Department of Legislative Services

Maryland General Assembly
2000 Session

FISCAL NOTE

House Bill 273 (Delegate D'Amato, *et al.*)
Ways and Means

Film and Video Productions - Tax Incentives

This bill exempts from the sales and use tax the sale of tangible personal property or a taxable service that is used directly and primarily in a "qualified film or video production." Additionally, personal property is not subject to valuation or property tax if the property is used directly and primarily in a qualified film or video production. The property exemption is applicable to all taxable years beginning on or after July 1, 2000.

The bill allows a tax credit against the State income tax for qualified film or video production wages paid or incurred by the film or video producer during the taxable year. The credit is refundable but may not exceed $2 million. The credit is applicable to all taxable years beginning after December 31, 2000.

The bill also requires the Maryland Film Office to obtain the free use of State and local government buildings and sites for location filming, on an as-available basis that does not interfere with official government functions.

The bill is effective July 1, 2000.

Fiscal Summary

State Effect: General fund and Transportation Trust Fund (TTF) revenues could decrease by $4.8 million to $6.1 million in FY 2001 due to the new sales tax exemption and income tax credit for film production activities. Future year losses may vary due to the fluctuating nature of film production activity in Maryland. Losses may be partially offset by indirect sales tax revenue and income tax revenue increases due to potentially increased economic activity in the State. No effect on expenditures.

Local Effect: Minimal decrease in personal property revenues for Allegany, Dorchester, Garrett, Somerset, Wicomico, and Worcester counties. Minimal decrease in highway user revenues for all jurisdictions. If the tax incentives spur new employment and economic development in the State, local tax revenues could increase.

Small Business Effect: Potential meaningful.

Analysis

Bill Summary: The bill defines qualified film or video production as a production of a film or video that is intended for national distribution, whether for broadcast, cable, closed circuit, or unit distribution, and whether in the form of film, tape, or other analog or digital medium. Specifically excluded from the definition are: (1) news or public affairs shows; (2) game shows, courtroom shows, or audience participation shows; (3) award or tribute shows; (4) telethons or fund-raising shows; (5) infomercials; (6) political commercials; (7) commercials for television shows or other films or videos; (8) corporate or institutional shows intended for in-house broadcast; (9) shows that contain primarily stock, news, or public record footage; or (10) local advertisements.

With respect to the income tax credit, the bill defines qualified Maryland film or video production as one in which at least 50% of the production costs are incurred in Maryland. Qualified wages mean any wages paid or incurred by an employer for services performed by an employee, but not any wages in excess of 50% of total production costs of a film production.

The income tax credit claimed may be in an amount equal to 25% of the qualified wages paid or incurred in a taxable year. However, the credit is increased to 33% of qualified wages if the film or video is the first production by a producer in the State. A credit may not be claimed against the income tax if the producer is allowed another income tax credit.

The Comptroller is required to report annually to the General Assembly on the total amount of credits claimed for film production wage costs. Further, the Department of Business and Economic Development (DBED) must also report annually to the General Assembly on the direct and indirect economic impact of the income tax credit on the film and video industry in the State.

Current Law: There are no specified tax incentives for film and video production costs for tangible personal property in the State. However, services for the operation of equipment used for the production of audio, video, or film recordings that are stated separately from the cost of the equipment are not subject to the sales and use tax.

Additionally, the Maryland Tax Court has ruled that film production qualifies as manufacturing for the purposes of granting an exemption to the personal property tax.

Background: Virginia, Pennsylvania, North Carolina, South Carolina, and New York, along with 20 other states, exempt film production items and services from the sales tax. Canada offers a number of incentives to film makers including a 20% tax rebate on the first $3 million of labor costs for each project.

State Fiscal Effect: The Maryland Film Office anticipates that the production of feature films and national television programs will generate $39.4 million in direct expenditures in Maryland for fiscal 2001. Based on prior years' experience, approximately $18.9 million of total expenditures will be on purchases that are subject to the sales and use tax. Assuming all purchases would be exempt from the sales tax as a result of the bill, direct general fund revenues would decrease by $945,000. It should be noted, however, that actual annual expenditures vary widely due to the nature of the film and video business.
Of the $39.4 million in direct film production expenditures, it is estimated that $15.5 million is for wages. Assuming that income tax credits would be claimed on the entire amount and that the $2 million cap would not be applicable, revenues could decrease by $3.9 million (25% of wages). The total amount of the credit claimed would increase to the extent that companies film in Maryland for the first time. The maximum credit claimed for fiscal 2001 would be $5.1 million (33% of wages).

Of the credits claimed against the corporate income tax, 25% of the revenue loss would be from the TTF, since a portion of corporate income tax revenue is distributed to the TTF. The remainder of those credits would result in general fund revenue losses.

If new development and employment is generated due to the program, general fund revenues could increase through additional income and sales taxes collection. Revenues would decline, however, for those credits claimed by producers that would have filmed in the area in the absence of the bill. The revenue gain and/or loss depends on the number of production companies that would qualify for the credit and the wages paid to qualified employees. Any such gain and/or loss cannot be reliably estimated at this time. Additionally, it should be noted that taxes are only one of many factors that influence a producer's filming decisions.

Local Revenues: As stated above, the Maryland Tax Court has ruled that film production qualifies as manufacturing for the purposes of granting an exemption to the personal property tax. Accordingly, explicitly exempting film production property from the personal property tax would have no impact on most counties. However, Allegany, Garrett, Somerset, Wicomico, and Worcester counties do not allow the manufacturing exemption. Dorchester County only allows a partial exemption. In addition, of the 156 municipal corporations in the State, only 29 offer a full manufacturing exemption and four offer a partial exemption.

Personal property tax revenue in these counties and municipalities could decrease to the extent that personal property is used directly and primarily in a qualified film production in these counties.

In addition, local revenues would decline for those income tax credits claimed against the corporate income tax, since a portion of the TTF is distributed to local governments.

If the tax incentives spur new employment and economic development in the State, local tax revenue could increase.

Small Business Effect: DBED advises that the average feature film production patronizes between 300 and 400 local vendors during the course of production. To the extent that the bill succeeds in attracting more film and video production to the State, small business could benefit.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Department of Business and Economic Development, Comptroller of the Treasury, Department of Assessments and Taxation, Department of Legislative Services

Fiscal Note History: First Reader - February 5, 2000
mld/jr

Analysis by: Jody J. Minnich

Direct Inquiries to:
John Rixey, Coordinating Analyst
(410) 946-5510
(301) 970-5510