

## PROPOSED MASSACHUSETTS TAX EXPENDITURES EVALUATION SUMMARY

**EVALUATION YEAR: 2020**

<b>TAX EXPENDITURE TITLE</b>	Film Production Incentives (tax credit and sales tax exemption)
<b>TAX EXPENDITURE NUMBER</b>	1.611, 2.614, 3.004
<b>TAX EXPENDITURE CATEGORY</b>	Credit against tax ( <i>personal income tax, corporate and business tax</i> ) Exempt entities ( <i>sales tax</i> )
<b>TAX TYPE</b>	Personal income tax, corporate and business tax credits; sales and use tax exemption
<b>LEGAL REFERENCE</b>	M.G.L. c. 62, § 6(l), c. 63, § 38X, c. 64H, § 6(ww)
<b>YEAR ENACTED</b>	November 23, 2005
<b>REPEAL/EXPIRATION DATE</b>	January 1, 2023
<b>ANNUAL REVENUE IMPACT</b>	Tax loss of \$65-80 million annually FY17-FY21
<b>NUMBER OF TAXPAYERS</b>	During 2006-2016, the number of film projects granted the credit varied from 97 to 162 annually.
<b>AVERAGE TAXPAYER BENEFIT</b>	\$480,000 per project during 2006-2016

<b>Description of the Tax Expenditure:</b> The Massachusetts film tax incentives, as amended in July 2007 allow a producer of a motion picture a tax credit equal to 25% of the film's production cost and 25% of the film's payroll costs. They also provide an exemption from sales tax for film productions in Massachusetts.	<b>Is the purpose defined in the statute?</b> The statute does not explicitly state the purpose of this tax expenditure. We inferred that the purpose is to attract film productions to Massachusetts to create jobs.
<b>What are the fiscal, economic, or other goals of the expenditure according to the statute?</b> [Not defined in statute; to be determined by TERC]	<b>Are there other states with a similar Tax Expenditure?</b> 31 states, Washington D.C., Puerto Rico and the U.S. Virgin Islands maintain film incentive programs

**Conclusion/Recommendations: [To be Entered by TERC]**

# **Expenditure Evaluation Check List**

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The legislation creating the Tax Expenditure Review Commission, Chapter 207 of 2018, identifies five evaluation criteria:

## **Intent**

- ☐ Identify the purpose, intent and goal of the expenditure
- ☐ Assess whether the expenditure as designed is accomplishing its purpose

## **Fiscal Impacts or Costs**

- ☐ Identify past and future impact
- ☐ Identify impact on both state and local taxing authorities

## **Economic Benefits**

- ☐ Determine economic gains
- ☐ Assess number of jobs created/retained, or lost

## **Evaluation: Comparing Costs and Benefits**

- ☐ Determine return on investment (ROI)
- ☐ Conclusion as to whether the expenditure is a cost-effective use of resources

## **Similar Tax Expenditures Offered by Other States**

- ☐ Identify similar tax expenditures offered by other states.
- ☐ Determine the impact of the tax expenditure on regional and national economic competitiveness.

# Incentive Evaluation Results

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## INTRODUCTION

### What is the Tax Expenditure?

The Massachusetts film tax incentives, as amended in July 2007, are composed of a tax credit equal to 25% of a film's production cost and 25% of a film's payroll costs, and an exemption from sales tax for film productions. Note that the spending does not have to be paid to a Massachusetts vendor to qualify. All of a project's spending can qualify for the credit if more than half of its principle filming days occurred in Massachusetts.

The tax credits are available to both corporate excise and personal income tax filers, and can be used to reduce the production company's tax liability and/or they may receive cash refunds from the Department of Revenue equal to 90% of the amount of the tax credit. The tax credits may also be transferred or sold by production companies to third parties that may use the tax credits to reduce their Massachusetts corporate, insurance, financial institution, or personal income tax liabilities. Over 89% of film tax credits issued have been sold to third parties.

The sales tax exemption applies to sales of tangible personal property to a qualifying motion picture production company or to an accredited film school student for the production expenses related to a school film project.

### Are there similar Tax Expenditures in other states?

State film tax credits grew in popularity until by 2009, 44 states, Puerto Rico and Washington D.C., offered some form of film and television production incentives. However, the number of states offering these programs has decreased in recent years. In 2018, only 31 states, Washington D.C., Puerto Rico and the U.S. Virgin Islands continue to maintain film incentive programs, and several of these states are tightening the requirements for qualifying expenses and reeling in per-project and annual program caps. (see National Conference of State Legislatures, <https://www.ncsl.org/research/fiscal-policy/state-film-production-incentives-and-programs.aspx>)

## INTENT OF THE TAX EXPENDITURE

The statute does not explicitly state the purpose of this tax expenditure. We inferred that the purpose is to attract film productions to Massachusetts; the implied assumption is that major film productions will create jobs and increase economic activity in Massachusetts.

## COSTS

The revenue loss from film tax incentives come almost entirely from the credit, which has fluctuated from year to year. Most of the fluctuation is due to national economic conditions (the impact of the recession after 2009 can be seen in the table below) and, related to that, the number of feature films qualifying for the credit. Feature films, although a small number of total projects, generally represent 80% of the spending that qualifies for the credit.

