Literature Review of Tax Credit Policies for Film Productions

Matthew Borelli

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Dr. Samuel Staley

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**Introduction**

The 2016 movie *Moonlight* was incredibly successful, winning three Oscars (including Best Picture) and grossing $67 million dollars off of a $4 million budget (*Moonlight 2016*). It also broke barriers in representation as both the first LGBT film and the first movie with an all-black cast to win Best Picture. Another scope of representation that this film offers is that it was filmed on location in Miami, a rarity in today’s cinema landscape. Why is it such a rare occurrence to see accurate depictions of many U.S. cities in cinema? One of the primary reasons for this phenomenon is the tax incentives that states provide to film productions. These incentives let production companies write off some amount of their production budget, effectively making filming in certain states significantly cheaper. Exploring the different effects of these incentives can give us a closer look into the current film industry and how productions decide where to film. This literature review will discuss the current state of tax incentives for film productions in the U.S. and see what the consensus is on their efficiency.

**Adoption Rate**

When discussing these tax incentives, it is important to look at the history of what they are and how they became so prevalent. In fact, incentivization in film production seems to be a recent phenomenon. These tax incentives involve a variety of cost-saving measures: reduced income taxes, exemption from lodging and sales taxes, partial refunds for the cost of employing in-state workers, etc. (Hall, Bandyopadhyay, and Mowat 2015, 164). For the purposes of simplifying the discussion, the term “film tax incentives” will refer to this package of different cost-saving measures film productions can receive for filming in a particular state. According to that same article, the first state—Louisiana—adopted film tax incentives in 1992 and grew to 39 states by 2014 (164). Interestingly, Sewordor and Sjoquist (2016) placed this number at 44 states (plus Washington D.C), but regardless of the exact number of states we can still say that there has been a high rate of adoption for these policies so far (6).

Studies have been done to understand and model the rate of adoption for film tax incentives using different analytical methods. The aforementioned article by Sewordor and Sjoquist (2016) sought to create a theoretical framework that could predict when a state might adopt film tax incentives. The model they created accounts for the net benefit of the incentives, a plethora of indicators that describe the economic culture of the state in question, and the number of other states that have enacted similar programs (10). As well, the authors accounted for the preferences of filmmakers, such as lowered costs and the physical characteristics of a place to predict how many films will locate their production in a state. From their results, the authors surmised that a state is more likely to adopt film tax incentives if a state with a similar sized industry has previously adopted similar incentives (19). States seem to be reactionary in the adoption of these policies, starting with larger states that can cover the startup costs of these programs and spreading year-by-year to surrounding states trying to stay competitive in the film production industry.

Stephanie Leiser (2017) corroborated Sewordor and Sjoquist’s findings using a mixed-methods study, meaning she studied this issue both qualitatively and quantitatively. Through interviews, the history of film tax incentives provided the qualitative side, discussing how these policies spread through the U.S. One of the interviewees, when asked about competition between states, said, “If you’re not on the top of these incentives—if you’re not the best state—then you might as well not be in the business” (258-259). This means that states do not strongly consider the geographical neighbors so much as they care which states have the strongest incentive programs. The other main factor in adopting the film tax incentive programs was also mentioned in the Sewordor and Sjoquist article: the size of the state’s currently existing film industry (Leiser 2016, 263). Along with the previously stated reasons, Leiser posited that this is partially due to the connections that state officials make from film productions, and since more productions leads to more connections, the likelihood of the state ratifying tax incentives increases.

**Effectiveness of Film Tax Incentives**

The current effectiveness of film tax incentives is in question, but what do we mean by “effectiveness”? The answer can vary depending on the context; it could mean that a policy brings in as much money as it forces a state to pay, that it garners a significant return like two times as much money as the state has to pay, or that it might account for factors outside of simply the cost. Michael Thom (2016) defined four areas that he examined to determine the efficiency of these policies: how many jobs are in the motion picture industry, the wages for those jobs, the amount of money made from film production in a state, and what percent of nationwide films were produced in a state (36-37). He analyzed what type of incentive the state offered, such as tax breaks that can lead to refunds or tax breaks that can be sold to other companies, and how long the film tax incentive program had been active in the state. His findings showed that different types of incentives did have different effects on the film industry of the state, however at best these policies have a minor positive impact. Tax breaks that can be transferred between companies created a sustained increase in the number of jobs in that state industry but had no impact on the wages (Thom 2016, 42). Thom’s main conclusion was that states should focus more on the current effectiveness rather than simply assuming that these programs will start bringing in money down the line. He cited an analysis of Louisiana’s program that “found that the state’s popular incentive program has resulted in a net loss of anywhere from US$13,000 to over US$20,000 per job created” (42). Thom believed that legislators in Louisiana need to look at alternative forms of film tax incentives now instead of continuing to lose money year after year.

