* \*

(c) \* \* \*

(2) Post-amendment production.

\* \* \* \* \*

§1.181-6 Effective/applicability date.

\* \* \* \* \*

(b) Pre-effective date productions.

**§1.181-0T [Removed]**

Par. 3. Section 1.181-0T is removed.

Par. 4. Section 1.181-1 is amended by revising paragraphs (a)(1)(ii), (a)(6), (b)(1)(ii), (b)(2)(vi), and (c)(2) to read as follows:

§1.181-1 Deduction for qualified film and television production costs.

(a) \* \* \* (1) \* \* \*

(ii) This section provides rules for determining the owner of a production, the production costs (as defined in paragraph (a)(3) of this section), the maximum amount of aggregate production costs (as defined in paragraph (a)(4) of this section) that may be paid or incurred for a pre-amendment production (as defined in paragraph (a)(5) of this section) for which the owner makes an election under section 181, and the maximum amount of aggregate production costs that may be claimed as a deduction for a post-amendment production (as defined in paragraph (a)(6) of this section) for which the owner makes an election under section 181. Section 1.181-2 provides rules for making the election under section 181. Section 1.181-3 provides definitions and rules concerning qualified film and television productions. Section 1.181-4 provides special rules, including rules for recapture of the deduction. Section 1.181-5 provides examples of the application of §§1.181-1 through 1.181-4, while §1.181-6 provides the effective date of §§1.181-1 through 1.181-5.

\* \* \* \* \*

(6) Post-amendment production. The term post-amendment production means a qualified film or television production commencing on or after January 1, 2008.

\* \* \* \* \*

(b) \* \* \* (1) \* \* \*

(ii) Post-amendment production. Section 181 permits a deduction for the first \$15,000,000 (or, if applicable under paragraph (b)(2) of this section, \$20,000,000) of the aggregate production costs of any post-amendment production.

\* \* \* \* \*

(2) \* \* \*

(vi) Allocation. Solely for purposes of determining whether a production qualifies for the higher production cost limit (for pre-amendment productions) or deduction limit (for post-amendment productions) provided under this paragraph (b)(2), compensation to actors (as defined in §1.181-3(f)(1)), directors, producers, and other relevant production personnel (as defined in §1.181-3 (f)(2)) is allocated entirely to first-unit principal photography.

\* \* \* \* \*

(c) \* \* \*

(2) Post-amendment production. Amounts not allowable as a deduction under section 181 for a post-amendment production may be deducted under any other applicable provision of the Code.

### **§1.181-1T [Removed]**

Par. 5. Section 1.181-1T is removed.

Par. 6. Section 1.181-6 is revised to read as follows:

#### §1.181-6 Effective/applicability date.

(a) In general. Except as otherwise provided in this section, §§1.181-1 through 1.181-5 apply to productions the first day of principal photography for which occurs on or after September 29, 2011. Paragraphs 1.181-1(a)(1)(ii), (a)(6), (b)(1)(ii), (b)(2)(vi), and (c)(2) of §1.181-1 apply to productions to which section 181 is applicable and for which the first day of principal photography or in-between animation occurs on or after

**[INSERT DATE OF PUBLICATION OF THIS DOCUMENT IN THE FEDERAL REGISTER].**

(b) Pre-effective date productions. For any taxable year for which the period of limitation on refund or credit under section 6511 has not expired, the owner may apply §§1.181-1 through 1.181-5 to any production to which section 181 applies and for which the first day of principal photography (or in-between animation) occurred before

**[INSERT DATE OF PUBLICATION OF THIS DOCUMENT IN THE FEDERAL REGISTER]**, provided the owner applies all relevant provisions of §§1.181-1 through 1.181-5 to the production.

**§1.181-6T [Removed]**

Par. 7. Paragraph 1.181-6T is removed.

Steven T. Miller

Deputy Commissioner for Services and Enforcement.

Approved: November 30, 2012

Mark J. Mazur

Assistant Secretary of the Treasury (Tax Policy).

[FR Doc. 2012-29630 Filed 12/06/2012 at 8:45 am; Publication Date: 12/07/2012]