

PIERCE LAW GROUP LLP

Who the Independents depend on
Film • TV • New Media

Entertainment Law Circular

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Now Playing

Thunder Road Arrives at South By Southwest



BHBA Film Finance Seminar

David Albert Pierce Chaired and Moderated the Beverly Hills Bar Association's Annual Film Finance Seminar in February.



David with the Speakers

David is featured with the speakers which included (from left to right): Mike Kolko, President of Tax Incentives at Great Road Capital ; DAP; Bianca Goodloe, film finance attorney; Liz Polk, Business Affairs at Netflix; BHBA Entertainment Law Chair Pierre Pine; and David Acosta, Sr. Vice President of City National Bank.

FILM FINANCING MADE EASY

The following article written by David was presented at the BHBA Film Finance Seminar and will appear in the Spring edition of MovieMaker Magazine:

A Primer On Basic Types of Film Finance By David Albert Pierce, Esq.

You went to film school not business school yet all of a sudden you are confronted by a lot of fancy financial terms as you try your best to assemble the budget for your film. Rather than pretending to understand these terms, here's a quick simply primer to further your knowledge.



Pierce Law Group client **JP Castel** served as a production executive in breakout SXSW hit, *Thunder Road*, a feature adaptation of Jim Cummings' Award Winning 2016 Sundance short of the same name. *Thunder Road* won Best Narrative Feature from the Festival.

Longtime Pierce Law Group client, **The Comedy Store** is featured in **Judd Apatow's** upcoming HBO Documentary focusing on Gary Shandling. The documentary, entitled "**The Zen Diaries of Gary Shandling**" premieres on **March 26**. Our firm negotiated several clip licenses for the program.



Film financing almost always requires a piecemeal approach to fully fund a budget for an independent film. Some of the most common assorted pieces which are utilized to cobble together the entire budget are: Crowdfunding (donor based financing); Development / Bridge Loans; Film Loans (collateralized by territorial pre-sales); Tax Incentives (which may also need to serve as collateral for a loan when cash flow requires the money sooner than the government payout of the incentives); Passive Equity (from investors contributing via a Private Placement Offering); Active Equity (from co-production relationships or in-kind co-production deals such as a post-house providing services in exchange for profit participation); and Traditional Loans (secured by either a letter of credit or other tangible collateral such as a mortgage on the producer's home- this is the most disfavored source given its risk).

To read more about each of the financing techniques see the continuation of this article on our Firm's website at: [Article on Film Financing Techniques](#)

Goodbye IRC Section 181, Hello Part III (Cost Recovery & Accounting Methods) Subpart A (Cost Recovery), Sec. 13201(g) (Qualified Film, Television & Live Theatrical Productions) and (h) (Productions Placed In Service)

By David Albert Pierce, Esq.

A common question asked by those familiar with tax benefits afforded to film investors is whether Section 181 of the Internal Revenue Code (which afforded film investors with a right to take an accelerated deduction on films) continues to exist under the new Trump tax overhaul.

While Trump has let it be known that he is no fan of Hollywood, the new tax overhaul does include some benefits for the film industry, including something very similar to the old Section 181 provision but with a couple minor Trump tweaks (*that's tweaks, not tweets*) which may even prove better for investors than the old Section 181.

Under the new Tax Cuts and Jobs Act ("the Act") enacted on December 22, 2017, the existing Tax Code was comprehensively overhauled. Under the Act, investors have the ability to deduct 100% of the cost of most new and used "qualified property" with no limit.

While the Act eliminates the old IRC Sec. 181 accelerated deductions for film investors, it replaces Section 181 with a slightly more permanent solution to the problem caused by the pesky issue concerning Section 181 expiring at the end of each calendar year and the need for it to be re-enacted in each subsequent year. This left film investors with uncertainty as to whether this tax benefit would be available to them in future years when they may need it.

Prior to 2017, production companies generally were eligible to deduct, when incurred (i.e., the year in which the money is given and spent), qualified production costs for film, television, and live theatrical productions by making an Internal Revenue Code Section 181 election, which limited the deduction to the first \$15 million of certain U.S.-based qualified production costs (\$20 million in certain circumstances).

Although the Act does not renew Code Section 181 the Act

Upcoming Seminars

Beverly Hills Bar Association Entertainment Law Section presents Entertainment Guilds: The Complete Nuts & Bolts

This program will provide a complete overview of all the various Entertainment Guilds and Unions. The history and law governing SAG-AFTRA, WGA, and DGA, as well as an overview of their basic agreements will be thoroughly explored and discussed. This program will appeal to young attorneys as well as long time practitioners looking to expand their knowledge base regarding the complexities of dealing with the entertainment guilds and unions, and their various contracts and agreements.

