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# Big Sky on the Big Screen Act— State Tax Incentives for the Film Industry

*By Steve Wells and Clyde Posey*

Steve Wells and Clyde Posey examine the wide variety of state tax incentives available to the film industry.

## **Introduction**

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Some states have made tax incentives an integral component of their economic development packages. While some studies conclude that such incentives have not worked effectively, there continues to be a persistent growth in their use. Advocates present a strong political case that such incentives create new jobs and improve the state's economy. Some recent examples include Alabama providing incentives to ThyssenKrupp, Mississippi to Nissan and Toyota, Kentucky to UPS and Ford, and North Carolina to producers of video games. Corporations reap the benefits of the tax incentives and enjoy watching states compete for the privilege of giving away tax dollars.

A number of states are courting the film industry with hopes of landing a major motion picture project. For many decades, the film and television industry was centered in Hollywood, California. The picture-media industry, along with other natural advantages, propelled California into the most mighty economic power of the 50 states in the United States. This did not go unnoticed by the other 49 states and they also began to compete for film industry commerce.

Recently, in an effort to attract the film industry, the Montana State Legislature passed the "Big Sky on the Big Screen Act," which provides tax incentives to attract movie and TV production companies. Likewise, Alabama, Louisiana, Massachusetts and many others states have enacted legislation providing various types of tax incentives for the film industry.

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A primary goal of this study is to identify and compare the various approaches used by the states in granting incentives to the film industry. A brief examination of the tax incentive schemes for several selected states, including Alabama, South Carolina and New Mexico, is provided. Additionally, a summary of each state's approach to providing incentives to the film industry is provided in bullet format in the accompanying table. Contact information of the state film offices, including telephone numbers and Web addresses, is also included in the table. The study should be of interest to decision makers in the film industry, industry legal and financial advisors, and to those responsible for making state tax policy decisions.

An examination of the various states reveals a number of approaches to offering incentives, including tax credits, sales or use tax exemptions, lodging tax reductions and others. This is a moving target as state legislatures are constantly reviewing incentives in an attempt to keep up with neighboring states that might be considered competitors for the film industry.

In some instances, the relatively small amounts involved in these incentives may be a marketing tool rather than a major economic benefit to the producing company. Additionally, some incentives appear to be long on form and short on substance. Finally, all tax incentives included in this study are subject to change and should be confirmed before any production decisions are made. The following is a brief summary of each type of incentive examined in the study.

## **Tax Credits**

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An analysis of the 50 states, plus the District of Columbia and Puerto Rico, reveals that the largest group of incentives used is tax credits. In many instances, there are conditions that must be met before the tax credits become available. For example, North Carolina requires that a production company spend at least \$250,000 on a motion picture or television production in order to be eligible to receive a refundable tax credit of up to 15 percent in state spending for goods, services and labor.

In addition, many states have a combination of factors that are designed to provide tax incentives to the

media image industry. It is the general conclusion of the state leaders that the benefits are worth the cost because of the multiplier effect in the economy, the creation of new jobs and other economic benefits to their states.

## **Sales or Use Tax Exemptions**

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Many states have a sales or use tax exemption on selected items in place to provide an incentive for media image companies to operate in their states.

A sales or use tax exemption does not provide a major incentive, but it does reduce costs for a production company to a limited degree and might be a deciding factor in some cases. Very closely allied with sales or use tax exemptions are states that have no sales tax. Once

again, this may be a contributing factor in a decision to produce in a specific state over another location.

## **Lodging Tax Reductions**

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A number of states also have lodging tax reductions or eliminations after a specified period of time. A representative example is found in Vermont, where there is no lodging tax on hotel rooms for production companies after 31 days. This requirement is an attempt to keep the production company in Vermont for more than a month. This provision alone would probably not be a deciding factor in a location decision. However, coupled with other tax incentives, it might provide an attractive package.

