STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

Governor Gina M. Raimondo

STATE OF RHODE ISLAND
DOR
DEPARTMENT OF REVENUE

Economic Development Tax Incentives Evaluation Act:

Evaluation of "Motion Picture Production Tax Credits" (R.I. Gen. Laws § 44-31.2-5) *Tax Years 2013 through 2015*

Office of Revenue Analysis

March 16th, 2018

Table of Contents

Foreword 4

Part I: Introduction 5

1. Description of the Tax Credit 6
2. Statutory and Programmatic Goals and Intent of the Tax Incentive 7

Part II: Benchmarking Motion Picture Activity in Rhode Island, Selected Comparison States, and Nationwide 9

Part III: Report Data Description 17

1. Number of taxpayers granted tax credit 17
2. Value of tax credit granted by NAICS Code 18
3. Cost of administration 19
4. Number of Aggregate Jobs and Direct Taxes Paid by Recipient’s Employees 20
5. Direct Taxes Paid by Recipients 22
6. Measuring the Extent to which Benefits Remained in the State 22
7. Additional data to support evaluation of statutory and programmatic goals and intent of the tax incentive 24
   - Featuring Rhode Island 24
   - Educational Curricula and Labor Force Training Programs 25

Part IV: Evaluation of the Economic Impact of the Tax Credit 27

1. Assessment and Five-Year Projection of Revenue 27
2. “Breakeven” Cost-Benefit Analysis 28
   - Introduction to “Breakeven” Cost-Benefit Analysis Methodology 28
   - Modeling Costs 29
   - Modeling Benefits 30
   - The “Breakeven” Approach 31

Part V: Discussion and Recommendations 37

1. Statement by the CEO of the Commerce Corporation 37
2. Discussion of Data Concerns 37
   - Non-Compliance and Inconsistency in Data Reporting 38
   - Difficulty Accessing Taxation Data 39
3. ORA Recommendations 40
4. ORA Conclusion and Overall Recommendation 45

Appendix..46
EXHIBIT A: Detailed Description of Data Collection Procedures and Forms 46
EXHIBIT B: Rhode Island Form 8201A “Annual Report..49

Foreword

The *Economic Development Tax Incentives Evaluation Act: Tax Years 2013 through 2015* was prepared at the request of Paul L. Dion, Ph.D., Chief of the Office of Revenue Analysis in accordance with Rhode Island General Laws § 44-48.2-4. This report was prepared by the Office of Revenue Analysis team which includes Bethany Scanlon, Senior Economic and Policy Analyst, Joseph Codega Jr., Data Analyst III, and Madiha Zaffou, Principal Economic and Policy Analyst under the direction of Mr. Dion.

Part I: Introduction

Pursuant to Rhode Island General Laws § 44-48.2-4, titled *Rhode Island Economic Development Tax Incentives Evaluation Act of 2013,* the Chief of the Office of Revenue Analysis (ORA) is required to produce, in consultation with the Director of the Economic Development Corporation, the Director of the Office of Management and Budget, and the Director of the Department of Labor and Training, a report that contains analyses of economic development tax incentives as listed in R.I. Gen. Laws § 44-48.2-3(1). According to R.I. Gen. Laws § 44-48.2-4(1), the report "[s]hall be completed at least once between July 1, 2014, and June 30, 2017, and no less than once every three (3) years thereafter".

The additional analysis as required by R.I. Gen. Laws § 44-48.2-4(1) shall include, but not be limited to the following items as indicated in R.I. Gen. Laws § 44-48.2-5(a):

1) A baseline assessment of the tax incentive, including, if applicable, the number of aggregate jobs associated with the taxpayers receiving such tax incentive and the aggregate annual revenue that such taxpayers generate for the state through the direct taxes applied to them and through taxes applied to their employees;
2) The statutory and programmatic goals and intent of the tax incentive, if said goals and intentions are included in the incentive's enabling statute or legislation;
3) The number of taxpayers granted the tax incentive during the previous twelve-month (12) period;
4) The value of the tax incentive granted, and ultimately claimed, listed by the North American Industrial Classification System (NAICS) Code associated with the taxpayers receiving such benefit, if such NAICS Code is available;
5) An assessment and five-year (5) projection of the potential impact on the state's revenue stream from carry forwards allowed under such tax incentive;
6) An estimate of the economic impact of the tax incentive including, but not limited to:
    i. A cost-benefit comparison of the revenue forgone by allowing the tax incentive compared to tax revenue generated by the taxpayer receiving the credit, including direct taxes applied to them and taxes applied to their employees;
    ii. An estimate of the number of jobs that were the direct result of the incentive; and
    iii. A statement by the Chief Executive Officer of the Commerce Corporation, as to whether, in his or her judgment, the statutory and programmatic goals of the tax benefit are being met, with obstacles to such goals identified, if possible;
7) The estimated cost to the state to administer the tax incentive if such information is available;
8) An estimate of the extent to which benefits of the tax incentive remained in state or flowed outside the state, if such information is available;
9) In the case of economic development tax incentives where measuring the economic impact is significantly limited due to data constraints, whether any changes in statute would facilitate data collection in a way that would allow for better analysis;
10) Whether the effectiveness of the tax incentive could be determined more definitively if the General Assembly were to clarify or modify the tax incentive's goals and intended purpose;

11) A recommendation as to whether the tax incentive should be continued, modified, or terminated; the basis for such recommendation; and the expected impact of such recommendation on the state's economy;
12) The methodology and assumptions used in carrying out the assessments, projections and analyses required pursuant to subdivisions (1) through (8) of this section.

The current report is one part of a series of reports for each of the tax credits to be analyzed according to R.I. Gen. Laws § 44-48.2-3(1). This report concerns R.I. Gen. Laws § 44-31.2-5 entitled "Motion Picture Production Tax Credits" (MPPTC) and covers tax years 2013 through 2015. The analysis is performed at the micro level using employment and wage information provided by Division of Taxation and the Rhode Island Television and Film Office (RITVFO). The report is divided into five sections. Section I provides a detailed description of the tax incentive and its statutory programmatic goals and intent. Section II describes the motion picture activity in Rhode Island compared to neighboring states and the rest of the nation. Section III provides a description of the data provided and used in the analysis by ORA. Section IV assesses the economic impact generated under the MPPTC using a breakeven cost-benefit analysis. Section V discusses relevant policy findings and recommendations that could help in the decision process as to whether the tax credit should be continued, modified, or terminated.

1. Description of the Tax Credit

R.I. Gen. Laws § 44-31.2-5 provides a motion picture production company a tax credit against the business corporation tax (R.I. Gen. Laws Chapter 44-11), the taxation of banks (R.I. Gen. Laws Chapter 44-14), the taxation of insurance companies (R.I. Gen. Laws Chapter 44-17), and the personal income tax (R.I. Gen. Laws Chapter 44-30) in an amount of "twenty-five percent (25%) of the state certified production costs incurred directly attributable to activity within the state, provided that the primary locations are within the state of Rhode Island."

For motion picture productions that were certified prior to July 1, 2012, primary locations are locations at which at least fifty-one percent (51%) of the principal photography days were filmed in Rhode Island and the minimum amount of state certified production costs incurred is $300,000.

For motion picture productions that are certified on or after July 1, 2012, the minimum amount of state certified production costs incurred is $100,000 and primary locations are defined as locations at which (1) at least fifty-one percent (51%) of the principal photography days were filmed in Rhode Island; or (2) at least fifty-one percent (51%) of the motion picture's final production budget is spent and at least five (5) individuals are employed in Rhode Island; or (3) for documentary productions, at least fifty-one percent (51%) of the total production costs, including both pre- and post-production costs, are incurred in Rhode Island. Finally, the amount of credit allowed any single production is capped at $5,000,000.

The Rhode Island Film and Television Office (RIFTVO) must certify all eligible motion picture productions. Motion picture production tax credits are assignable and transferable and may be carried forward for up to three succeeding tax years following the year in which the credit was earned. The motion picture production tax credit program shares a combined annual credit cap with the musical and theatrical production tax credit program.[1] The total amount of credits issued per year under both programs is $15,000,000 effective January 1, 2008. No motion picture production tax credits can be issued on or after July 1, 2024.[2]

No employment or wage criteria need to be met by the motion picture production company in order to qualify for the credit. RIFTVO is required, however, to produce an impact analysis which, among other components, requires RIFTVO to identify "[T]he approximate number of full-time, part-time, temporary, seasonal, and/or permanent jobs projected to be created, construction and non-construction", "[T]he approximate wage rates for each category of the identified jobs" and "[T]he types of fringe benefits to be provided with the identified jobs, including health care insurance and any retirement benefits".

2. Statutory and Programmatic Goals and Intent of the Tax Incentive

Based on R.I. Gen. Laws § 44-31.2-1, the Office of Revenue Analysis determined that the statutory and programmatic goals and intent of the Motion Picture Production Tax Credit are "to encourage development in Rhode Island of a strong capital base for motion picture film, videotape, and television program productions, in order to achieve a more independent, self-supporting industry."[3]

The immediate objectives of the tax incentive are to:

i. Attract private investment for the production of motion pictures, videotape productions, and television programs, which contain substantial Rhode Island content as defined herein.
ii. Develop a tax infrastructure, which encourages private investment. This infrastructure will provide for state participation in the form of tax credits to encourage investment in state- certified productions.
iii. Develop a tax infrastructure utilizing tax credits, which encourage investments in multiple state-certified production projects.

1 In the 2012 Session of the General Assembly, R.I. Gen. Laws Chapter 44-31.3 entitled "Musical and Theatrical Production Tax Credits" was enacted to take effect on July 1, 2012. This statute creates a tax credit program available to musical and theatrical productions that is similar to the motion picture production tax credit program. The musical and theatrical production tax credit enabling statue predates the Economic Development Tax Incentive Evaluation Act of 2013 and was not included in the list of explicitly defined tax credits to be evaluated. Therefore, the evaluation of the musical and theatrical tax credit program is beyond the scope of this report.

2 Originally, the sunset date for the issuance of motion picture and musical and theatrical production tax credits was July 1, 2019. The 2016 General Assembly (see Article 13, Section 17 of 16-H-7454 Substitute A as amended) extended the date after which no motion picture or musical and theatrical production tax credits can be issued to July 1, 2021. In the 2017 Session, the General Assembly extended the sunset date after which no motion picture and musical and theatrical production tax credits can be issued to July 1, 2024 (17-S-0135 Substitute A). In both instances, the extension of the sunset date was with the Governor's concurrence.

3 See R.I. Gen. Laws § 44-31.2-1(d).

The long-term objectives of the tax incentive are to:

i. Encourage increased employment opportunities within this sector and increased competition with other states in fully developing economic development options within the film and video industry.

ii. Encourage new education curricula in order to provide a labor force trained in all aspects of film production."

Part II: Benchmarking Motion Picture Activity in Rhode Island, Selected Comparison States, and Nationwide

An understanding of current and historical motion picture production activity in Rhode Island as well as in comparison states and the nation provides context to the economic environment in which the MPPTC program operates. First, the benchmarking analysis contained within this part presents information on the availability of tax benefits targeting the motion picture industry in Rhode Island and in comparison states. Next, this part presents data highlighting current levels and long-term trends in motion picture production activity and employment and evaluate Rhode Island's relative performance and on key economic indices.

ORA focused its investigation of motion picture activity, employment, and availability of tax incentives targeting motion picture production in four comparison states. The selected states are two neighbors, Massachusetts and Connecticut, in addition to two national leaders in motion picture production, New York and California. Additionally, this report includes selected comparisons to national data to allow the reader to consider the state-level data in the context of national levels, trends, and cycles.

For the purposes of this benchmarking analysis, ORA examined economic activity and employment data related to North American Industry Classification System (NAICS) Code 5121, "Motion Picture and Video Industries" whenever available. ORA deemed this four-digit NAICS classification to be generally descriptive of MPPTC-recipient projects. National employment and compensation data in this section generally reference the United States Department of Labor, Bureau of Labor Statistics. In the case of Rhode Island, however, ORA obtained employment and compensation data from the Rhode Island Department of Labor and Training. With respect to measuring economic output, ORA was limited by the specificity of the United States Department of Commerce, Bureau of Economic Analysis data source from which the most specific gross domestic product data was at the NAICS Code 512, "Motion Picture and Sound Recording Industries," which necessarily includes a small portion of irrelevant sound recording industries output.

ORA found that all four selected comparison states offered some form of a motion picture production tax credit. The general features of each state's credits are depicted in the following table.

State Incentives for Motion Picture Production in Selected States
(Three-Year Average, Calendar Years 2013 - 2015)

	RI	MA	CT	NY	CA
Annual Credit Cap	$15M	None	None	$420M	$330M
3-year Avg. Credit Issued	$2.52M	$56.68M	$90.64M	$286.75M	$158.52M
Features:	Credit amount equal to 25% of qualified MP production expenses.	Credit amount equal to 25% of qualified MP production expenses, 25% of total qualifying payroll and a sales tax exemption.	Credit amount ranges from 10% to 30% depending on the amount of qualified MP production expenses.	Credit equal to 30% of qualified MP production expenses. Additional 10% on qualified labor expenses in certain counties is provided to productions with budgets over $500,000.	Credit amount ranges between 20% and 25% depending on certain criteria.

Notes: Some states may have had legislative changes to their motion picture production incentive programs in recent years. Annual credit cap listed above reflects cap amount currently in place at time of publication. For comparison purposes, the three-year average credit issuance reflects 2013 through 2015 – the period of analysis covered by this report.

