

Major Changes to Film Tax Credit Programs in Selected States

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Issue

Provide a brief history of the major changes to the film tax credit programs in Georgia, Louisiana, Massachusetts, and New York.

History of Film Tax Credit Programs in Selected States

Attachments 1 through 4 summarize the major changes made to the film tax credit programs in Georgia, Louisiana, Massachusetts, and New York, respectively, since their enactment. A related OLR report ([2018-R-0194](#)) compares the film tax credit programs in these four states and Connecticut.

Georgia enacted its film tax credit program, the Entertainment and Industry Investment Act, in 2005 and has since modified it five times. The most significant change was made in 2008, when the Georgia legislature increased the base credit from 9% to 20% and established an additional 10% credit for productions including a qualified Georgia promotion (e.g., logo). The legislature further expanded the program in 2012, by extending the credits to qualified interactive entertainment production companies (i.e., video game companies), and again in 2017, by establishing a new postproduction film tax credit.

Louisiana created its film tax credit program in 2002 by revamping an existing tax credit program for investors to cover losses sustained in motion pictures produced in the state. The legislature made numerous changes to the Motion Picture Investor Tax Credit Program in subsequent years by (1) making the credits transferable in 2003, (2) increasing credit rates in 2005 and again in 2009,

and (3) establishing an infrastructure tax credit in 2005 and reconfiguring it in 2009. More recently, in 2015 and 2017, Louisiana's legislature imposed aggregate and individual project caps to limit the amount the state spends on the program.

Massachusetts first enacted its film tax credits in 2005. In 2007, it made several significant changes to the original legislation, including (1) increasing the payroll credit amount and reducing the total expenses needed to qualify, (2) making the credit refundable, and (3) removing the \$7 million cap on the total amount of credits that can be awarded per motion picture.

New York enacted the Empire State Film Production tax credit in 2004 and has since added two more production tax credits to its program: the commercial production credit (2008) and the post-production credit (2010). The state legislature has expanded and modified these programs several times since they were first enacted. Major changes include (1) increasing the production tax credit amount from 10% to 30% of qualified expenses in 2008, (2) gradually increasing the amount of credits available from \$25 million in 2004 to \$420 million in 2010 and thereafter, (3) increasing in 2012 the amount of the post-production tax credit from 20% to 30% of qualified expenses, and (4) authorizing in 2013 an additional 10% production and post-production credit for projects filmed in upstate New York.

Attachment 1: Georgia's Entertainment and Industry Investment Act

Year	Change
2005	<p>Georgia Entertainment and Industry Investment Act enacted</p> <p>For companies with base investments of at least \$500,000 and whose average annual total production expenditures in the state were \$30 million or less for 2002 through 2004:</p> <ul style="list-style-type: none"> • 9% credit on base investment • Additional 3% credit for investments made in certain economically-distressed counties • Additional 3% credit for total aggregate payroll of Georgia residents • Additional 2% credit if the base investment exceeds \$20 million for multiple television projects <p>For companies whose average annual total production expenditures in the state exceeded \$30 million for 2002 through 2004:</p> <ul style="list-style-type: none"> • 9% credit on the amount their spending exceeds their annual average for 2002 through 2004 by at least \$500,000 • Additional credits described above also apply to the costs in excess of their annual average costs over the three-year period <p>Allowed transfer of unused credits and five-year carryforward</p>
2008	<p>Credit rates modified:</p> <ul style="list-style-type: none"> • Increased base rate from 9% to 20% • Eliminated the additional credits for investments in targeted counties, Georgia payroll, and multiple television projects • Added a 10% credit if the production includes a qualified Georgia promotion (e.g., logo)
2012	<p>Extended the credits to qualified interactive entertainment production companies (i.e., video game companies) with less than \$100 million in gross income</p> <ul style="list-style-type: none"> • Capped at \$25 million the aggregate amount of credits allowed for such companies • Capped at \$5 million the maximum amount allowed per company and expires once the \$25 million aggregate cap is reached <p>Modified qualifying production expenditures</p>
2014	<p>Video game companies credit changes:</p> <ul style="list-style-type: none"> • Converted the overall credit cap from an aggregate cap of \$25 million to an annual cap of \$12.5 million for the 2014 and 2015 tax years • Converted the per company credit cap from an aggregate cap to an annual cap and lowered the cap from \$5 million to \$1.5 million per company • Sunset the credits beginning on January 1, 2016