## **No Income Tax**

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While this provision was generally not enacted specifically for the movie industry, it can be compelling benefit in some cases. There is no state income tax on individuals in Alaska, Florida, Nevada, South Dakota, Texas, Washington and Wyoming.

## **Other State Tax Benefits**

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There are other minor tax benefits, including sales and use tax refunds, transaction privilege tax exemptions, selected tax abatements, investment tax

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credits and production tax credits. All of these may be packaged with other incentives to entice movie companies to do business in their state.

## **“Creative” or Unique Incentives**

Wisconsin officials have been very ingenious. In addition to other tax credits and enticements, complementary incentives such as the free use of state-owned buildings and locations, fee-free permits, the use of state-owned a dedicated “traffic control” police unit during daylight hours and internal accounting reports on verification of incentive savings to the production company are available on a city-by-city basis.

New Jersey also provides unique incentives in the form of certain loan guarantees. The New Jersey Film Production Assistance Program allows film projects to be eligible for loan guarantees through the Economic Development Authority. Loan guarantees cannot exceed 30 percent of the bank financing cost of the project, or \$1.5 million, whichever is less.

If a movie company says, “Show me the money,” Virginia is ready to respond. Virginia provides a cash rebate at the governor’s discretion, taking into consideration length of filming, job creation, trainees hired, goods and services purchased. The rebate will be paid to qualified production companies at the end of physical production and payment will be issued upon completion of a report of Virginia expenditures.

Many states also allow the use of state property at little or no cost. For example, in Virginia, most state-owned locations are provided free of charge.

## **Selected States**

Alabama, South Carolina and New Mexico provide some interesting lessons for other states that are considering legislation to adopt incentives or to update previously adopted incentives. Alabama, for example, enacted legislation during the 2009 session to modify incentives offered to the film industry. House Bill 69 was supported by a number of diverse business and trade associations and passed both houses unanimously. The full details are available at [www.alabamafilm.org](http://www.alabamafilm.org).

*org*. Attempts had been made in the past to adopt incentives, but none had prevailed. When nearby states of Louisiana and Mississippi recently passed incentives, Alabama’s desire to stay competitive with neighboring states was likely a motivating factor in the overwhelming support of the measure.

An examination of South Carolina’s incentives reveals that it is a cash rebate, not a tax credit. In

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some cases, tax credits involve a broker’s fee and a waiting period. However, South Carolina’s program promises a rebate check within 30 days of the final audit.

The complete details of

South Carolina’s incentives can be obtained by contacting the South Carolina Film Commission or by going to [www.scfilmoffice.com](http://www.scfilmoffice.com).

According to officials, the region of Beaufort, Hilton Head Island and neighboring counties, and the Sea Islands of South Carolina have provided the backdrop for more than 20 major motion pictures, including *Forrest Gump* and *The Big Chill*. Additional information is available at [www.beaufortsc.org/cwo/Film/Festival](http://www.beaufortsc.org/cwo/Film/Festival) and [www.filmsc.com](http://www.filmsc.com).

New Mexico is another state worthy of review. A recent study commissioned by the Legislative Finance Committee found that the incentives for the film industry were ineffective. The study concluded that New Mexico was receiving less than 20 cents in tax revenue for every dollar spent on the tax rebate for film production. However, the governor of the state authorized a second study that reached a different conclusion. According to a study by Ernst & Young, the tax credits have created over 9,200 jobs and have had a significant impact on the state’s economy. With the current economic environment, it is not surprising that the incentives are stirring considerable debate as to their effectiveness. The Ernst & Young study and additional information can be obtained from the New Mexico Film Office.

## **Summary and Conclusions**

The states and political subdivisions reviewed in this article are competing vigorously for movie and image industry business with a wide variety of tax and other incentives. How effective are their efforts

in reaching the goals of their states? Do the benefits gained from providing the tax incentives outweigh the costs? Without state tax incentives, would the film industry be more likely to move production of motion pictures to Canada, Mexico or Europe? These are very difficult questions to answer objec-

tively. However, many observers apparently believe that the economic benefits to their state outweigh the costs associated with their activities. One thing is relatively certain—the movie companies should have lower costs and higher profits as a result of the various state tax incentives.

