



**Maryland Film Production Activity Tax Credit  
Annual Report**

Pursuant to Tax General Article §10-730

Submitted by  
Maryland Department of Commerce

**December 2019**

# **Maryland Film Production Activity Tax Credit**

## **Overview**

During the 2018 Legislative Session the Maryland General Assembly passed, and the Governor subsequently approved, Senate Bill 1154 – Income Tax – Film Production Activity Tax Credit – Alterations. This legislation made the following changes to the Maryland Film Production Activity Tax Credit:

- 1) The minimum spend for most film projects was lowered to \$250,000;
- 2) The maximum amount of tax credits available for a film project is now \$10,000,000;
- 3) The salary, wages, and other compensation paid to Writers, Directors and Producers are not included in total direct costs;
- 4) A new category of films was created for Maryland small or independent film entities (Maryland Small Films) with total direct costs greater than \$25,000;
- 5) Ten percent of the annual authorized credit amount is now set aside for Maryland Small Films; and,
- 6) The statute authorized \$8,000,000 in credits for FY 2019, \$11,000,000 in credits for FY 2020, \$14,000,000 in credits for FY 2021, \$17,000,000 in credits for FY2022, and \$20,000,000 in credits for FY2023 and each fiscal year thereafter.

Most small and independent film productions found it difficult to qualify for a tax credit due to a statutory requirement that the film production entity be incorporated in Maryland for at least one year. Standard industry practice is to form a new company, typically a limited liability company (LLC), specifically for each new production. During the 2019 Legislative Session, the passage of Chapter 544, Acts of 2019 altered the definition of a Maryland small or independent film entity as the statutory requirement that in order to qualify an entity must be organized in Maryland for at least one year was lessened to three months, effective July 1, 2019.

<b>Film Production Activity Tax Credit Funding by Fiscal Year</b>		
<b>Fiscal Year</b>	<b>Full Program Funding</b>	<b>10% Set Aside for MD Small Films</b>
FY 2019	\$ 8,000,000	\$ 800,000
FY 2020	\$11,000,000	\$1,100,000
FY 2021	\$14,000,000	\$1,400,000
FY 2022	\$17,000,000	\$1,700,000
FY 2023 and beyond	\$20,000,000	\$2,000,000

Tax General Article §10-730 requires Commerce to report on specific data before January 1 of each year:

- (1) the number of film production entities submitting applications;
- (2) the number and amount of tax credit certificates issued;
- (3) the number of local technicians, actors, and extras hired for film production activity during the reporting period;

- (4) a list of companies doing business in the State, including hotels, that directly provided goods or services for film production activity during the reporting period;
- (5) a list of companies doing business in the State that directly provided goods or services for film production activity during the reporting period that qualified during the reporting period as minority enterprise under §14-301(F) of the State finance and Procurement article;
- (6) a list of companies doing business in the State that directly provided goods or services for film production during the reporting period that, as determined by the Department, are considered small businesses; and
- (7) any other information that indicates the economic benefits to the State resulting from film production activity during the reporting period.

## **Specifics**

### **One application for qualification for FY 2019 tax credits was submitted and approved in FY 2017.**

In order to generate the mandated Report on Tax Credits due to the Governor on July 1, 2017, the Maryland Film Office (MFO) opened a window from 9:00 a.m. on Monday, May 1, 2017 through 5:00 p.m. on Wednesday, May 31, 2017 to submit Applications for Initial Tax Credit Certification for tax credits that might become available in FY 2019 (July 1, 2018 - June 30, 2019). Only one application was received during this window. Knight Takes King Productions, LLC applied for tax credits for *House of Cards – Season 6*. However, at that time, there was no funding for Film Production Activity tax credits for FY 2019. With the passage of Senate Bill 1154, ten percent of the FY 2019 tax credit funds, or \$800,000, was set aside for Maryland Small Films and the remaining \$7,200,000 in tax credits were committed to *House of Cards – Season 6*.