	<ul style="list-style-type: none"> Modified eligibility criteria for the credits, including requiring that the companies maintain a business location physically located in the state and had expended at least \$500,000 in aggregate Georgia payroll for employees in the state for the preceding calendar year
2015	Extended the sunset date for the video game companies credit from January 1, 2016 to January 1, 2019, subject to the same caps that applied for 2014 and 2015
2017	<p>Video game companies credit changes (beginning in 2018):</p> <ul style="list-style-type: none"> Reduced payroll and base investment requirements from \$500,000 to \$250,000 Limits, to three years, the credit for certain prereleased games Eliminated the sunset provision and extended the \$12.5 million annual aggregate cap to future tax years <p>Created a new postproduction film tax credit (beginning in 2018):</p> <ul style="list-style-type: none"> To qualify, postproduction company must maintain a physical business location in the state and have at least \$250,000 in Georgia payroll For companies with between \$100,000 and \$500,000 in expenditures and Georgia payroll in a tax year, 20% credit For companies with at least \$500,000 in expenditures in a tax year, 20% credit plus an additional 10% credit if the expenditures are incurred in Georgia and 5% if they are incurred in a targeted counties Credits for (1) smaller postproduction companies capped at \$1 million in aggregate and (2) larger postproduction companies capped at the amount of each company's total Georgia payroll for the year in which it claims the credit Total credits for all postproduction companies capped at \$10 million per tax year from 2018 through 2022 Maximum amount of credits claimed by a single company capped at 20% of the total credits available for the tax year Credit sunsets on January 1, 2023

Source: Ga. Code Ann. § [48-7-40.26](#), as amended by various acts from 2005 through 2017; CCH AnswerConnect; [A Description of the Film Tax Credit and Film Industry in Georgia](#), Fiscal Research Center Policy Brief, February 23, 2016.

Attachment 2: Louisiana's Motion Picture Investor Tax Credit Program

Year	Change
2002	<p>Motion Picture Investor Tax Credit program created*:</p> <ul style="list-style-type: none"> • 10% credit for projects investing between \$300,000 and \$1 million with an additional 10% payroll credit • 15% credit for projects investing more than \$1 million with an additional 20% payroll credit • Payroll expenses capped at \$1 million for each employee per year • Credits were non-transferable <p>Established sales tax exemption on purchases totaling \$250,000 or more in Louisiana</p> <p>*Louisiana originally enacted the credit program in 1992, but it was for investors to cover losses sustained in motion pictures produced in the state. The changes enacted in 2002 effectively allowed a credit for investment rather than for losses incurred with an investment.</p>
2003	<p>Investment thresholds increased to (1) between \$300,000 and \$8 million for the 10% credit and (2) greater than \$8 million for the 15% credit; payroll credits remained the same</p> <p>Credits were made transferable</p>
2005	<p>Credit rate increased to:</p> <ul style="list-style-type: none"> • 25% on in-state expenditures from January 1, 2006, through December 31, 2009 • 20% from January 1, 2010, through December 31, 2011 • 15% beginning January 1, 2012 <p>Payroll credit rate decreased to 10% across the board</p> <p>Established an infrastructure incentive credit program:</p> <ul style="list-style-type: none"> • 25% for base investments greater than \$300,000 • Additional 15% credit also applies until January 1, 2008, with governor's office approval <p>Eliminated sales tax exemption</p> <p>Added in a provision allowing investors who earned the credits to transfer them to the state for a portion of their face value (72% in 2007 and increasing over subsequent years in 2% increments to 80%)(i.e., buy-back provision)</p>
2007	<p>Reconfigured the infrastructure tax credit:</p> <ul style="list-style-type: none"> • 40% credit for investments greater than \$300,000 • Imposed a \$25 million credit cap per project • Scheduled to sunset on December 31, 2008