<b>Table 3 - Aggregate Amount of Tax Credits Generated and Used</b>			
<b>(Dollar amounts are in millions)</b>			
<b>Year</b>	<b>Number of Productions / calendar year</b>	<b>\$ Amount of Tax Credits / calendar year</b>	<b>Estimated \$ Amount of Tax Credits Used By Fiscal Year</b>
2006*	97	\$19.4	\$0.0
2007	125	\$39.9	\$11.9
2008	162	\$120.4	\$10.5
2009	107	\$85.3	\$110.0
2010	121	\$19.2	\$90.8
2011	114	\$48.6	\$45.9
2012	130	\$82.0	\$55.7
2013	129	\$70.6	\$80.1
2014	146	\$67.0	\$41.8
2015	121	\$69.7	\$77.6
2016	138	\$45.7	\$71.1
2017	N/A	N/A	\$65.0
<b>Total Approved / Pending**</b>	<b>1,390</b>	<b>\$667.8</b>	<b>\$660.4</b>
* For tax year 2006, the payroll credit was only 20% and credits were capped at \$7 million for any one production			
** Through December 31, 2018; some projects in final states of approval.			
Detail may not add to total due to rounding.			

“Table 3” from the preliminary “Report on the Impact of Massachusetts Film Industry Tax Incentives through Calendar Year 2016”

The table shows the total credit liability of \$667.8 million accumulated since the start of the credit. Note that there is typically a delay between when the filming activity occurs and when the credit is claimed (which is when the tax loss is realized by the state). The right column shows the total actual cost of \$660.4 million to the state’s budget as filers claimed the credits. Filming may occur in one calendar year, but the associated credits may not be claimed, approved, and used until subsequent fiscal years.

The FY21 Tax Expenditure Budget estimates the future cost of the film tax incentives as follows (“Credit” is total for corporate excise and personal income tax loss):

	Tax type	FY 2017	FY 2018	FY 2019	FY 2020	FY 2021
Film (or Motion Picture) Credit	Corporate and Income	\$65.0	\$56.7	\$79.1	\$80.0	\$80.0
Sales Tax Exemption	Sales	\$0.3	\$0.3	\$0.3	\$0.3	\$0.3

[Insert: Additional notes on other costs to the extent that they are quantified in film credit reports and approved by the TERC members]

## **BENEFITS (economic gains, if any, offsetting the revenue loss)**

Film producers, whether in state or out of state, will derive an economic benefit from this tax expenditure directly. Individuals who are employed in the film industry and businesses selling inputs to the film industry will also derive an economic benefit from this tax expenditure.

After subtracting payments to non-residents and non-Massachusetts businesses, as well as state spending reductions required to fund the tax credits in order to maintain a balanced budget, the film tax credit program resulted in \$28.7 million in net new spending in the Massachusetts economy during the calendar year 2016. Over the calendar year 2006 to 2016 period, the film incentive program resulted in \$503.2 million in net new spending in the Massachusetts economy.

In addition to the net new direct spending, economic activity generated by film spending produces a positive multiplier impact. However, this is offset by the necessary cuts in state spending to pay for the film credits, a negative multiplier impact. After taking into account the full impacts, including the direct impact and the multiplier impact, the film incentive program in 2016 generated net new Massachusetts Gross State Product (GSP) of \$60.7 million, and \$27.8 million in personal income.

It is possible that Massachusetts could experience an increase in economic activity from greater exposure of the Commonwealth through films and other productions that are made in Massachusetts. Some studies have suggested that having high-profile movie and television actors in the Commonwealth for extended periods of time might be tantamount to advertising. However, those studies have generally been conducted or sponsored by interested parties, and there have been some reports indicating that the findings and methodologies of those studies that do exist are controversial or biased (see for example <http://www.cbpp.org/files/11-17-10sfp.pdf>). DOR is not aware of any published and peer-reviewed study by someone other than an interested party measuring the direct and indirect impact of the film credit in an unbiased, objective manner.

[Insert: Additional notes on other benefits to the extent that they are quantified in film credit reports and approved by TERC]

## EVALUATION: COMPARING COSTS AND BENEFITS

The film tax incentives, principally the credit, has created jobs and increased state GSP, but it is hampered by the leakage out of state, and of course the cost of the credits themselves. “Leakage” is when economic activity is generated by the tax incentive, but occurs outside of Massachusetts; the benefits are not captured locally but instead leak into the broader national economy. Massachusetts has a balanced budget requirement, and so every dollar spent on the film credit is one less dollar that can be spent in other ways. This offsets a portion of the benefits of the credit, and increases the cost per Massachusetts-resident job created.

Dynamic Economic Impacts of Film Incentives	2006-2016
Net \$ Cost to State (\$millions)	\$575.8
\$ in State Revenue Per \$ of Tax Expenditure	\$0.14
Net Cost to State Per MA Resident Job Created (\$)	\$102,370
Net Cost to State Per MA & Non-MA Job Created (\$)	\$70,472

Condensed from “Table 5” of the preliminary “Report on the Impact of Massachusetts Film Industry Tax Incentives through Calendar Year 2016”

The leakage also impacts the taxes generated by film activity. While film activity does generate new state tax collections (particularly income tax on wages), that revenue only equaled 14-cents for each dollar of tax credits issued over the 2006 to 2016 period.

