City of Culver City, California

Agenda Item Report

Meeting Date: 01/24/11	Item Number: A-3
CITY COUNCIL AGENDA ITEM: Discussion of Proposed Changes to the Culver City Municipal Code Related to Business Tax on Production Companies and Provide Direction to the City Manager Related Thereto.	
Contact Person/Dept.: Jeff S. Muir/Finance	Phone Number: 310/253-5865
Fiscal Impact: Yes [X] No []	General Fund: Yes [X] No []
Public Hearing: [] Action Item: []	Attachments: [X]
Commission Action Required: Yes [] No [X]	Date: ________________
Public Notification: (E-Mail) Meetings and Agendas – City Council (01/19/11), (E-Mail) Culver City Chamber of Commerce, (E-Mail) Sony Corporation, (E-Mail) Culver Studios, (E-Mail) GMT Studios, (E-Mail) Motion Picture Association of America (01/19/11)	
Department Approval: Jeff Muir (01/13/11)	City Attorney Approval: Carol Schwab (by H. Baker) (01/18/11)
Chief Financial Officer Approval: Jeff Muir (01/13/11)	City Manager Approval: John M. Nachbar (01/19/11)

RECOMMENDATION:

Staff recommends that the City Council discuss potential changes to the Culver City business tax on production companies and provide direction to the City Manager related thereto.

BACKGROUND:

On October 18, 2010, the City Council considered an agenda item discussing the City's current business tax policy as it relates to production companies. The purpose of this item was to establish the importance of the film and production industry in Culver City's local economy and to allow the City Council to discuss possibilities for a business tax structure that would be more favorable to production companies and would also spur more activity at our local studios, thereby stimulating our local economy. The staff report from the October 18, 2010 agenda item has been included as an attachment. The City Council gave general direction that they were in favor of becoming as competitive as possible as it relates to the taxation of production companies. The City Council also acknowledged the need to be wary of any Proposition 218 issues that might arise in the future if the tax rate were lowered or capped. There was also support for consideration of the Redevelopment Agency playing a role in the form of an economic development incentive to mitigate any General Fund effects.

With the direction received, staff met to determine if there was a single course of action that could come back for City Council adoption. After further consideration by staff and discussion with some of our local studio contacts, it was determined it would be most prudent to return to City Council one more time with some specific options to get final direction. The goal for considering this item is to receive the specific direction required to bring back any subsequent Culver City Municipal Code amendments or other items needing City Council approval to effectuate the decision. Specific options are presented in this report for consideration and discussion.

DISCUSSION:

As was mentioned during the discussion of the last staff report, it is extremely difficult to compare how one city charges business taxes to another. It can become even more complicated when examining the film industry specifically. This report does not include an in-depth, city-by-city analysis of all of the various charges, fees and taxes associated with the film industry. Such a report would take significant staff time and would impact the approved work plan for the Finance Department. If the City Council desires such a study, such direction can be provided. However, if the City Council desires this study to be completed this fiscal year, this would impact the ability of the Finance Department to complete other work plan items over the same time frame.

There are variations from city to city in how business taxes are calculated and applied. Like Culver City, many cities have a business tax system based on gross receipts. Some cities have a higher 'fixed rate' annual charge and a lower receipts-based tax. Others may charge the tax based on the number of employees. Still others may charge virtually no business tax. This all very much depends on the history of the particular city, the demand for service levels in that community, and the mix of other general revenues to fund services. In many communities, property taxes are the number one revenue source. To further demonstrate how the mix of local general revenues can influence the structure of the business tax, the table below provides summary information for several other local cities that have film studio locations, as well as other West-side cities:

City	2010/11 GF Revenue ($ Millions)	Property Tax	Sales Tax	UUT	TOT	Business Tax
Culver City	$80.5	5%	19%	18%	4%	12%
Burbank	$145.2	18%	13%	14%	4%	1%
Manhattan Beach	$49.2	40%	15%	0%	6%	5%
Santa Clarita	$74.1	33%	34%	0%	2%	0%
Downey	$59.9	35%	19%	12%	2%	2%
El Segundo	$52.4	12%	15%	15%	7%	0%
Los Angeles	$4,375.0	32%	7%	15%	3%	9%
Santa Monica	$251.5	14%	11%	13%	12%	10%
Beverly Hills	$157.4	25%	13%	0%	15%	20%

It is immediately apparent that Culver City gets much less of its general revenues through property tax than any of the cities listed, which is why sales tax, utility users taxes and business tax are so important. Some cities, because they receive much more from other taxes, have very low or virtually no business taxes. This information is presented to provide context and reiterate the point that while Culver City may have higher business taxes than some other cities, this is our third largest source of revenue in supporting our high level of services. One cannot simply compare business tax only from city to city.

It is also the case that the film and creative industries are very important to Culver City. Creating an atmosphere that continues to foster this industry in the long-term is important as well. It is within this context that the discussion of our current business tax structure as it relates to out-of-city production companies started. The purpose of this staff report is to provide options to making our business tax structure more competitive and attractive to film production companies. The City Council may discuss these options and approve them, or provide further direction to staff.

Studio Filming

One of the concepts discussed at the October City Council meeting was the Redevelopment Agency playing a role in any reduction or elimination of business tax on production companies in the form of an economic development program, thereby mitigating any potential negative impacts to the General Fund. Staff discussed this internally and came up with some different options that, in exchange for Agency support, included working with the studios to encourage more production spending to occur locally, as well as identifying supply or service businesses that support production that do not currently exist within the City. Unfortunately, through discussions with Agency counsel, there does not appear to be a way to legally establish such a program that falls within the statutes comprising Redevelopment law. Therefore this staff report does not include a recommendation that includes Agency support or subsidy.

