Literature Review of Tax Credit Policies for Film Productions

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**Introduction**

The 2016 movie *Moonlight* won 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. One uncommon form of representation is that *Moonlight* was both set and filmed in Miami. A lot of movies produced in recent times are filmed in one state and set in another. One of the primary reasons for this phenomenon of films being produced in one state and set in another 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. Examining tax incentive programs can provide a at how production locations are determined in the film industry. . This literature review will discuss the spread and efficiency of state tax incentives for film productions in the U.S. .

**Adoption Rate of Film Tax Incentives by States**

State film 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). “Film tax incentives” in this paper refer to a package of different cost-saving measures film productions can receive for filming in a particular state. Louisiana was the first state to adopt film tax incentives in 1992, with 39 states having some film tax incentive program by 2014 (Hall, Bandyopadhyay, and Mowat, 164). Interestingly, Sewordor and Sjoquist (2016) placed this number at 44 states (plus Washington D.C), in 2009, which shows that some states have removed their film tax incentive programs between 2009 and 2014 (6).

Sewordor and Sjoquist (2016) created a theoretical framework to 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, and the number of other states that have enacted similar programs (Sewoarder and Sjoquist, 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 neighboring state with a has previously adopted similar incentives (19). For example, if Oklahoma had recently adopted a film tax incentive program, Kansas would be more likely to adopt a similar program in the future. States seem to be reactionary rather than proactive 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. As Leiser stated, “the coefficient for the neighbor’s variable suggests that increased adoptions among neighbors reduce the hazard of adopting film incentives” which means that states are less likely to adopt film tax incentive programs if neighboring states have already enacted their own film tax incentives. The other main factor in adopting the film tax incentive programs was the size of the state’s currently existing film industry (Leiser 2016, 263; Sewoarder and Sjoquist 2014). Leiser posited that this is partially due to the connections that state officials make from film productions. “The interviews from Washington, Michigan, and Mississippi further suggest the film industry also served as the conduit for the diffusion of state film incentives. In all three interview states, the industry played a major role in advocating for legislation and forging ties with influential policy makers” (Leiser 2016, 263). and since more productions leads to more connections, the likelihood of the state ratifying tax incentives increases.

**Effectiveness of Film Tax Incentives**

“Effectiveness” could mean that a policy brings in as much money as states pay out in incentives, or that the program garners a significant return on investment like two times as much money as the state has to pay, or that it creates new jobs within the state. . Michael Thom (2016) identified four areas to determine the efficiency of film tax incentive 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 credits that can be sold to other companies, and how long the film tax incentive program had been active in the state. He found different types of incentives had different effects on the film industry, however at best these policies have a minor positive impact in a state. 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, whereas refundable credits had a temporarily positive effect on wages (Thom 2016, 42). 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 concluded that states should focus more on the current effectiveness rather than simply assuming that these programs will start bringing in money down the line. 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 was the first state to adopt these policies in 1992 (Sewordor and Sjoquist 2016, 6). 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. For 2016, Scott & Associates found that the economic impact of film tax incentive programs on household income has an upper bound of approximately $900 million and a lower bound of approximately $677 million (Scott 2017, 11 & 13). The lower bound adjusted for the salaries of actors, directors, writers, etc. since workers in those professions were not likely to reside in Louisana permanently. Later in the article, it is stated that “In 2015, it is estimated the film production program resulted in a net loss of $207.2 million in state revenues. In 2016, this loss rose to $219.4 million.” (Scott 2017, 14). Since the state’s net loss on tax credits increased from 2015 to 2016, Scott & Associates 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.

Other states would not necessarily receive the same benefits as Louisiana from continuing their film tax incentive programs. 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). She notes that “Unlike states such as California and New York that were epicenters of film production prior to the state incentive program boom in the 2000s, Louisiana is not giving away credits to companies that would have located to and filmed in the state anyway” (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 in tax rebates and credits provided and New Mexico limited the total value of 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 rein them in.

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. The MPAA also took issue with how Thom defined a film industry job. Thom’s paper defines jobs to include “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. The MPAA failed to note that since Thom had his article published in an academic journal, it did go through a peer review process.

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**

Since the adoption and rise of film tax incentives, discussions around the topic of the film industry focus less on the art and more on the economic impact of the production. Jennifer Vanderburgh (2016), a film and media studies professor, 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 conversation in the film production industry in Canada, but tax credit thinking is also the norm in the U.S. 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 Las 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]” where the term “disguise their production locations” refers to the practice of filming in a location and then stating that it is a different location in the universe of the film (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. Since film productions are mobile, a production receiving tax breaks from a state government does not guarantee that said money will be spent in that state, generating less revenue for local businesses than expected.

**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. This is an issue for states that continue to give tax breaks and credits to the five major film production studios. These companies do not spend enough in the state they have received the incentive from for the state to see any positive economic benefit. While the effectiveness of state film tax incentive programs is not fully agreed upon, 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, which could help a state both economically and culturally. 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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