



THE FILM INCENTIVE

ABSTRACT

Per the ALABAMA DEPARTMENT OF REVENUE
ADMINISTRATIVE CODE CHAPTER 810-17-1
ECONOMIC TAX INCENTIVES Reporting Requirements,
the Alabama Department of Commerce is reporting
on the Entertainment Industry Incentive Act

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Section I- Overview of the Economic Tax Incentive

Section One- The purpose of the Economic Tax Incentive and shall report whether or not each Economic Tax Incentive has been successful in meeting the purpose for which it was enacted, in particular, whether each Economic Tax Incentive benefits those originally intended to be benefited, and if not, those who have benefited.

A description of the Tax Incentive. The description shall include the initial statement of purpose of the Tax Incentive as provided for in the enabling legislation, the name(s) of the agency administering the Tax Incentive, a description of the Tax Incentive and how it is calculated or awarded, the history of the Tax Incentive which shall include when and under what authority the Tax Incentive was created, including any amendments to the statute and any departmental rules associated with the Tax Incentive;

The **Film Incentive** (the "Tax Incentive") was authorized by the Entertainment Industry Incentive Act of 2009. The enabling legislation for the Tax Incentive, administered by the Department of Commerce (the State Agency") provides the following statement of purpose:

- To attract investment for qualified productions and qualified production companies
- to help encourage increased employment opportunities within the state for the entertainment industry and increased global competition with other states in fully developing economic development options in Alabama within the industry
- to provide rebates for qualified production projects
- to provide exemptions from certain sales, use, and lodging taxes for production companies working in Alabama

A qualified production company shall be entitled to a 25% rebate of all state certified expenditures and 35% of all payroll paid to residents of Alabama for the state certified production. Production expenditures for a project must equal or exceed at least \$500,000 but must not exceed \$20,000,000.

The State Agency, through the Alabama Film Office is authorized to award up to \$20 million each year to production companies that produce certain projects in Alabama. This legislation, which was passed in 2009, is currently codified as Article 3, Chapter 7A, Title 41, Code of Alabama 1975. The Tax Incentive provides for a refundable income tax credit and an exemption from the state portion of sales, use, and lodgings taxes, if the production project meets certain conditions.

Act2009-144

Act2011-695

Act2012-167

Act2013-34

Administrative Rule 281-3-1

The goals of the Tax Incentive and whether or not the Tax Incentive has been successful in meeting these goals. For example, if a job creation incentive includes wage thresholds for a business to qualify, a goal for the tax incentive program would be to create high-paying jobs;

To increase and maintain film and video production taking place in Alabama and to proportionally

increase the economic impact of that industry on Alabama people, services, and communities

To generate more interest in Alabama as a location for the production of feature films, movies-of-the-week, educational and industrial films, music videos, documentaries, and television specials, series, and commercials by film and video production companies.

To increase usage of Alabama services and businesses by production companies from outside of Alabama.

To generate temporary jobs for Alabama crews, talent, and businesses on film and video production projects.

To increase spending by film and video production companies while filming in Alabama.

To generate more interest from regional production firms (such as in Atlanta & New Orleans,) in production opportunities in Alabama.

To generate more interest in Alabama as a vacation destination through exposure in the television and motion picture media.

A description of the intended beneficiaries of the Tax Incentive, including any tax types to which the Tax Incentive applies to or is designated. This description shall include the activities the Tax Incentive is intended to promote and the effectiveness of the Tax Incentive in promoting those activities.

The intended beneficiaries of the Tax Incentive are film production companies. The Tax Incentive provides for a refundable income tax credit and an exemption from the state portion of sales, use, and lodgings taxes. The Tax Incentive is intended to promote increase film production in Alabama and has been successful in that regard.

Describe how and why such recipients benefit from such Tax Incentive.

A Qualified Production Company is eligible to receive a Rebate of a portion of the expenditures incurred to produce a Qualified Production. The amount of the Rebate equals 25% of certain Production Expenditures on the project that are incurred in Alabama plus 35% of the payroll paid to Alabama residents.

The Rebate may be used to offset any Alabama income tax liability of the Qualified Production Company for the tax year during which such expenditures were paid or incurred. If the amount of the Rebate exceeds the Qualified Production Company's Alabama income tax liability, that excess will be refunded to the Qualified Production Company.

Section II- Impact and Benefits

Section Two shall encompass the impact of the Economic Tax Incentive and shall report whether or not the state receives a positive return on investment, specifically the direct and indirect impact on state and local tax revenues, from the business or industry for which the Economic Tax Incentive is intended to benefit and any other economic benefits produced by such Tax Incentive. If applicable, this shall include, but is not limited to:

The number of taxpayers applying for, qualifying for and claiming the Tax Incentive, and the Tax Incentive amounts (in dollars) claimed by taxpayers in the reporting year:

7 production companies claimed the Tax Incentive rebate in 2017 for \$4,741,869.48 and were exempt \$2,917.81 from sales, use and lodging taxes with \$16,774,169.76 in qualified Alabama Expenditures.

There were 15 production companies that applied and qualified for the Tax Incentive in 2017.