Sources:
State-by-state information can be found at:
CT: http://ct.gov/ecd/cwp/view.asp?a=3880&q=454834
MA: http://www.mafilm.org/
NY: https://esd.ny.gov/industries/tv-and-film
CA: http://film.ca.gov/

Beyond these comparison states, ORA found that state tax incentives targeted at motion picture production are a common practice throughout the United States. For example, a 2016 report conducted by the California Legislative Analyst's Office contained a national inventory of states offering targeted motion picture production tax incentives revealing that 36 out of 50 states offered "financial incentives" for motion picture production.[4]

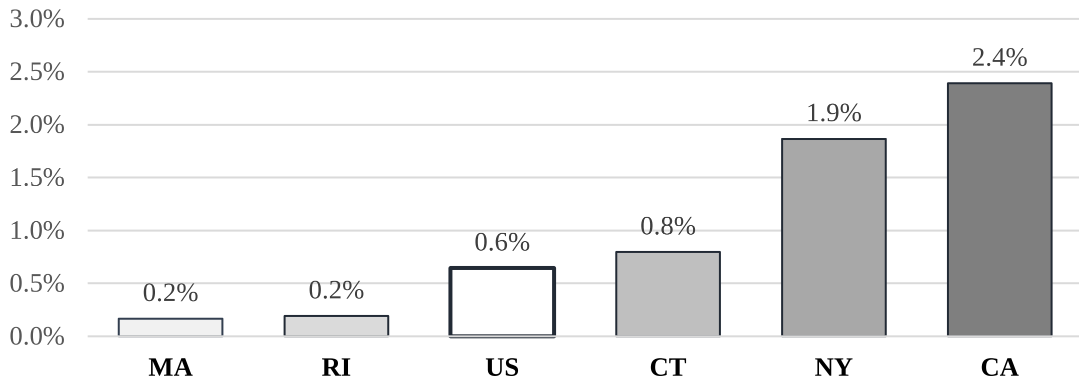
While motion picture production tax credits are commonplace nationwide, their popularity may be on the decline. A 2016 report by the National Conference of State Legislatures reports that Michigan, New Jersey, and Alaska have dropped their motion picture incentive programs due to looming budget deficits and the lack of certainty regarding the economic benefits from such

[4] California Legislative Analyst's Office, "California's First Film Tax Credit Program," published September 29, 2016. Available: http://www.lao.ca.gov/Publications/Report/3502

incentives. Other states, such as Montana and North Carolina, have made budget-conscious modifications to their motion picture incentive programs such as converting tax credits to appropriated grants.[5]

The Rhode Island motion picture industry is relatively small when measured in terms of contribution to gross domestic product (GDP) and employment. Furthermore, the relatively few Rhode Island motion picture employment opportunities are lower-paying than those in comparison states and nationwide. The following chart depicts the relative contribution of motion picture industry production to GDP. The levels are calculated as three-year averages to smooth any year-to-year volatility or measurement error.

Motion Picture and Sound Recording Industries
Contribution to GDP*
(Three-Year Average CY 2013- CY 2015)



Source: ORA Calculations based on data from United States Department of Commerce, Bureau of Economic Analysis, last updated 5/11/2017

* Motion picture contribution to GDP calculated as motion picture and sound recording industries (NAICS 512) gross domestic product divided by all industries gross domestic product, both figures measured in current dollars. This NAICS category is the most specific classification available from the data source and includes some portion of irrelevant sound recording industries activity.

Motion picture and sound recording industries contribute relatively little to Rhode Island GDP when compared to national averages. Over the period of CY 2013 to CY 2015, Rhode Island motion picture and sound recording industries contributed an average of $103.3 million in total GDP annually, or approximately 0.2 percent of Rhode Island's total average annual GDP of $53.9 billion. This contribution is below the national average. During the same period, motion picture and sound recording industries contributed $111.3 billion, or 0.6 percent of the United States' GDP of $17.3 trillion. As shown in the figure below, Rhode Island dramatically trails leading states such as New York and California, where the motion picture and sound recording industries' contributions to GDP are 1.9 percent and 2.4 percent, respectively. However, the relative size of motion pictures and sound recording industries in Rhode Island is closer to parity with neighboring states such as Massachusetts, where the motion picture contributions to GDP is 0.2 percent.

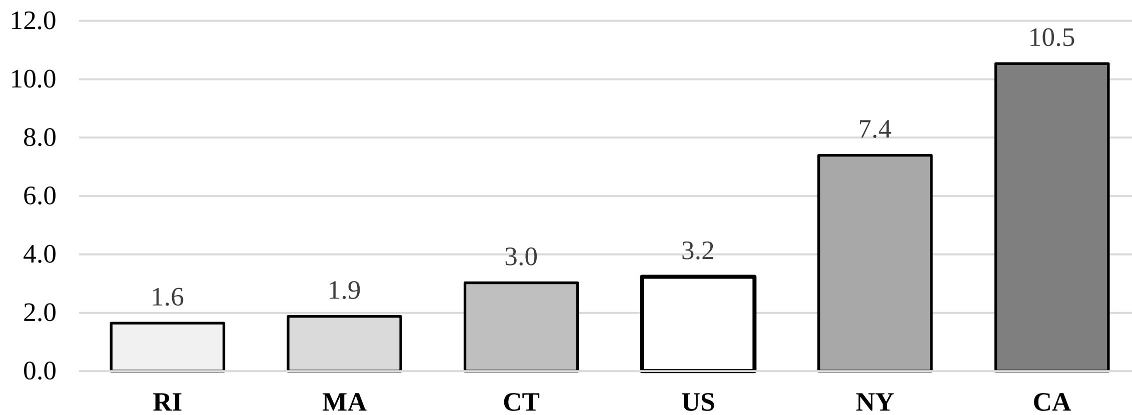
[5] National Conference of State Legislatures, "State Film Production Incentives and Programs," Published June 13, 2016, Available: http://www.ncsl.org/research/fiscal-policy/state-film-production-incentives-and-programs.aspx

Connecticut stands above Rhode Island and slightly above the national average with a motion picture and sound recording industries contribution to GDP of 0.8 percent.

Employment and compensation data as depicted in the following two charts reveal that Rhode Island has relatively few jobs in the motion picture and video industries, and those jobs are relatively low paying.[6] The following bar graph shows Rhode Island motion picture industry employment as a portion of the total workforce. Specifically, the chart depicts motion picture industry jobs per thousand private sector, all industries jobs.

Motion Picture and Video Industries Jobs Per Thousand*

(Three-Year Average, Calendar Years 2013- 2015)



Source: ORA calculations based on United States Department of Labor, Bureau of Labor Statistics and RI Department of Labor and Training, Quarterly Census of Wages and Employment establishment survey data.

* Motion picture jobs per thousand calculated as total employment, motion picture and video industries (NAICS 5121), private, divided by total employment, all industries, private x 1,000

Over the period of CY 2013 through CY 2015, Rhode Island had an average annual total job count in motion picture and video industries of 696 jobs. This count is relatively small when considering the size of Rhode Island's labor force. Motion picture and video industries comprise 1.6 jobs per thousand private industry jobs in Rhode Island, which is approximately half of the comparable national figure of 3.0 jobs per thousand. Within the three-state region, Massachusetts has a similarly low concentration of motion picture and video industries jobs, while Connecticut more closely resembles the national average; however, the leading states of New York and California have a concentration of motion picture and video industries employment that is two to four times higher than the national average.

[6] Given that employment and wage data were available for NAICS Code 5121, "Motion Picture and Video Industries", ORA used the more specific NAICS Code when comparing employment and wage data across states.

The following chart depicts average annual compensation in the motion picture and video industries relative to all industries, private compensation for Rhode Island, comparison states, and nationwide.

Motion Picture and Video Industries Employee Pay

(Three-Year Average, Calendar Years 2013 – 2015 Annual Pay)

State	Motion Picture and Video Industries, Private[a]	All Industries, Private[b]	Ratio of Motion Picture to All Industries[c]
Rhode Island	*$28,626*	*$47,323*	*60.5%*
Massachusetts	$32,567	$64,782	50.3%
United States	**$64,934**	**$51,291**	**126.6%**
Connecticut	$85,966	$64,785	132.7%
New York	$94,045	$66,727	140.9%
California	$95,898	$58,788	163.1%

Source: ORA calculations based on United States Department of Labor, Bureau of Labor Statistics and RI Department of Labor and Training, Quarterly Census of Wages and Employment establishment survey data

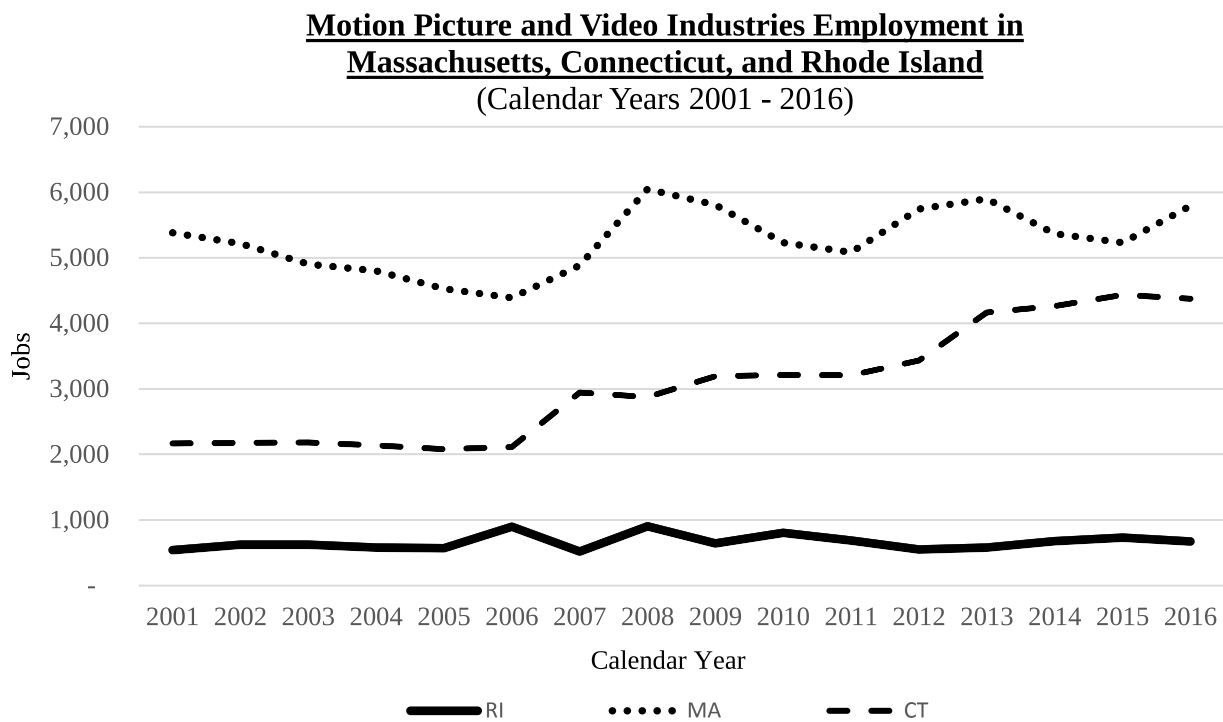
[a] Average CY 2013- CY 2015 of motion picture and video industries (NAICS 5121), private, average annual pay

[b] Average CY 2013- CY 2015 of all industries, private, average annual pay

[c] Ratio of motion picture average annual wage to all industries average annual wage

Rhode Island motion picture and video industries jobs are relatively low-paying. The average annual pay of $28,626 for CY 2013 through CY 2015 is 60.5 percent of the average annual pay for Rhode Island all private industry jobs of $47,323. While the average Rhode Island motion picture job pays below the all private industries average, the opposite is true nationwide. The average United States motion picture and video industries job pays an annual wage of $64,934 during the same period, which is 126.6 percent of the average annual wage of a United States all private industries job of $51,291. Rhode Island's two neighbors are split with respect to motion picture and video industries pay: Massachusetts motion picture jobs pay less than the private sector average, while Connecticut motion picture jobs pay more. In the leading states of New York and California, the average motion picture and video job pays more than the average private sector jobs by a ratio that outpaces the national average.

Even with the availability of the MPPTC, the Rhode Island motion picture and video industries has not experienced significant growth in recent years. The following chart depicts employment trends in the motion picture and video industries in Massachusetts, Connecticut, and Rhode Island for the period of CY 2001 through CY 2016.



