A FILM TAX CREDITS PRIMER 101

By George T. Marshall and Adam M. K. Short

For the last few years, it has certainly felt like there's been a little of that Hollywood Magic wafting in the Rhode Island air. It was tangible if you listened to actor Richard Gere when announcing that he and director Lasse Hallstrom would be filming their latest film, "Hachkio: A Dog's Story," in our Ocean State. At the State House press conference, Gere effused that though both he and Lasse are residents of a little town in upstate New York, they chose Rhode Island because of its right combination of "looks and tax credits."

Listening to Gere, one might believe that Rhode Island had come up with the right mix of legislative and financial alchemy to compete with our much larger neighbors to the north, south, and west for Hollywood dollars. But it's a competitive world out there and magic is, after all, based on illusion.

At the Tribeca Film Festival on Tuesday, April 22nd, New York Governor David Paterson stated that, "Recently, we started losing business to our neighbors, like Canada, Connecticut, and Massachusetts. New Yorkers never go down without a fight, and with the significantly expanded state film tax credit I announced today, New York will continue to serve as the most fascinating backdrop in the world."

The reason? According to a February report by Crain's New York Business, New York lost $400 million in feature film production to Connecticut, which until now has had the most generous tax program in the country: 30 percent on all costs. New York also lost an additional $350 million to Rhode Island and Massachusetts. The state's new incentive plan triples the tax credits offered to filmmakers, to 30% on in-state below-the-line costs, with an additional 5% in New York City. Combined with a 5 percent tax credit from New York City, producers will get a 35 percent rebate on many expenses when filming in and around the five boroughs.

At the Sarasota Film Festival, Florida Governor Charlie Crist, responding to the success of the Festival, kicked off their 10th Anniversary Ball by calling for a $5 million increase in the state's film incentive fund up from its present $25 million.

In 39 states, there are incentives in place to entice film companies to come and produce work. Since these incentives were introduced, more and more entertainment industry work is happening within these states and they have reaped the economic windfall of jobs, use of services and literally millions of dollars being spent that would not have otherwise taken place.

MEANWHILE ON THE HOMEFRONT…

On Tuesday, April 29th, the Providence Journal reported that the Ocean State's employment figures, its foreclosure rates, and personal income growth are worse than its neighbors and national averages. Rhode Island is one of just nine states in recession. Steve Cochrane, senior managing director for Economy.com, provided this information. "Clearly, in the Northeast, Rhode Island is a picture of weakness," Cochrane said.

On the same day, Edward M. Mazze, a distinguished university professor of business administration at the University of Rhode Island stated that the outlook for jobs for the remainder of 2008 is bleak in the state. For March, the Rhode Island Department of Labor and Training announced a decline of 3,100 jobs, which increased the state's unemployment rate to 6.1 percent. Mazze noted that this is the highest unemployment rate in the region and the highest unemployment rate in Rhode Island since August 1995.

On May 6th the lead story in the Providence Journal by Steve Peoples detailed that the state's largest revenue sources — income and sales taxes — were down sharply through the first 10 months of the fiscal year, a further sign that Rhode Island's financial problems are mounting. State Tax Administrator David M. Sullivan supplied data which noted the effect of widespread job losses, stagnant wages and weak consumer confidence. By contrast, the Massachusetts Department of Revenue reported that it has collected more than $2.7 billion through April — an increase of $400 million, or 17 percent, when compared to the same period last year.

WHAT THE FILM TAX CREDITS MEAN

The film tax credits enjoy broad political support in New York — from City Hall to the statehouse and among both Democrats and Republicans. The reason is simple and based on logic: they generate more revenue than they cost. According to the Mayor's Office of Film, Theatre, and Broadcasting, the city and state combined to allocate a little more than $600 million in incentives from 2004 through 2011, while film and TV production pumps about $5 billion annually into the New York economy. With the increase in tax credits proposed by Governor Paterson, the annual state expenditure will increase from $60 million to $75 million through 2013 for a city-state total of about $677 million.

