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STATE FILM INDUSTRY TAX INCENTIVES

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You asked us to compare the tax credits and other incentives the New England states and New York and New Jersey offer the film industry.

SUMMARY

New York, New Jersey, and all the New England states except New Hampshire offer tax incentive to filmmakers. The most common incentives are business tax credits, which are offered by six states, and sales and use tax exemptions, which are offered by four states.

Attachment 1 compares the states' incentives based on their common elements:

1. type of incentive (e.g., tax credit),
2. the applicable taxes (e.g., corporation business tax),
3. the incentive amount (e.g., 30% of eligible production expenses),
4. eligibility criteria (e.g., conduct 25% of principal photography days in state), and
5. rules for using the incentives (e.g., taxpayers can carry credits forward for up to five years).

States generally exclude productions featuring news, current events, weather and financial market reports, talk and game shows, sporting events, awards show and other gala events, fundraising, long form productions marketing products and services, and productions containing obscene material or performances.

TAX INCENTIVES

As Table 1 shows, all the states in our sample except New Hampshire offer tax incentives to filmmakers. Connecticut, Maine, Massachusetts, New Jersey, New York, and Rhode Island offer business tax credits for production expenses incurred in the state. Connecticut, Massachusetts, New Jersey, and New York also offer sales and use tax exemptions for tangible personal property and services acquired for producing films. Maine, Massachusetts, and Vermont offers incentives based on the wages and salaries people earn while making films in their respective states.

Table 1: New England States and New Jersey and New York Film-Related Tax Incentives

State	Incentive Type			
	Business Tax Credit	Income Tax Credit	Sales and Use Tax Exemption	Rebate
Connecticut	X		X	
Maine	X			X
Massachusetts	X		X	
New Hampshire				
New Jersey	X		X	
New York	X		X	
Rhode Island	X			
Vermont		X		

BUSINESS TAX CREDITS

Credit Amounts

All but two of the selected states—New Hampshire and Vermont—authorize business tax credits for film making. As Table 2 shows, most offer a flat credit against production costs incurred in the state. Connecticut offers separate, sliding scale credits for producing films and digital animation and a flat credit for constructing studios and other film-related infrastructure. New York offers separate credits for producing films and commercials and post production work performed in the state.

Table 2: Film Related Business Tax Credits in Selected States

<i>State</i>	<i>Purpose</i>	<i>Amount</i>	<i>Refundable</i>	<i>Transferable</i>	<i>Carry Forward</i>
Connecticut	Film Production	10%-30% of eligible production expenses	No	Yes--up to three times	Three years
	Digital Animation	Same as above	No	Same as above	Same as above
	Infrastructure	20% of eligible development costs	No	Same as above	Save as above
Maine	Film Production	5% of eligible production costs	No	No	No
Massachusetts	Film Production	25% of production eligible expenses	No	No	Five years
	Payroll Withholding	25% for wages and salaries under \$1 million	Yes—90% of value	Yes	Five years
New Jersey	Film Production	20% of eligible production expenses	No	Yes	Seven years
New York	Film Production	30% of eligible production expenses	No	No	No
	Post Production	10% of qualified post production expenses	No	No	No
	Commercial Production	5%-20% credit of qualified production expenses	Yes	No	No
Rhode Island	Film Production	25% of eligible production expenses	No	Yes	Three years

The credits differ in other respects. Businesses producing commercials in New York can obtain refunds for unused credits, while film producers in Connecticut, New Jersey, and Rhode Island that owe no business taxes can transfer their credits to taxpayers that do. Producers in Connecticut, Massachusetts, New Jersey, and Rhode Island can also carry forward and apply unused credits to future taxes.

Eligibility Requirements

As Table 3 shows, filmmakers qualify for credits based on the amount of money and time spent filming in the state. Those making films in New York must also agree to recognize the state’s help in the film’s ending credits or include a video promoting New York in the film’s DVD version.