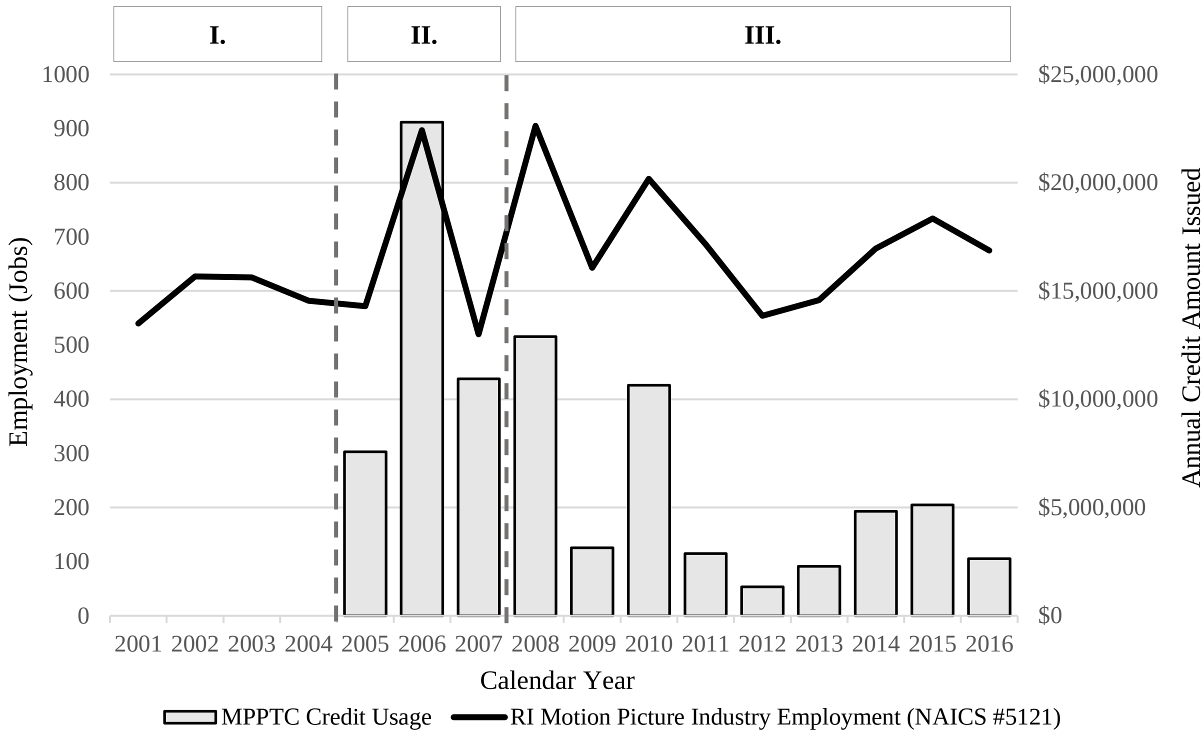
Source: United States Department of Labor, Bureau of Labor Statistics and RI Department of Labor and Training, Quarterly Census of Wages and Employment establishment survey data.

The previous chart shows a relative flat trend in Rhode Island and Massachusetts motion picture industry employment with Connecticut experiencing a period of stability followed by expansion. Both Massachusetts and Rhode Island experienced significant volatility as evidenced by patterns of multiple peaks and troughs. Connecticut experienced consistent employment growth with only moderate, occasional interruptions since 2009.

The following chart depicts long-term trends in Rhode Island motion picture and video industries employment along with annual amounts of Motion Picture Production Tax Credits issuance. The line depicts motion picture industry job count, while the bars refer to annual MPPTC credit usage amounts. The time period CY 2001 through CY 2016, which are grouped into three periods as designated by roman numerals. The first period prior to 2005 represents a baseline level of employment prior to the establishment of the MPPTC. It should be noted that during this period, the “Film Production Tax Credit” offered tax credits to subsidize motion picture production under the since-repealed R.I. Gen. Laws §44-31.1. However, after consultation with the Division of Taxation, ORA was unable to identify any usage of this credit and therefore assumes that usage of this credit, if at all, occurred at *de minimis* levels. The second period covering CY 2005 through CY 2007 represents when the MPPTC was first established. During this period there was no annual cap on total credits issued, so a potentially unlimited number of productions could have been awarded credits. In the third period covering 2008 to the present, the MPPTC has operated with a $15,000,000 annual credit amount cap. This chart is intended to highlight long-term trends and correlation between employment and credit amount, while highlighting the dates of key policy changes to the MPPTC program.

<u>Rhode Island Motion Picture and Video Industries Employment and Motion Picture Production Tax Credits Issued</u>

(Calendar Years 2001 - 2016)



Notes:

I. *Prior to 2005*: MPPTC not yet established. The since-repealed "Film Production Tax Credit" was available at this time; however, after consultation with the Division of Taxation, ORA has been unable to confirm any usage of this credit.

II. *2005 - 2007*: MPPTC established without any cap on the total annual credit amount.

III. *Since 2008*: MPPTC established with a $15,000,000 cap on the total annual credit amount.

Source: RI Department of Labor and Training, Quarterly Census of Wages and Employment establishment survey data and RIFTVO testimony at the November 2017 Revenue Estimating Conference.

The chart shows that there has been modest growth in Rhode Island motion picture industry employment following the implementation of the MPPTC in 2005. Prior to 2005 average annual Rhode Island motion picture industry employment stood at 594 jobs. Since 2005 annual motion picture industry employment averaged 688 jobs, an increase of 94 jobs since the implementation of the MPPTC. When interpreting this increase, it is important to note that a simple before and after comparison cannot determine whether this increase can be attributed to the availability of the MPPTC. Fluctuations in employment may be the result of other confounding factors such as growth in the Rhode Island population and labor force or trends that may have occurred even without the availability of the MPPTC. Further, the chart shows that Rhode Island motion picture industry employment is characterized by significant volatility. During the period of CY 2001 through CY 2016, Rhode Island motion picture industry employment count has ranged between 520 and 905 with year-to-year fluctuations in employment ranging between -325 and +385.

The bars in the chart illustrate that annual amount of MPPTC usage since the program was implemented in 2005. The average cost since 2005 was $7,255,284, ranging from a minimum of $1,342,645 in 2012 to a maximum of $22,797,376 in 2006.

A simple visual analysis of the relationship between motion picture and video industries employment and the usage of MPPTC shows that MPPTC credit usage and employment show a positive correlation – that is, an increase in one indicator is generally associated with an increase in the other indicator. For example, when motion picture employment increases it can be expected that MPPTC usage will also increase. However, it is not possible to determine the direction of this relationship: it is possible that credit usage drives employment; employment drives credit usage; or some third exogenous factor, such as trends in the national motion picture industry, drive both.

Recent credit usage amounts as revealed in the above chart show that the imposition of the $15,000,000 cap in 2008 has not had any limiting impact on credit usage. While the average annual credit usage did exceed $15,000,000 in a single year prior to the implementation of the annual cap, credit usage has not approached the cap in any year since 2008. Average annual credit usage since 2008 has been $4,107,362 with a maximum usage of $12,893,662 in 2008. While the annual cap provides a safeguard against unexpected revenue losses in an *exceptional* year of credit usage, the cap does not limit the availability of the credit in a *typical* year.

Part III: Report Data Description

The analysis of MPPTC in this report required an analysis of micro-level taxpayer data. ORA encountered significant challenges related to data access. In order to gain sufficient access to data while respecting confidentiality concerns, ORA entered into Memoranda of Understanding (MOU) with the Rhode Island Department of Revenue, Division of Taxation (Division of Taxation), Rhode Island Department of Labor and Training, and Rhode Island Commerce Corporation. These MOUs sought to preserve the confidentiality of individually identifiable taxpayers consistent with the statutory mandates regarding secrecy and confidentiality of taxpayer information. In this context, ORA relied on data provided by credit recipients to the Division of Taxation for tax years 2013, 2014, and 2015, to the extent such information were provided, as required by R.I. Gen. Laws § 44-48.2-5(b). The data provided by the Division of Taxation to ORA consist of the following:

- Self-reported firm data as submitted by firms within 8201A forms and provided by the Division of Taxation's Forms, Credits and Incentives Section;
- Motion picture companies certified production expenses provided by the Division of Taxation's Field Audit Section;
- Withholding tax payment records on file provided by the Division of Taxation's and the Department of Labor and Training's Employer Tax Section;
- Initial Application for Tax Credit, Final Application for Tax Credit, and Information Request forms administered by the Rhode Island Film and Television Office (RIFTVO);
- ORA Personal Income Tax Simulation Model (ORA PIT Model). The ORA PIT Model is constructed using the most recent data made available by the Division of Taxation. At the time of analysis, the most recent personal income tax data made available to ORA related to tax year 2015.
- Corporate tax payments on file provided by the Division of Taxation's Forms, Credits and Incentives Section.

ORA made no attempt to verify the accuracy of the data provided and made minimal corrections to the data in order to be able to execute specific calculations for the report. The data included in this report are unaudited and reported as compiled.

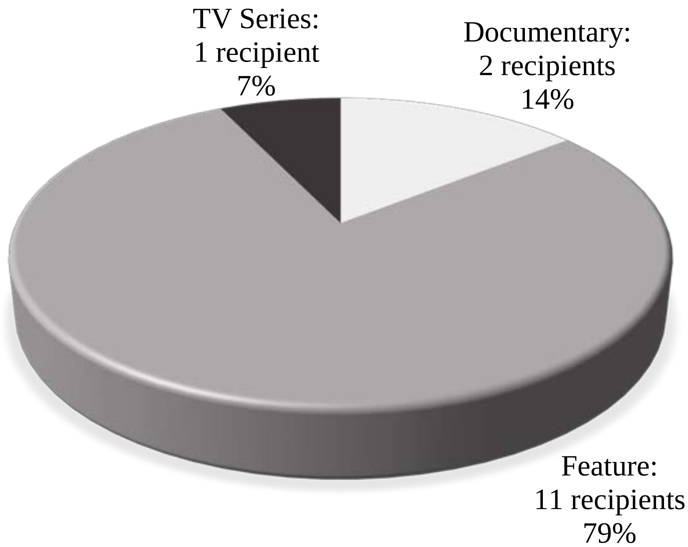
1. Number of taxpayers granted tax credit

According to the Division of Taxation, motion picture production tax credits were issued to fourteen completed productions during the period of January 2013 through December 2015[7]. The breakdown of these productions by production type is depicted in the following chart.[8]

[7] In tax years 2013 through 2015 there were fourteen completed motion picture productions. However, one MPPTC company had two productions which resulted in thirteen motion picture production companies subject to this report analysis.

[8] The Division of Taxation provides a listing of MPPTC credits issued including issuance date at the following link. At the time of publication, this source listed 15 productions with credit issuance dates in the range of calendar years 2013 through 2015. ORA was unable to confirm that credits had in fact been issued for one of the productions in this list and therefore did not include this production in this report.
http://www.tax.ri.gov/taxcreditreports/motionpicture.php

Motion Picture Production Recipients by Production Type
(Tax Years 2013 - 2015)



Source: Division of Taxation

Note: Chart does not include musical and theatrical productions tax credit recipients.

The sum of the certified production costs associated with MPPTC-recipient productions for this period was $30,460,478. The corresponding motion picture production tax credits totaled $7,566,020 for tax years 2013 through 2015. The following table provides a description of the number of recipients of the Motion Picture Production Tax Credits, the corresponding tax credit amounts received, and the corresponding certified production costs in each tax year:

Motion Picture Production Tax Credit Recipient Information by Fiscal Year
(Tax Years 2013 – 2015)

Tax Year	Number of Productions	Total Credit Received	Total Certified Expenses*
2013	5	$901,837	$3,651,612
2014	6	$4,594,290	$18,467,448
2015	3	$2,069,894	$8,341,418
Total	**14**	**$7,566,020**	**$30,460,478**
Average	**5**	**$2,522,007**	**$10,153,493**

Source: Division of Taxation.

* State certified production expenses mean any pre-production, production and post-production cost that a motion picture production company incurs and pays to the extent it occurs within the state of Rhode Island. More detailed description can be found in R.I. Gen. Laws § 44-31.2(11)

2. Value of tax credit granted by NAICS Code

The amount of motion picture production tax credits issued in tax years 2013 through 2015 leveraged total certified motion picture production expenditures of $30,460,478. Each MPPTC recipient is required to submit documentation of certified expenditures as part of the MPPTC application. ORA reviewed the data contained in the MPPTC application and classified certified production spending by NAICS Code based on the industries directly impacted by film industry spending. This resulted in the distribution of these expenditures among fourteen major industries as shown in the following table:

Certified Motion Picture Production Tax Credit Expenses by NAICS Industry
(Tax Years 2013 – 2015)

Industry Description	Three-Year Total†	Three-Year Average†
Accommodation (721)	$1,839,625	$613,208
Administrative and support services (561)	62,408	20,803
Compensation (N/A)*	23,777,873	7,925,958
Couriers and messengers (492)	25,446	8,482
Food services and drinking places (722)	1,332,006	444,002
Professional, scientific, and technical services (54)	96,581	32,194
Real estate (531)	852,675	284,225
Rental and leasing services; Lessors of nonfinancial intangible assets (532,533)	1,355,871	451,957
Repair and maintenance (811)	81,378	27,126
Telecommunications (517)	19,837	6,612
Transit and ground passenger transportation (485)	117,366	39,122
Waste management and remediation services (562)	2,888	963
Wholesale trade (42)	896,523	298,841
All Industries	**$30,460,478**	**$10,153,493**

Source: Division of Taxation

* For purposes of entering compensation into the REMI model, all compensation is assumed to be associated with the "Motion pictures and sound recording industry (NAICS Code 512)." The amount spent on compensation is reported in the schedule of certified production expenses provided by each recipient firm, but detailed employee-level information is not available from this source.

† Expenses for which the description is not easily assignable to any single NAICS industry were redistributed among all other reported expense categories in proportion with the level of reported spending in each category.

