

REPORT OF THE CHIEF LEGISLATIVE ANALYST

October 12, 2010

TO: Honorable Members of the Jobs and Business Development Committee

FROM: Gerry F. Miller *GFM*
Chief Legislative Analyst

Film Production Business Tax Adjustment

SUMMARY

Motion (Alarcon-LaBonge) proposes a change to the minimum tax base for film and television productions from \$2.5 million to \$5 million. This change is estimated to result in a reduction of General Fund revenues of about \$1 million from the total \$3 million currently generated in this tax category. A change to the minimum tax base also requires a change to either the maximum tax or the measure of the maximum tax.

RECOMMENDATIONS

That the City Council request the City Attorney prepare and present an ordinance that will revise the minimum tax threshold on Film Productions from \$2.5M to \$5M, with a change in the measure of the maximum tax to \$14.5 million.

BACKGROUND

Motion (Alarcon-LaBonge) proposes that the minimum tax base for film and television production be moved from \$2.5 million to \$5 million. The Business Tax Advisory Committee has proposed a similar change to this tax.

Municipal Code section 21.109 (attachment 1) defines the business of motion picture, television, and radio producers, and describes the methodology for assessing the business tax on these activities. This tax is based on the full cost of a producer's productions. The tax is structured with a minimum tax threshold which reduces the tax on small productions, and a maximum tax threshold which limits the tax on large productions.

The relevant section of the code is 21.109 (c):

“(c) The taxes imposed for the privilege of engaging in the businesses described in this section shall be \$145.00 per year or fractional part thereof for the first \$2,500,000.00 of the measure of tax, plus \$1.30 per year for each additional \$1,000.00 of the measure of tax or fractional part thereof in excess of \$2,500,000.00, provided that the maximum tax shall be \$12,495.00 for all measures of tax greater than \$12,000,000.00. (Amended by Ord. No. 176,325, Eff. 1/16/05, Oper. 7/1/05.)”

Proposed Revision

Productions with a cost of less than or equal to \$2.5 million currently pay a base rate of \$145. Productions with a cost greater than \$2.5 million pay the base rate of \$145 plus \$1.30 per each additional \$1,000. This tax is capped, however, so that the maximum liability for any taxpayer in this category is \$12,495. The result is that any producer with costs greater than \$12 million will pay no more than \$12,495 in business taxes.

The proposal to change the minimum tax threshold from \$2.5 million to \$5 million would result in a very simple change with significant tax reductions for all taxpayers in this category. All taxpayers in this category would receive a reduction in their tax liability:

- All taxpayers with production costs between \$2.5 million and \$5 million will be relieved of all additional tax liability except the base payment of \$145; and
- All taxpayers with a liability greater than \$5 million will receive a tax reduction of \$3,250, because the costs from \$2.5 million to \$5 million would no longer be included as a taxable amount.

Based on 2009 data provided by the Office of Finance, this change in the tax code would reduce General Fund revenues by approximately \$1 million. Approximately \$400,000 of this reduction results from the reduction of tax liability on productions within the \$2.5 to \$5 million range, with the remaining \$600,000 reduction related to the reduction of tax liability on productions with costs greater than \$5 million. The City currently earns approximately \$3 million from the production tax. The following chart summarizes the impact of this proposal:

Production Cost Range	Current Tax liability	Proposed Tax Liability	Potential General Fund Impact
\$0-\$2.5 million	\$145	\$145	\$0
\$2.5-\$5 million	\$145 plus \$1.30 per \$1,000	\$145	approx. -\$400,000
>\$5 million	\$145 plus \$1.30 per \$1,000	\$145 plus \$1.30 per \$1,000	approx. -\$600,000

This proposed tax reduction for film productions is intended to attract and retain more film and television production to the City, particularly small productions such as commercials. If effective, this increase in production activity has the potential to generate additional business tax revenue, offsetting the expected reductions in business tax revenues. A significant increase in production would be needed, however, to fully offset anticipated reduction in General Fund revenues.

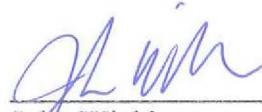
Additional Correction

Part of the production tax code specifically states that the maximum tax is \$12,495 for all productions with a cost greater than \$12 million. A change to the minimum tax will necessitate a

change to this language. Either the maximum tax will need to be reduced to \$9,100 or the measure of the maximum tax will need to be increased to \$14.5 million. The impact is as follows:

- Changing the maximum tax paid to \$9,100 will provide a tax reduction of \$3,250 to all tax payers;
- Changing the maximum tax measure to \$14.5 million will:
 - ▶ reduce the tax liability on all tax payers with costs between \$5 million and \$12 million by \$3,250;
 - ▶ reduce the tax liability on all tax payers with costs between \$12 million and \$14.5 million by a gradually lower amount; and
 - ▶ maintain the tax liability on all tax payers with costs greater than \$14.5 million at their current rate.

A revision to the measure of the maximum tax will provide a modest reduction in the General Fund impact, and should be adopted as part of this action.



John Wickham
Analyst

Appendix

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MOTION JOBS & BUSINESS DEVELOPMENT

Los Angeles has long been considered the entertainment capitol of the world, home to studios, post-production facilities, a myriad of outdoor locations and the most talented and well-trained creative and technical workers in the field. However, the City must increasingly compete with other cities, states and countries which are offering incentives to lure filming away from Los Angeles through steep tax breaks.

