



June 29, 2020

The Honorable Mitch McConnell  
Majority Leader  
U.S. Senate  
Washington, DC 20510

The Honorable Nancy Pelosi  
Speaker of the House  
U.S. House of Representatives  
Washington, DC 20515

The Honorable Chuck Schumer  
Democratic Leader  
U.S. Senate  
Washington, DC 20510

The Honorable Kevin McCarthy  
Republican Leader  
U.S. House of Representatives  
Washington, DC 20515

The Honorable Chuck Grassley  
Chairman, Finance Committee  
U.S. Senate  
Washington, DC 20510

The Honorable Richard Neal  
Chairman, Ways and Means Committee  
U.S. House of Representatives  
Washington, DC 20515

The Honorable Ron Wyden  
Ranking Member, Finance  
U.S. Senate  
Washington, DC 20510

The Honorable Kevin Brady  
Ranking Member, Ways and Means  
U.S. House of Representatives  
Washington, DC 20515

Dear Leader McConnell, Speaker Pelosi, Leader Schumer, Leader McCarthy, Chairman Grassley  
Chairman Neal, Ranking Member Wyden & Ranking Member Brady:

On behalf of our respective memberships, the Motion Picture Association, the Directors Guild of America, the Independent Film & Television Alliance, the International Alliance of Theatrical Stage Employees, and SAG-AFTRA want to express our gratitude to you for your continued leadership through the unprecedented challenges facing our nation. Our organizations collectively represent the interests of the full range and scope of the film, television, and streaming industry, including actors, musicians, performers, composers, songwriters, music publishers, technicians and craftspeople, producers, directors and their teams, and record and film companies (both large and small). This letter contains certain recommendations to help our industry resume productions and create jobs.

Our industry and our members work to provide audiences with vibrant film, television, and streaming content that helps drive the creative economy. The industry employs people in every state, and across a diversity of skills and trades. Our industry pays over \$181 billion in wages to 2.5 million people—from special effects technicians to makeup artists to writers to set builders to ticket takers and more. We purchase \$49 billion per year in goods and services from more than 280,000 businesses in cities and small towns across the country. Our industry is comprised of more than 93,000 businesses, 87 percent of which are small businesses employing fewer than 10

people. Finally, our industry accounts for \$16.3 billion in exports and has a positive balance of trade with every major market in the world.

During this crisis, our industry has provided resources to teachers and families who are self-distancing at home, made critical PPE and direct aid available to first responders and healthcare professionals, lent our voices and resources to communicate critical public health messages during the pandemic, and made more content available online and on-demand to help keep families entertained and connected during these challenging times.

Unfortunately, like many other industries, the pandemic has had a devastating economic impact on our industry and workforce. Government orders have necessarily required the shutdown of productions, closure of theaters around the world, and delayed release dates for films. Our studio lots, generally humming with activity, have become ghost towns. As a result, approximately 465,000 film and television industry jobs in the U.S. have been put at risk due to the pandemic. Moreover, according to early estimates from the Hollywood Reporter, the shutdown of public movie theatres could have led to a global loss in box office revenue of roughly \$17 billion as of the end of May.

The industry is working closely with state and local government officials on procedures to safely resume production activities. The industry will face far higher production costs, as added measures will be necessary to protect the safety of our cast and crew and production schedules will need to be adjusted to accommodate social distancing.

Thus, as Congress considers additional legislation to address the serious challenges to our nation's public health and to help restore our economy, our organizations respectfully request that you adopt the following tax-related and other priorities. These policies would help jumpstart domestic film and television production, encourage hiring, and ameliorate the higher costs that must be undertaken to protect our industry's workforce.

**Provide an incentive to hire workers.** We believe a hiring incentive modeled on the employee retention credit or the work opportunity tax credit (WOTC) will help move workers off of unemployment and bring them back into the workforce. The employee retention credit enacted as part of the CARES Act and the long standing WOTC provide models that can be revised to accomplish this goal. For example, after Hurricane Katrina, Congress temporarily expanded WOTC eligible groups to include a "Hurricane Katrina employee."