State	Type Of Tax Incentive	Contact Information
Alabama	<ul style="list-style-type: none"> <li>• Sales and use tax exemption</li> <li>• Lodging tax exemption</li> <li>• Income tax credit, 25% of qualified expenditures (including payroll)</li> </ul>	Alabama Film Office (334) 242-4195 www.alabamafilm.org
Alaska	<ul style="list-style-type: none"> <li>• 30% transferrable tax credit on qualified expenditures</li> <li>• 10% credit for wages paid to Alaska residents</li> <li>• No sales tax</li> <li>• No individual income tax</li> </ul>	Alaska Film Office (907) 465-5478 www.alaskafilm.org
Arizona	<ul style="list-style-type: none"> <li>• Sales tax exemption on qualified expenditures</li> <li>• Use tax exemption on machinery, equipment and other tangible personal property.</li> <li>• 10%-20% transferrable income tax credit</li> </ul>	Arizona Film Office (602) 771-1193 www.azcommerce.com/film
Arkansas	<ul style="list-style-type: none"> <li>• 15% rebate on qualified film production expenditures</li> <li>• 10% rebate for payroll of Arkansas residents</li> </ul>	Arkansas Film Office (501) 682-7676 www.arkansasfilm-commission.com
California	<ul style="list-style-type: none"> <li>• No state occupancy tax</li> <li>• 5% sales tax exemption on post-production equipment</li> <li>• 20%-25% tax credit on qualified expenditures (beginning July 2009)</li> </ul>	California Film Commission (323) 860-2960 www.film.ca.gov
Colorado	<ul style="list-style-type: none"> <li>• 10% rebate of production costs</li> </ul>	Colorado Film Commission (303) 592-4065 www.coloradofilm.org
Connecticut	<ul style="list-style-type: none"> <li>• Sales and use tax exemptions</li> <li>• Property tax exemptions</li> <li>• Corporate business tax credits</li> </ul>	Connecticut Film Division (860) 256-2800 www.ctfilm.com
Delaware	<ul style="list-style-type: none"> <li>• No specific film incentives</li> <li>• No sales tax</li> </ul>	Delaware Film Office (302) 672-6857 www.Dedo.delaware.gov/filmoffice
Florida	<ul style="list-style-type: none"> <li>• Cash rebates</li> </ul>	Florida Office of Film (818) 508-7772 www.filminflorida.com
Georgia	<ul style="list-style-type: none"> <li>• Tax credit</li> <li>• Sales and use exemption</li> </ul>	Georgia Film Office (404) 962-4052 www.georgia.org
Hawaii	<ul style="list-style-type: none"> <li>• Income tax credits</li> </ul>	Hawaii Film Office (808) 586-2570 www.hawaiifilmoffice.com
Idaho	<ul style="list-style-type: none"> <li>• Sales tax rebate</li> <li>• Lodging tax exemption after 30 days</li> </ul>	Idaho Film Office (208) 334-2470 www.filmidaho.org
Illinois	<ul style="list-style-type: none"> <li>• Production tax credit</li> </ul>	Illinois Film Office (312) 814-3600 www.illinoisfilm.biz

