

Legislative Changes to Film Industry Tax Credits

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Issue

Summarize the legislative changes to Connecticut's film industry tax credits since the state first established a film production credit in 2006. This report updates OLR Report [2010-R-0328](#).

Summary

Connecticut's film industry tax credit program currently comprises business tax credits for (1) producing film and digital media in the state; (2) developing buildings, facilities, and installations needed for the industry; and (3) producing digital animation. Table 1 below briefly outlines the credit amounts, eligibility criteria, and claims and transfer provisions.

The legislature first established the credit program in 2006 with a 30% film production tax credit ([PA 06-183](#), as amended by [PA 06-186](#)). The legislature charged the former Connecticut Commission on Culture and Tourism (CCCT) with administering the credit; that same year, it added six new CCCT members with digital media or movie production experience and charged the commission with promoting the film and digital media industry in the state ([PA 06-172](#)).

Since 2006, the legislature has made significant changes to the tax credit program. These include (1) expanding the program to encompass two additional business tax credits for producing digital animation and developing the infrastructure needed for the film and digital media industry; (2) modifying the credit amounts, eligibility criteria, claims and transfer provisions, and administration; (3) enacting a moratorium on credits for motion pictures produced in the state; and (4) shifting responsibility for administering the credits from CCCT to the Department of Economic and Community Development (DECD).

Over this same time period, the legislature made other related policy changes to the insurance premiums and corporation business tax credit limits. We include a brief discussion of these

changes in this report since they impact the ability of corporations and insurance companies to reduce their tax liability with film tax credits.

Table 1: Connecticut's Film Industry Tax Credit Program

Credit Name	Amount	Eligibility Criteria	Claims and Transfers
Film and Digital Media Production Tax Credit CGS § 12-217jj	10% to 30%, based on total eligible production expenditures No credit vouchers may be issued for motion pictures that have not been designated as state-certified productions prior to July 1, 2013, with a narrow exception	Qualified productions must incur specified production expenses and costs in Connecticut and (1) conduct at least 50% of principal photography days in Connecticut or (2) incur 50% or \$1 million of post-production costs here	Applies against the insurance premiums corporation business tax; also applies against the community antenna and satellite TV companies taxes, subject to limitations May be claimed in the year the expenses were incurred or the next five income years May be transferred up to three times
Film Production Infrastructure Tax Credit CGS § 12-217kk	20% of infrastructure project's costs; must be 100% completed before credit can be claimed	Business must spend at least \$3 million developing buildings, facilities, and installations needed for film and digital media production	Applies against the insurance premiums and corporation business tax May be claimed in the year the production expenses or costs were incurred or in any of the next three years May be transferred up to three times
Digital Animation Tax Credit CGS § 12-217ll	10% to 30%, based on total eligible production expenditures	Business must incur eligible production expenses and costs in Connecticut; eligible costs and expenses include intellectual property, production equipment, and trailers Total annual credits capped at \$15 million	Same as described above for the infrastructure credit

Film and Digital Media Production Tax Credit

The General Assembly first established its film tax credit program in 2006 with a transferable corporation tax credit for producing films and digital media in Connecticut. It took effect July 1, 2006, and applied to income years beginning on or after January 1, 2006. Table 2 briefly describes the original credit's structure. OLR Report [2006-R-0364](#) describes the credit in greater detail.

The same act that established the film and digital production credit also established a wage credit equal to 25% of the compensation paid to any employee or independent contractor who was a Connecticut resident and who provided services in connection with the production ([PA 06-83](#), § 20). [PA 06-186](#), however, subsequently eliminated the wage credit before it took effect.

