

SWC
Tax planning and financial strategy.
Simplified.©

Section 168(k) and Motion Picture Film Investments:

When Your Investment Gets a Screen Credit

©2026 SWC (Stees. Walker & Company, LLP) | All rights reserved. | No portion of this singlet may be used without the express and written permission of SWC

Start Here: A provision of the federal tax code better known for equipment purchases and other business property can also apply to qualified motion picture productions. Under current federal law, Section 168(k) of the Internal Revenue Code provides 100 percent bonus depreciation for qualified property acquired after Jan. 19, 2025, subject to applicable requirements. Congress includes certain qualified film and television productions within that provision. For investors participating through a pass-through structure, depreciation claimed by the entity may result in losses allocated to them. The amount an investor can actually deduct depends on the investment structure and that investor's tax circumstances. Here, we explain how the opportunity works, when a film qualifies, why release timing deserves attention, and what to examine before investing.

Imagine sitting at home on Oscar night as the final award is announced. The winning film's actors begin making their way to the stage. The director follows, along with producers and other members of the cast and crew. While the director accepts the award and the lead actor smiles for the cameras, you spot a guy standing near the edge of the group who looks surprisingly familiar.

It takes you a moment to place him. Then you remember. You were paired together in a foursome at a charity golf tournament a few years ago. You spent most of an afternoon together, talked between shots, had dinner and drinks afterwards, and haven't seen or spoken with him since. As far as you knew, he had nothing to do with the movie business. Yet there he stands among the people celebrating the biggest award of the evening because he invested in the film.

Seeing him on that stage might make you wonder whether film investing only makes sense when a project looks destined for awards season. It doesn't. A film production can potentially qualify for Section 168(k) treatment from the IRS without ever becoming a critically acclaimed movie or a box-office hit. A horror film, comedy, drama, romantic comedy, or even a modest independent production may qualify when it satisfies the federal tax requirements. As with any project as an investor, you still need to evaluate the project as an investment, including the possibility of losing money.

Continued onto next page

The tax angle begins with a part of the Internal Revenue Code that many investors have encountered in a very different context.

What Does Section 168(k) Have to Do With a Movie?

Business owners and real estate investors may already know about *bonus depreciation* from equipment purchases and cost-segregation studies, as well as other investments involving depreciable property. Section 168(k) of the Internal Revenue Code (IRC) allows an additional first-year depreciation deduction for qualified property. In July 2025, H.R. 1 (the One, Big, Beautiful Bill Act – OBBBA) amended the provision and permanently established a 100 percent additional first-year depreciation deduction for qualified property acquired after Jan. 19, 2025. Internal Revenue Service (IRS) Notice 2026-11 provides guidance for applying the amended rules.

> **Understanding Bonus Depreciation:** When a business entity invests in certain types of property, federal tax law generally allows the cost of that property to be deducted through depreciation. Those deductions may otherwise occur over a period of years. Bonus depreciation can accelerate the deduction, allowing qualifying costs to be deducted much sooner. Under the current Section 168(k) rules, qualifying property may be eligible for 100 percent depreciation in the year it is placed in service. Certain qualified film and television productions can fall within these rules.

Motion pictures occupy an unusual place within those rules. Section 168(k) specifically includes a "qualified film, television or live theatrical production" within the definition of qualified property when the applicable requirements have been met. Congress first brought qualified film and television productions into Section 168(k) through the Tax Cuts and Jobs Act of 2017, and the current statute retains that treatment.

That creates a potential tax planning opportunity when an investor participates in a qualifying production through an entity taxed as a partnership. The entity may claim depreciation on eligible production costs, and the resulting tax items may flow through to its partners. An investor could therefore receive an allocation associated with bonus depreciation from an asset that looks very different from the machinery, vehicles, or other business property commonly associated with depreciation.

The word "potential" deserves attention because several things have to happen before a projected deduction becomes useful on an investor's federal income tax return:

1. The production has to qualify for Section 168(k) treatment.
2. The entity must have eligible depreciable costs and properly claim the deduction.
3. The allocation to the investor must comply with the applicable partnership rules.

Once the allocation reaches the investor, separate limitations can restrict how much can currently be deducted.