State	Type Of Tax Incentive	Contact Information
Indiana	<ul style="list-style-type: none"> <li>• Production sales credit</li> <li>• Sales tax exemption in some cases</li> </ul>	Film Indiana (317) 234-2087 www.in.gov/film
Iowa	<ul style="list-style-type: none"> <li>• Income tax credit</li> <li>• Investment tax credit</li> </ul>	Iowa Film Office (515) 242-4726 www.iowalifechanging.com/film
Kansas	<ul style="list-style-type: none"> <li>• No hotel occupancy tax for stays in excess of 28 days</li> </ul>	Kansas Film Office (785) 296-2178 www.kansascommerce.com
Kentucky	<ul style="list-style-type: none"> <li>• Refund of Kentucky sales or use tax paid</li> <li>• Nonrefundable credit against Kentucky income tax</li> </ul>	Kentucky Film Office (502) 564-3456 www.Kyfilmoffice.com
Louisiana	<ul style="list-style-type: none"> <li>• 25% transferable tax credit on in-state production expenditures</li> <li>• Additional 10% labor tax credit on residential labor</li> <li>• No limit on amount of tax credits that can be earned</li> </ul>	Louisiana Entertainment (225) 342-5403 www.louisianaentertainment.gov/film
Maine	<ul style="list-style-type: none"> <li>• Income tax rebate</li> <li>• Wage tax rebate</li> </ul>	Maine Film Office (207) 624-7631 www.filmmaine.com
Maryland	<ul style="list-style-type: none"> <li>• Exemption from 6% state sales and use tax</li> <li>• Film production rebate fund</li> </ul>	Maryland Film Office (410) 767-6340 www.marylandfilm.org
Massachusetts	<ul style="list-style-type: none"> <li>• Payroll tax credit up to 25%</li> <li>• Production expense credit</li> <li>• General sales tax exemption</li> <li>• 90% of unused credits eligible for refund</li> </ul>	Massachusetts Film Office (617) 423-1155 www.mafilm.org
Michigan	<ul style="list-style-type: none"> <li>• 52% tax credit for all production expenditures</li> <li>• Additional 25% credit for certain infrastructures</li> <li>• No cap on annual credits</li> </ul>	Michigan Film Office (517) 373-3456 www.michigan.gov/filmoffice
Minnesota	<ul style="list-style-type: none"> <li>• 15% rebate on qualified production expenditures</li> <li>• TV commercials are exempt from state sales tax</li> <li>• Lodging tax exemption for stays in excess of 30 days</li> </ul>	Minnesota Film and TV Board (612) 767-0095 www.mnfilm.org
Mississippi	<ul style="list-style-type: none"> <li>• Tax rebates</li> <li>• Sales and use tax exemption</li> </ul>	Mississippi Film Office (601) 359-3297 www.visitmississippi.org/film
Missouri	<ul style="list-style-type: none"> <li>• Income tax credit</li> <li>• Bank tax credit</li> <li>• Insurance premium tax credit</li> <li>• Other financial institution tax credits</li> </ul>	Missouri Film Office (573) 522-1288 www.missouribusiness.net/film