Table 2: Film and Digital Media Production Tax Credit Established in 2006

Credit Amount
<ul style="list-style-type: none"> • 30% of eligible production expenditures over \$50,000 incurred in Connecticut
Eligibility Criteria
<ul style="list-style-type: none"> • Qualified productions had to incur specified production expenses and costs in Connecticut for development, pre-production, and post-production work, including (1) purchasing intellectual property rights, subject to certain conditions; (2) direct payments to individuals and companies in Connecticut; and (3) distribution costs • Intellectual property acquisition expenses were eligible under certain circumstances • Ineligible production costs included talent fees over a specified limit for certain performers and costs associated with promoting or marketing a production
Credit Claims and Transfers
<ul style="list-style-type: none"> • Applied against the corporation business tax • Three-year carryforward; credit must be claimed in the income year in which CCCT grants final certification to a qualified production • Nonrefundable; companies could transfer the credit, but the transferee could only use it in the income year when the production company could have used it

Source: [PA 06-83](#), § 20, as amended by [PA 06-186](#), § 83, and [PA 06-187](#), § 79

Since 2007, the General Assembly passed 17 acts changing the credit. Table 3 provides an overview of the most significant changes by year, categorized according to the program’s component (i.e., credit amount, eligibility criteria, credit claims and transfers, and administration).

As the table shows, the legislature substantially revised the credit in 2007 and again in 2009. It made less extensive changes in 2008 and 2010. In 2011, it restricted the credit transfers for FYs 11 and 12 as part of the biennial budget. In 2013 and 2015, it enacted a two-year moratorium on issuing new credits for motion pictures produced in the state. In 2017, it made the moratorium permanent and allowed the credit to be applied against the gross receipts tax on cable, satellite, and competitive video services, subject to certain conditions.

Table 3: Legislative Changes to the Film Production Tax Credit, 2007 to Present

Credit Amount	Eligibility Criteria	Credit Claims and Transfers	Administration	Public Acts and Effective Date of Changes
2007				
No changes	<p>From 1/1/09 to 1/1/12, allowed 50% of eligible expenses incurred outside the state to count towards the credit if they were used here</p> <p>Excluded all expenses for purchasing intellectual property rights</p> <p>Excluded compensation over \$15 million paid to any one individual working on the production (starting 1/1/08)</p> <p>Removed the limit on credit-eligible talent fees for specified performers</p> <p>Made certain video, sound recordings, and interactive websites explicitly eligible</p> <p>Allowed a credit for production equipment expenses only if there are not eligible for the newly established film infrastructure credit</p> <p>Changed the standard for determining which productions contain obscene material or performances</p>	<p>Allowed the credit to apply against the insurance premium tax as well as the corporation business tax</p> <p>Allowed taxpayers to claim credits in the income year when the expenses were incurred, rather than when CCCT granted the final certification</p> <p>Allowed credits to be transferred up to three times</p>	<p>Allowed a production company to apply for and receive credits on an annual basis while the production is in progress, instead of only after it is finished</p> <p>Imposed a financial penalty equal to the credit amount on any qualified production company that deliberately submits false or fraudulent information to CCCT for purposes of the credit</p> <p>Limited the CCCT's and DRS's power to further audit or examine production expenses once a credit voucher is issued, unless there is the possibility of material representation or fraud</p>	<p>PA 07-236; PA 07-4, June Special Session (JSS); PA 07-5, JSS</p> <p>July 1, 2007; applied to income years starting on or after January 1, 2007</p>

Credit Amount	Eligibility Criteria	Credit Claims and Transfers	Administration	Public Acts and Effective Date of Changes
2008				
No changes	No changes	Extended the applicability of the credits to the insurance premiums tax for the 2006 income year, rather than just beginning with the 2007 income year	No changes	PA 08-142 Upon passage
2009				
Increased minimum expenditures from \$50,000 to \$100,000	Prohibited companies from counting out-of-state expenses used in Connecticut as part of their credit-eligible expenses	Eliminated the process for applying for an interim credit while a production is in progress (continued to allow annual credits)	Transferred authority for administering the credit from CCCT to DECD	PA 09-3, JSS; PA 09-8, September Special Session
Established a variable credit percentage:	Required production companies to conduct at least 50% of their principal photography days in the state or spend at least 50% of their post-production costs here to be eligible	Applied the existing limits on post-certification remedies and audits to transferred credits	Required companies to use an audit professional chosen from a DECD-compiled list; required DECD to charge a reasonable fee to analyze credit applications	Upon passage; applied to income years beginning on or after January 1, 2010
<ul style="list-style-type: none"> 10% for expenses between \$100,000 and \$500,000 15% for expenses over \$500,000 up to \$1 million 30% for expenses over \$1 million 	<p>Changed the limit on credit-eligible compensation from \$15 million paid to a single star to an aggregate \$20 million for all star talent featured in the production (and required star talent to be subject to Connecticut income tax in order to count towards credit)</p> <p>Made informercials ineligible</p> <p>Excluded audit costs from credit eligibility</p>	<p>Eliminated three-year carryforward, but continued to allow taxpayers to claim the credits in the year in which the expenditures were made or in the three succeeding income years</p>		

