



FILM PRODUCTION SALES AND USE TAX EXEMPTION

Presentation to:

Maryland Business Tax Reform Commission Business
Incentives in the Tax Code Subcommittee

Submitted by:

Maryland Department of Business and Economic Development

January 25, 2010

FILM PRODUCTION SALES AND USE TAX EXEMPTION

As an arm of the Maryland Department of Business and Economic Development, the Maryland Film Office's mission is to attract film and video production to film in the state of Maryland. When the **Film Production Sales and Use Tax Exemption** was enacted over a decade ago, it was an important factor in attracting major film productions in Maryland. Today, the purpose of the Exemption is to help increase the film production activity carried out in the State, bring economic benefits to the State and generate increased employment opportunities. See the chart on Page 4 for program activity from FY2001-to-date.

Under the Sales and Use Tax Exemption provision, Tax-General Article §11-227, "Film production activity" means the production or postproduction of film or video projects including feature films, television projects, commercials, corporate films, infomercials, music videos, or other projects for which the producer or production company will be compensated, and which are intended for nationwide commercial distribution. Film production activity also includes the production or postproduction of digital, animation, and multimedia projects. "Film production activity" does not include: 1) production or postproduction of student films or noncommercial personal videos; or 2) any activity not necessary to and undertaken directly and exclusively for the making of a master film, tape, or image.

Maryland has a large and experienced crew base in every guild and trade with over 650 International Alliance of Theatrical Stage Employees (IATSE) members, over 3000 Screen Actor Guild (SAG) members, and teamsters. Today, over 40 states offer incentives of up to 42% of production costs to stimulate production activity. Although the sales and use tax exemption cannot compete with such programs to attract major projects, it is useful in importing smaller productions and is important to Maryland's indigenous film industry. Over 30 states offer sales and use tax exemptions for production activity, in addition to film production tax credits and rebates.

Sales and Use Tax Exemption

An exemption from the 6% state sales & use tax is available to qualified feature, television, cable, commercial, documentary, music video, etc, projects. The exemption for "Tangible personal property or a taxable service used directly in connection with a film production activity" includes:

- (i) camera equipment and supplies;
- (ii) film and tape;
- (iii) lighting and stage equipment and supplies;
- (iv) sound equipment and supplies;
- (v) recording equipment and supplies;
- (vi) costumes, wardrobes, and materials to construct them;
- (vii) props, scenery, and materials to construct them;
- (viii) design supplies and equipment;

- (ix) drafting supplies and equipment;
- (x) special effects supplies and equipment;
- (xi) short-term vehicle rentals; and
- (xii) fabrication, printing, or production of scripts, storyboards, costumes, wardrobes, props, scenery, or special effects.

The sales and use tax does not apply to a sale of tangible personal property or a taxable service used directly in connection with a film production activity by a film producer or production company certified by the Department of Business and Economic Development under Title 6, Subtitle 2 of the Economic Development Article.

The duty of a vendor to collect the sales and use tax from a buyer is waived if the buyer provides the vendor with a properly executed Buyer Certification—Film Production Sales and Use Tax Exemption, Form No. COT/ST 131, which includes the Department of Business and Economic Development Certificate Number and Certificate expiration date. For each production, authorized purchasing agents designated by the producer will present a copy of the certificate, along with the list of eligible items, to the vendor at the time of purchase. If multiple transactions are expected the certificate need only be presented at the time of the initial purchase.

Sales Tax Exemption Application Process

A producer applies to the Film Office for qualification on a specific project. The application must be completed in its entirety and can be submitted via either mail or fax. The Film Office qualifies the application. If the application is approved, the Film Office will provide a numbered sales tax exemption certificate for the specific project within 3 working days. The certificate will contain an expiration date and will be invalid at the conclusion of production. Any improper use of the certificate will constitute tax fraud and will result in the appropriate fine or punishment for that crime. Attached to the certificate (for the vendor's information) will be the items eligible for exemption. These should be duplicated and attached to each duplicated certificate when presented to vendor. Should the vendor have any questions, the Maryland Film Office's and Comptroller's phone numbers are on the certificate itself.

For each film project, before a sale is consummated, the vendor shall have on file at least one completed Buyer Certification—Film Production Sales and Use Tax Exemption, Form No. COT/ST 131, to support the transactions for which the film production exemption is sought. The vendors will attach a copy of the Comptroller's Buyer Certificate to all sales slips and submit documentation as required by the Comptroller's Office.

PLEASE NOTE: Periodic audits of the producer's purchase records by the Comptroller's Office will be conducted to monitor compliance.

FILM PRODUCTION ACTIVITY TAX EXEMPTIONS FY2001 to date

FY2001	Total Number of applications	68
	<i>Total Reported Tax Exempt Budget</i> ¹	<i>not available</i>
	Total Project Budget to be Spent in MD ²	not available
FY2002	Total Number of applications	80
	<i>Total Reported Tax Exempt Budget</i>	<i>\$15,896,439</i> ³
	Total Project Budget to be Spent in MD	\$32,988,531.19 ³
FY2003	Total Number of applications	83
	<i>Total Reported Tax Exempt Budget</i>	<i>\$20,119,725.83</i>
	Total Project Budget to be Spent in MD	\$48,112,651.75
FY2004	Total Number of applications	106
	<i>Total Reported Tax Exempt Budget</i>	<i>\$18,190,447.84</i>
	Total Project Budget to be Spent in MD	\$50,129,991.34
FY2005	Total Number of applications	89
	<i>Total Reported Tax Exempt Budget</i>	<i>\$7,807,804.10</i>
	Total Project Budget to be Spent in MD	\$16,611,535.81
FY2006	Total Number of applications	100
	<i>Total Reported Tax Exempt Budget</i>	<i>\$39,190,236.42</i>
	Total Project Budget to be Spent in MD	\$71,861,523.60
FY2007	Total Number of applications	85
	<i>Total Reported Tax Exempt Budget</i>	<i>\$21,324,760.53</i>
	Total Project Budget to be Spent in MD	\$48,486,358.09
FY2008	Total Number of applications	70
	<i>Total Reported Tax Exempt Budget</i>	<i>\$9,686,853</i>
	Total Project Budget to be Spent in MD	\$27,268,946.51
FY2009	Total Number of applications	65
	<i>Total Reported Tax Exempt Budget</i>	<i>\$6,422,045.81</i>
	Total Project Budget to be Spent in MD	\$19,257,900.98
FY2010 (2QTR)	Total Number of applications	35
	<i>Total Reported Tax Exempt Budget</i>	<i>\$6,015,602.43</i>
	Total Project Budget to be Spent in MD	\$14,464,808.50

¹Total budgeted expenses expected to be eligible for the Maryland sales & use tax exemption

²Total project budget to be spent in Maryland (ALL COSTS)

³This number is an estimated figure reported to the MFO by the production companies. (Please note that this figure is submitted by the production companies prior to the start of production. While it is at that time their best estimate, final numbers may have differed.)