State	Type Of Tax Incentive	Contact Information
Montana	<ul style="list-style-type: none"> <li>• Employment production tax credit</li> <li>• Tax credit for qualified expenditures</li> </ul>	Montana Film Office (406) 841-2876 www.montanafilm.com
Nebraska	<ul style="list-style-type: none"> <li>• No specific film incentives</li> </ul>	Nebraska Film Office (402) 471-3746 www.filmnebraska.org
Nevada	<ul style="list-style-type: none"> <li>• No specific film incentives</li> <li>• No state income tax</li> <li>• Lodging tax waiver after 30 days</li> </ul>	Nevada Film Office (702) 486-2711 www.nevadafilm.com
New Hampshire	<ul style="list-style-type: none"> <li>• No specific film incentives</li> <li>• No state income tax</li> <li>• No sales or use tax</li> <li>• No capital gains tax</li> </ul>	New Hampshire Film Commission (603) 271-2220 www.nh.gov/film
New Jersey	<ul style="list-style-type: none"> <li>• Corporation business tax credit for certain film production expenses</li> <li>• Sales tax exemption</li> </ul>	New Jersey Motion Picture Commission (973) 648-6279 www.njfilm.org
New Mexico	<ul style="list-style-type: none"> <li>• 25% tax rebate on all production expenditures</li> <li>• Payroll tax rebate</li> <li>• Interest free investment loans up to \$15 million per film or TV project</li> <li>• 50% advanced wage reimbursement for New Mexico employees</li> <li>• No sales tax</li> </ul>	New Mexico Film Office (505) 476-5600 www.nmfilm.org
New York	<ul style="list-style-type: none"> <li>• 30%-35% tax credit on qualified production expenditures</li> <li>• Sales and use tax exemption</li> <li>• 5% investment tax credit</li> </ul>	New York Film Office (212) 803-2330 www.nylovesfilm.com
North Carolina	<ul style="list-style-type: none"> <li>• 15% tax credit on qualified production expenditures</li> <li>• Reduced sales tax for production-related expenditures</li> <li>• Investment tax credit</li> <li>• Lodging tax exemption for stays in excess of 90 days</li> </ul>	North Carolina Film Office (919) 733-9900 www.ncfilm.com
North Dakota	<ul style="list-style-type: none"> <li>• No specific film incentives</li> </ul>	North Dakota Tourism (701) 328-2525 www.ndtourism.com/industry
Ohio	<ul style="list-style-type: none"> <li>• No specific film incentives</li> </ul>	Ohio Film Office (614) 466-8844 www.discoverohio-film.com
Oklahoma	<ul style="list-style-type: none"> <li>• 15% rebate of qualified expenditures</li> <li>• 25% income tax credit for reinvestment in an Oklahoma film or music project</li> <li>• 25% income tax credit for construction of Oklahoma film/music facilities</li> <li>• Sales tax exemption</li> </ul>	Oklahoma Film and Music Office (405) 230-8440 www.oklahomafilm.org
Oregon	<ul style="list-style-type: none"> <li>• 10% rebate of Oregon-based production expenses (including labor)</li> <li>• Greenlight labor rebate provides cash payment of up to 6.2% of qualifying wages</li> <li>• No sales tax</li> </ul>	Oregon Office of Film & Television (503) 229-5832 www.oregonfilm.org

State	Type Of Tax Incentive	Contact Information
Pennsylvania	<ul style="list-style-type: none"> <li>• 6% sales tax exemption for film production companies that produce for a national audience</li> <li>• Assignable corporate, partnership or income tax credit equal to 20% of production costs including wages if in-state spending is 60% of aggregate production expenses for features and television productions. Three year carry forward provision, total annual state credit disbursement capped at \$10 million per fiscal year</li> <li>• Pennsylvania also provides free use of state property</li> </ul>	Pennsylvania Film Office (717) 783-3456 www.filmpa.com
Rhode Island	<ul style="list-style-type: none"> <li>• 25% motion picture company transferable tax credit for all Rhode Island spending</li> <li>• No caps (this includes salaries for people working on the ground)</li> <li>• Film/TV commercial/video game production must be filmed primarily in the state of Rhode Island and have a minimum budget of \$300,000</li> </ul>	Rhode Island Film Office (401) 222-3456 www.film.ri.gov
South Carolina	<ul style="list-style-type: none"> <li>• 20% cash rebate on employee wages</li> <li>• 30% cash rebate on supplier expenditures</li> <li>• Productions spending over \$250,000 in South Carolina are exempt from sales and accommodations taxes</li> <li>• Eligible to use state properties location fee-free</li> </ul>	South Carolina Film Office (803) 737-3301 www.scfilmoffice.com
South Dakota	<ul style="list-style-type: none"> <li>• Tax refund to production companies for projects made in the state with costs over \$250,000 in taxable costs incurred in South Dakota</li> <li>• No sales tax on hotel rooms for production companies after 28 days</li> <li>• No corporate or personal income tax</li> </ul>	South Dakota Film Office (605)773-3301 www.filmsd.com
Tennessee	<ul style="list-style-type: none"> <li>• Sales and use tax refunded if production companies spend at least \$500,000 during a 12-month period</li> <li>• No lodging tax on hotel rooms for production companies after 30 days</li> <li>• No state or local income tax</li> <li>• State-owned buildings and land are available to filmmakers free of charge</li> </ul>	Tennessee Film Office (615) 741-3456 www.state.tn.us/film