### **One application for qualification for FY 2019 tax credits for Maryland Small Films was submitted and approved in FY 2019.**

DBM Communications, Inc., of Towson submitted an application for its production, *Hope's Legacy (aka, Hope is Believing)*, on February 14, 2019. Based on the company's application, a 25% credit of the estimated total of authorized direct costs in Maryland would qualify DBM Communications, Inc. for a maximum of \$61,430.00 in tax credits. The final tax credit amount, however, will be based on the company's actual qualified direct spend determined upon conclusion of the production activity in the State and after the application for final tax credit certification and all closing documentation have been submitted and reviewed.

### **One application for qualification for FY 2020 tax credits was submitted and approved in FY 2019.**

At 9:00 a.m. on Monday, April 15, 2019, the MFO began accepting applications for FY 2020 tax credits for productions other than Maryland Small Films. Possible Productions, Inc., applied for qualification at 9:00 a.m. on Monday, April 15, 2019, for its production, *The President is Missing – Season 1*. Based on the company's application, a 27% credit of the estimated total of authorized

direct costs in Maryland would qualify Possible Productions, Inc. for a maximum of \$10 million in tax credits as limited by statute. The final tax credit amount, however, will be based on the company's actual qualified direct spend determined upon conclusion of the production activity in the State and after the application for final tax credit certification and all closing documentation, including a Report on Agreed Upon Procedures from an independent, third-party CPA, have been submitted and reviewed. The MFO anticipates the final amount of tax credits issued to this production to remain at the maximum of \$10 million.

Attached is a summary (*Appendix A - Maryland Film Production Activity Tax Credit Recipients FY 2012-FY 2019*) outlining tax credits that have closed, or are in progress, through FY 2019.

### **One company was issued a Final Tax Credit certificate during FY 2019.**

Knight Takes King Productions, LLC, was issued a final tax credit certificate on December 21, 2018, for its sixth and final season of *House of Cards* which completed 94 days of filming on May 25, 2018. They submitted their application for final tax credit certification, along with all of their closing documentation, including a *Report on Agreed upon Procedures* by an independent CPA, on October 31, 2018. The materials were reviewed by MFO staff and the final tax credit certificate was issued on December 21, 2018. *House of Cards – Season 6* received a tax credit of \$7,200,000.00 and had an economic impact of nearly \$116 million. The production hired 350 local technicians and 1,290 local actors/extras. In addition, the production company provided business for 1,736 local Maryland companies, vendors and contractors. Attached is a copy of the vendor list for *House of Cards – Season 6*. (*Appendix B – House of Cards – Season 6 Vendor List*)

In 2014, the Regional Economic Studies Institute of Towson University (RESI) released a study analyzing the impact of Maryland's Film Industry Tax Credit for the Maryland Film Industry Coalition (MFIC). RESI assessed the current tax credit policy for productions that had finished filming in the State of Maryland. The report found that for every dollar claimed in film tax credits, Maryland gains \$1.03 in total tax revenues and \$3.69 in economic output. Attached is a copy of the study. (*Appendix C – MFIC impact analysis FINAL*)

Further information regarding the Maryland Film Production Activity Tax Credit process can be found on the MFO website at:

<http://marylandfilm.org/Pages/Film-Production-Activity-Tax-Credit.aspx>

## **Background**

CH 516 Acts of 2011 created the Film Production Activity Tax Credit (Film Tax Credit). The Act repealed the existing Film Production Rebate Program and replaced it with a tax credit for qualified direct costs of qualified film production activities including feature films and television series. Under the Film Tax Credit, the Department of Commerce (Commerce), formerly the Department of Business and Economic Development (DBED), could award a maximum of \$7.5 million in credits in each fiscal year beginning in FY 2012 through FY 2014. Qualifying production activities were eligible for a tax credit of up to 25% of the qualified direct costs for a feature film and 27%

for a television series. If the amount of the tax credit exceeded the total tax liability in the tax year, the entity could claim a refund in the amount of the excess. The Act became effective on July 1, 2011 with a sunset date of June 30, 2014.