Continued onto next page

First, Understand What Bonus Depreciation Gives You

Section 168(k) accelerates depreciation. Under the current 100 percent rule, eligible basis in qualified property acquired after Jan. 19, 2025, can generally receive a 100 percent additional first-year depreciation deduction, assuming the statutory requirements apply. The OBBBA removed the previous phase-down for such property, while IRS Notice 2026-11 instructs taxpayers to substitute 100 percent for the former applicable percentage when applying the existing regulatory framework.

For an investor, the distinction between a deduction and a tax credit becomes important very quickly. A deduction reduces taxable income when you can use it. Its potential tax effect therefore depends partly on your applicable federal income tax rate.

Suppose you receive a $1 million deduction and can use the entire amount now. At an assumed 37 percent federal marginal income tax rate, the simplified mathematical effect would come to as much as $370,000 in federal income tax reduction. That example assumes you clear the tax limitations discussed later in this singlette. It also leaves state taxes out of the calculation.

A Simple Way to Think About the Math

Assumed currently usable deduction: $1,000,000

Assumed federal marginal income tax rate: 37 percent

Potential federal income tax reduction under those assumptions: $370,000

The $1 million figure represents the deduction. The $370,000 represents its potential federal tax effect under the assumptions used in this example.

For a high-net-worth individual facing a large federal income tax bill, that timing can make accelerated depreciation worth exploring. The size of a projected allocation alone doesn't tell you what will happen on a personal return, though. That requires examining how the film production qualifies and how the investment has been structured. There's where your tax planning partner or CPA can help.

Which Motion Pictures Can Qualify?

Federal law provides an actual test for a qualified film or television production. Section 168(k) refers to the definition in Section 181(d), which generally requires 75 percent of the production's total compensation to constitute "qualified compensation." The statute defines qualified compensation as *compensation for services performed in the United States by actors, production personnel, directors, and producers.* Participations and residuals don't count as compensation for purposes of this calculation.

This requirement explains why artistic quality tells you very little about Section 168(k) eligibility.

Continued onto next page

A small independent production could satisfy the federal requirements. A much more expensive movie could encounter qualification problems depending on where and how it's produced. As you can see, award prospects never enter the statutory calculation.

> **Warning:** That gives you a concrete question for the production team of a film in which you're considering investing: How does this production expect to satisfy the qualified film or television production requirements? The answer should come from the production's actual budget and compensation arrangements rather than a general statement that "film investments qualify for bonus depreciation."

Section 168(k) also refers to Section 181's definition while disregarding Section 181's dollar limitation and termination date for purposes of determining qualified property under the bonus depreciation provision. That distinction can become significant for larger productions because Section 181 itself generally carries a $15 million expensing limitation, with a higher limit for qualifying productions in certain areas. Section 168(k)'s qualified-property rule expressly tells you to disregard that dollar limitation when applying the referenced test.

The Date You Invest Doesn't Necessarily Determine the Deduction Year

Consider an investor who contributes capital to a production in October 2026. Filming wraps before Christmas, and post-production continues through the end of January 2027. The distributor schedules the movie's initial release for April 2027.

That October investment doesn't by itself create a 2026 Section 168(k) deduction. For qualified film and television productions, Section 168(k) provides a specific placed-in-service rule. The production gets treated as placed in service at the time of its initial release or broadcast. In our hypothetical, an April 2027 initial release points to 2027 as the relevant placed-in-service year for the bonus depreciation analysis.

The current rules also require attention to when the production gets treated as acquired. Notice 2026-11 tells taxpayers to continue applying rules consistent with the existing Section 168(k) regulations while substituting the new January 2025 dates. Under those existing rules, a qualified motion picture film or television production gets treated as acquired when principal photography starts.

As an investor, that means you need to pay attention to the production calendar when a projected deduction forms part of your tax planning. Principal photography bears on the acquisition-date requirement. Initial release or broadcast determines the placed-in-service event. A production delay that pushes release from December into January could move the potential deduction into a different tax year.

A simplified production timeline looks like this:

Investor Capital → Production → Initial Release or Broadcast → Placed in Service → Potential Depreciation and Investor Allocation

Continued onto next page

For someone considering an investment late in the year, the expected release date of the film deserves more than a passing glance. Ask what supports that schedule and what happens to the tax projection if the release slips into the following year.

How Could Someone Invest $1.4 Million and Receive a Much Larger Deduction?