[Insert: Additional notes on other findings relevant for cost/benefits discussion - to the extent that they are quantified in film credit reports and approved by TERC]

## IS THE INCENTIVE AS DESIGNED ACCOMPLISHING ITS PURPOSE?

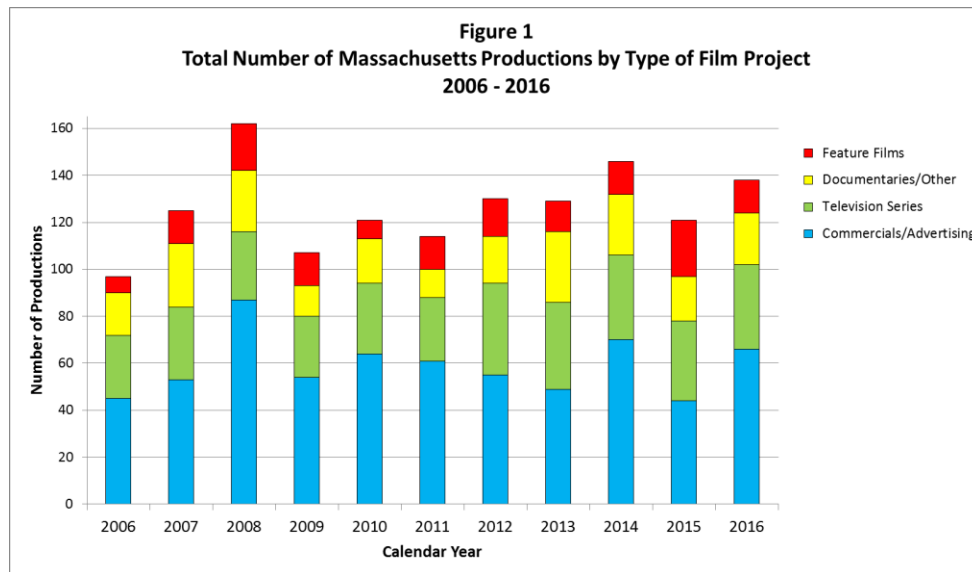
[NOTE: Like most tax expenditures, the purpose/goals of the film credit are not specifically stated in the statute. Input from the TERC will be sought as part of a review. Below is an example of some points likely to be considered.]

**Goal: Promoting filming activity in Massachusetts.**

The credit generally supports filming activity in Massachusetts. Although total spending has varied, the number of projects qualifying for the credit has generally increased since the recession.

[To be added: However, compared to pre-recession levels,.....]

[To be inserted: Comparison of filming activity pre-2006 and post 2006.]



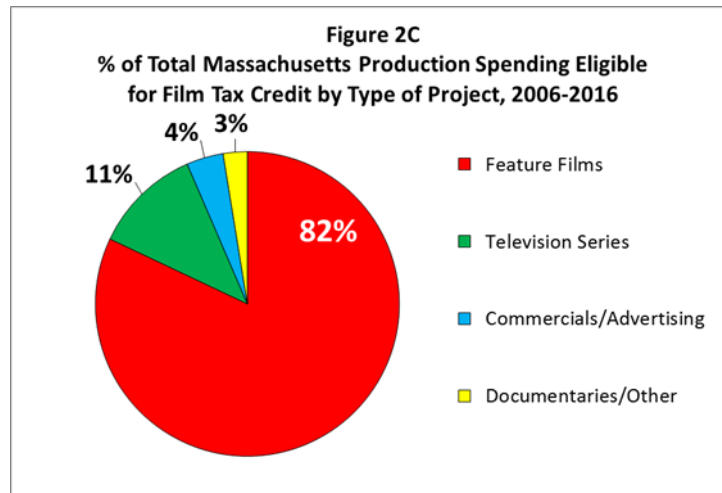
“Figure 1” of the preliminary “Report on the Impact of Massachusetts Film Industry Tax Incentives through Calendar Year 2016”

[To be inserted: Comparison of pre-2006 and post 2006 job levels in film industry.]

**Goal: Job creation in Massachusetts.**

[This is a placeholder; TERC process will develop criteria for determining effectiveness of tax expenditures. Metrics may include:]

- Cost per job created;
- Total spending; In-state spending generated;
- Beneficiaries by type/income level;



"Figure 2C" of the preliminary "Report on the Impact of Massachusetts Film Industry Tax Incentives through Calendar Year 2016"

## WHAT IMPACT WOULD ELIMINATING THE TAX EXPENDITURE HAVE ON BENEFICIARIES?

The film producers would no longer receive financial aid from the Commonwealth to offset their costs of shooting films in Massachusetts. As a result film activity in the state may decline.

[To be inserted: Discussion on benefits to the state as a result of retaining the credits and using them in other productive sectors of the economy.....]