Credit Amount	Eligibility Criteria	Credit Claims and Transfers	Administration	Public Acts and Effective Date of Changes
2010				
No changes	<p>Modified the required amount of time or money a production must spend in Connecticut to qualify:</p> <ul style="list-style-type: none"> Reduced, from 50% to 25%, the required minimum share of principal photography days in Connecticut Allowed a company to qualify if it incurred a minimum of either 50% of the post-production costs or \$1 million of such costs here <p>Limited credit-eligible expenses by (1) excluding money spent in Connecticut on developing the idea for production and (2) limited eligible compensation costs to base salaries and wages</p>	No changes	No changes	<p>PA 10-107; PA 10-1, JSS</p> <p>July 1, 2010; applied to income years beginning on or after January 1, 2010</p>
2011				
No changes	<p>Retroactively increased, from 25% to 50%, the minimum share of principal photography days a company must spend in the state on or after January 1, 2010, to qualify for a credit</p> <p>Expanded the types of qualified productions eligible for the credit to include “relocated television productions” (i.e., an ongoing television program that (1) filmed all of its previous seasons outside Connecticut, (2) may include certain current events shows, and (3) is created at a qualified production facility that meets specified investment and job creation thresholds)</p>	<p>With certain exceptions, limited the percentage of a credit companies may transfer in any one income year to (1) 50% of the credit allowed for the 2011 income year and (2) 25% of any credit allowed for the 2012 or any subsequent income year</p> <p>Exempted the following transfers from these limitations:</p> <ul style="list-style-type: none"> those by companies subject to the corporation business or insurance premiums tax 	No changes	<p>PA 11-6; PA 11-61; PA 11-1, October Special Session (OSS)</p> <p>Upon passage; applied to income years beginning on or after January 1, 2011</p>

Credit Amount	Eligibility Criteria	Credit Claims and Transfers	Administration	Public Acts and Effective Date of Changes
		<ul style="list-style-type: none"> those by companies not subject to these taxes if they own at least 50% of another entity subject to the business entity tax credits issued for any production created in whole or significant part in a “qualified production facility” 		
2013				
No changes	For FYs 14 and 15, established a two-year moratorium on issuing credits for motion pictures that were not designated as state-certified productions before July 1, 2013 (carved out a narrow exception for motion pictures meeting specified criteria)	No changes	No changes	PA 13-184 ; PA 13-247 July 1, 2013, applied to tax credits issued on or after that date
2015				
No changes	Extended the moratorium to FYs 16 and 17	Extended the period during for claiming the credits by two years, from three to five years succeeding the year in which the production expenses occurred	No changes	PA 15-244 ; PA 15-5 , JSS Upon passage
2017				
No changes	Restored the moratorium, which had expired on July 1, 2017, and made it permanent	Allowed the credits to be applied against the gross receipts tax on cable, satellite, and competitive video services, subject to certain conditions (e.g., a discounted face value)	No changes	PA 17-2 , JSS Upon passage

Film Production Infrastructure Tax Credit

The legislature established the film production infrastructure credit in 2007, as part of the same legislation that substantially redesigned the film production credit and created the digital animation credit. Table 4 provides a brief overview of the original credit.