The credit could mirror the employee retention credit by including in qualified wages amounts paid to a qualified COVID-19 unemployment recipient from the effective date of the legislation through December 31, 2021. To provide needed liquidity and further expedite hiring, the benefit of the credit could be delivered through the payroll tax system.

Alternatively, a new targeted group could be added to WOTC for anyone who was a qualified COVID-19 unemployment recipient.

In either case, to encourage a return to normalcy and efficiency, the credit should be available for employers who rehire workers who had previously worked for them.

**Enhanced expensing of production costs.** We believe that modifications to IRC section 181 or section 168(k) (“bonus depreciation”) are needed to allow enhanced expensing of film production costs that will provide liquidity to help spur production activity and enhance the industry’s significant investment in local communities.

Section 181 encourages film and television production to remain in the United States and allows production entities in the U.S. to expense qualifying production costs up to \$15 million (\$20 million in certain low-income areas) immediately in the year incurred. The ability to deduct costs in the year incurred (in contrast to bonus depreciation), without having to wait for the film to be placed in service, provides needed liquidity to help greenlight productions, particularly for the independent sector which is heavily reliant on third-party investment and distribution. Section 181 expires at the end of this year.

Section 168(k) bonus depreciation also provides liquidity to film and television investment. The bonus depreciation deduction is permitted only upon the film or television production being placed in service (i.e., the first commercial exhibition of the film or program), rather than as production costs are incurred. The full expensing allowance for bonus depreciation is currently set to phase out by 20% per calendar year for property placed in service in taxable years beginning in 2023, so it is completely phased out by the end of 2027.

Both section 181 and bonus depreciation provisions restrict eligibility only to the first 44 episodes of a television series.

We recommend either of the following two changes to the expensing provisions to help provide much needed liquidity and encourage domestic film and television production, investment, and job growth, as the industry recovers from COVID-19 related losses:

***Option #1: Extend and Expand Section 181.*** Extend Section 181 and change the cap to be the greater of \$15 million or 50% of overall production costs, and eliminate the 44-episode limit.

***Option #2: Modify Application of Bonus Depreciation to Films.*** Allow film and television production costs to be deducted as incurred (like under section 181), eliminate the 44-episode limit for television production, and allow application to acquisition of “used” films (similar to the treatment of other industries under bonus depreciation).

**Update the tax deduction for performing artists’ work-related expenses**

The tax code currently permits qualifying performing artists to deduct unreimbursed employee expenses if they make \$16,000 or less a year in income. Notably, this critical deduction ensures that performing artists in the motion picture and live theater industries are not paying duplicative income taxes on agent or manager commissions. However, this provision (established in 1986) has never been updated to reflect the modern day incomes of low-income and middle-class performing artists. We ask Congress to pass the Performing Artist Tax Parity Act (HR 3121), which will raise the maximum income cap to \$100,000 for individual filers and \$200,000 for joint filers.

**Provide federal insurance program to cover pandemic-related losses.** The ability of our industry to return to active production, whether on set or on location, is severely compromised

by the inability to purchase insurance to cover losses stemming from communicable diseases amongst cast, crew, and others involved in the production. This insurance has been available in the past and is essential to the decisions by banks and others to risk investment in a film or program that may be shut down while a single member of the cast recovers from illness or as a result of civil authority order unrelated to the specific production. Without it, production – especially independent production – cannot resume on a significant level. We urge Congress to develop a program of federal insurance (or guarantee to fill this gap) to cover pandemic-related business losses in the future.

We thank you again for your stewardship in helping the nation face these unprecedented challenges. We greatly appreciate your consideration of these priorities for our industry, and stand ready to work with you to help our economy recover.

Sincerely,



*Charles H. Rivkin  
Chairman & Chief Executive Officer  
Motion Picture Association (MPA)*



*David White  
National Executive Director  
Screen Actors Guild - American Federation  
of Television and Radio Artists (SAG-  
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*Jean Prewitt  
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