Katherine Oliver, commissioner of the New York Mayor's Office of Film, Theatre, and Broadcasting, said the increase in funding will create more jobs, which will be something of an anomaly during the current national economic downturn. "The expansion of the state's credit … means more employment opportunities for the more than 100,000 local New Yorkers who work in the entertainment industry here in the city," she stated in a news release.

This is neither the case nor the perception in Rhode Island.

Unlike New York and Florida, there seems to be a complete misunderstanding about what the tax credits have accomplished and what they mean to the state. Specious arguments linking lost revenue due to the credits have been raised. How can something be lost when it would not have existed without the credits? The film credits have been the magnet attracting work in the entertainment industry. If no substantial film business existed before the credits, and the credits brought in real business that gave the state millions in new revenue, then isn't that found money?

The film tax credits have not just brought in Hollywood and independent productions from "Dan in Real Life," "Underdog," "27 Dresses," "The Brotherhood" and "The Clique." Local production companies like Tango Pix and Providence Pictures have taken advantage of the credits for their respective commercial and television projects. And it isn't just the production companies that are reaping the rewards: film money is profiting groups and businesses ranging from the Teamsters Local 251, casting agency LDI Casting, the Brooklyn Coffee and Tea House, Flowers by Semia, and the Hope Artiste Village Lofts, to name a few.

Instead of capping or dumping the credits, we need to make them more competitive. We need to take a serious look at what New York, Florida and other states already know—and why we are missing the boat.

To be competitive means that we should lower the threshold to encourage not just Hollywood filmmaking, but independent filmmakers to use our state to shoot their next project. We're up against stiff competition – both Connecticut and Massachusetts have been aggressive in developing and marketing their tax incentive plans. A visit to the Massachusetts' Film Office polished web site (http://www.mafilm.org) boasts that it is touted as the second most filmmaker friendly spot in the country after New Mexico. Filmmakers can take credits as a direct rebate at 90% of face value, which they can then sell at a market rate or carry forward for five years. For those who shoot only half a movie or spend half of a production budget in the state, they are eligible for 25% of the total spend. Producers can also obtain a 100% sales tax exemption on production-related items purchased in state at the start of pre-production and continuing for 12 months.

There must also be open accountability and communication – why must it take a series of Journal articles to spur dialogue between our public officials and taxpayers? Journal reporter Katherine Gregg has effectively raised these issues in her meticulously researched series of articles on the Film Office. With high anxiety surrounding the future of the state's economy, it needs to be consistently reinforced what these tax credits can do to help; accurate details on how much is actually being spent in Rhode Island provided, and explanations of exactly where that money is going released. The process needs to be transparent leaving no room to question or second-guess their efficacy.

In a recent conversation with Katherine Flynn, Director of Business Development for the R.I. Economic Development Corporation, she mentioned that the agency has identified Digital Media – along with Life Sciences, IT, and Financial Services - as one of the "high wage industries" that they would like to attract to the state. Film tax credits can help spur this along, but they should apply only to those dollars that are being spent in state. Connecticut is already taking steps to tighten its tax incentive program, after January 1, 2009 only 50% percent of outside expenses will count towards its 30-percent tax program.

In essence, the tax credits have managed to turn lead into gold. They have brought in work where none would have existed—at least not on the current level. They have also sold the state as a place to do business. With such grim economic forecasting for Rhode Island, the film tax credits have the potential to become an important source of revenue for our state; as well as an engine for employment.

We need to remove the blinders from our eyes and realize the value that these tax credits bring. Our neighbors are working hard to entice filmmakers to shoot projects in their states. If we continue to neglect the impact of our own credits and our own potential, there won't be another news conference with Richard Gere extolling the virtues of the Ocean State as a location to shoot a major motion picture. That brand of Hollywood magic will disappear in a puff of smoke and Rhode Islanders will be left once again wondering why they are left holding a bar of lead.

ABOUT THE AUTHORS:

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