3. Cost of administration

The administration of motion picture production tax credits involves both the RIFTVO and the Division of Taxation. Using data provided by the two agencies, ORA found that the total cost to administer the tax credit was $74,044 in tax years 2013-2015. The total direct cost incurred by RIFTVO in tax years 2013-2015 to administer the Motion Picture Production Tax Credit was $45,000 while the indirect costs incurred by the Division of Taxation to administer the tax credit were $36,544 for the same time period. The following table provides a description on the cost of administration in each tax year:

Motion Picture Production Tax Credit:
Cost of Administration by Office and Tax Year
(Tax Years 2013 – 2015)

Cost-Incurring Entity	Cost of Administration TY13	TY14	TY15	Total	Average
Division of Taxation	$10,459	$14,861	$11,224	$36,544	$12,181
RIFTVO	$15,000	$15,000	$15,000	$45,000	$15,000
Total Cost	**$25,459**	**$29,861**	**$26,224**	**$81,544**	**$27,181**

Source: Data from the Division of Taxation and RIFTVO, respectively.

4. Number of Aggregate Jobs and Direct Taxes Paid by Recipient's Employees

In conjunction with the Division of Taxation's Employer Tax Section, and the Department of Labor and Training, a list of employees of firms who were awarded a MPPTC and who collected wages during the period of analysis was established. It should be noted that the following table and statistics include data from seven of the 14 projects which occurred during the period of analysis.

Employee Count and Wages Paid at MPPTC Recipient Firms
(Tax Years 2013 – 2015)

	TY13	TY14	TY15	Total
Employees Count	94	55	38	187
Wages Paid	$434,310	$533,256	$171,088	$1,138,655

Source: Department of Labor and Training and Division of Taxation.

In some instances, employees worked for firms who were awarded credit in more than one tax year and/or for more than one firm during the three-year period of analysis. Of the 187 employees found, 155 of them are unique individuals. The following table provides detail on the extent to which the jobs reported by multiple firms in multiple years may have been awarded to the same individuals.

MPPTC Employee Characteristics:
Employees by Years of Employment and Count of Associated Firms
(Tax Years 2013 – 2015)

Years of Documented Employment*		***Count of Associated Firms*****	
Years per Employee	Count	Firms per Employee	Count
Employee of 3 years	4	Worked for 3 firms	9
Employee of 2 years	24	Worked for 2 firms	17
Employee of 1 year	127	Worked for 1 firm	129

Source: Department of Labor Training and Division of Taxation.

* An individual may be associated with a MPPTC-recipient firm in multiple years. When an individual is documented as an employee of a MPPTC-recipient firm in a single year within the three-year period of analysis, they are counted as an "Employee of 1 year". Similarly, if an individual is documented as an employee of a MPPTC-recipient firm in two years, they are counted as an "Employee of 2 Years", etc.

** ORA observed that some individuals were employed by multiple MPPTC-recipient firms within the three-year period of analysis. For example, if an individual was claimed as an employee by two MPPTC-recipient firms, they are counted among the "Worked for 2 firms" category. The data do not reveal the extent to which individuals employed by multiple firms held successive, distinct terms of employment or overlapping terms of employment.

In order to determine further employee statistics as well as taxes paid, ORA utilized its personal income tax simulation model. For TY 2015, 10 of the 38 reported employees had TY 2015 that were found. The non-residents for TY 2015 include one filing from Massachusetts and an indeterminable location. For TY 2014, 31 of the 55 reported employees had TY 2014 filings that were found. The non-residents for TY 2014 include filings from California, Connecticut, Florida, Georgia, Louisiana, Massachusetts, Maryland and New York.

For TY 2013, 57 of the 94 reported employees had TY 2013 filings that were found. The percentage of resident versus non-resident employees include only those employees where tax returns were located. The non-residents for TY 2013 include filings from California, Connecticut, Louisiana, Massachusetts, Maryland, New York and Ohio.

In order to determine taxes paid, ORA utilized the ratio of reported wages through the MPPTC firms compared to total federal adjusted gross income listed on the tax return for the tax year. This ratio was multiplied by the total taxes paid in that tax year to report total apportioned taxes paid for income earned from the MPPTC recipient firm.

<u>MPPTC-Recipient Employees:</u>
<u>Identified Tax Filings by Resident and Non-Resident Status</u>
(Tax Years 2013 – 2015)

	TY 2013	TY 2014	TY 2015
Total Employees Reported	**94**	**55**	**38**
Identified	***57***	***31***	***10***
Resident	37	13	*
Non-Resident	20	18	*
Not Identified	***37***	***24***	***28***
Resident	unknown	unknown	unknown
Non-Resident	unknown	unknown	unknown

Source: Division of Taxation, Office of Revenue Analysis personal income tax model
Notes:
*Undisclosed

<u>MPPTC-Recipient Employees:</u>
<u>Personal Income Taxes Paid by Identified Taxpayers</u>
(Tax Years 2013 – 2015)

	TY 2013	TY 2014	TY 2015
Count of Taxpayers Identified by Division of Taxation	92 of 94	55 of 55	24 of 38
Count of Taxpayers Identified by ORA	57 of 92	31 of 55	10 of 24
Total RI Personal Income Taxes Paid†	$8,404	$5,941	$247
Taxes paid per Identified Job	$147	$192	$25

Source: Division of Taxation

† Taxes paid reflects only the amounts paid by employees for which the Division of Taxation and ORA were able to identify a tax filing. Also, taxes paid reflects apportioned taxes by amount of reported wages attributable to motion picture projects. The above taxes paid do not reflect total taxes paid by identified taxpayers.

5. Direct Taxes Paid by Recipients

In order to maintain taxpayer confidentiality, ORA is unable to report on taxes paid by tax year because of the small number of recipients in any given tax year. In total for the three tax years of 2013, 2014, and 2015, the firms who received MPPTC credits paid $5,000 in Rhode Island business corporation taxes. Ten of the fourteen entities paid the minimum tax.

6. Measuring the Extent to which Benefits Remained in the State

It is a requirement of the MPPTC that all certified production expenses must consist of purchases from in-state vendors and compensation paid to individuals for services provided in the state. The breakdown of purchases from in-state vendors vs. compensation to individuals is as follows:

Motion Picture Production Tax Credit:
Breakdown of Expenses by In-State Vendors vs. Compensation
(Tax Years 2013 – 2015)

Category of Certified Production Expense	TY 13	TY 14	TY 15	Total	Average Amount	Average Percent
In-State Vendors	$1,092,626	$4,001,134	$1,656,666	$6,750,426	$2,250,142	22.2%
Compensation	$2,558,986	$14,466,314	$6,684,752	$23,710,052	$7,903,351	77.8%
Total Cost	**$3,651,612**	**$18,467,448**	**$8,341,418**	**$30,460,478**	**$10,153,493**	**100.0%**

Source: Data from the Division of Taxation and RIFTVO.

The amount dedicated to in-state vendors can be assumed to have been paid entirely to Rhode Island firms. However, the portion spent on compensation was paid to a mixture of residents and nonresidents.

ORA was able to conduct analysis related to employees by state of residency on the two productions that submitted employee-level data to the Division of Taxation through RI Form 8201A. This data source provides employee-level information including hourly wage, weekly hours, state of residency, and total wages paid by the recipient firm. ORA divided the employees into three groups by place of residency: Rhode Island residents; residents of neighboring states, Massachusetts and Connecticut; and, residents of other states. ORA calculated average hourly wage, a count of employees, and estimated total wages. Detailed analysis is provided in the following table.

Analysis of Motion Picture Production Employment
(2 out of 13 compliant firms only, Tax Years 2013 - 2015)

Employee Place of Residence	Average Hourly Wage	Number of Employees	Estimated Total Wages Paid*	Average Total Wages per Employee
RI	$33.05	440	$1,240,220	$2,819
MA-CT	$33.85	480	$1,284,345	$2,676
Other	$189.87	184	$5,693,117	$30,941
Average / Total	**$77.18**	**1,104**	**$8,217,682**	**$7,444**

Note: This table presents employment information from only those two recipients having submitted RI Form 8201A. An additional 11 recipients did not comply with data reporting requirements as mandated by R.I. Gen. Laws § 44-31.2 While these data may or may not be representative of all 13 recipient firms, it is presented "as is" for it is the only available data.

* RI Form 8201A requires tax credit recipients to provide total production payroll in addition to employee-level data on hours worked per week and estimated hourly wage. The sum of the product of hours worked per week and average hourly wage was not equal to total payroll. Therefore, the estimate of total wages paid to each group is a weighted distribution of total payroll, weighting the amount of wages paid to each group by the product of each group's average hourly wage and total hours worked per week.

The data presented in the preceding table indicates that the two MPPTC recipients that submitted RI Form 8201A to the Rhode Island Division of Taxation reported a total of 1,104 employees at an average wage of $77.18 per hour, representing total payroll expenditures of $8,217.682. However, a closer analysis of the data reveals a clear distinction between the characteristics of local and non-local employees. Rhode Island residents held 440 jobs with an average hourly wage of $33.05 while residents of neighboring states held 480 jobs with an average hourly wage of $33.85. Though a vast majority of jobs are held by residents of the three-state local region, the 184 jobs held by residents of other states have an average hourly wage of $189.87, over five times higher than the wage paid to local residents. Furthermore, 69.3 percent of total payroll expenditures, or $5,693,117 were paid to employees residing outside of the three-state region.

Considering the lack of compliance with RI Form 8201A, ORA investigated alternative data sources to cast light on the extent to which compensation was paid to residents vs. non-residents. Specifically, ORA divided the data provided by the Division of Taxation on MPPTC employees' compensation into two categories. The first category consists of compensation payments made to a motion picture director, writer, and producer or featured actors. In the jargon of the of motion picture industry, these employees are commonly referred to as the "Above the Line" staff, with the remaining crew referred to as "Below the Line." While the state-of-residence information provided to ORA was incomplete, after reviewing all available data, ORA determined that it was appropriate to assume that above-the-line staff were nearly entirely comprised of Rhode Island non-residents, while below-the-line staff were mostly comprised of Rhode Island residents. ORA analysis of certified motion picture production expenses indicated that 65 percent of compensation spending was associated with above-the-line personnel and 35 percent was associated with below-the-line personnel.

Note for productions that took place within the state, the geographic location of productions was distributed among municipalities. The table below lists the three-year total amounts of MPPTC tax by different geographical area for tax years 2013 through 2015:

MPPTC Certified Production Spending by Geographical Areas
(Calendar Years 2013 – 2015)

Geographical Area	Three-Year Total Amount
East Greenwich	$734,854
Jamestown	$572,658
Providence	$13,323,417
Multiple Locations*	$15,829,549
Three Year Total	**$30,460,478**

Source: ORA analysis of RIFTVO and Division of Taxation data.

* Multiple locations include some combination of the following towns: Cranston, East Greenwich, Johnston, Woonsocket, Newport, Portsmouth, South Kingstown, and Providence.

7. Additional data to support evaluation of statutory and programmatic goals and intent of the tax incentive

- *Featuring Rhode Island*

According to the Rhode Island Film and Television Office 12 of the 14 productions analyzed were filmed in Rhode Island. The remaining two met the eligibility requirements for documentary productions as defined in regulation for which principal photography may occur outside of the state, but the location of at least 51 percent of the total production days, including pre-production and post-production, took place within the state.[9] Of the 14 productions, 57.1 percent or a total of eight have a storyline that explicitly referenced Rhode Island.

- *Educational Curricula and Labor Force Training Programs*

ORA requested data from the Rhode Island Film and Television Office (RIFTVO) regarding the offering of educational curricula and labor force training programs by MPPTC recipients. Specifically, ORA requested page four of the "Final Application" for Motion Picture Production Tax Credits which contains the questions:

- "INTERNSHIPS: Briefly describe or attach additional information on your participation in internship programs offered by Rhode Island colleges, universities, labor organizations and non-profit organizations associated with the motion picture industry:"
    - "Number of Interns:"
- "TRAINING PROGRAMS: Briefly describe or attach additional information on your participation in training programs offered by Rhode Island colleges, universities, labor organizations and non-profit organizations associated with the motion picture industry:"
    - "Number of Training Program Participants:"

RIFTVO did not provide copies of the completed applications stating that a "request for final applications regarding 'new educational curricula' would not comprehensively share the full amount of education per production." In place of satisfying this request, the RIFTVO Director provided examples of educational opportunities associated with recent MPPTC recipients.

The RIFTVO Director noted that "Since the inception of the Motion Picture Tax Incentive Program, most of the Rhode Island colleges and universities have film and/or media programs which did not exist prior." Furthermore, RIFTVO provided numerous examples of opportunities provided to local high school and college students by MPPTC recipient productions as well as film personnel volunteering their time with educational lectures and other programming while on location in Rhode Island. Some of these educational offerings are provided in the following table:

[9] See Rule 5, definition of "Primary Location" in relevant regulation, ERLID #7491 promulgated by the Division of Taxation and available at: http://sos.ri.gov/documents/archives/regdocs/released/pdf/DOTAX/7491.pdf

Production	Description of Educational Opportunity
“Irrational Man”	University of Rhode Island students having studied the films of Woody Allen were given the opportunity to work on set.
“The Purge: Election Year”	Rhode Island College given opportunity to work on set. Producer, Location Manager, and RIFTVO Director conducted a Q&A for students, documented on video for future use.
Various Productions	Production crew members and creators participated in the Rhode Island Public Television series “Double Feature” providing information about their craft to a wide local audience and aspiring filmmakers.
“Almost Mercy”	Free weekend class offered at New England Tech titled “How to be a Valuable Production Assistant” with participation of Director, Producer, and Assistant Director and RIFTVO Director.
“Infinitely Polar Bear” and “Measure of a Man”	Producers volunteered to judge student films and provide professional advice to student filmmakers as part of the “Give Me 5 Student Film Showcase”.
“Infinitely Polar Bear” and “The Polka King”	Producers offered free lecture and Q & A hosted at Providence Biltmore.
Various Productions	Directors, producers, and RIFTVO Director have lectured at Roger Williams University, Johnson and Wales University, Rhode Island School of Design, Brown University, and at various film festivals throughout the state during productions which would not have occurred if not for the MPPTC program.
Source: ORA summary of email from Director of the Rhode Island Film and Television Office	

The RIFTVO Director stated that “this vital information, and many more examples, would not be reflected on the final applications” and further that the Film and Television Office takes “the responsibility of film education seriously, along with the other various aspects of the MPPTC.”