Table 3: Eligibility Requirements for Film Related Business Tax Credits in Selected States

<i>State</i>	<i>Purpose</i>	<i>Eligibility Requirement</i>
Connecticut	Film Production	<ul style="list-style-type: none"> • Incur at least \$100,000 in production costs in Connecticut • Conduct at least 25% of principal photography days here or incur 50% or \$1 million of post production costs here
	Digital Animation	Spend at least \$100,000 in production costs in Connecticut
	Infrastructure	Spend at least \$3 million developing infrastructure in Connecticut
Maine	Film Production	Incur at least \$75,000 in production costs in Maine
Massachusetts	Film Production	<ul style="list-style-type: none"> • Incur at least \$50,000 in production costs in Massachusetts and • Incur at least 50% of total production costs there or shoot at least 50% of principal photography days in Massachusetts
	Payroll Withholding	Incur at least \$50,000 in production costs in Massachusetts
New Jersey	Film Production	Incur at least 60% of production costs in New Jersey
New York	Film Production	<ul style="list-style-type: none"> • Incur at least 75% of production costs in New York • Time spent filming in New York varies depending on whether the film maker is independent or owned by a publically traded company • Acknowledge the state's help in producing the film by <ul style="list-style-type: none"> ○ Citing New York's help in closing credits or ○ Including New York promotion video in DVDs or other secondary market video
	Post Production	Incur at least 75% of post production costs in qualified New York production facility
	Commercial Production	<ul style="list-style-type: none"> • Spending specified amounts depending on the New York location
Rhode Island	Film Production	<ul style="list-style-type: none"> • Conduct at least 51% of principal photography days in Rhode Island • Incur at least \$300,000 in production costs (including pre and post production) in Rhode Island

New York's eligibility requirements are more complicated than those of the other states in our sample. A filmmaker must meet separate requirements for (1) time spent making the film in state-approved production facilities and (2) shooting the film on location in New York and the costs incurred doing post production work there. As Table 4 shows, these requirements vary depending on whether a film is an independent production (i.e., total production budget is under \$15 million and publicly traded companies own less than 5% of the production company).

Table 4: Eligibility Requirements for New York’s 30% Film Production Tax Credit

<i>Threshold Requirements</i>	<i>Film Company</i>	
	<i>Independent</i>	<i>Corporation</i>
Facility	<ul style="list-style-type: none"> • Shoot at least one full day on a set expressly built for film in a qualified production facility • Incur at least 75% of total production costs (excluding post production) in qualified production facility 	<ul style="list-style-type: none"> • Shoot on a set expressly built for the production on a stage in a qualified production facility • Except for pilots, conduct at least 10% of principal photography days in a qualified production facility • Incur at least 75% of total expenses in qualified production facility
Location (outside facility)	<ul style="list-style-type: none"> • Conduct at least 75% of on-location principal photography days in New York or • Spend at least \$3 million working in a qualified production facility 	Same as above
Post Production	<ul style="list-style-type: none"> • Meet facility threshold • Meet location threshold • Incurred at least 75% of post production costs anywhere in state 	Same as above

New York offers a separate credit for making commercials, and producers qualify for them if they spend between \$200,000 and \$500,000 filming commercials there.

OTHER INCENTIVES

Besides business tax credits for production costs, several states in our sample provide sales and use tax exemptions, income tax credits, and cash rebates to filmmakers. Connecticut, Massachusetts, New Jersey, and New York exempt from the sales and use tax specific types of products and services used or consumed to produce films.

Maine, Massachusetts, and Vermont offer incentives geared toward the wages and salaries people earn while working on films in their respective states.

- Maine reimburses filmmakers for a portion of the income tax they withhold from wages and salaries under \$50,000 (12% for residents and 10% for non state residents).
- Massachusetts provides a 25% payroll withholding tax credit against wages and salaries under \$1 million paid in the state.

- Vermont provides income tax credits to out-of-state residents performing in films shot in the state. The credit equals the difference between the tax on the income earned in Vermont at the highest rate in the performer's home state and the Vermont tax.