Louisiana is an interesting state to look at as far as the effectiveness of film tax incentives since, as aforementioned, it was the first state to adopt these policies in 1992 (Sewordor and Sjoquist 2016, 6). Did the state of Louisiana gain any benefit from being the first state to adopt film tax incentives? Do the incentives still have a positive impact? As cited by Thom, the Louisiana Department of Economic Development contracted Loren C. Scott & Associates (2017), an economic consulting firm, to perform an analysis of the economic impact of the film tax incentives provided by Louisiana. They suggested capping the number of claims that can be made by production companies and providing incentives for companies that create permanent jobs instead of temporary employment in the state. While this might work for Louisiana, it is not necessarily true that other states would receive the same benefits from continuing their film tax incentive programs in the same way. McIntire (2014) noted that Louisiana has a unique environment considering it had no film productions when these programs started and now sits only behind California and New York for number of film productions (234). Since Louisiana did not have an industry before they implemented film tax incentives, they were not giving away these benefits for free and had created new jobs within the state (McIntire 2014, 234-235). In comparison, states like Michigan and New Mexico have recently scaled back the amount of tax credits they provide to film productions. McIntire found that Michigan went from $115 million to $25 million provided and New Mexico limited their incentives to a rolling $50 million cap, meaning any money spent past the $50 million detracts from the allowance for the next year. After years of allowing the revenue loss from film tax incentives to go uncapped, states are now starting to reign back in this regard.

The current consensus on film tax incentives is not unanimous, as the Motion Picture Association of America (2016) [MPAA] released a statement in which they refuted the findings of Michael Thom’s (2016) paper. As the primary trade organization for the film industry, the MPAA argued that Thom’s methodology was incorrect. First, they stated that the difference between transferable tax credits and refundable tax credits are negligible and treating them separately was a mistake on Thom’s part. Another point the MPAA took issue with is the broadness of what is defined as a film industry job, which in Thom’s paper includes “movie theater and sound recording industry jobs.” (1) The MPAA did not believe that these should be factored in as those jobs would not be affected by changes in film tax incentives. They concluded by noting that if Thom’s work had undergone review from experts in the public policy field that the study’s methodological flaws would have been noticed and the paper would not have been published. In response to the MPAA’s statement, Joseph Bishop-Henchman (2016) of the Tax Foundation penned an article to refute the claims from the MPAA’s statement by defending Thom’s paper. Bishop-Henchman wrote that there is an actual difference between transferable and refundable tax credits since transferable credits create brokerage jobs that facilitate the transfer of tax credits between film production companies in the state (1). In their article, the MPAA claimed that Thom did not account for the size of the film industry in New York and California, but Bishop-Henchman noted that Thom had an entire section of his paper that discussed those states as outliers and found that removing them did not change the effects of the policies. He concluded by stating that the MPAA’s final statement does not hold water as Thom’s paper was published in peer-reviewed journals and therefore was examined by public policy experts before it was printed.

**Modern Perception of Filmmaking**

At its core, the film industry is about the creation of an artform we call movies. Since the adoption and rise of film tax incentives, discussions around the topic of the film industry focus less on the art at the center and more on the economic impact of the production. Jennifer Vanderburgh (2016) coined the term “tax credit thinking” to refer to the “way of thinking that tends to focus on economic benefits when justifying why films and film industries are important to places and to people” (139). She specifically discussed how this mindset has dominated filmmaking in Canada, but tax credit thinking is also the norm in the U.S. as demonstrated through the previously mentioned articles, therefore this concept still has implications for the U.S. film industry. Nova Scotia’s film industry had been providing tax incentives for productions from outside of the province, bringing into question what local filmmaking means in today’s world. She stated that “largely American films that disguise their production locations (e.g., *The Scarlet Letter* (1995), *Dolores Claiborne* (1995), *Leaving Los Vegas* (1995), and *Titanic* (1997)), are considered here to be examples of “local filmmaking,” alongside more quintessentially “local” screen projects that have stories identifiably rooted in NS [Nova Scotia]” (139). Local filmmaking seemed to refer to the jobs created by film production in an area rather than alluding to the act of making a film about a specific region. Vanderburgh lamented the move towards economically-minded filmmaking as cultural goals fall to the wayside. The Nova Scotia Film Tax Credit was eliminated in 2015 and saw an immediate upheaval in the province as filmmakers moved productions to less costly regions (Vanderburgh 2016, 136). The cultural importance of Nova Scotia filmmaking might also fade away as less filmmakers choose to represent the province in their works due to the lack of tax incentives. Tax credit thinking might make sense economically but ignoring the cultural benefits of film can create issues for local governments.

**Conclusion**

The film industry continues to grow and consolidate every year as fewer and fewer production companies become responsible for the highest grossing films. In 1997, nine studios were responsible for the top twenty grossing films; by 2017, that number had dropped to five (*2017 Domestic Grosses*). Those five studios (Buena Vista, Warner Bros., Universal, Fox, and Sony) also gain a larger share of the benefits from film production tax incentives as blockbuster budgets skyrocket. While the issue is not fully resolved, the current consensus amongst economics and policy experts is that these incentives provide little to no benefit to the states while the film studios gain massive tax write-offs. The current policies for film production tax incentives must be reexamined as the savings consolidate. States should consider which behaviors they want to incentivize with the tax benefits they deliver. As it stands, the films that gain the most from these incentives are massively budgeted films that heavily eat into tax revenue for the state while—most of the time—not even representing the state itself within the narrative of the film. Cultural goals driving incentivization programs for the filmmaking industry could lead to a radical shift in the industry in both economic and cultural spheres. Films that positively represent a state could increase tourism rates while also creating jobs within the state for the production. The current structure of film production tax incentives provides little evidence of economic benefit and definite signs of cultural detriment. It is time to look into changing the structure of these policies in order to maximize economic benefit while revitalizing the important cultural element of filmmaking.

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