Based on this anecdotal information, ORA was unable to measure any employment or job training outcomes to evaluate the effectiveness of the educational curricula and labor force training programs associated with the MPPTC.

Part IV: Evaluation of the Economic Impact of the Tax Credit

This section of the report addresses two major objectives defined in R.I. Gen. Laws § 44-48.2-5: first, to provide a projection of the potential impact of the Motion Picture Production Tax Credit on state revenues from projected future use and carryforward; and, second, to produce a cost-benefit analysis that can determine the net impact on state revenues, employment, and Rhode Island gross domestic product resulting from the MPPTC.

1. Assessment and Five-Year Projection of Revenue

Current law includes a sunset of the MPPTC program, stating that no new credits shall be issued on or after July 1, 2024. However, it is anticipated that redemption activity will continue beyond this date as redemption of tax credits may not occur immediately following issuance. Redemption of credits under current law is limited to a tax credit certificate holder's tax liability. Unused credits are transferrable and eligible to be carried forward to be used against future tax liabilities. Carrying forward of tax credits is limited to an additional three years following initial credit redemption.

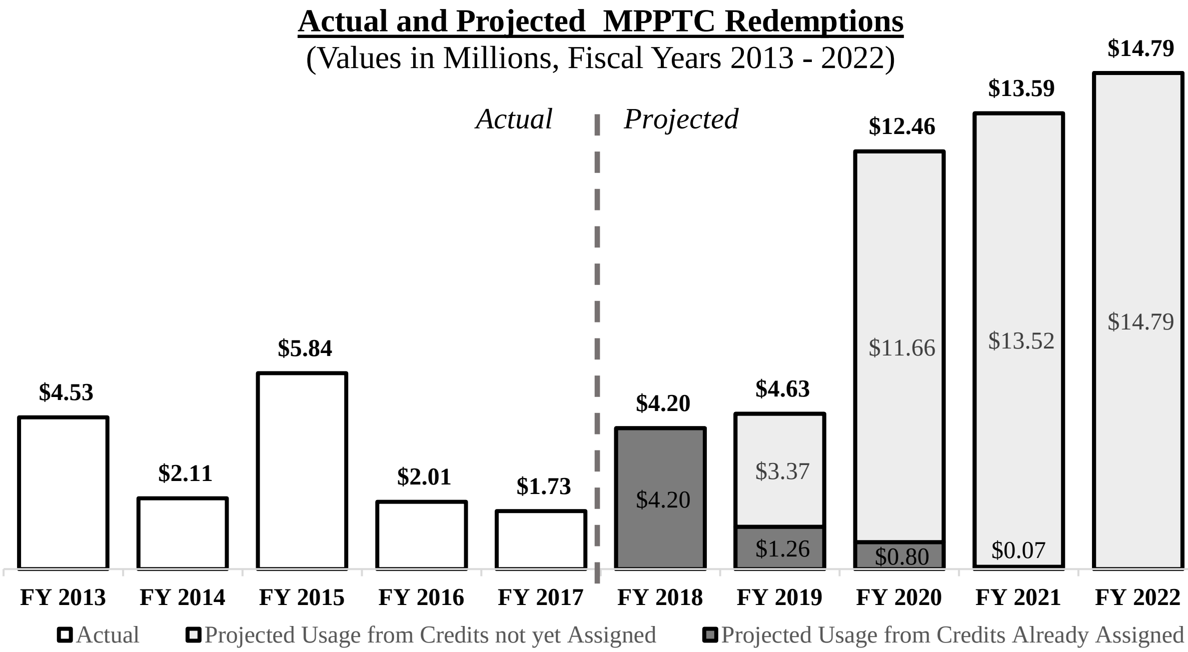
In constructing a projected schedule of credit redemptions, ORA analyzed historic data on credit redemption by year of initial credit certification and assignment of an identification number by RIFTVO. ORA assumes that the redemption of MPPTC tax credits under current law will follow historical redemption patterns.

ORA estimates that no MPPTC tax credits assigned in a given calendar year are redeemed in the concurrent fiscal year (i.e., CY 2013 and FY 2013), 22.4 percent of credits issued in a given calendar year are redeemed in the immediately following fiscal year (i.e., CY 2013 and FY 2014), 55.3 percent of credits issued in a given calendar year are redeemed in the second following fiscal year (i.e., CY 2013 and FY 2015), 12.4 percent of credits issues in a given calendar year are redeemed in the third following fiscal year (i.e., CY 2013 and FY 2016), and 8.5 percent of credits issued in a given calendar year are redeemed in the fourth following fiscal year (i.e., CY 2013 and FY 2017). Historically, 1.4 percent of credits assigned in a given calendar year remain unused.[10]

Finally, ORA assumed the total amount of credit that would be issued in each future calendar year is equal to $15,000,000, the maximum amount of credit allowed to be issued annually under current law. ORA distributed the anticipated amount of motion picture production tax credits to be issued in each calendar year by the historical fiscal year redemption patterns listed above.

The following chart describes historical credit redemption amounts, shown in white, from FY 2013 through FY 2017, with a five-year projection of credit redemptions shown in shades of gray. The dark gray shaded regions in the chart below represent credits that had already been assigned at the close of CY 2017 as they are projected to be redeemed over the next several fiscal years. The light gray shaded region refers to future credits assumed to be assigned in the amount of $15,000,000 per year for each year beginning in CY 2018.

[10] A discussion of the relationship between calendar year assignment and fiscal year redemption is made necessary by the fact that RIFTVO testimony reports on credit assignment by calendar year while credit redemption is reported on a fiscal year basis.



Source: ORA calculations based on credit assignment data from RIFTVO testimony at November 2017 Revenue Estimating Conference and credit redemption data from the Division of Taxation.

Note: Historically, credits are not immediately redeemed following credit assignment due to factors such as credit carryforward and delay in tax filings. See text for the discussion of the relationship between credit assignment and redemption. ORA assumes that credits will be redeemed according to historical average patterns in the years following credit assignment. Furthermore, this projection assumes that the maximum amount of credit, $15,000,000, will be assigned in all future years. This cap is shared between credits issued in relation to motion picture production as well as musical and theatrical production. This projection therefore includes some portion of usage attributable to musical and theatrical productions.

2. "Breakeven" Cost-Benefit Analysis

- *Introduction to "Breakeven" Cost-Benefit Analysis Methodology*

Pursuant to R.I. Gen. Laws § 44-48.2-5(6), ORA conducted a "breakeven" cost-benefit analysis to measure the net impact on state revenues resulting from the MPPTC under a variety of assumptions regarding what would have happened in the Rhode Island economy if the credit had not been available. To provide additional insight, ORA also produced breakeven analyses with respect to employment and Rhode Island gross domestic product (RI GDP).

To execute these cost-benefit analyses, ORA utilized Regional Economic Models, Incorporated's (REMI) 70-sector model of the Rhode Island economy via the REMI PI+ software platform to produce estimates of the total economic effects of the tax credits issued in tax years 2013 through 2015.[11] The dynamic capabilities of the REMI PI+ model allows one to estimate the impacts of

[11] The REMI model consists of four economic impact methodologies: input-output analysis, computable general equilibrium dynamics, econometric estimation techniques, and economic geography and migration flows. Detailed documentation on the REMI PI+ v2.0.6 model employed in this analysis is available at: http://www.remi.com/resources/documentation

exogenous shocks to the state's economy, including changes to public policy, shifts in consumer behavior and demand, and developments in industry.

The analysis is based on self-reported firm-level data on employment and wages, as well as data from the Division of Taxation, the Rhode Island Television and Film Office and publicly available historical data on the regional and national economies. Direct benefits are entered into the REMI model as policy variables simulating changes in industry sales, exogenous final demand, employment, and compensation or wages. ORA assigned these benefits to a profile of sectors among the 70 sectors available in the REMI PI+ model in proportion with the amount of the three-year average motion picture production expenses in each industry.

The "breakeven" approach developed for this report allows a reader to assume that the MPPTC leveraged various levels of economic activity required of recipient firms to receive a tax credit. This assumption means that some varying portion of the economic activity required of recipient firms to receive a tax credit would not have occurred in the absence of the tax credit. Under this assumption, firms made some portion of their long-term production decisions based on the availability of an incentive over a period of time, and removal of that tax credit in a given year would undo all such decisions.

- *Modeling Costs*

ORA assumes that the tax credit is funded by an equivalent reduction in state government spending – that is, when the state government forgoes revenue by issuing tax credits, there are fewer funds available for other spending priorities. ORA modeled these adjustments based on a comprehensive historical analysis of Rhode Island general fund expenditures for each tax year within the scope of this analysis. This analysis compiled all state general fund expenditures and assumed that the level of these expenditures could be adjusted to maintain a balanced general fund budget. The breakdown of general fund expenditures by category is shown in the following table:

Three Year Average of Rhode Island General Fund Expenditures

(Calendar Years 2013 - 2015)

Industry Description	NAICS Code	Percent of Total
Ambulatory Healthcare Services [12]	621	33.8%
Educational Services	61	31.7%
State Wages, Salary, and other Compensation	n/a (entered as "state/local govt. compensation" and "employment")	23.3%
Social Assistance	624	3.4%
Local Government Spending	n/a (entered as "local government spending")	2.3%
Professional, Scientific, and Technical Services	54	1.2%
Administrative and Support Services	561	1.0%
Wholesale Trade	42	0.96%
Remaining/Other	19 additional industries, and also non-residential capital investment	2.3%
	Total:	**100.0%**

Source: ORA analysis of Rhode Island general fund expenditure data.

- *Modeling Benefits*

The cost-benefit methodology employed by this report assumes that the availability of the MPPTC resulted in an increase in motion picture industry output. In this way, the primary benefits associated with the MPPTC program are the direct wages paid to MPPTC-recipient firms' employees and spending by MPPTC-recipient firms on goods and services from local vendors. The REMI model also allows for estimation of the indirect and induced impacts resulting from the increase in motion picture industry output increasing household income and increasing output in firms involved in the motion picture industry supply chain. ORA reviewed the certified production expenses and employee information available from the Division of Taxation, categorizing expenses into a coherent set of policy variables suitable for use with the REMI model, and making adjustments intended to capture the extent to which benefits remained in state consistent with R.I. Gen. Laws §44-48.2(a)(8).

One such data adjustment intended to account for spending that flowed outside the state was an adjustment for wages paid to highly-paid out-of-state employees. ORA excluded all above-the-line compensation from the cost-benefit analysis and included only below-the-line compensation. As discussed in a prior section, ORA found that 65 percent of total compensation was paid to above-the-line personnel. ORA considered the possibility that above-the-line staff may in fact spend a significant portion of their personal compensation on incidental expenses, such as meals and lodging, while filming in Rhode Island. If true, this might have a measurable induced economic impact which would justify inclusion of some portion of above-the-line compensation in the cost-benefit analysis. ORA's analysis of certified motion picture production expenses revealed that incidental expenses incurred by above-the-line talent were generally covered by the employer and itemized separately. When itemized separately ORA could appropriately assign these expenses to sectors such as "food services and drinking places" or "accommodations". ORA assumed that these itemized expenses captured the vast majority of the economic impact associated with local spending by above-the-line talent. In this context, it was unnecessary to assume that above-the-line compensation would have any significant indirect or induced effects on the Rhode Island economy, other than that which was generated from personal income taxes paid. The practice of dividing motion picture wages into above and below the line categories for purposes of conducting a cost-benefit analysis, as well as the approximate proportion of above and below the line compensation, is consistent with a recent report published by Massachusetts.[13]

- *The "Breakeven" Approach*

A fundamental challenge in evaluating economic development incentives is determining the extent to which an incentive actually stimulated or attracted new economic activity rather than subsidized economic activity that would have been largely present even in the absence of the incentive. On one hand, the availability of a tax incentive might have a decisive influence on a firm's production decision. In this case it might be appropriate for an evaluator to attribute all of the firm's economic activity to the incentive. On the other hand, an incentive program may simply reward or subsidize behavior that likely would have occurred anyway. In this case the tax credit might have an impact on a firm's marginal productivity, but it would be inappropriate to attribute the full economic activity of the firm solely to the availability of the tax incentive. Real world conditions often make it difficult or impossible for an evaluator to assess where on this continuum the impact of any given tax incentive falls.

