The AMERICAN CHAMBER of Commerce in Mongolia

AMCHAM POSITION PAPER:

PROMOTING MONGOLIA AS A GLOBAL DESTINATION FOR FILM AND TELEVISION PRODUCTION

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Background

Mongolia might not be the first country in the world that one would associate with film and television production. Vast landscapes, freezing temperatures, large herds of camels and goats, and a nomadic lifestyle are what most people around the world would have in mind. Commercially, it's the mining sector that attracts the most foreign investment – Mongolia is home to some of the largest copper, coal, and gold deposits in the world.

Nevertheless, the film industry is not completely unknown in Mongolia. The first Mongolian film studio was established back in 1935. The industry has changed dramatically over the past 30 years since the democratic transition in 1990. Before 1990, films were heavy on ideology and based on strict censorship, heavily influenced by the former Soviet Union. Nowadays, Mongolian filmmakers have artistic freedom and, with the right policy framework, there are plenty of opportunities to position Mongolia as a destination for global film and television production.

Like any other industry – the markets that offer the most attractive and stable terms are the ones that attract the most investment. This policy paper provides a review of the global regulatory environment surrounding the film and production industry and a set of recommendations that Mongolia's policy makers should consider putting in place so the world's top studios will choose Mongolia for their film and television projects.

Global best practices of financial incentives in filmmaking

To create jobs and stimulate local economies, many countries around the world provide tax and financial incentives for global filmmakers to shoot within their borders. These incentives vary significantly in structure and scope from country to country, but the end goal is universal: a mutually beneficial financial relationship between the country and foreign film productions. Recent years have seen growing recognition among governments of the valuable effects that film production can bring. This include economic impact, employment, growth in the domestic production and creative arts sector, skills and infrastructure development, and benefits such as screen tourism and national branding.

With global production disrupted during the COVID-19 pandemic — and, in many territories, shut down entirely — incentives will play a key role in the new international production landscape. With productions now facing additional costs to ensure cast and crew are kept safe through social distancing and other on-set safety measures, incentives will be closely scrutinized.

Incentives can generally be classified in five categories:

1. **A rebate** that returns a percentage of qualifying production expenditure as cash to the producer.
2. **A tax credit** that offers a reduction against corporate tax owed or a refund, where tax owed is less than the incentive amount, and tax credits can often be transferable, i.e., sold to a third party to utilize.
3. **A tax shelter** funded by investment from individuals or corporate entities seeking to access tax relief through investing.
4. **National or regional film funds** that are limited government-sponsored grants for which a production must specifically apply. [1]
5. **Above-the line incentive schemes**, referring to a list of individuals who guide and influence the creative direction, process, and voice of a given narrative in a film and related expenditures. These roles include, but are not limited to, the screenwriter, producer, director, and actors.

The Global Incentives Index 2020, compiled for World of Locations by strategy consultants Olsberg SPI, a creative industries consulting firm, provides an overview of the current production incentives landscape. The index collates information on almost 100 active incentives.[2]

The table in the appendix shows the tax and financial incentives applied in some Asian countries, including China, Fiji, Kazakhstan, Malaysia, South Korea, and Thailand. For instance, China offers a 40 percent cash rebate, plus a 10 percent business tax rebate for

[1] https://nofilmschool.com/2016/07/film-production-incentives-tax-incentives-movie-rebates

[2] https://www.o-spi.co.uk/wp-content/uploads/2019/05/Olsberg-SPI-Global-Incentives-Index-May-2019.pdf

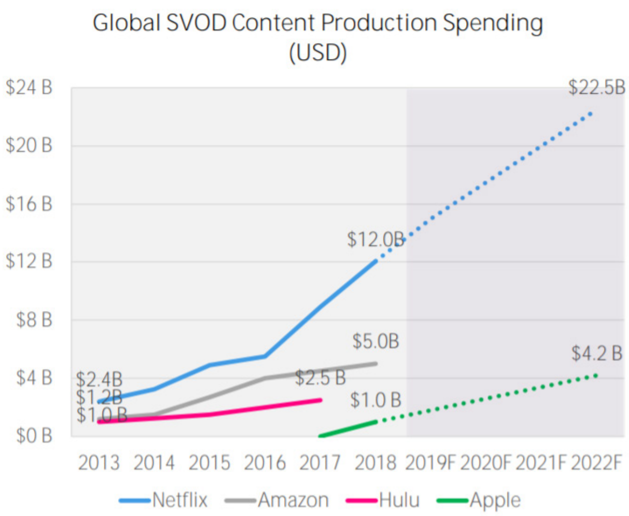
qualifying production expenditures in China's Qingdao Region. At least 50 percent of the qualified spend must be at Dalian Wanda Studios. The project cap is 120 million RMB, and the minimum spend required is 30 million RMB. Malaysia offers a 30 percent cash rebate on all qualifying expenditure. At least 30 percent of the production crew must be residents or citizens of Malaysia. The minimum spend for foreign productions or co-productions is 5 million MYR for production, 1.5 million MYR for post-production, and 385,000 MYR per hour for a television series. [3]