From the perspective of staff, the removal of the Redevelopment Agency assistance as an option focuses the policy question on whether the City should keep the same, lower or eliminate the business tax on out-of-city production companies that do business on studio properties. This goes to the fundamental question of whether we believe the economic impacts of more filming at the local studios outweighs any potentially lost business tax from these companies. As was discussed at the last meeting, current compliance with the existing requirement is low and there is limited enforcement activity. From a practical perspective, lowering or eliminating the business tax on production companies working on our local studios has a negligible impact.

Staff has also had discussion internally and with the City Attorney's Office regarding how a program to reduce or eliminate the business tax for production companies would best be structured to provide the City the most flexibility in the long-run. The ideas analyzed were lowering the existing tax for such companies, creating a maximum or ‘cap’ on the tax (similar to the City of Los Angeles), or a temporary suspension of collection of business tax for these companies.

It is clear from Proposition 218 that if City Council were to decrease the tax by lowering the tax formula, an effort in the future to increase it back to its current level would be viewed as a tax increase and would require voter approval. Therefore, this option is not recommended.

There is also a question as to whether it could be argued that a cap on the tax is a tax reduction, and therefore removing the cap in the future could be considered a tax increase and trigger Proposition 218 requirements. While Finance staff believes a strong argument could be made that a ‘tax cap’ is not a tax reduction, we agree with the City Attorney’s Office that there is greater potential that the cap removal will look more like a rate increase than a temporary suspension of collection. Consequently, the City Attorney’s Office is more comfortable with a suspension of tax collection than setting a cap, and Finance staff is in agreement.

The options presented do not include any requirements for the studios to provide information on where they spend money locally, however it is hoped that through outreach and discussion they will still work with us to better understand the industry and the types of supporting businesses the City might target in the future.

Studio Filming Option

In light of the importance of the film industry in Culver City and the positive economic impact, job retention and job creation that occurs through increased filming at our studios, the City Council would adopt a two year suspension on the collection of business tax for out-of-city production companies filming at a Culver City studio location. These companies would still be required to obtain a business tax certificate, but no taxes would be due. While the City Council could consider a one-year tax suspension, staff feels that would not be enough time to really see what the impacts would be. At the end of the two year period, staff would bring back a report of any of the noticeable economic impacts (e.g. increased business tax from the studios, any information the studios are able and willing to provide about local spend, additional Culver City-based entertainment industry support businesses, etc.). At that time, the City Council could consider extending the period or letting it end. Based on the approximate $50,000 the City currently receives from such companies, there is a limited loss of revenue. Over this period, the City can determine if the moratorium has had a positive impact on stimulating the local economy.

Non-studio filming

The current Culver City Municipal Code includes a provision where companies that perform filming in Culver City outside of a studio (i.e. City streets, facilities, commercial locations, etc.) are to pay business tax at $250 per day, or $1,500 per year, at the producer's option. The business tax is in addition to film permit fees, and other fees and charges. The City currently requires other out-of-City businesses that come into the City on a temporary basis (e.g. plumbers, contractors, electricians, etc.) to obtain a business tax certificate and pay business tax on the amount they earn within the City. The fixed dollar amounts currently charged were likely established to simplify things for production companies, so they would not have to file year-end returns, etc. In reviewing how other cities handle short-term production, there is a wide variety. Some don't charge any business tax and some charge less than Culver City does. Staff does not receive many complaints as it relates to the current business tax requirements for short-term filming. The easiest option in this regard is to leave the current process and amounts intact. If the City Council desires an option to reduce the cost for short-term filming, one is offered below.

Non-studio Filming Option

Out-of-city production companies that do filming in Culver City outside of a studio (i.e. City streets, facilities, commercial locations, etc.) working within the City for a period of less than sixty days during a calendar year shall be required to obtain a business tax certificate, but not to pay any business tax. Any other filming permit fees or charges from other departments would still need to be paid. Such companies doing business in the City more than sixty days in a calendar year will be required to acquire a business tax certificate and pay business tax based on the greater of their gross receipts or cost of operations. It is estimated the City currently receives approximately $75,000 annually in business tax from short-term, non-studio filming.

FISCAL ANALYSIS:

For Fiscal Year 2009/2010, the City received approximately $9 million in business tax. Of this amount, approximately $2.5 million was collected from companies under the broad category of 'entertainment', which includes production companies, studios, and others. It is estimated that at least 95% of the business taxes paid by entertainment-type businesses is generated from the studios and other related businesses located in Culver City. Thus, it is likely that current business tax collections from production companies that only come to Culver City for filming purposes is under $125,000 per year. Within this $125,000, it is estimated that $75,000 is generated from short-term, non-studio filming and $50,000 is generated from studio filming. Potential changes in policy regarding non-permanent production companies will not have a significant effect on total business tax collection. With increased cooperation and compliance with the studios, as well as greater studio occupancy and a commitment for more local spending, there could be a stimulus to our local economy. Information from the studios on the kinds of supporting businesses that do not currently exist in the City can also aid our economic development activities.

ATTACHMENTS:

1. Staff Report from October 18, 2010

MOTION:

That the City Council:

Discuss this matter and direct the City Manager as deemed appropriate.