In the case of the MPPTC program, the determination of the extent to which production activity would have taken place in the absence of the credit is further complicated by a lack of statutory clarity. For example, a common feature of an economic development tax incentive is a "but for" provision, whereby recipients attest that they would not have engaged in the underlying activity if the credit were not available, possibly with some amount of due diligence taking place to confirm

[13] Massachusetts most recent report on Film Industry Tax Incentives can be found in: http://www.mass.gov/dor/docs/dor/news/reportcalendaryear2014.pdf

this attestation during the application process. While it should be made clear that a “but for” provision does not represent sufficient evidence in and of itself that the incentive-related activity is net new to the state, its presence at least signals the intent of lawmakers that the credit ought to be awarded to projects that might not otherwise have been undertaken. However, the MPPTC is available to *all* motion picture productions meeting statutory requirements *regardless* of whether the production company had considered competitive out-of-state alternative locations or would have been unable to engage in production without the credit. Considering the competitive nature of the motion picture industry and the wide availability of tax credits across states, it is possible that some portion of MPPTC-recipient productions would not have located in Rhode Island but for the availability of the credit. However, it would overstate the economic benefits of the MPPTC program to assume that all productions would not have occurred but for the availability of the incentive.

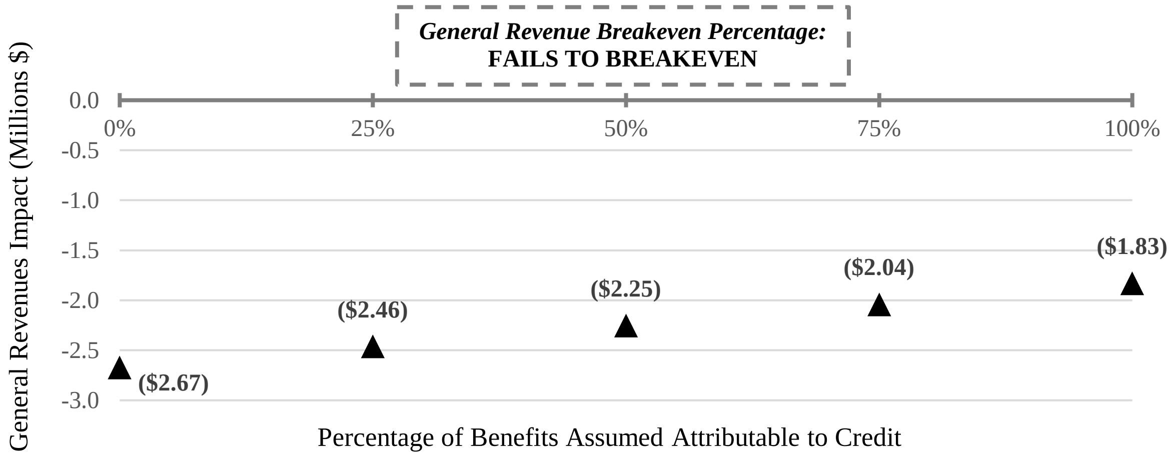
In this context, ORA conducted a breakeven analysis. This analysis allows for the evaluation of an incentive program’s performance under a wide range of assumptions regarding the level of economic activity that would have taken place if the program had not been available. Furthermore, the breakeven analysis specifies the proportion of economic activity associated with the incentive program recipient that one must assume to have been attributable to the incentive program in order for the total benefits to equal its total costs, where benefits and costs are measured as the impact on state general revenues (i.e., the condition that must be satisfied for the incentive program to “pay for itself”).

The breakeven percentage should be interpreted as follows: if the reader believes the assumption to be plausible, that at least the amount of economic activity implied by the breakeven percentage can be attributed to the availability of the tax incentive, then one can infer that the incentive has a net positive impact on state general revenues. In the opposite case, if the reader believes that the amount of economic activity attributable to the tax incentive was less than the level implied by the breakeven percentage, then one can infer that the incentive had a net negative impact on state general revenues. Holding other factors equal, a lower breakeven percentage is more desirable than a higher breakeven percentage if the goal of an incentive program is to cost the state as little revenue as possible.

A tax incentive program fails to breakeven, under any counterfactual assumption, when the breakeven percentage is greater than 100 percent. This implies that even if 100 percent of the economic activity associated with the incentive recipient was assumed to have taken place strictly because of the incentive’s availability, a net negative impact on state general revenues would have resulted. Because breakeven percentages above 100 percent do not have a meaningful interpretation, under this outcome ORA simply publishes that the incentive program fails to breakeven.

The following chart provides results of the breakeven analysis with respect to Rhode Island general revenues.

<u>Rhode Island Motion Picture Production Tax Credit:</u>
<u>Rhode Island General Revenue Breakeven Analysis</u>
(Average Annual RI General Revenue Impact, Calendar Years 2013-2015)



Notes: Label accompanying each ▲ marker refers to net RI general revenue impact resulting from a cost-benefit analysis assuming the labeled percentage of MPPTC benefits. General revenue impact is equal to the net revenue impact resulting from the direct, indirect, and induced effects in addition to the cost of paying back the direct cost of the tax credit. Note that the breakeven percentage is defined as the percent of benefits included in a cost-benefit analysis resulting in a net zero state RI GDP impact.

Source: ORA calculations utilizing REMI PI+

Notice that as the percentage of benefits included in the breakeven analysis increases, the revenue impact increases, but never exceeds zero. Therefore, it can be said that the MPPTC “fails to breakeven.” Even under the assumption that 100 percent of the activity associated with MPPTC-recipient productions was net new to the state, the net impact on state general revenues is negative.

The following table provides more detailed information regarding the state general revenue impact:

<u>Rhode Island Motion Picture Production Tax Credit:</u>
<u>Detailed Revenue Impacts</u>
(Average Annual RI General Revenue Impact, Calendar Years 2013-2015)

Item Description	Amount
General Revenue Generated by Credit by Component	
Personal Income Tax	$228,641
Sales and Use Taxes	$80,351
Other Taxes	$10,228
Total Departmental Receipts	$70,552
Other Sources	$77,865
Total General Revenue Generated by Credit	**$691,458**
Forgone Revenue Due to Credit	**$(2,522,007)**
Net Change in General Revenue, After Paying for Credit	**$(1,830,549)**
New Revenues Generated for Every Dollar of Credit	**$0.27**

Note: Revenue impacts assume that 100% of economic activity associated with MPPTC-recipient productions is attributable to the availability of the MPPTC.

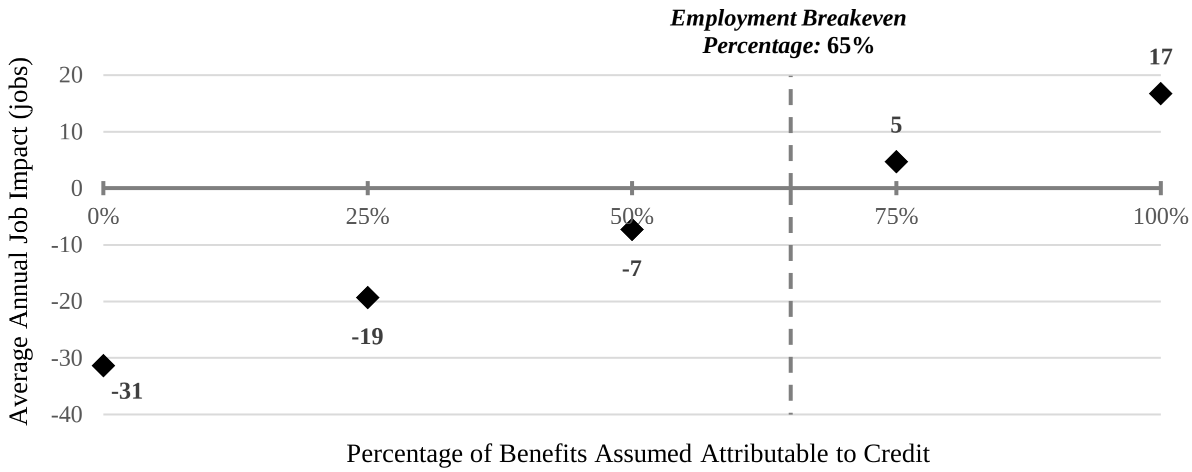
Source: ORA calculations based on historical Rhode Island revenue amounts and REMI PI+ simulations.

This table shows the detailed revenue impact under the "best case" assumption that 100 percent of the activity associated with MPPTC-recipient productions was "caused" by the credit. This shows that the activity associated with MPPTC-recipient productions generated a total $691,458 of general revenues – however, this figure does not include the $2,522,007 cost of the credit itself. Therefore, in an average year during the time period of CY 2013 – 2015 Rhode Island gives up $2,522,007 in revenue on the MPPTC and receives $691,458 of new revenues in return, equal to an average annual net loss of $1,830,549 in general revenue. Expressed another way, for every dollar spent on the MPPTC the state generates 27 cents of new revenue. This payback ratio shows that new revenues generated from MPPTC-incentivized activity may help to mitigate costs of the MPPTC, but it is not sufficient for the tax credit to "pay for itself."

The breakeven framework can also be extended to employment and RI GDP. In these contexts, the breakeven percentage can be interpreted as the percentage of economic activity associated with MPPTC-recipient firms assumed to be attributable to the availability of the credit necessary for the increase in employment GDP resulting from new economic activity to outweigh the employment or GDP losses resulting in the reduction in government spending necessary to fund the credit.

The following chart shows the results of a breakeven analysis with respect to employment.

<u>Rhode Island Motion Picture Production Tax Credit:</u>
<u>Employment Breakeven Analysis</u>
(Average Annual Jobs Impact, Calendar Years 2013-2015)



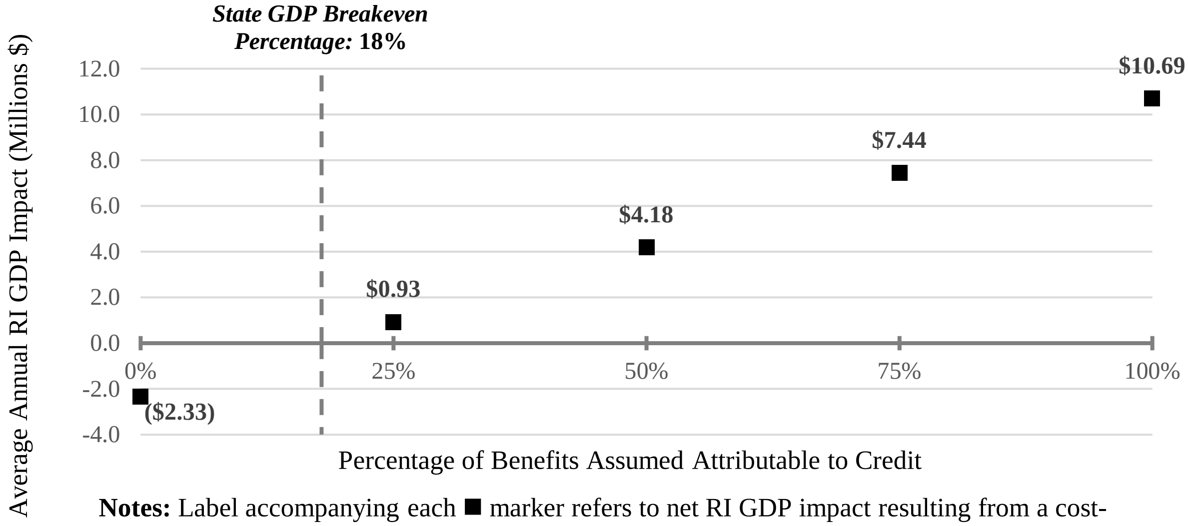
Notes: Label accompanying each ◆ marker refers to net job impact resulting from a cost-benefit analysis assuming the labeled percentage of MPPTC benefits. Employment impact includes the direct, indirect, and induced employment effects in all industries. Note that the breakeven percentage is defined as the percent of benefits included in a cost-benefit analysis resulting in a net zero employment impact.

Source: ORA calculations utilizing REMI PI+

The employment breakeven percentage of 65 percent implies that the MPPTC has a net positive impact on Rhode Island employment if at least 65 percent of economic activity associated with the MPPTC-recipient productions would not have occurred but for the availability of the tax credit.

The following chart shows the results of a breakeven analysis with respect to Rhode Island gross domestic product (RI GDP).

Rhode Island Motion Picture Production Tax Credit:
Rhode Island Gross Domestic Product (RI GDP) Breakeven Analysis
(Average Annual RI GDP Impact, Calendar Years 2013-2015)



Notes: Label accompanying each ■ marker refers to net RI GDP impact resulting from a cost-benefit analysis assuming the labeled percentage of MPPTC benefits. RI GDP impact includes the direct, indirect, and induced GDP effects in all industries. Note that the breakeven percentage is defined as the percent of benefits included in a cost-benefit analysis resulting in a net zero state RI GDP impact.

Source: ORA calculations utilizing REMI PI+

The RI GDP breakeven percentage of 18 percent implies that the MPPTC has a net positive impact on RI GDP as long as at least 18 percent of economic activity associated with the MPPTC-recipient productions would not have occurred but for the availability of the tax credit.

The fact that the MPPTC breaks even with respect to employment and GDP but not with respect to state general revenues means that it is possible for the for the MPPTC to have a net positive impact on employment and GDP while still not generating sufficient revenue to "pay for itself.". These findings are consistent with the analysis conducted by other states. For example, a recent report analyzing the film tax incentive published by the State of Washington shows that their tax incentive does not breakeven because the taxes generated under the increased economic activity do not offset the reduction in taxes foregone due to the tax incentive preference, despite the finding that the Washington program did breakeven with respect to employment, personal income, and state GDP.[14]

[14] Full report can be accessed here: http://leg.wa.gov/jlarc/taxReports/2015/MotionPictureProgramContributions/p/print.htm

Part V: Discussion and Recommendations

1. Statement by the CEO of the Commerce Corporation

The Secretary of Commerce, who serves as Chief Executive Officer of the Rhode Island Commerce Corporation pursuant to R.I. Gen. Laws 42-64-1.1(b), provided the following statement pursuant to R.I. Gen. Laws § 44-48.2-5(a)(6)(iii):

Statement from the CEO of the Commerce Corporation:

"Growing the film and television industry in Rhode Island is a laudable goal that the Commerce Corporation supports. Because our state is home to many people who do or would like to make their careers in creative fields, taking action to grow this industry represents an opportunity to create jobs for working Rhode Islanders. Like several other states, one way Rhode Island has attempted to grow the arts economy is through the use of the Motion Picture Production Tax Credit.