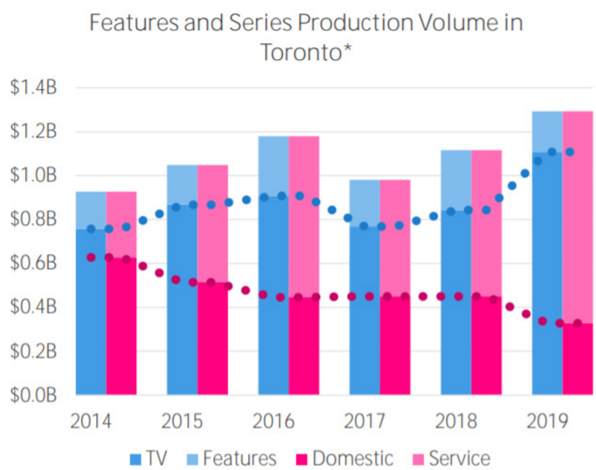
Based on the research of No Film School, a leading worldwide community of filmmakers, the best country in Asia to film in is Singapore. In 2004, the Singapore Tourism Board introduced the Film in Singapore Scheme, which promotes production in the country by subsidizing up to 50 percent of qualifying expenses incurred in Singapore, including local talent, production staff, and production services. Additionally, there are various grants available through the Singapore Media Development Authority (MDA), including a production assistance grant that supports up to 40 percent of qualifying expenses. Requirements include that films and television shows must portray Singapore in a favorable light.

However, the best countries for production incentives are the UK (25 percent cash rebate and up to 80 percent tax relief), Fiji (50 percent cash rebate), and Canada (combined federal and provincial tax credits ranging from 32 to 70 percent of eligible labor, as well as tax incentives on local qualifying spend ranging from 20 to 30 percent). [4]

Canada

The most recent Toronto Screen Industry Workforce Study suggests that the global film and television production industry has seen an enormous influx of investment from subscription video on demand (SVOD) services, recently joined by Disney/Fox and Comcast/Sky after their respective content-inspired mergers. As shown in Chart A, SVOD content spending has occurred at a scale that has overwhelmed the capacity of film and television producers at a global scale, driving film and television production booms across most jurisdictions with such an industry.[5]





[3] https://rodriqueslaw.com/blog/countries-best-film-incentives/
[4] https://nofilmschool.com/2016/07/film-production-incentives-tax-incentives-movie-rebates
[5] Toronto Screen Industry Workforce Study, by Nordicity, March 29, 2021

Largely, as a result of global content trends, Toronto has fielded extraordinary demand for production infrastructure and talent. Over the past six years, Toronto has exhibited clear-cut trends toward increased (foreign) service production and increased TV series production, both in terms of share and overall volume, as shown in Chart B. At the same time, Canadian TV production has modestly increased from 2.4 to 2.9 billion USD at the national level. Though overall domestic production volume has declined in Toronto. Taken together, these points suggest that producers, especially domestic ones, are being crowded out of the Toronto production market given limitations on the production space and talent available to them.

According to a nationwide survey, Canadians prefer to see federal policy put the greatest priority on jobs and other economic upsides when it comes to federal policies designed to promote investment in film and TV production in Canada. Large majorities attach importance to spin off purchases from Canadian businesses (94 percent) and employment in a wide variety of behind-the-scenes jobs (94 percent). When international studios invest in film and TV work in Canada, Canadians believe this creates significant benefits for Canadian film and TV workers (84 percent), for the infrastructure and the skill set in Canada's film and TV industry (84 percent), and for the country as a whole (81 percent). [6]

The United States

As we know, the United States is the world's leader in film production, distribution, and technology. In the United States, the film and TV industry is a major private sector employer with 2.5 million total jobs supported and 892,000 direct jobs. Direct industry jobs employ more people than other major sectors, including mining, oil and natural gas extraction, crop production, utility system construction, and rental and leasing services. The production and distribution of motion pictures and television programs is one of the nation's most valuable cultural and economic resources. Total jobs and wages include the jobs and wages supported at thousands of companies relying on the industry, such as caterers, dry cleaners, lumber suppliers, and digital equipment suppliers, as well as other industry-related jobs, such as in consumer products, video retailing, and theme parks. The industry provides quality jobs, with higher-than-average salaries. The industry is comprised of over 93,000 businesses in total, located in every state in the country. These are mainly small businesses; 87 percent employ fewer than 10 people. The industry supports local businesses, with 49 billion USD in payments made to over 280,000 local businesses located across the United States. The industry increases the tax base, with 28 billion USD in public revenues generated from sales taxes on goods, state income taxes, and federal taxes, including income tax, unemployment, Medicare, and Social Security, based on direct employment in the industry.[7] The industry is highly competitive around the world, resulting in 16.3 billion USD in exports and 9.4 billion USD in trade surplus. The industry has generated a positive balance of trade in every major market in the world.