If you're wondering how a projected deduction could exceed the amount of your investment, here's what you need to know.

Suppose an investment presentation shows a $1.4 million cash contribution and projects a $5 million depreciation allocation. The first thing to ask is how the structure supports that difference, because looking at those two numbers next to each other naturally raises a question: How can the projected deduction exceed the cash the investor contributed?

The answer depends entirely on the transaction:

- A production entity can have tax basis in its production costs that differs from the amount of equity one investor contributes.
- Financing can affect the entity's capital structure.
- Partnership liabilities can also affect a partner's outside basis under the partnership tax rules.
- The partnership agreement and federal allocation rules then affect how tax items reach individual partners.

Those concepts require actual calculations. A $1.4 million investment doesn't automatically give an investor $5 million of deductible basis simply because the investment involves a qualifying movie.

The IRS makes the broader partnership principle clear in its own guidance. A loss may have been properly allocated to a partner and may even appear on the partner's Schedule K-1 while remaining unavailable as a current deduction because separate partner-level limitations apply.

If an offering suggests a deduction substantially larger than your cash contribution, ask to see how the sponsor arrived at the number. Your CPA or tax planning partner should be able to trace the projected allocation through the production's costs and the partnership structure. From there, they can determine how the federal limitations apply to your circumstances.

Getting an Allocation and Using It Can Produce Different Numbers

Let's imagine the film in which you've invested qualifies and reaches initial release. Let's also assume it generates the anticipated bonus depreciation at the entity level. When that occurs, the partnership issues a Schedule K-1 showing a substantial loss allocated to you. Next, the analysis reaches your individual tax return, where several limitations may come into play.

The IRS identifies three major limitations on a partner's ability to deduct an allocated partnership loss and applies them in a particular order:

Continued onto next page

1. Section 704(d) first limits the deduction to the partner's adjusted basis in the partnership interest.
2. Section 465 then applies the at-risk rules.
3. Section 469 addresses passive activity limitations after those earlier tests.

Your tax basis becomes especially important when the anticipated deduction is larger than the amount you invested. Think of *basis* as one of the tax measurements that helps determine how much of an allocated loss you may be able to deduct. It may include more than the cash you contributed, depending in part on how the film is financed and structured.

The at-risk rules, covered in Section 465 of the IRC, add another important checkpoint. These rules help determine how much of your investment is actually exposed to economic loss for tax purposes. That amount may not be the same as your tax basis, especially when financing is involved. Your CPA or tax planning partner should review the structure of the investment and the financing terms to determine how much of the allocated loss you may be able to deduct.

The passive activity rules addressed by Section 469 of the IRC can also affect whether you can use the deduction right away. If you invest in a film but are not involved in its day-to-day operations, the activity may be treated as passive for tax purposes. In that case, losses are generally limited to the amount of passive income you have available to offset them. Greater involvement in the production can change the analysis, but the result depends on how your actual participation compares with the federal material participation rules.

This means a taxpayer with a $2 million salary can't look at a projected $2 million passive film loss and assume the two will cancel each other out. The character of the activity and your participation have to be examined before making that calculation.

Losses limited under these provisions may sometimes carry forward for potential use in later years, but that's subject to the particular rule that caused the limitation. The treatment differs depending on whether basis, at-risk, or passive activity rules suspended the loss, so you should avoid treating all suspended losses as interchangeable.

What Could the Tax Effect Look Like in Dollars?

Now that we've covered the limitations, let's return to the $5 million deduction example and see what it could mean in practical terms.

Assume a qualifying film production generates enough eligible depreciation to support a $5 million allocation to you. After reviewing the investment structure and your individual tax situation, your tax advisors determine that you *can* currently use the full $5 million deduction. At an assumed 37 percent federal marginal income tax rate, that deduction could produce an estimated federal tax reduction of $1.85 million.

Now suppose you contributed $1.4 million in cash. Those two numbers describe different things.

- The $1.85 million represents the estimated federal tax effect of the assumed deduction.
- The $1.4 million represents your cash investment.

Continued onto next page

While subtracting one from the other produces a $450,000 difference, that does not mean you earned a $450,000 profit or received an additional $450,000 tax benefit.