<p>2009</p>	<p>Increased credit rate from 20% to 30% beginning July 1, 2009 and eliminated credit rate decrease scheduled for 2012</p> <p>Reduced payroll credit from 10% to 5%</p> <p>Increased the buy-back to 85% of the credits' face value</p>
<p>2015</p>	<p>Credit rates modified:</p> <ul style="list-style-type: none"> • Allowed an additional 15% tax credit for Louisiana resident filmmakers (i.e., production based on a screenplay meeting certain Louisiana ownership criteria) • Increased the payroll credit from 5% to 10% • Increased the individual payroll cap from \$1 million to \$3 million per year • Allowed productions with base investments of between \$50,000 and \$300,000 to qualify for a 30% credit if they meet specified hiring and expenditure goals <p>Credit limits imposed:</p> <ul style="list-style-type: none"> • Capped at \$30 million the maximum amount of credits allowed for an individual project certified from FYs 16-18 • Imposed an aggregate cap of \$180 million per fiscal year for FYs 16-18 on tax credits claimed or exchanged under the buy-back program (i.e., taxpayer claims cap) • Imposed a moratorium on credit transfers for FY 16 <p>Enacted various other programmatic changes that, among other things, modified allowable expenditures, increased production expense reporting requirements, and imposed application and report fees</p>
<p>2017</p>	<p>Credit rates modified:</p> <ul style="list-style-type: none"> • Decreased base credit from 30% to 25% of expenditures (applicable to state-certified productions with investments greater than \$300,000 and "Louisiana screenplay productions" with investments of at least \$50,000) • Additional 10% credit for "Louisiana screenplay productions" (i.e., those based on a screenplay created by a Louisiana resident) with expenditures between \$50,000 and \$5 million • Additional 5% "out-of-zone filming" credit for productions that have their production office and at least 60% of their principal photography days outside the New Orleans Metropolitan Statistical Area, but not including St. John the Baptist Parish • Payroll credit increased from 10% to 15% • Additional 5% credit allowed if the base investment is expended on certain visual effects • Maximum credit allowed is 40% of base investment <p>Established new payroll tax credits for qualified entertainment companies (QECs) (i.e., eligible companies developing or distributing entertainment products) that create at least five net new jobs</p>

employing Louisiana residents:

- 15% credit for each new job whose wages are between \$45,000 and \$66,000 per year
- 20% credit if the wages are between \$66,000 and \$200,000
- Individual salary eligible for credit capped at \$200,000 per person
- Individual projects capped at \$1 million in credits for year

Credit limits modified:

- Imposed a new aggregate cap of \$150 million per fiscal year on tax credits issued (i.e., program cap); specified amounts of the program cap earmarked for QECs, Louisiana screenplay productions, and independent films
- Taxpayer claims cap (\$180 million per fiscal year) made permanent
- Imposed a \$20 million cap on the maximum amount of credits allowed for an individual project (\$25 million per season for scripted episodic content)

Buy-back rate increased, from 85% to 90% of face value for projects that apply on or after July 1, 2017, and 2% transfer fee imposed on such projects (legacy credits remain subject to 85% buy-back rate and capped at \$10 million per fiscal year for each transferor)

Credits no longer transferable for applications received on or after July 1, 2017

Imposed a sunset date on all credit applications of July 1, 2025

Sources: [La. Stat. Ann. § 47:6007](#), as amended by various acts from 2002 through 2017; CCH AnswerConnect; [Economic Impact of Louisiana's Entertainment Tax Credit Programs](#), Loren C. Scott & Associates, March 2015; [Overview of 2015 Legislative Session changes to the Motion Picture Investor Tax Credit Program](#), Louisiana Economic Development, August 19, 2015; [Overview of 2017 Legislative Session changes to the Motion Picture Production Tax Credit Program](#), Louisiana Economic Development, June 30, 2017.

Attachment 3: Massachusetts Motion Picture Tax Credits

Year	Change
2005	<p>Payroll Credit Enacted</p> <ul style="list-style-type: none"> • Payroll credit equals 20% of qualifying total aggregate payroll, excluding salaries over \$1 million • A production had to incur at least \$250,000 in production expenses over 12 consecutive months <p>Production Expense Credit Enacted</p> <ul style="list-style-type: none"> • Credit equals 25% of Massachusetts production expenses other than payroll expenses • To qualify, productions must (1) meet the minimum production spend above and (2) must spend at least 50% of production expenses or 50% of their principal photography days <p>Both Credits</p> <ul style="list-style-type: none"> • The cap on total production and payroll credits claimed per motion picture was \$7 million • Unused credits could be carried forward for five years or transferred to other taxpayers • Credits were set to sunset in 2013
2007	<p>Payroll Credit Changes:</p> <ul style="list-style-type: none"> • Increased to 25% • Lowered the minimum 12-month production expenses from \$250,000 to \$50,000 • Made payroll credit refundable (up to 90% of unused credits), unused credits can still be carried forward <p>Changes applicable to both credits:</p> <ul style="list-style-type: none"> • Eliminated \$7 million cap • Extended credit through 2022