[6] Public opinion research, Film and TV production in Canada, ABACUS DATA

[7] The American Motion Picture and Television Industry creating jobs, trading around the world, MPA

Most U.S. film subsidies and soft money sources are found at the state level. Most states provide some form of soft money film financing to production companies. Soft money is state subsidies in the form of tax credits, cash rebates, and grants. They provide partial financing for productions to cover pre-production, production, and post-production expenses, including the costs of goods and services, and wages or salaries paid to each resident and non-resident cast and crew member. State subsidies are designed to encourage production companies to produce film and television projects in the state, help create and maintain film industry jobs, promote tourism and the state's image, and have a positive impact on the state's economy. In fact, film incentives have served as engines of the film industry's phenomenal growth in many of the states in the U.S. At the federal level, the United States has the enactment of Section 181 of the Internal Revenue Code, which provides a tax incentive for domestic film and television productions. [8]

The United States also provides many different above-the line incentives. For instance, the state of Georgia offers 20 percent transferable tax credits, plus 10 percent for screen credit. There are no residency requirements, and the minimum spend is 500,000 USD.[9] According to a study conducted by the Economic Development Research (CEDR) at Georgia Tech, the economic impact for the film industry in Georgia was 8.6 billion USD in 2017. In the same year, there were over 17,800 employed in film, which represents a 376 percent increase since 2001. Of those workers, 96 percent were employed in production while the remaining four percent were spread across film distribution, teleproduction/postproduction services, and other services, including booking or casting agencies. The presence of the film industry in Georgia supports over 33,000 additional jobs in other industries. Altogether, film production supports nearly 51,000 jobs and 2.6 billion USD in personal income for the state of Georgia. [10]

The state of New Mexico (USA) offers a 25 percent tax credit with the requirement of at least one day of principal photography in-state. There are also no residency requirements. There is no minimum spend for companies, and the state offers a 30 percent tax credit on resident labor for qualifying TV features. An additional five percent in credit is available for resident crew wages if filming at least 10 days at qualified production facilities, such as a soundstage or a standing set (15 days if the budget is more than 30 million USD); straight-to-series pilots where 30 percent applies to direct production expenditures (except nonresident actors); or a television series of at least six episodes with a budget of at least 50,000 USD each episode, and where 30 percent applies to direct production expenditures (including payments to nonresident actors). [11]

In conclusion, these U.S. and Canadian examples clearly illustrate the positive impact that incentives have and how much the film and TV industry can generate in terms of the flow of foreign direct investment into a certain country, and how it can result in exports and trade surplus while creating many new jobs and economic opportunities.

[8] https://rodriqueslaw.com/blog/best-film-incentives-are-available-united-states/

[9] https://rodriqueslaw.com/blog/best-film-incentives-are-available-united-states/

[10] "The Economic Impact of the Film Industry in Georgia" study, conducted by the Economic Development Research (CEDR) at Georgia Tech, Executive summary, 2019

[11] https://rodriqueslaw.com/blog/best-film-incentives-are-available-united-states/

Mongolia's opportunity to attract investment through tax incentives

Mongolia is known for its vast, rugged expanses of steppe, desert, and mountains, as well as its traditional nomadic culture. Starting from the Gobi and its sand dunes, the Altai Tavan Bogd Mountains, glaciers, lush valleys, different wildlife, the ruins of Karakorum (the capital of the Mongol Empire), the ruins of Xanadu, and beautiful waterfalls and lakes, including Khuvsgul Lake, in addition to Buddhist monasteries, Mongolia is one of the most attractive locations to shoot films about extreme adventures and wild nature. Unfortunately, there are currently no tax incentives for foreign commercials or films shooting in Mongolia. [12]

However, with the right legislative reforms, Mongolia could offer one of the most attractive regulatory environments in the world – giving global production studios a strong case to consider Mongolia for their projects. AmCham Mongolia makes the following three recommendations to Mongolia's policy makers:

1. Mongolia needs to provide much better tax incentives to international filmmakers than other countries in region: a minimum of 30-40 percent in rebates, tax credits, and tax shelters, or 5-10 percent in above-the-line incentive schemes. The rebates in the Asia-Pacific region range from 15 percent (Thailand) to 75 percent (Fiji). In terms of international filming experience, Mongolia lacks even the most basic infrastructure: catering, security, roads and access, studios, health care, etc. Therefore, incentives from Mongolia would need to be even better than South Korea, Singapore, Malaysia, Thailand, China, etc., since these places offer very appealing experiences due to their warm, comfortable weather, varied landscapes for filming, developed infrastructure, and affordable experienced labor.