## Big Sky on the Big Screen Act—State Tax Incentives for the Film Industry

State	Type Of Tax Incentive	Contact Information
Texas	<ul style="list-style-type: none"> <li>• Comprehensive sales and use tax exemption for film/ video production</li> <li>• Exemptions apply to the entire amount of state sales tax (6.25%) and local sales taxes</li> <li>• No lodging tax on hotel rooms for production companies after 30 days</li> </ul>	Texas Film Commission (512) 463-9200 www.governor.state.tx.us/film
Utah	<ul style="list-style-type: none"> <li>• Tax rebate program that would typically offer 10-12% returns.</li> <li>• Rebate is dependent on script content and money spent in Utah</li> <li>• Sales and use tax exemption for the purchase, lease or rental of machinery and equipment</li> <li>• State also offers a transient room tax rebate after 30 days</li> </ul>	Utah Film Commission (801) 538-8740 www.film.utah.gov
Vermont	<ul style="list-style-type: none"> <li>• Offers a grant from the state to offset production costs</li> <li>• Producers spending \$1 million can be reimbursed for 10% of local spending, capped at \$1 million annually</li> <li>• No lodging tax on hotel rooms for production companies after 31 days</li> <li>• Sales and use tax exemption on goods and services purchased and used in the making of a film</li> <li>• Income tax for performers is limited to the amount the performer would pay in their home state</li> </ul>	Vermont Film Commission (802) 828-3618 www.vermontfilm.com
Virginia	<ul style="list-style-type: none"> <li>• Sales and use tax exemptions for production costs</li> <li>• State and local lodging tax exemptions</li> <li>• Some state-owned locations provided free</li> <li>• Performance-based incentive providing a cash rebate</li> </ul>	Virginia Film Office (804) 545-5530 www.film.virginia.org
Washington	<ul style="list-style-type: none"> <li>• 6.5% sales and use tax exemption on rental equipment</li> <li>• No state income tax</li> <li>• Local, state, and special use taxes off rental vehicles used in production</li> <li>• No lodging tax on hotel rooms for production companies after 30 days</li> </ul>	Washington State Film Commission (206) 264-0667 www.washingtonfilm-works.org

State	Type Of Tax Incentive	Contact Information
West Virginia	<ul style="list-style-type: none"> <li>• Purchases and rentals in West Virginia of tangible personal property directly used in an entertainment production project, as well as purchases in West Virginia of services directly used in entertainment production projects, are exempt from the 6.0% consumers sales and service tax</li> </ul>	West Virginia Film Office (866) 698-3456 www.wvfilm.com
Wisconsin	<ul style="list-style-type: none"> <li>• Investment tax credit of 25% for investing in Wisconsin based productions</li> <li>• Comprehensive sales and use tax exemption for machinery, equipment and services used in production and post-production</li> <li>• No tax for all film and television services contracted by out-of-state production companies</li> <li>• Refundable tax credit of 25% of direct production expenditures for feature films, television movies, episodic and mini-series television, video games, and broadcast advertising production</li> <li>• 15% state income tax credit for film, television and electronic game production businesses that make a capital investment by starting a business in Wisconsin</li> <li>• Further incentives are available on a city-by-city basis, including the use of state-owned buildings and locations free of charge as available, no fees for permits, a dedicated "traffic control" police unit during daylight hours at no cost and internal accounting reports on verification of incentive savings to the production company</li> <li>• Special industry cases for hotel rooms based on "room nights" for each production, including local hotel occupancy tax in their flat room rates to the individual production</li> </ul>	Film Wisconsin (414) 287-6235 www.filmwisconsin.net
Wyoming	<ul style="list-style-type: none"> <li>• 10% discount from certain Wyoming businesses on production related services, including hotels/motels, restaurants, and caterers</li> </ul>	Wyoming Film Office (307) 777-3400 www.wyomingfilm.org

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