This evaluation of the Motion Picture Production Tax Credit conducted by the Office of Revenue Analysis ("ORA") helps to clarify how the incentive's performance is achieving the goal of growing Rhode Island's film industry.

While the credit seems to have had some net positive effect on both GDP and employment in Rhode Island, spurring new economic activity, it is noteworthy that the credit comes far from breaking even, (though comparison to many other states, Rhode Island's credit outperforms in this regard).

The Commerce Corporation shares ORA's concerns with the lack of quality data available to make the most accurate judgments about the program's efficacy. Additionally, given the global nature of the motion picture industry, the Commerce Corporation is of the view that a greater number of comparison jurisdictions would be helpful, as well as a discussion about the state of various film tax credits across the country.

While the Commerce Corporation understands that decisions in the film and television industry can be driven in significant ways by credits such as this one, some questions worth considering to enhance the value for taxpayers are:

- Should Rhode Island adopt a more competitive approach in line with other credits around the country, and what might that look like?
- Should Rhode Island especially favor incentivizing productions such as multi-year television shows that will have a more durable and lasting impact on economic activity in Rhode Island?
- As recommended by ORA, should Rhode Island institute a "but-for" test, as it has for newer Commerce incentive programs, which would require productions to demonstrate that they would not be able to film the production in Rhode Island without credits under this program?
- Should Rhode Island require a stronger correlation between credit issuance and the creation of jobs or investment in real estate? " [*statement continued on next page*]

Statement from the CEO of the Commerce Corporation (continued):

"The Commerce Corporation wishes to see a thriving motion picture industry in Rhode Island. We believe that continued investment in the film industry is merited. However, we believe that these questions should be explored and answered so the program can be strengthened and improved."

2. Discussion of Data Concerns

- *Non-Compliance and Inconsistency in Data Reporting*

ORA has found significant non-compliance with data reporting requirements imposed on Motion Picture Production Tax Credit recipient firms. Furthermore, even in instances in which firms have made good faith efforts to comply with data reporting requirements, submitted data may nevertheless be inconsistent or unreliable due to inappropriately structured data reporting procedures. As shown in Exhibit A in the appendix, the three major tools used to gather data from MPPTC recipient firms are the credit application filed with the Rhode Island Film and Television Office, the accountant-certified documentation of qualifying motion picture production expenses submitted to the Rhode Island Department of Revenue, Division of Taxation, Field Audit Section, and Rhode Island Form 8201A "Annual Report" filed with the Rhode Island Department of Revenue, Division of Taxation, Credits and Incentives Section.

When attempting to assemble the necessary data to perform the required evaluation of the Motion Picture Production Tax Credit, ORA has found significant inconsistency and non-compliance. In particular, there is limited compliance with Form 8201A. Form 8201A is administered by the Rhode Island Department of Revenue, Division of Taxation and takes the form of an annual report. The form requests firm-level data such as entity name, address, Federal Identification Number, total number of employees, and total payroll for the prior fiscal year as well as employee-level data including employee type, employee name, Social Security number, hourly wage, hours worked per week within Rhode Island, employee's state of residency, and whether or not the employee received health and/or pension benefits. A copy of the form is depicted in the Appendix as Exhibit B.

Form 8201A was submitted in relation to three of the fourteen MPPTC issued projects during the period of analysis. These three forms were submitted by a total of two production companies (one production company received multiple credits, and submitted a separate Form 8201A for each year in which it was issued a tax credit). Therefore, 11 out of 13 MPPTC recipient firms failed to comply with the requirement to submit an annual report per 8201A.

It is clear that a major cause of non-compliance with Form 8201A relates the timing of the data request as an "annual report" rather than a data submission due prior to credit issuance. Data from the Rhode Island Secretary of State Corporate Database suggest that most MPPTC recipient firms are single purpose corporate entities incorporated for the purpose of a motion picture production.[15]

[15] Corporate filings were available for nine out of the thirteen MPPTC recipient firms through the Rhode Island Secretary of State Corporate Database. For these firms, it was possible to determine the length of time that a motion picture production company had been incorporated prior to project completion. A single outlier firm had been

While compliance with the annual report is legally required per R.I. Gen. Laws § 44-31.2-6.1(h), there are no consequences specified for non-compliance. Furthermore, the short-term nature of typical credit-recipient firms means that any sanctions for non-compliance, if they did exist, might be ineffective as they would take place after the production had been completed and in many cases after the production company had been dissolved or abandoned.

Even among firms complying with all data reporting requirements, there were significant data quality issues. Employment counts and compensation information listed on various reporting forms frequently do not match between various data collection sources. For example, an informal definition of "employee" might include all personnel engaged for hire in the motion picture production, which might include personnel such as vendors and contractors who are indirectly paid by the production company. From a taxation perspective, the definition of "employee" might be defined as only those individuals meeting the IRS definition of employee for whom a Form W-2 and personal income tax withholdings are typically filed. For purposes of conducting a tax incentive evaluation, any one of these definitions might be sufficient, as long as information was reported clearly and consistently across data sources. However, a desirable feature, characterizations such as "full time" "part time" and "seasonal" are arbitrary and subjective unless the meanings of the terms are properly defined.

Even when data was available, lack of clear guidance and definitions on the Form 8201A makes the data insufficient for purposes of tax incentive evaluation. The form does not provide information regarding total length of employment or total wages paid per employee.

It is unclear whether necessary changes and improvements to Form 8201A would require legislative action. R.I. Gen. Laws § 44-31.2-6.1(h) proscribes that the data request shall take the form of an "annual report" but does provide the tax administrator with flexibility in defining the form and manner of the data request, including requesting "such other information deemed necessary." This statutory language may provide the tax administrator with flexibility in restructuring the data requested from MPPTC-recipient firms to provide data that is more useful for purposes of tax incentive evaluation.

- *Difficulty Accessing Taxation Data*

It is essential that all data necessary for the evaluation of Rhode Island tax incentive programs such as the MPPTC are captured in Rhode Island tax forms. Beneficiaries of tax incentive programs must specifically consent to sharing these data with any state agencies tasked with evaluation as a condition of receiving the tax benefit. Such data must be reviewed for completeness and accuracy prior to award of any tax credit.

incorporated over 18 years at the time it received a motion picture production tax credit, suggesting that a small portion of tax credits are claimed by firms that operate as a long-term, going concern within the state; however, most MPPTC recipient firms were far younger. The median amount of time elapsed between entity incorporation and production completion was 125 days. Additionally, four firms had a revocation of corporate charter notice on file and additional firms failed to file annual reports in the year following incorporation, suggesting that the corporate entity may have been dissolved or been abandoned following project completion. This pattern suggests that a typical MPPTC recipient is an ad hoc corporation incorporated for the purposes of producing a single motion picture which is dissolved or abandoned following project completion.

In creating this and other reports, it typically takes a substantive period of time following the close of a tax year for the Division of Taxation to provide ORA with all necessary data to complete its required evaluation. For example, ORA relies on the Division of Taxation to construct a personal income tax simulation model to estimate the total taxes paid by credit recipients. The data necessary to construct this model typically is not available until 15 or more months following the close of the tax year. This is due to the fact that personal income tax returns are filed throughout the calendar year immediately following the close of the tax year and it is not until the end of the calendar year that the overwhelming majority of personal income tax returns have been filed and processed. For many other ad hoc data requests, federal privacy laws and regulations make it difficult or impossible to utilize administrative taxpayer data for tax incentive evaluation. For ORA to conduct evaluations, better access to data under Division of Taxation control, an agency whose primary mission is processing tax returns fairly and efficiently for taxpayers and ensuring compliance with the state's tax code, or improving data collection tools so that tax incentive recipient firms themselves submit necessary data in a manner suitable for evaluation is necessary.

3. ORA Recommendations

Finding #1: The statutory goals of the MPPTC are poorly defined and performance measured against statutory objectives is relatively poor.

Related Recommendations:

- Revisit statutory goals to ensure they remain relevant and coherent
- Impose job quality requirements
- Provide explicit requirements for productions to prominently feature Rhode Island
- Incorporate some type of "but for" due diligence

Discussion Supporting Finding #1:

R.I. Gen. Laws § 44-48.2-5(a)(10) requires the Office of Revenue Analysis to offer recommendations "as to whether the effectiveness of the tax incentive could be determined more definitively if the general assembly were to clarify or modify the tax incentive's goals and intended purpose." Discussion related to the goals and purposes of the MPPTC are as follows:

"Strong Capital Base": Production companies are generally incorporated for only a short time and do not make substantial capital investments in the state.

"An Independent Self-Supporting Industry": Despite the fact that the MPPTC program has been well-established for over ten years, it has not achieved a lasting, stable motion picture industry. Rhode Island motion pictures and sound recording industries output and Rhode Island motion picture and video industries employment are quite volatile exhibiting no clear trend. Employment remains low and jobs are short-term and low-paying. Firms claiming the credit are incorporated for only a short time period. The credit program is not self-supporting as measured by a negative return on investment in terms of state general revenue.

“Substantial Rhode Island Content”: While some films have featured Rhode Island, it is not a requirement of the MPPTC program that productions include substantial Rhode Island content. Twelve out of fourteen productions were filmed in Rhode Island and eight out of fourteen had storylines that explicitly referenced Rhode Island.

“Encourages Private Investment”: The fact that the credit is awarded in the amount of 25 percent of total certified production expenses insures that there are three dollars of private investment associated with every one dollar of credit granted. However, in the absence of any statutory provision requiring that productions prove that production would not have taken place without the availability of the credit, it is difficult or impossible to prove that private investment took place as a result of tax credit availability. It is possible that tax credits are granted to projects that would have taken place even without the incentive.

“Employment Opportunities”: While certified motion picture productions employ a large number of people, the majority of compensation is paid to a small number of “above-the-line” employees, who are disproportionately not Rhode Island residents. Local jobs are typically temporary and low paying. Motion picture and video industries employment comprises a small portion of the total Rhode Island workforce when compared to both neighboring and top-performing states. Rhode Island motion picture and video jobs are generally lower paying in both absolute and relative terms compared to neighboring and top performing states.

“Encourages New Education Curricula”: The anecdotal, qualitative data that was provided by RIFTVO regarding educational training programs was not sufficient for rigorous analysis. While it is clear that many of credit recipients offer educational and cultural enrichment opportunities, and that the RIFTVO takes its mission to promote film education seriously, it is not possible to track the effectiveness of film-related educational and labor force training programs in the absence of outcome data (e.g. Did labor force training programs improve job opportunities or wages for participants?).

Finally, while the program has been renewed by extending the sunset provision multiple times over the lifetime of the program, it is necessary to revisit the statutory goals and objectives of the program from time to time. Goals related to public relations and promotion, arts promotion, job development, and capital investment are vague, intermingled, and not prioritized. It is idealistic, but not practical, to assume that MPPTC program is capable of pursuing all of these goals at once. Furthermore, it is difficult to assess the impact of the credit if it is not clear what metrics to utilize. For example, a cost-benefit analysis of an arts incentive could take a very different form than one targeting job development or tourism. The act of revisiting the statutory goals ensures that the goals and intents of the program are in accordance with the realities and needs of the Rhode Island economy.

Finding #2: Current data reporting requirements lead to inconsistent and unreliable data on program performance.

Related Recommendations:

- ➢ Improve timing of data submissions so that all necessary data is captured prior to credit issuance
- ➢ Improve coordination between RIFTVO and Division of Taxation to unify definitions of data captured and reduce redundancy.
- ➢ Create consistent definitions, terms, and forms suitable for incentive evaluation
- ➢ Create and enforce penalties for non-compliance with data submission requirements

Discussion Supporting Finding #2:

R.I. Gen. Laws § 44-48.2-5(a)(9) requires the Office of Revenue analysis to offer recommendations "[i]n the case of economic development tax incentives where measuring the economic impact is significantly limited due to data constraints, whether any changes in statute would facilitate data collection in a way that would allow for better analysis." Discussion related to this topic is as follows:

Evaluation of any tax incentive program requires access to complete, reliable, and timely data. Data related to the motion picture production tax credit was found to be none of these things.

At least 11 out of 13 or 85 percent of firms receiving the motion picture production tax credit failed to comply with all necessary data submission requirements. The annual report requested through Form 8201A is the primary data collection tool to capture data on MPPTC-related employment. The form is submitted along with a firm's annual tax return filing, after MPPTC credits have been granted. While the Division of Taxation takes all appropriate efforts to elicit compliance, there is no penalty for non-compliance.

