

Insights



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Section 181: A ‘Runaway Failure’ for Film Financing

By [Kelly L. Frey](#)

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In an article published on Jan. 11 in Bloomberg Tax Management Memorandum, Nashville partner Kelly Frey discusses the 2017 Tax Cuts and Jobs Act’s (The Act) impact on film financing.

“Under the old tax provisions in effect from 2004 through 2017, film productions primarily produced in the United States could deduct qualified costs of production for a film (up to \$15 million, or \$20 million in certain economically depressed areas) by simply electing such treatment by the due date for filing the taxpayer’s/owner’s federal income tax return for the first taxable year in which production costs were paid or incurred,” explains Frey.

Under the 2017 tax act, while “qualified film productions” are still defined with reference to the prior §181, new bonus depreciation rules effectively replace the old accelerated depreciation treatment of production. This bonus depreciation permits the complete deduction of the production costs of a feature film in the year the film is placed in service. This new bonus depreciation is no longer capped at \$15 million or \$20 million, and no election is required to receive this favorable tax treatment.

“While these changes would appear to be good news for independent film production companies and their investors, these changes cannot be applied without reference to the practical effect as to timing of the deduction and other limitations imposed on §181 qualified property by the 2017 tax act,” states Frey. “The end result is that under the 2017 tax act, individual investors that historically invested in independent film can no longer realize the same tax savings they enjoyed under the prior incarnation of §181.”

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MEET OUR AUTHOR



Kelly L. Frey
Partner

T 615.664.5304

kelly.frey@nelsonmullins.com