The number of taxpayers applying for, qualifying for and claiming the Tax Incentive, and the Tax Incentive amounts (in dollars) claimed by taxpayers since the creation of the Tax Incentive, if available:

Since 2009 when the Entertainment Incentive Act was effective, 83 Taxpayers have applied and qualified for the Tax Incentive and have claimed \$47,077,354.94 in tax incentives and were exempt \$219,586.17 from sales, use and lodging taxes with \$179,141,263.75 in qualified Alabama Expenditures. (18 of the 83 projects have not claimed their tax incentives to date)

The amount of Tax Incentives that could be carried forward and the length of time the Tax Incentive can be carried forward;

The Tax Incentive cannot be carried forward.

The amount of Tax Incentives that have been transferred, if applicable, and the amount that the credit(s) were discounted when they were transferred;

The Tax Incentive is not transferable.

The amount of fees and/or other transaction costs associated with the Tax Incentive, including but not limited to application fees and transferability fees;

There is no fee associated with the Tax Incentive.

The estimated cost of administering the Tax Incentive;

The 2017 cost for administering the Tax Incentive is \$105,262.

The number of direct jobs created by the Tax Incentive;

The 7 Production Companies that applied and qualified for the tax incentive in 2016 resulted in 283 Alabama crew jobs created.

The timing between awarding the Tax Incentive and creation of jobs and/or investment, and the maintenance of any job creation requirement;

The timing between awarding the Tax Incentive and creation of jobs and/or investment varies by project. There is no job maintenance requirement.

Describe any caps associated with the Tax Incentive (identify if fiscal year or calendar year) and whether or not the cap was met for each year the Tax Incentive was in existence. Include the number of taxpayers who were denied a Tax Incentive due to the cap being in place:

The Tax Incentive is limited to a \$20 million cap per project on qualifying production expenditures. Subject to the \$20 million limitation, all payroll paid to Alabama residents earn 35%, while all other qualified production expenditures earn 25%, including the first \$500,000 of each nonresident below-the-line (direct hire or loan out) and the first \$1 million of each nonresident above-the-line (direct hire or loan out). There is a state funding cap of \$20 million per fiscal year (Oct. 1 – Sept. 30). A certified production spending at least \$150,000 within a 12-month period may apply to be exempted from the state portion but not the local portion of sales, use, and lodging taxes. The sales tax exemption is not available on qualified expenditures in excess of the first \$20 million.

Describe any penalties, including clawback provisions, associated with noncompliance of the Tax Incentive;

The Tax Incentive does not have penalties or clawback provisions.

Provide an estimate of the indirect economic activity stimulated by the Tax Incentive. This shall include an estimate of any tax benefits that have been sourced outside of Alabama; and

The answer is unknown because the underlying source data does not exist or because the State Agency lacks the expertise to provide the data.

Any other information necessary for the State Agency to comply with the requirements of the Act.

Division 281-3-1 of the Administrative Code sets forth the rules to be used by the Department of Commerce/Alabama Film Office in the administration of Acts of Alabama 2009-144, as codified in Code of Ala. 1975, §§41-7A-40, et seq.

Section III- Economic Results

Section Three shall encompass the economic results of each Economic Tax Incentive, taking into account the extent to which the Tax Incentive successfully changes business behavior, and the unintended or inadvertent effects, benefits, or harm caused by the Economic Tax Incentive, including whether the

Economic Tax Incentive conflicts with other state laws or regulations. This shall include, but is not limited to:

Any results the Tax Incentive has on Alabama's economy. Indicate whether or not the Tax Incentive is successfully influencing business decisions and describe how this is being determined;

Although the State Agency lacks the expertise to determine the net results of the Tax Incentive on the economy, the film office continues to receive positive feedback from local business leaders. Filming in communities creates an economic boost (albeit temporary) that is felt by restaurants, hotels and local retailers.

Any evidence that the Tax Incentive is or has changed business behavior, as opposed to rewarding businesses for what they would have done anyway;

Filming in Birmingham is also rapidly growing, this past year Birmingham created a local Film Office to handle their increased film activity.

How the Tax Incentive is effecting businesses beyond those that benefit directly from the Tax Incentive;

Businesses benefiting from productions filming due to the tax incentive are food, lodging, auto and equipment rentals. But production impacts so many other business: grocers, lumberyards, hardware stores, clothing (new and used), art stores, junk shops, parking garages, dry cleaners, office equipment, gas, car services and on and on. Also all the purchases crew and cast make while on location: jewelry, art, clothes, food, childcare, gifts, etc. and on a day off, the local tourism attractions are popular with the cast and crew.

Any potential changes to the design or administration of the Tax Incentive that could lead to better results. If possible, indicate if the Tax Incentive could be made more effective through legislative changes;

A \$20M film is a relatively small budget, if Alabama raised the \$20M cap we would attract larger film projects. We are pleased with what we have to offer, the projects are steady and we do well bringing in smaller films, but the \$20M prevents us from landing the bigger budget films.

State whether or not the State Agency could accomplish the same purpose or goal of the existing Tax Incentive through a non-tax incentive or subsidy, such as a normal budgetary expenditure, and do it more effectively or efficiently. Explain your reasoning; and the methodology and assumptions of the review, analysis, and evaluation of the Tax Incentive.

The State Agency lacks the expertise to provide the data.