When: Wednesday, March 28, 2018, 12:00 p.m. | Program: 12:30 p.m. - 1:30 p.m.

Where: Beverly Hills Bar Association (Directions, Parking at 241 No. Canon Drive)

David Albert Pierce serves as the Vice Chairman of The BHBA Entertainment Law Section.

Lawyers seeking to attend the seminar may sign up [Here](#)

News of Our Staff

David's Assistant Will Mavity recently had a number

of guests on his Podcast (The [NextBestPicture Podcast](#)) including

[Julian Slater](#) (Oscar Nominated Sound Mixer/Sound Editor for *Baby Driver*)

[Glen Gauthier and Chris Cooke](#), (Oscar Nominated Sound Mixers for Best Picture Winner, *The Shape of Water*)

[Alston and Julius Ramsay](#) (Writer and Director of *Midnighters*-- In Theaters Now-- Alston is the Former Speechwriter for *General Petraeus* and *The Secretary of Defense*, while Julius is a *Walking Dead* Director)

David Mingles with Oscar-Nominated Cornell Alumni

David joined Cornell In Hollywood as it saluted its Oscar nominated alumni. A Cornell In Hollywood cocktail party celebrating these alums was held on Friday evening prior to the Oscars Sunday.

This year Cornell was proudly represented at the Oscars by **David Greenbaum '98**, (Co-Head of Production at Fox Searchlight Films, who greenlit and oversaw production of both *"The Shape of Water"* and *"Three Billboards."* **Reed Van Dyk '07**, wrote and directed the live-action short *"DeKalb Elementary,"* and **Trevor White '07**, produced Best Picture Nominee, *"The Post."*



Oscar nominated filmmaker
Reed Van Dyk Cornell '07



Fox searchlight Co-Head of
Production David Greenbaum
Cornell '98

Jewish Federation Legal Division Awards Dinner Honors Congressman Howard Berman



Although the Act does not allow Code Section 181, the Act does add a bonus depreciation provision that generally allows taxpayers to deduct 100% of qualified production costs for film, television, and live theatrical performances in the tax year in which the production is placed in service (i.e. the year in which distribution first occurs).

The key distinctions between Code Section 181 and bonus depreciation are (i) the timing of the deduction (bonus depreciation may not be claimed until the asset is "placed in service") and (ii) the removal of the deduction limit.

Still craving more information on this fascinating subject? If so, see the language in its entirety at: [House Bill 1, "Tax Cut & Jobs Act" Part III, Subpart A, Sec 13201\(g\) & \(h\)](#)

Another Year Of Leukemia and Lymphoma Society Collaborations!



David with Shannon Sullivan (LLS Exec Director Southland Chapter)



Pierce Law Group LLP was honored for its fund raising efforts at the annual Light The Night Awards brunch ceremony held by the Los Angeles chapter of **Leukemia and Lymphoma Society Awards** on March 17. Pictured above is an award Pierce Law Group received for its fundraising efforts.





David alongside fellow Jewish Federation Legal Division Member Uzzi O. Raanan

David represented Pierce Law Group LLP at the 2018 Jewish Federation Legal Division's Dinner honoring retired Congressman Howard Berman.



David also attended the LLS annual Student of The Year Gala in which 13 teams of students raised over \$404,951 during a 7 week fundraising competition.

David has served as an Executive Trustee on the Board of Directors of the Los Angeles chapter of LLS for the past 8 years.

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Congressman Howard Berman

About Pierce Law Group LLP

Pierce Law Group LLP is a full service, boutique entertainment law firm that provides both transactional and litigation legal services. Our practice areas include entertainment law, intellectual property (copyright, trademarks, right of publicity), film finance, securities law, production counsel, and labor & employment issues affecting the entertainment industry, with an emphasis on film, television, and new media. We represent production companies and other creative businesses as well as artists including producers, actors, writers, directors, comedians, and other entrepreneurs. Our client list includes both Academy Award and Emmy Award winners. We utilize an academic and analytic legal approach to accomplish creative solutions to our clients' goals.

DISCLAIMER

The information you obtain in this new sletter is not, nor is it intended to be, legal advice. You should consult an attorney for advice regarding your individual situation. We invite you to contact us and welcome your calls, letters, and electronic mail. Contacting us does not create an attorney-client relationship. Please do not send any confidential information to us until such time as an attorney-client relationship has been established.