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Attachment 1: Comparison of New England States and New Jersey and New York Film Production Tax Incentives

<i>State</i>	<i>Incentive Type</i>	<i>Applicable Taxes</i>	<i>Incentive Amount and Limit</i>	<i>Eligibility Criteria</i>	<i>Incentive Structure</i>
Connecticut	Film Production Tax Credit (CGS §12-217j)	<ul style="list-style-type: none"> Insurance Premium Corporation 	Three-tiered credits: <ul style="list-style-type: none"> 10% for expenditures between \$100,000-\$500,000 15% for expenditures between \$500,000 and \$1 million 30% for expenditures over \$1 million 	<ul style="list-style-type: none"> Businesses must incur specified film production expenses and costs, including costs for production equipment and trailers incurred here Film company must: <ul style="list-style-type: none"> conduct at least 25% of principal photography days in Connecticut or incur 50% or \$1 million of post production costs here 	Credits are not refundable, but (1) may be carried forward for up to three years and (2) sold, transferred, or assigned up to three times
	Film Infrastructure Tax Credit (CGS § 12-217kk)	<ul style="list-style-type: none"> Insurance Premium Corporation 	Flat 20% credit	Business must spend at least \$3 million developing buildings, facilities, and installations needed to produce films. Projects must be 100% completed before credit can be claimed	Credits are not refundable, but (1) may be carried forward for up to three years and (2) sold, transferred, or assigned up to three times
	Digital Animation Tax Credit (CGS § 12-217 ll)	<ul style="list-style-type: none"> Insurance Premium Corporation 	Three-tiered credit: <ul style="list-style-type: none"> 10% for expenditures between \$100,000-\$500,000 15% for expenditures between \$500,000 and \$1 million 30% for expenditures over \$1 million 	<ul style="list-style-type: none"> Business must incur eligible digital animation production expenses and costs in Connecticut Eligible costs and expenses include intellectual property, production equipment, and trailers 	Credits are not refundable, but (1) may be carried forward for up to three years and (2) sold, transferred, or assigned up to three times
	Film Production Tax Exemption (CGS § 12-412 (44))	Sales and Use	Exemption from 6% sales and use tax rate	Specified tangible personal property used in films, television, and radio	Not Applicable

Attachment 1 (continued)

State	Incentive Type	Applicable Taxes	Incentive Amount and Limit	Eligibility Criteria	Incentive Structure
Maine	Cash Rebates for Withholding Taxes (Maine Rev. Stat. 36 § 6902)	Reimbursement of Payroll Withholding Taxes	Rebate for taxes withheld from wages and salaries up to \$50,000: <ul style="list-style-type: none"> • 12% of certified for wages and salaries paid to Maine residents • 10% for non Maine residents 	Income withheld for Vermont income tax from wages and salaries under \$50,000 paid for work in certified visual media productions, including films, TV series, video, and digital or photographic media project	Not Applicable
	Film Production Tax Credit (Maine Rev. Stat. § 5219-Y)	Business Income	5% of certified production expenses incurred in Maine	Business must incur at least \$75,000 in certified visual media preproduction, production, or postproduction expenses, excluding wages, salaries, and other compensation	Not Applicable
Massachusetts	Film Production Tax Exemption (Mass. Gen. Laws Ch 64H § 6 (ww))	Sales and Use	100% sales and use tax exemption (current rate is 6.25%)	Business must incur at least \$50,000 over 12 consecutive months in Massachusetts producing feature length films, video, or digital media project; TV series; or commercials	Not Applicable
	Payroll Withholding Tax Credit (Mass. Gen. Laws Ch 62 § 6 (l) (2))	Payroll Withholding Tax	Credit equal to 25% of Massachusetts withholding except salaries \$1 million or more	Business incur at least \$50,000 in production costs in Massachusetts	<ul style="list-style-type: none"> • Credits may be: <ul style="list-style-type: none"> ○ Refunded for 90% of their value or ○ Transferred to another taxpayer and • Unused credits may be carried forward for up to five years
	Film Production Tax Credit (Mass. Gen. Laws Ch 6)	<ul style="list-style-type: none"> • Personal Income • Corporate Excise 	Credit equals 25% of production expenses, excluding payroll subject to the payroll credit	Same as above, plus business must: <ul style="list-style-type: none"> • incur at least 50% of production costs in Massachusetts or • shoot at least 50% of the principal photography days there 	Credits may be: <ul style="list-style-type: none"> • Refunded for 90% of their value or • Transferred to another taxpayer Taxpayers may carry forward unused credits for up to five years

Attachment 1 (continued)

