



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

Pursuant to Tax General Article §10-730

Submitted by
Maryland Department of Commerce

December 2020

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 so that in order to qualify an entity must be organized in Maryland was lessened to three months from one year, effective July 1, 2019.

Film Production Activity Tax Credit Funding by Fiscal Year		
Fiscal Year	Full Program Funding	10% Set Aside for MD Small Films
FY 2019	\$ 8,000,000	\$ 800,000
FY 2020	\$11,000,000	\$1,100,000
FY 2021	\$12,000,000	\$1,200,000
FY 2022	\$12,000,000	\$1,200,000
FY 2023 and beyond	\$12,000,000	\$1,200,000

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 2020 tax credits was submitted and approved in FY 2019.

In order to generate the mandated Report on Tax Credits due to the Governor on July 1, 2019, the Maryland Film Office (MFO) began accepting applications for qualification at 9:00 a.m. on Monday, April 15, 2019 for tax credits that might become available in FY 2020 (July 1, 2019 - June 30, 2020). Only one application was received. Possible Productions, Inc. applied for tax credits for season 1 of its Showtime series, *The President is Missing*. 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. With the set aside of \$1,100,000.00 in tax credits for Maryland Small Films, the remaining \$9,900,000.00 in FY 2020 tax credits were reserved for Possible Productions, Inc. On July 1, 2019, any uncommitted FY 2019 tax credit funds rolled-over into the FY 2020 allocation and became available for non-MD Small Film productions and an additional \$100,000 in tax credits were reserved for Possible Productions, Inc.

Due to the COVID-19 pandemic, filming was halted on the series on March 13, 2020. As an addendum to this FY 2020 report, the MFO was informed in September 2020 (FY 2021) that filming would not resume on the series. As a result of the forced hiatus due to COVID-19 pandemic, the key talent was no longer available for the series and Showtime was canceling the production. *The President is Missing* will therefore not qualify for and will not receive the FY 2020 tax credits previously reserved.

Five applications for qualification for FY 2020 tax credits for Maryland Small Films were submitted and approved in FY 2020.

A Comedy, LLC of Ellicott City submitted an application for its film, *A Comedy of Horrors*, on July 1, 2019. Based on the company's application, a 25% credit of the estimated total of authorized direct costs in Maryland would qualify A Comedy, LLC for a maximum of \$56,474 in tax credits.

Guavatron, LLC of Baltimore submitted an application for its film, *Strawberry Mansion*, on August 28, 2019. Based on the company's application, a 25% credit of the estimated total of authorized direct costs in Maryland would qualify Guavatron, LLC for a maximum of \$32,500 in tax credits.

Get Gone Movie Partners MD, LLC of Oakland submitted an application for its film, *Cyst*, on November 4, 2019. Based on the company's application, a 25% credit of the estimated total of authorized direct costs in Maryland would qualify Get Gone Movie Partners MD, LLC for a maximum of \$50,000 in tax credits.

RowHouse, LC of Baltimore submitted an application for its documentary, *Local Hero*, on March 23, 2020. Based on the company's application, a 25% credit of the estimated total of authorized direct costs in Maryland would qualify RowHouse, LC for a maximum of \$49,010 in tax credits.

Rich is Relative Media LLC dba SideXSide Studios of Takoma Park submitted an application for its corporate film, *E4USA Instruction Video*, on April 9, 2020. Based on the company's application, a 25% credit of the estimated total of authorized direct costs in Maryland would qualify Rich is Relative Media LLC dba SideXSide Studios for a maximum of \$8,050 in tax credits.

The final tax credit amounts, however, will be based on the companies' 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.

Attached is a summary (*Appendix A - Maryland Film Production Activity Tax Credit Recipients FY 2012-CY 2020*) outlining tax credits that have closed, or are in progress, through CY 2020.

One company was issued a Final Tax Credit certificate during FY 2020.

Get Gone Movie Partners MD, LLC was issued a final tax credit certificate on June 8, 2020, for its film *Cyst* which completed 17 days of filming on December 18, 2019. They submitted their application for final tax credit certification, along with all of their closing documentation, on December 31, 2019. The materials were reviewed by MFO staff and the final tax credit certificate was issued on June 8, 2020. *Cyst* received a tax credit of \$35,431 and had an economic impact of \$257,358. The production hired 18 local technicians, 1 local actor and provided business for 83 local Maryland companies, vendors and contractors. Attached is a copy of the vendor list for *Cyst*. (*Appendix B – Cyst Vendor List*)

Further information regarding the Maryland Film Production Activity Tax Credit 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 million, 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.

In 2019, the statutory requirement that in order to qualify as a Maryland Small Film an entity must be organized in Maryland for at least one year was altered to at least three months. And, in 2020, the BRFA fixed the annual authorized credit amount for the program at \$12 million for FY 2021 and beyond.

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	\$9,900,000.00	\$1,100,000.00
FY 2021	\$12,000,000.00	\$10,800,000.00	\$1,200,000.00
FY 2022	\$12,000,000.00	\$10,800,000.00	\$1,200,000.00
FY 2023 and beyond	\$12,000,000.00	\$10,800,000.00	\$1,200,000.00

Appendix A - Film Tax Credit - Report 2020 APP A - Maryland Film Production Activity Tax Credit Recipients FY 2012-CY 2020

Appendix B - Film Tax Credit - Report 2020 APP B - Cyst – Vendor List