The loss of film production has a dramatic impact on the local economy. In Los Angeles, the entertainment industry produced 42,083 direct jobs and revenues of \$21.5 billion in 2005 – and for every job directly created by the film industry, 2.7 other jobs are supported. That same year, the industry’s impact on the Los Angeles County economy was a whopping \$57 billion. The loss of film production has a direct impact on local employment and the economy of Los Angeles.

Over the last year, the City Council of Los Angeles has made a strong statement in support of creating policies aimed at keeping filming local and protecting jobs for Angelenos working in the film, TV and commercial producing industry. This includes the support of 19 recommendations in October of 2009, aimed at making it easier to film in Los Angeles, including the use of City parking lots for base camps and crew parking as well as the installation of power nodes at highly-filmed locations. In addition, the Council supported looking into specific tax incentives for the film industry.

One such tax that affects the entertainment industry is the Entertainment Production Tax. Currently, the city assesses tax liability on film production companies through a flat fee of \$145 on production costs up to \$2.5 million. This represents the minimum threshold to which \$1.30 is accessed for each additional \$1,000 in production costs filmed within the City incurred in excess of \$2.5 million. This rate-per-thousand system taxes all production costs up to a maximum of \$12 million or \$12,495 in direct city taxes.

However, if the entertainment production cap were to be increased from \$2.5 million to \$5 million, at least 535 local production companies, including post-production companies, boutique production houses and commercial production companies, would receive a reduction in their taxes. In fact, according to the Association of Independent Commercial Producers’ 2010 Annual Member Survey, the median sales per commercial production company was \$2.79 million. Raising the minimum threshold to \$5 million would provide significant tax savings to small and medium-sized production businesses at a minimal cost to the City.

The Business Tax Advisory Committee (BTAC) Incentives Subcommittee has recommended this modest cap adjustment from \$2.5 million to \$5 million for the Entertainment Production Cap, as it will assist in retaining our current level of film activity while bringing recently displaced production back to the City of Los Angeles.

I THEREFORE MOVE, that the City Council direct the Chief Legislative Analyst (CLA) and City Administrative Officer (CAO) to report to the Jobs and Business Development Committee within 30 days on the economic impact of raising the Entertainment Production Cap from \$2.5 million to \$5 million; and

I FURTHER MOVE, that the City Council direct the City Attorney, in consultation with the Chief Legislative Analyst and City Administrative Officer, to prepare an ordinance within 30 days raising the Entertainment Production Cap from \$2.5 million to \$5 million

PRESENTED BY: Richard Alarcón
RICHARD ALARCÓN
Councilmember, 7th District

SECONDED BY: [Signature]

2010

[Handwritten initials]

ORIGINAL

MUNICIPAL CODE / CHAPTER II* LICENSES, PERMITS, BUSINESS REGULATIONS / ARTICLE 1 BUSINESS TAXES / SEC. 21.109. MOTION PICTURE, TELEVISION AND RADIO PRODUCERS.

SEC. 21.109. MOTION PICTURE, TELEVISION AND RADIO PRODUCERS.

(Title amended by Ord. No. 167,416, Eff. 12/27/91, Oper. 1/1/84.)

(a) **(Amended by Ord. No. 167,416, Eff. 12/27/91, Oper. 1/1/84.)** For the purposes of this section a motion picture, television, or radio producer is a person who engages in the business of producing motion pictures, television programs, radio programs or advertising material for such media, including pictures or programs in which animation is used. Said businesses include, but are not limited to, the development of a story, whether based on fact or fiction, the photographing of the story or program, whether by means of photographic film, magnetic tape, or other device, the recording of the program, and the cutting, scoring, editing, and final preparation of the picture, program or commercial for release or viewing, and when performed by a person engaged in the foregoing activities also includes either or both of the following:

1. The lending by a motion picture, television, or radio producer of the services of employees for which the producer has contracted to one or more other producers; and

2. The furnishing of motion picture, television or radio studio facilities to other such media producers where the facilities include, in addition to physical equipment, the services of technicians such as cameramen, soundman, carpenters, electricians and set decorators.

Every person engaged in the business of being a motion picture, television, or radio producer shall pay a tax in the amount provided in Subsection (c). The measure of the tax in each instance shall be the total of the following sums: the gross cost of production of motion pictures, television programs, radio programs and advertising materials; the gross receipts received by the producer in return for the lending of the services of employees as described herein; and the gross receipts received by the producer in return for the furnishing of studio facilities in the manner described herein.

(b) Every person engaged in the business of reconstructing motion pictures, television programs or commercials by synchronizing pictures with sound, or making or producing sound scores, other than a sound score made or produced by a motion picture, television or radio producer in the preparation for release of a production, shall pay a tax measured by the gross cost of the work done in the amount provided in Subsection (c). **(Amended by Ord. No. 167,416,**

Official City of Los Angeles Municipal Code (TM)

Eff. 12/27/91, Oper. 1/1/84.)

(c) The taxes imposed for the privilege of engaging in the businesses described in this section shall be \$145.00 per year or fractional part thereof for the first \$2,500,000.00 of the measure of tax, plus \$1.30 per year for each additional \$1,000.00 of the measure of tax or fractional part thereof in excess of \$2,500,000.00, provided that the maximum tax shall be \$12,495.00 for all measures of tax greater than \$12,000,000.00. **(Amended by Ord. No. 176,325, Eff. 1/16/05, Oper. 7/1/05.)**

(d) Any motion picture, television, or radio producer as defined in Subsection (a) of this section and subject to the tax imposed by this section, shall not be subject to tax under Section 21.45 of this article for production activity. **(Amended by Ord. No. 178,101, Eff. 1/9/07.)**