Sources: Mass. Gen. Laws. chap. 62, § 6(l) & [chap. 63 § 38x](#); “A Report on the Massachusetts Film Industry Tax Initiatives,” [Massachusetts Department of Revenue](#) (2008).

Attachment 4: New York's Film and Commercial Tax Credit Programs

Year	Change
2004	Empire State Film Production Credit enacted: <ul style="list-style-type: none"> • Credit equaled 10% of qualified in-state production costs incurred by qualifying production companies • Credit was refundable over a two-year period • Total available credits capped at \$25 million • Set to expire in 2008
2006	Commercial Production Tax Credit enacted: <ul style="list-style-type: none"> • Credit equaled 5% of qualified costs, or 20% for certain companies demonstrating growth in production • \$7 million in total available credits • Set to expire in 2011 Film Production Tax Credit changes: <ul style="list-style-type: none"> • Total available credits increased to \$60 million • Extended through 2011
2008	Film Production Tax Credit changes: <ul style="list-style-type: none"> • Credit increased from 10% to 30% of qualifying production costs • Cap increased to \$65 million in 2008 and gradually increased each year until it reached \$110 million in 2013 • Made fully refundable in a single year • Extended through 2013
2009	Film Production Credit changes: <ul style="list-style-type: none"> • Authorized an additional \$350 million pool of credits for 2009 • Required taxpayers to claim the credit over one, two, or three years, depending on the credit's amount
2010	Film Post-Production Credit enacted: <ul style="list-style-type: none"> • Credit equals 10% of qualified post-production costs incurred at an in-state facility • \$7 million of the film production tax credit pool is available for post-production credits Film Production Credit changes: <ul style="list-style-type: none"> • Authorized an additional \$420 million per year in credits for each year through 2014 • Modifies eligibility criteria, including by generally requiring that 10% of principal photography days are spent in-state Commercial Production Credit changes: <ul style="list-style-type: none"> • Subject to a three-year temporary deferral for taxpayers whose total amount of specified tax credits that would otherwise have been claimed exceeds \$2 million
2012	Film Post-Production Credit changes: <ul style="list-style-type: none"> • Increased credit from 10% to 30% of qualified post-production costs, or 35% if

	<p>located outside of the greater New York City area (i.e., the metropolitan commuter transportation district)</p> <p>Commercial Production Credit changes:</p> <ul style="list-style-type: none"> • Extended credit to 2015
2013	<p>Film Production Credit changes:</p> <ul style="list-style-type: none"> • Extended tax credit through 2019, maintaining the \$420 million annual cap • Additional 10% credit established for productions in certain upstate counties • Made certain relocated television shows eligible for credit <p>Film Post-Production Credit changes:</p> <ul style="list-style-type: none"> • Additional 10% credit established for productions in certain upstate counties • Required taxpayers to claim the credit over one, two, or three years, depending on the credit's amount • Increased annual cap to \$25 million starting in 2015 • Extended credit through 2019
2014	<p>Commercial Production Tax Credit changes:</p> <ul style="list-style-type: none"> • Extended through 2016
2016	<p>Commercial Production Tax Credit changes:</p> <ul style="list-style-type: none"> • Extended tax credit through 2018
2017	<p>Film Production Credit changes:</p> <ul style="list-style-type: none"> • Extended tax credit through 2022 <p>Film Post-Production Credit changes:</p> <ul style="list-style-type: none"> • Extended tax credit through 2022
2018	<p>Commercial Production Tax Credit changes:</p> <ul style="list-style-type: none"> • Extended through 2023

Sources: [N.Y. Tax Law §§ 24, 28, & 31](#), as amended by various acts since 2004; [New York State Business Tax Credits: Analysis and Evaluation](#), Marilyn M. Rubin and Donald J. Boyd, November 2013; Empire State Development Corporation Television and Film [Webpage](#).

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