Literature Review of Tax Credit Policies for Film Productions

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**Abstract**

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 as 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 the choice of where to film is made. 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 how they became so prevalent. In fact, it seems to be a relatively recent phenomenon. These tax incentives actually encompass a variety of cost-saving measures: a reduction of income tax, 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. The same article states that the first state adopted film tax incentives in 1992, growing to 39 states by 2014 (164). Interestingly, Sewordor and Sjoquist place 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.

Studies have been done to understand and model the rate of adoption for film tax incentives using different analytical methods. One such study by Sewerdor and Sjoquist sought to create a theoretical that can 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 and social culture of the state in question, and the number of other states that have enacted similar programs (Sewerdor and Sjoquist 2016, 10). As well, the authors account 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 surmise that a state is more likely to adopt film tax incentives if a state with a similar sized industry has previously adopted similar incentives. 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 corroborates Sewerdor and Sjoquist’s findings using a mixed-methods study, meaning she studied this issue both qualitatively and quantitatively (Leiser 255). The history of film tax incentives provided the qualitative side, disuccing how these policies spread through the U.S. through interviews. One of the interviewers 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.” 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 Sewerdor and Sjoquist article: The size of the state’s currently existing film industry (263). Along with the previously stated reasons, Leiser posits that this is partially due to the connections that state officials make from film productions and that more productions leads to more connections, increasing the likelihood of the state ratifying tax incentives.

**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 defines four areas that he examines 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 the 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 (Thom 2015, 42). Tax breaks that can be transferred between companies create a sustained increase in the number of jobs in that state industry but have no impact on the wages. Thom’s main conclusion is 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 cites 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.” (Thom 2015, 42) He believes 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 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 Lousiana Department of Economic Development contracted Loren C. Scott & Associates, an economic consulting firm, to perform an analysis of the economic impact of the film tax incentives provided by Lousiana. They suggest capping the amount 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 (Scott 2017, 15). While this might work for Lousiana, it is not necessarily true that other states might receive the same benefits from continuing their film tax incentive programs in the same way. Lousiana has a unique environment considering it had no film production when these programs started and now sits only behind California and New York for number of film productions (McIntire 2014, 234). As McIntire notes, since Louisiana did not have an industry before they implemented film tax incentives, they are not giving away these benefits for free and actually have created new jobs within the state (234-235). In comparison, states like Michigan and New Mexico have recently scaled back the amount of tax credits they provide to film productions. 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 MPAA released a statement in which they refuted the findings of Michael Thom’s paper. As the primary trade organization for the film industry, the MPAA argues that Thom’s methodology was incorrect. First, they state that the difference between transferable tax credits and refundable tax credits are negligible and treating them separately was a mistake on Thom’s part (1). Another point the MPAA takes 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.” (MPAA 2017, 1) The MPAA does not believe that these should be factored in as those jobs would not be affected by changes in film tax incentives. They conclude 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 of the Tax Foundation wrote an article to refute the claims from the MPAA’s statement by defending Thom’s paper. He writes 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). The MPAA in their article claims that Thom did not account for the size of the film industry in New York and California, but Bishop-Henchman notes 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. Bishop-Henchman concludes by noting 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 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 discusses 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 (Vanderburgh 2016, 141). Local filmmaking seems to refer to the jobs created by film production in an area rather than alluding to the act of making a film in a specific area. Vanderburgh laments the move towards economically-minded filmmaking as cultural goals fall to the wayside (137). 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 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 cultural 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 (Box Office Mojo 2017). 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-writeoffs. The current policies for film production tax incentives must be reexamined as the savings consolidate. States should consider what it is they behaviors they want to incentivize with the tax benefits they deliver. As it stands, the films that gain the most from these 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 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.

**References**

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