2. Policymakers need to legislate these tax incentives so that they can bring many economic and social benefits to Mongolia. If Mongolia offers attractive tax incentives, international filmmakers can shoot films and productions in Mongolia, which will bring economic benefits such as job creation, additional revenue for the state and local governments, and increased tourism. One side effect of these partnerships with international filmmakers could be that Mongolian film directors, actors, actresses, and production crew members would have first-hand interaction with international filmmakers and learn a lot in different areas of film production. This transfer of knowledge will certainly improve the quality of Mongolian filmmaking and the reputation of Mongolian films at international film festivals.

3. Mongolia also needs to determine its specific requirements for shooting in Mongolia through consultation with international film experts and consultants: this could include minimum qualifying spends, co-production, the hiring of locals, annual budgets/caps, application deadlines, and the sunset date for incentives.

AmCham Mongolia is committed to acting as a platform for policy discussions, bringing together international and national stakeholders on this promising subject, and to provide more international best practices contributing to the promotion of bilateral relations, and attracting American investments and interests to Mongolia.

[12] https://emergefilmsolutions.com/country/mongolia/

Appendix. Table: The Global Incentives Index 2020, some countries in the Asia-Pacific [13]

Jurisdiction	Name of incentive	Type	Value	Additional value	Per project cap	Annual budget/cap	Application deadline	Eligibility	Limits/restrictions/considerations
China	Film rebate	Rebate	40%	Plus 10% business tax rebate for qualifying production expenditures in China's Qingdao region.	-	120 million RMB, minimum spend: 30 million RMB			At least 50% of qualified spend must be at Dalian Wanda Studios.
Fiji*	Film rebate	Rebate	75%	-	-	-	-	Film, TV, other	Available to fully funded offshore productions. There is no minimum percentage of shooting undertaken in Fiji, although there is a minimum qualifying spend of 112,000 USD for large-format films, feature films, short films, television shows, and commercials. Production company must be registered locally.
Kazakhstan	Investment subsidy	Rebate	30%	-	-	-	March 1	Film, TV, documentary, other	The recipient of the subsidy must be a foreign legal entity producing audiovisual content in the territory of Kazakhstan and working with a local film company. Minimum threshold of 850,000 USD per project. No minimum hiring requirement, no cultural test. **Sunset date for incentive:** 2025

[13] https://www.o-spi.co.uk/wp-content/uploads/2020/06/Olsberg-SPI-Global-Incentives-Index-June-2020.pdf

Malaysia	Film rebate	Rebate	30%	At least 30% of the production crew must be residents or citizens.	-	-	-		30% cash rebate on all qualifying expenditure. Minimum spend (for foreign productions or co-productions): MYR 5 million for production, MYR 1.5 million for post-production, MYR 385,000 per hour for television series
South Korea	Location incentive	Rebate	25%	5% uplift for productions that shoot for more than 10 days in South Korea and spend upwards of 1.6 million USD in South Korea	570k USD	650k USD	Year-round	Film, TV, documentary, other	Production must shoot for more than 3 days in Korea and spend between 40,750 USD and 1.6 m USD to receive the 25% rebate. Eligible projects must be developed and produced by a foreign production company and must be 80% financed with foreign capital. Any corporations organized and registered as a business in Korea are eligible applicants. The amount of the incentive is determined by the remaining grant program budget on the date of the application. Grants are taxable. **Sunset date for incentive:** December 31, 2020
Thailand	Incentive measures	Rebate	15%	Additional 3% for hire of Thai key personnel; additional 3% for promotion of Thai tourism.	2.3 m USD	Not stated	Prior to physical shooting	Film, TV, documentary, other	Foreign film productions must have already obtained the necessary permit for filming in Thailand and must hire a local coordinating company. Productions must spend more than 1.6 m USD in Thailand with Thai-registered businesses and other Thai services and individuals. Where applications are for production and post, production should be at least 50% of the total spend. For the 2% additional rate, a final release copy of the film must be shown to the incentive committee to establish whether the film meets the criteria.