The distinction is particularly relevant when you see examples designed to highlight the tax advantages of an investment. For the right investor, a substantial deduction can meaningfully change the after-tax economics. But the tax benefit is only one part of the picture. You still own an investment, and that investment still carries economic risk.

The film ultimately has to succeed as a business. It needs distribution, marketing, public relations, an audience, and enough revenue to generate an economic return. How much of that revenue reaches you depends on the investment agreements and the production's financial performance. While favorable tax result can improve the economics of the investment, it cannot determine whether the movie itself will be commercially successful.

Your State May Reach a Different Result

The discussion so far focuses on federal income taxes. Your state may treat the same investment differently because states do not always follow the federal bonus depreciation rules.

That means you should not assume that a Section 168(k) deduction on your federal return will produce the same result on your state return. Your state of residence matters, and the analysis can become more complicated if you live in one state while holding investments or conducting business in another.

State film incentives are also a separate issue. A production may qualify for a state tax credit, rebate, or other incentive that improves the economics of the project. Those incentives are different from your federal Section 168(k) deduction and should be evaluated under the rules of the state offering them.

Because the federal and state rules can interact in ways that are easy to overlook, this is an area where experienced guidance matters. Before relying on a projected tax benefit, work with a tax-planning advisor or CPA who understands the film sector, Section 168(k), partnership investments, and the state rules that may apply to you.

What to Ask Before You Invest

If you are reviewing a motion picture opportunity that includes a Section 168(k) tax strategy, start with one practical question:

"Walk me through how the projected deduction gets from the production company to my tax return."

From there, ask the production team to explain how the film expects to satisfy the federal qualification requirements and when principal photography is expected to begin. You should also understand the projected initial release or broadcast date because that timing can affect when the deduction becomes available.

> **Pro Tip:** If the materials show a deduction in a particular tax year, ask what happens if the release schedule changes.

Continued onto next page

If the projected deduction is larger than the amount of cash you are investing, you'd be smart to ask how that number was calculated. Your own CPA or tax planning advisor should review the entity structure and help you determine your expected tax basis. From there, they should evaluate the at-risk rules and your passive activity position before estimating how much of the projected allocation you may actually be able to use.

That review also helps put the investment presentation in the right context. The production team can explain how it expects Section 168(k) to apply at the entity level. Your CPA or tax planning advisor has a different role: determining how those rules apply to you, based on the facts that affect your individual tax return.

From the Offering Memorandum to Your Tax Return

A motion picture investment can put you as an investor in an unusual position. You're evaluating an entertainment project with all the uncertainty that comes with financing a motion picture film or television production, while also examining a federal depreciation provision that can materially affect the investment's after-tax economics.

If you're drawn to the Section 168(k) opportunity, the most useful next step comes *before* signing the subscription agreement or other investment documents. Give us at SWC the actual investment materials and the tax assumptions supplied by the sponsor. If the offering projects a large deduction, we'll trace that number through the structure and test it against your own tax situation. We can be reached by email at admin@swc.cpa or by phone: (858) 487-4580.

And if you eventually find yourself standing at the edge of an Oscar stage, enjoy the view. At that point, the tax work should have been completed long ago.

Disclaimer: *The information in this SWC singlette about Section 168(k) of the Internal Revenue Code and investing in film and television productions is provided for general informational purposes only and may not reflect current financial thinking or practices. No information contained in this singlette should be construed as financial advice from the staff at SWC (Stees, Walker & Company, LLP), nor is this the information contained in this singlette intended to be a substitute for legal or financial counsel on any subject matter, or intended to take the place of hiring an attorney or Certified Public Accountant in your jurisdiction. No reader of this singlette should act or refrain from acting on the basis of any information included in, or accessible through, this singlette without seeking the appropriate legal and financial planning advice on the particular facts and circumstances at issue from a licensed attorney or financial professional in the recipient's state, country or other appropriate licensing jurisdiction.*

Tax planning and financial strategy.
Simplified.©

Keep in touch.
16875 W. Bernardo Drive, Suite. 290
San Diego, CA 92127
p: (858) 487-4580 | **f:** (858) 487-8033
w: www.SWC.cpa

Laura A. Stees, CPA
Co-founder | Partner | Business Strategist
Laura@SWC.cpa

Marni L. Walker, CPA
Co-founder | Managing Partner | Estate Strategist
Marni@SWC.cpa