State	Incentive Type	Applicable Taxes	Incentive Amount and Limit	Eligibility Criteria	Incentive Structure
New Hampshire *	No incentives	No incentives	Not applicable	Not applicable	Not applicable
New Jersey	Film Production Tax Exemption (N.J.S.A 54:32B-8.49)	Sales and Use	Exemption from 7% sales and use tax for: <ul style="list-style-type: none"> tangible personal property, including motor vehicles, replacement parts, tools, and supplies and services for installing, maintaining, servicing, or repairing such property 	Motion pictures, including television films and episodes, for broadcast, cable, closed circuit, or unit distribution, excluding films or video for a business' internal use	Not applicable
	Film Production Tax Credit (N.J.S.A 54:10A-5.39)	<ul style="list-style-type: none"> Corporation Business Gross Income 	20% credit of qualified film and digital media production expenses	Business must: <ul style="list-style-type: none"> incur at least 60% of total qualified production expenses, excluding post-production costs, in New Jersey and begin principal photography days within 150 days after it was approved for credits 	Credits may be carried forward up to seven years or sold or assigned to another taxpayer for at least 75% of their value
New York	Film Production Tax Credit (N.Y. Tax Law § 24)	<ul style="list-style-type: none"> Business Corporation Franchise Personal Income 	Fully refundable 30% production credit	<ul style="list-style-type: none"> Feature length films and television films, pilots, or series Businesses must: <ul style="list-style-type: none"> spend specified amounts of time and money shooting the film in New York, certify that they will procure taxable goods and services in state, and acknowledge the state's assistance in producing the film 	<ul style="list-style-type: none"> Depending on the credit amount, business must claim credits the later of two or three years after completing film or credit allocation was approved \$420 million per year in 2010-2014 (\$7 million per year reserved for post production credit discussed below)

Attachment 1 (continued)

<i>State</i>	<i>Incentive Type</i>	<i>Applicable Taxes</i>	<i>Incentive Amount and Limit</i>	<i>Eligibility Criteria</i>	<i>Incentive Structure</i>
	Post Production Tax Credit (N.Y. Tax Law § 32)	<ul style="list-style-type: none"> • Business Corporation Franchise • Personal Income 	10% of qualified production expenses of feature length or television films, pilots or series	Business must incur at least 75% of post production costs in qualified production facility in New York	<ul style="list-style-type: none"> • Credit must be claimed in the tax year when the work is completed • Cannot claim the post production and production credits for the same project • \$7 million per year in 2010-2014
	Commercial Production Tax Credit (N.Y. Tax Law § 28)	<ul style="list-style-type: none"> • Business Corporation Franchise • Personal Income 	<ul style="list-style-type: none"> • 5% to 20% fully-refundable credit for qualified production costs • Annual credit limits vary by designated geographic area 	<ul style="list-style-type: none"> • Incur at least 75% of production costs in New York • Minimum expenditures range from \$200,000 to \$500,000, depending on where the business filmed or recorded the commercial 	Credits exceeding tax liability are partially refunded: <ul style="list-style-type: none"> • 50% of the credit amount the first time taxpayer claims the credit • 100% of any remaining credit balance in subsequent year
	Film Production Tax Exemption (N.Y. Tax Law § 1115)	Sales and Use	4% state sales tax	Tangible personal property used or consumed directly to produce films for sale	Not Applicable
Rhode Island	Film Production Tax Credit (R.I. Gen. Laws § 44-31.2)	<ul style="list-style-type: none"> • Corporation Business • Banks Excise • Insurance Company • Personal Income 	25% of certified production costs	<ul style="list-style-type: none"> • Feature length films, video, video games, television series, or commercials • At least 51% of principal photograph days in Rhode Island • Business' total production budget is at least \$300,000, including salaries • Certified production costs must be incurred in Rhode Island • Production cost include pre and post production costs 	<ul style="list-style-type: none"> • Transferable credit • Credit can be carried forward for up to three years • \$15 million annual cap

Attachment 1 (continued)

State	Incentive Type	Applicable Taxes	Incentive Amount and Limit	Eligibility Criteria	Incentive Structure
Vermont	Tax Credit for Income from Film Production (32 V.S.A. § 5826)	Income Tax	Credit equals the difference between the amount of tax the taxpayer would pay on the income if it were owed in his or her home state and the tax he or she must pay to Vermont	Taxpayer must have earned income for performing in a dramatic commercial film produced in Vermont	Not applicable

* The New Hampshire Film and Television Office's website acknowledges that the state offers no film production tax credits, but advertises that it imposes no sales, personal income, capital gains, or use taxes.