A total of \$22.5M (\$7.5 per FY) in tax credits was available for FYs 2012 through 2014. All of those tax credits were committed by January 2012 to six productions: *House of Cards - Season 1*; *VEEP - Seasons 1 & 2*; *Jamesy Boy*; *Better Living through Chemistry*; and, *Ping Pong Summer*.

In order to retain the filming of the two television series *House of Cards* and *VEEP* in Maryland, CH 28 Acts of 2013 authorized \$32.5 million in additional film tax credits over three years and extended the sunset through FY 2016. All of the tax credits were committed by the end of the first day Commerce began accepting applications (April 17, 2013). Those credits were committed to *House of Cards – Season 2* and *VEEP – Seasons 3 & 4*.

During the 2014 legislative session, House Bill 520 Business and Economic Development – Film Production Activity Tax Credit Program was introduced to increase the amount of tax credits the Secretary could issue in FY 2015 from \$7.5 million to \$11 million. Senate Bill 1051 Business and Economic Development – Film Production Activity Tax Credit Program was also introduced and proposed an increase from \$7.5 million to \$18.5 million. Both bills passed with amendments but failed to pass before the end of the legislative session. SB172 - the Budget Reconciliation and Financing Act - authorized funds from the Economic Development Opportunities Fund (Sunny Day) and Special Fund for Preservation of Cultural Arts to provide a \$7.5 million grant to enhance the Film Tax Credit, thus providing \$11.5 million in incentives for *House of Cards – Season 3*.

Senate Bill 905, Income Tax – Film Production Activity Tax Credit, introduced in the 2015 legislative session, was originally proposed to increase the amount of tax credits available for production activity in a fiscal year and extend the program’s sunset date (\$25 million per fiscal year through FY 2019). However, during the last week of the session, the bill was amended to create the Film Production Tax Credit Reserve Fund with no funding attached. The new structure of the program required the Department to report the amount of tax credits necessary to maintain the current level of film production activity and to attract new production activity to the Governor. This amount would then be considered for inclusion in the Governor’s FY budget and acted upon by the General Assembly during the legislative session. In addition, some new reporting and promotional requirements were mandated. The legislation went into effect on July 1, 2015.

As previously stated, in 2018, the legislature passed Senate Bill 1154 which (1) repealed the Reserve Fund, (2) eliminated the sunset on the program, (3) authorized specific tax credit funding for each fiscal year through FY 23 and beyond, (4) capped the maximum amount per project at \$10,000,000.00, and (4) created a new category of films, Maryland small and/or independent productions (Maryland Small Films), eligible for the tax credit. The legislation also mandated that 10% of the annual authorized credit amount must be set aside for Maryland Small Films.

Film Production Activity Tax Credit Funding by Fiscal Year	
Fiscal Year	Funding
FY 2012	\$7,500,000.00
FY 2013	\$7,500,000.00
FY 2014	\$25,000,000.00
FY 2015	\$7,500,000.00
FY 2016	\$7,500,000.00
FY 2017	\$11,510,000.00*
FY 2018	\$5,000,000.00*

\*Film Production Tax Credit Reserve Fund

Film Production Activity Tax Credit Funding by Fiscal Year			
Fiscal Year	Total Funding	For All Other Films	10% for MD Small Films
FY 2019	\$8,000,000.00	\$7,200,000.00	\$800,000.00
FY 2020	\$11,000,000.00	\$10,000,000.00	\$1,100,000.00
FY 2021	\$14,000,000.00	\$12,600,000.00	\$1,400,000.00
FY 2022	\$17,000,000.00	\$15,300,000.00	\$1,700,000.00
FY 2023 and beyond	\$20,000,000.00	\$18,000,000.00	\$2,000,000.00

*Appendix A - Film Tax Credit - Report 2019 APP A - Maryland Film Production Activity Tax Credit Recipients FY 2012-FY 2019*

*Appendix B - Film Tax Credit - Report 2019 APP B - House of Cards – Season 6 Vendor List*

*Appendix C – Film Tax Credit - Report 2019 APP C - MFIC impact analysis FINAL*