

109TH CONGRESS  
2D SESSION

# H. R. 6284

To amend the Internal Revenue Code of 1986 to allow a loss for development costs of certain creative property.

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IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 29, 2006

Mr. BECERRA 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 loss for development costs of certain creative property.

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

3 **SECTION 1. ALLOWANCE OF LOSS DEDUCTION FOR DEVEL-**  
4 **OPMENT COSTS OF CERTAIN CREATIVE**  
5 **PROPERTY.**

6 (a) **FILM DEVELOPMENT COSTS.**—Section 165 of the  
7 Internal Revenue Code of 1986 (relating to loss deduc-  
8 tions) is amended by redesignating subsection (m) as sub-  
9 section (n) and inserting the following new subsection:

1       “(m) FILM DEVELOPMENT COSTS.—For purposes of  
2 this section—

3           “(1) IN GENERAL.—If a creative property is not  
4 set for production within the 3-year period beginning  
5 on the date on which the taxpayer first incurs devel-  
6 opment costs with respect to the property—

7           “(A) the costs of developing such property  
8 shall be treated as an expense which is not  
9 chargeable to capital account,

10          “(B) any cost so treated shall be allowed  
11 as a deduction, and

12          “(C) such deduction shall be treated as a  
13 loss allowable under subsection (a) for the first  
14 taxable year beginning after the end of such 3-  
15 year period unless it is established that the tax-  
16 payer did not intend to dispose of the property.

17          “(2) RECAPTURE.—The Secretary shall, by reg-  
18 ulations, provide for recapturing the benefit of any  
19 loss allowable under this subsection if—

20           “(A) the taxpayer begins principal photog-  
21 raphy with respect to the creative property in  
22 any subsequent taxable year, or

23           “(B) the taxpayer derives income from the  
24 disposition of the creative property (including

1 settlement funds resulting from copyright in-  
2 fringement).

3 The taxpayer shall pay interest, computed by deter-  
4 mining the underpayment of tax which would result  
5 solely from disallowance of such loss in the taxable  
6 year in which the loss was claimed under paragraph  
7 (1), using the adjusted overpayment rate (as defined  
8 in section 460(b)(7)), compounded daily, on the un-  
9 derpayment so determined. The preceding sentence  
10 shall not apply where the loss claimed under para-  
11 graph (1) was \$100,000 or less.

12 “(3) DEFINITIONS AND SPECIAL RULES.—For  
13 purposes of this subsection—

14 “(A) CREATIVE PROPERTY.—The term  
15 ‘creative property’ means the intangible right to  
16 exploit a screenplay, script, story outline, or  
17 motion picture production right to a book, play,  
18 or other similar creative property for purposes  
19 of potential future film development, production  
20 and exploitation.

21 “(B) FILM.—The term ‘film’ means a fea-  
22 ture film, television special, television series, or  
23 similar product (including animated films and  
24 television programming) that is sold, licensed or  
25 exhibited, whether produced on film, videotape,

1 digital, or other video recording format. Such  
2 term shall not include any production for which  
3 records are required to be maintained under  
4 section 2257 of title 18, United States Code,  
5 with respect to any performer in such produc-  
6 tion.

7 “(C) DEVELOPMENT COSTS.—The term  
8 ‘development costs’ means costs that are in-  
9 curred to acquire, develop, or evaluate whether  
10 to exploit creative property.

11 “(D) SET FOR PRODUCTION.—A creative  
12 property shall not be treated as set for produc-  
13 tion until a commitment to fund production is  
14 made and active pre-production has begun.”.

15 (b) EFFECTIVE DATE.—

16 (1) IN GENERAL.—The amendment made by  
17 subsection (a) shall apply to taxable years ending  
18 after the date of the enactment of this Act.

19 (2) CHANGE IN METHOD OF ACCOUNTING.—In  
20 the case of any taxpayer required by the amendment  
21 made by subsection (a) to change its method of ac-  
22 counting for its first taxable year ending after the  
23 date of the enactment of this Act—

24 (A) such change shall be treated as initi-  
25 ated by the taxpayer, and

1                   (B) such change shall be treated as made  
2                   with the consent of the Secretary of the Treas-  
3                   ury.

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