



GLENN A. CUNHA
INSPECTOR GENERAL

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Office of the Inspector General

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March 25, 2015

The Honorable Michael J. Rodrigues, Senate Chair
Joint Committee on Revenue
State House, Room 213B
Boston, MA 02133

Dear Chairman Rodrigues:

I write in support of the elimination of the Massachusetts film tax credit and sales tax exemptions for production companies that film within the state, contained in sections 3, 4, 5, 7, 8 and 10 of House bill 62. Elimination of the film tax credit and sales tax exemptions (together, "film tax credit") would recognize that they are not in the best interest of Massachusetts. There are other tax policies that could more positively and directly impact the citizens and the economy of Massachusetts.

The film tax credit, enacted in 2005, was supposed to offer the citizens of Massachusetts an incentive program that would spur economic growth and create jobs. According to the Department of Revenue's ("DOR") *Report on the Impact of Massachusetts Film Industry Tax Incentives Through Calendar Year 2012*, between 2006 and 2012, the Commonwealth has awarded approximately \$411 million in tax credits for 812 productions. Although this investment has resulted in some new spending for film production in Massachusetts, the DOR report indicates that this new spending (\$260.9 million from 2006 to 2012) is far less than the tax revenue the Commonwealth has forgone due to the film tax credit. The DOR data also shows that as much as 66% of all new film production spending flowed to out-of-state businesses and non-Massachusetts residents.

The job creation record for the film tax credit shows a similar picture. The DOR estimates that 3,000 net new jobs were created for Massachusetts residents as a result of the film tax credit from 2006 to 2012. However, the taxpayers' cost to create jobs for Massachusetts residents was \$118,873 per job, while the median wage for those jobs was \$64,775 in 2012.

Another flaw in this program is the ability of third-party brokers to buy and re-sell a film tax credit. Most production companies do not pay taxes in Massachusetts and therefore sell their tax credits directly to Massachusetts companies or to third-party brokers. Third-party brokers sell the tax credits to entities that have Massachusetts tax liabilities. The seller of the film tax credit typically receives less than the full value that the production originally received from the state.

Chairman Rodrigues

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The DOR estimates that approximately \$9.7 million of the total credits awarded from 2006 to 2012 were retained by these brokers as gross profit. Further, if a production company sells the film tax credit to a broker, or directly to an entity with Massachusetts tax liabilities, outside of Massachusetts, the state loses any tax revenue that would normally be associated with the transfer, sale or assignment of the tax credit.

Additionally, the film tax credit in Massachusetts lacks the proper fraud prevention mechanisms that any tax incentive program should have. No agency is designated to verify the documentation submitted to receive the film tax credit. Without this verification, the Commonwealth cannot be sure that the costs submitted are legitimate or that the film tax credit is justified in each case. This lack of oversight allows for the possibility that a production company may report inflated expenses in order to receive a higher credit. That was the case when film director Daniel Adams submitted inflated costs to Massachusetts on two occasions in 2006 and 2009, defrauding the state of \$4.7 million. The DOR discovered this inflation on a submission for the second production. He was subsequently sentenced to prison for larceny, false claims and tax fraud.

Massachusetts is not the only state to re-examine the value of the film tax credit recently. In the wake of scandals and a lackluster effect on the economy, other states, such as Arizona and New Jersey, have also determined that the benefit of the tax credit does not outweigh its cost. In 15 states, the film tax incentive program has been either suspended or reduced. One of the main reasons cited in many cases is the fact that the credits benefitted out-of-state entities. In Iowa, the state suspended the film tax credit program in 2009 after uncovering scandals involving filmmakers fraudulently claiming tax credits and discovering lax oversight of the program.

It is clear from the overwhelming evidence cited by the DOR that the film tax credit is a significant loss for the Commonwealth. I therefore support the repeal of the film production tax incentive program so that those state resources may be used more wisely, especially given the state's current budgetary issues.

If you have any questions, please do not hesitate to contact me.

Sincerely,

A handwritten signature in blue ink, appearing to read "Glenn A. Cunha".

Glenn A. Cunha
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March 25, 2015

The Honorable Jay R. Kaufman, House Chair
Joint Committee on Revenue
State House, Room 34
Boston, MA 02133

Dear Chairman Kaufman:

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If you have any questions, please do not hesitate to contact me.

Sincerely,

A handwritten signature in blue ink that reads "Glenn A. Cunha". The signature is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

Glenn A. Cunha
Inspector General