Even when tax credit recipient firms make a good faith effort to comply with all data reporting requirements, the information reported is often inconsistent and unreliable. Data collection forms fail to contain adequate definitions of important fields such as full time, part time, temporary, or seasonal jobs. Redundant data may be captured by forms submitted to RIFTVO and the Division of Taxation. Employment data fails to capture data in terms sensitive to the nature of short-term motion picture production employment. For example, the annual report Form 8210A captures only hourly wage and does not capture total length of employment or total wages paid. Motion picture employment is often intense and focused for the short duration of a production, so employment indicators designed with a traditional 52-week, 40-hour workweek, and salaried job in mind are inappropriate.

In the absence of direct data sources, the Office of Revenue Analysis sought data from alternative data sources such as the Division of Taxation and Department of Labor and Training. Access to these data is extremely limited due to state and federal privacy laws ensuring the integrity of personally identifiable taxpayer information. When such data is available, due to the administrative constraints of tax processing data systems, it is often only available months after the close of a tax year, which hinders the ability to provide timely, actionable analysist.

The Division of Taxation is the most appropriate state agency to receive data related to the MPPTC. For data to be reliable and verifiable, it may need to contain personally identifiable information. The Division of Taxation is equipped to safeguard such data appropriately. Furthermore, the enabling statute of the MPPTC program provides the tax administrator with significant flexibility to define and structure data requests and modify existing forms' content as appropriate. By requesting data on Rhode Island tax forms, separate from any federal tax form, and requiring consent to limited sharing of data as condition of credit issuance, offices tasked with the evaluation of tax incentives can have sufficient access to timely data.

Finding #3: MPPTC program fails to breakeven; program has negative return on investment.

Related Recommendations:

- Limit the amount of qualified production expenses for "above-the-line" staff by imposing per person or absolute limits on compensation.
- Limit the MPPTC to firms that are a going concern within the state that create full-time employment or production companies that return for multiple productions or repeat seasons.
- Restructure the MPPTC to accommodate firms that make capital investments in the state such as the establishment and continuing use of sound stages, studios, and/or production spaces.

Discussion Supporting Finding #3:

The amount of credit granted under the MPPTC program is equal to 25 percent of total certified production expenses. This means that every dollar of state investment is matched by three dollars of private investment. However, much of the production spending leaks outside of the state economy in the form of compensation payments made to highly paid "above-the-line" talent such as producers, directors, and featured actors with little or no induced economic impact effects generated by this spending. Imposing favorable credit terms for firms that have a long-term presence and full-time employment while limiting credit usage to subsidize highly-paid out-of-state talent would increase the return on investment of the MPPTC. Increasing the level of capital investment made by MPPTC-recipient firms would also improve the return on investment of the credit as current data show that MPPTC-recipient firms make little or no capital investment during their short periods of production. Capital investments such as those in durable plant, property, and equipment including studio space, soundstages, and film equipment by their nature are used in multiple productions. The MPPTC is currently focused on subsidizing individual production projects rather than firms with ongoing operations and investments in the state. While it may technically be possible for firms to use the current MPPTC to subsidize capital investments, data reveal that this is not common.

Finding #4: Credit usage is low relative to the annual aggregate cap of $15.0 million, suggesting that the program is out-of-touch with the motion picture industry, and making revenue impacts difficult to predict.

Related Recommendations:

- Examine the efficacy of the current annual credit cap to determine whether it is appropriately sized for the contemporary motion picture industry
- Do not make terms of the credit any more generous than they currently stand without significant modifications to improve the return on investment of the credit program.

Discussion Supporting Finding #4:

The overall annual credit cap of $15,000,000 has not been fully utilized in recent years. In fact, average annual credit granted was $2,522,007 during the period of tax years 2013 through 2015, or 17 percent of the annual cap. Many millions of dollars of credit go unused each year. While making the terms of MPPTC program more generous (e.g. expanding the definition of "qualified production expenses" or increasing the 25 percent credit ratio) may encourage usage of the credit, this option is not recommended unless undertaken in conjunction with significant changes to the structure of the credit. As currently implemented, the MPPTC program has a negative return on investment. If the credit were to be made more generous to encourage usage, the net impact of the credit would be even more negative.

For budgeting purposes, the revenue impact of the MPPTC is difficult to predict. On one hand, budget planners must be prepared for full utilization of the MPPTC up to the $15,000,000 annual cap. On the other hand, such levels of utilization are rarely experienced. Historical usage of the credit has consistently been below the $15,000,000 cap since the cap's adoption.

Finding #5: MPPTC does contain a sunset provision, representing a best practice of tax incentive design.

Related Recommendations:

- Consider a moratorium on extending the sunset date of the MPPTC until it can be verified that the current structure of the MPPTC is cost effective to the state

Discussion Supporting Finding #5:

The MPPTC program is currently set to sunset on July 1, 2024. This date is an extension that was passed in the 2017 session of the General Assembly. In the 2016 session of the General Assembly the sunset date was extended to July 1, 2021 which was an extension from the originally established sunset date of July 1, 2019 that was passed in the 2012 session of the General Assembly. Policymakers must consider enacting changes to the MPPTC prior to any additional extensions of the sunset date.

4. ORA Conclusion and Overall Recommendation

R.I. Gen. Laws § 44-48.2-5(a) (11) requires the Office of Revenue analysis to make a recommendation "as to whether the tax incentive should be continued, modified, or terminated." The Office of Revenue Analysis recommends that the Motion Picture Production Tax Credit be modified according to the recommendations described in the previous section.

.

Appendix

EXHIBIT A: Detailed Description of Data Collection Procedures and Forms

Data Reporting Tool: Motion Picture Production Company Tax Credit Application

Components:	Initial Tax Credit Application, Final Tax Credit Application, and Motion Picture Production Tax Credit Information Request Form
Recipient Agency:	Initial Tax Credit Application and Information Request form submitted to Rhode Island Department of Administration, Rhode Island Film and Television Office. Final Tax Credit Application Submitted in duplicate to Rhode Island Department of Revenue, Division of Taxation, Forms, Credits, and Incentives Section and the Department of Administration, Rhode Island Film and Television Office
Data Contained:	The Initial Tax Credit Application requests comprehensive pre-production information including contact information, mailing address, and background information related to the production company, brief story synopsis, production information including budget and timeline, listing of above-the-line personnel, description of internship, training, and diversity initiatives, and a request for additional documentation. The Final Tax Credit Application requests the same information requested in the Initial Tax Credit Application updated following the completion of the production.
Comments:	100 percent compliance resulting from timing within the application process; a firm cannot be awarded a credit without completing an application; however, RIFTVO did not comply with ORA requests for portions of the Final Tax Credit Application related to educational and job training opportunities offered by MPPTC-recipient productions. Involvement of the Rhode Island Film and Television Office ensures that question phrasing and information requested reflects film industry norms. Job and employment information does not contain names and Social Security numbers or other personally identifiable information necessary for verifying employment and taxes paid (note that it may not be appropriate for the Rhode Island Film and Television Office to be in possession of confidential personally identifiable information). Job and employment information is not sufficiently detailed for purposes of conducting economic analysis.

Data Reporting Tool: CPA Certification of Motion Picture Production Expenses

Components:	Accountant-Certified Documentation of Qualifying Motion Picture Production Expenses
Recipient Agency:	Rhode Island Division of Taxation, Division of Taxation, Field Audit Section
Data Contained:	Production "Bible" contains complete line item listing of all production expenses with sufficient supporting documentation to verify whether or each expense can be designated as a "qualified" production expense. Any information submitted electronically is retained by Division of Taxation, while files submitted in paper are routinely returned to the tax credit recipient at the conclusion of the review period.
Comments:	100 percent compliance results from this step being necessary to be completed in order to be awarded tax credit. Detail is comprehensive, but data from various projects are not formatted or organized consistently. Appropriate for accounting purposes, but not designed for economic analysis. Some data useful for purposes of economic analysis such as employee-level payroll information are collected and reviewed by Taxation, but no permanent records are retained. Standard procedure is for files to be submitted in paper, reviewed by taxation, and returned to production company after review. No permanent records are kept of certain documents submitted only in paper. ORA was able to use these records for categorizing qualified production expenses by industry, but was unable to assemble detailed employment information.

Data Reporting Tool: Rhode Island Form 8201A

Components:	Rhode Island Form 8201A "Annual Report"
Recipient Agency:	Rhode Island Department of Revenue, Division of Taxation, Forms, Credits, and Incentives Section
Data Contained:	Production company contact information and FEIN, total number of employees, total payroll, employee-level information including employee type (seasonal, full time, or part time), employee name, Social Security number, date of hire, hourly wage, hours worked per week within Rhode Island, state of residency, and whether the employee received health insurance and pension benefits.
Comments:	Data requested and phrasing of form does not reflect film industry norms and characteristics of recipient firms. For example, employees can be listed as part-time or seasonal, leaving it unclear how to designate an employee that is full-time for the duration of a project should be listed. Additionally, data is insufficient for purposes of economic analysis. For example, the form requests hours per week but not total hours or weeks worked for the duration of the project. Timing and structure of annual report leads to significant non-compliance. Annual report is requested after the credit has been awarded. In many cases this may be after an *ad hoc* production company incorporated solely for the purpose of a single motion picture production have been dissolved or abandoned. This makes compliance highly unlikely and any sanctions for non-compliance moot. While the form is legally required, there is no consequence specified for non-compliance. This form does contain personally identifiable information necessary for employee identification, but significant non-compliance makes the sample size insufficient for rigorous analysis. Division of Taxation is the appropriate entity with adequate policies and procedures in place to handle confidential and personally identifiable information such as is contained in this form. For tax credit recipients that are a going concern with the state engaged in multiple projects, there is no listing of the portion of each employee's times dedicated to the tax credit qualifying project.

EXHIBIT B: Rhode Island Form 8201A "Annual Report

Instructions for Form 8201A
Motion Picture Production Tax Credits
Annual Employee Report

Due September 1, 2017

Complete all informational lines at the top of the form, including name, address, city, state and ZIP code, and federal identification number.

In addition, please provide your total number of employees and your total payroll for the period of July 1, 2016 through June 30, 2017.

In the first column, please indicate if the employee is a full time employee, a part time employee or a seasonal employee.

In the space provided, or on a separate sheet(s), provide the following information for each employee: name, **full social security number**, date of hire, hourly wage as of July 1, 2017, the number of hours worked per week within the State of Rhode Island by the employee and the employee's state of residency.

In the last two columns, please indicate with either a yes or no, whether or not health insurance benefits and/or pension benefits are offered to the employee.

All information is required for all company employees. This list should not include actors/actresses, directors, producers, etc who may have worked on the motion production, but who were not employed by the company.

This form must be filed by September 1, annually.

This Annual Report is being sent as a guide. A fillable version can be found online. You may either complete the fillable version on-line, print it out and send it in; send the report as an Excel spreadsheet or a txt (csv) file (be sure to send in the file format) via CD-ROM or DVD; or you may send the file via secure ftp. In order to file via secure ftp, send an email to Donna.Dube@tax.ri.gov. You will then be sent an email containing the secure link.

Regardless of format, the report must contain all required information as shown on the Annual Report form.

A fillable version of this form is available online at: www.tax.ri.gov/taxforms/misc.php#reporting .

All Annual Reports, regardless of format, shall be submitted to Donna Dube by either:

mail: Rhode Island Division of Taxation
Forms, Credits & Incentives Section
One Capitol Hill
Providence, RI 02908
Attn: Donna Dube

or email: Donna.Dube@tax.ri.gov

Pursuant to RIGL 44-31.2-6.1, all companies receiving Motion Picture Production Tax Credits under § 44-31.2 shall file an annual report with the tax administrator containing information on each employee as deemed necessary by the tax administrator.

Important Definitions:

"Health Insurance Benefits" means any health insurance plan offered by the eligible company to its employees regardless of whether or not the employee takes advantage of the plan.

"Retirement Benefits" means any retirement plan offered by the eligible company to its employees regardless of whether or not the employee takes advantage of the plan. This could be in the form of a SEP, a SIMPLE, a 401K plan, a profit sharing plan, a defined benefit plan, a deferred compensation plan or any qualified employer plan.

NOTE: An employee who is required to complete a reasonable probationary period to be eligible for healthcare or retirement benefits is deemed to have "earned" those benefits from day one of their employment.

Form 8201A
Annual Report

State of Rhode Island and Providence Plantations
Division of Taxation
Motion Picture Production Company Tax Credits - Annual Employee Report
Due September 1, 2017

ENTITY NAME	
ADDRESS	
CITY	STATE
FEDERAL IDENTIFICATION NUMBER	

TOTAL NUMBER OF EMPLOYEES	
TOTAL PAYROLL - JULY 1, 2016 - JUNE 30, 2017	

***** ALL INFORMATION IS REQUIRED FOR ALL EMPLOYEES *****

Indicate Employe Type:Full time, Part time or Seasonal Employee	Employee Name	Social Security Number	Date of Hire	Hourly Wage as of 7/1/2017	Hours Worked Per Week Within Rhode Island	Employee's State of Residency	Health Insurance Y/N	Pension Benefits Y/N

If additional space is needed, please attach a separate sheet(s) with the additional information.

Under penalties of perjury, I declare that I have examined this return, and to the best of my knowledge and belief, it is true, correct and complete .

Signature of authorized officer | Date | Signature of preparer | Date

Title

MAY THE DIVISION CONTACT YOUR PREPARER ABOUT THIS RETURN? YE☐ N☐

Telephone number

07/2017 **MAILING ADDRESS: DONNA DUBE, RHODE ISLAND DIVISION OF TAXATION, FORMS, CREDITS & INCENTIVES SECTION, ONE CAPITOL HILL, PROVIDENCE, RI 02908**