Table 4: Overview of Film Production Infrastructure Tax Credit Established in 2007

Credit Amount
Credit percentage depended on level of investment: <ul style="list-style-type: none">• 10% for expenditures between \$15,000 and \$150,000• 15% for expenditures greater than \$150,000 but less than \$1 million• 20% for expenditures of \$1 million and greater
Eligibility Criteria
Eligible expenses included any investments in leased or purchased film, digital media, television, or video production buildings, facilities, or infrastructure
Required projects to be state-certified and qualifying entities to meet specific criteria, including not having defaulted on any CT state loan or guarantee
Credit Claims and Transfers
Applied against the corporation business and insurance premiums taxes
Required project to be at least 60% complete before CCCT could issue a credit
Three-year carryforward; nonrefundable
Transferable, up to three times; transferred credits could be claimed in the income year in which the infrastructure expenditures were made

Source: [PA 07-236](#), as amended by [PA 07-5, JSS](#)

Table 5 shows the legislature’s changes to the credit program since 2008. As it shows, the legislature considerably revised the infrastructure credit in 2009 by, among other things, changing the credit percentage to a flat 20% and increasing the minimum qualifying expenditure from \$15,000 to \$3 million. It made less substantial changes to the program in 2010, 2011, and 2013.

Table 5: Legislative Changes to Film Production Infrastructure Tax Credit, 2008 to Present

Credit Amount	Eligibility Criteria	Credit Claims and Transfers	Administration	Public Act and Effective Date of Changes
2009				
Changed the credit percentage to a flat 20% of a qualifying investment	Increased the minimum qualifying expenditure from \$15,000 to \$3 million	Required a project to be 100%, rather than 60%, complete before it can receive a credit voucher	<p>Transferred authority for administering the credit from CCCT to DECD</p> <p>Applied the existing limits on post-certification remedies and audits to transferred credits</p> <p>Required DECD to charge a reasonable fee to analyze credit applications</p>	<p>PA 09-3, JSS</p> <p>Upon passage; applied to income years beginning on or after January 1, 2010</p>
2010				
No changes	Limited credit-eligible leased facilities to those leased under a capital lease	No changes	No changes	<p>PA 10-107</p> <p>July 1, 2010; applied to income years beginning on or after January 1, 2010</p>
2011				
No changes	No changes	<p>Eliminated the three-year carryforward</p> <p>Required taxpayers to claim credits either in the income year in which the investments were made or in any of the three immediately succeeding income years</p>	No changes	<p>PA 11-1, OSS</p> <p>Upon passage</p>
2013				
No changes	No changes	Allowed transferred credits to additionally be claimed in the three income years immediately succeeding the year in which the expenditures were made	No changes	<p>PA 13-232</p> <p>Upon passage</p>

Digital Animation Production Tax Credit

Table 6 briefly outlines the digital animation credit’s structure when it was first established in 2007. Like the original film production credit, the credit was initially designed as a flat 30% of eligible expenditures. In 2009, however, the legislature substantially revised the credit and applied the same tiered credit of 10% to 30% to both the film production and digital animation credits.

Table 7 outlines the changes the legislature made in 2009. It has made no other changes to the credit program since then.

Table 6: Overview of Digital Animation Production Tax Credit Established in 2007

Credit Amount
30% of eligible digital animation production expenses over \$50,000
Eligibility Criteria
Eligible companies must (1) be exclusively engaged in the production activity, (2) maintain a studio in Connecticut, (3) employ at least 200 full-time employees, and (4) be certified by CCCT and comply with its regulations
Eligible expenses must be incurred in Connecticut; expenses for the following additional types of costs are explicitly eligible: actors, voice talent, rent, utilities, insurance, administrative and systems support, and short film production and distribution
Intellectual property purchase expenses are eligible for a credit if they are less than 35% of the digital animation production company’s expenses or costs in any income year
A company that receives a digital animation credit cannot apply for or receive a film production credit
Credit Claims and Transfers
Applies against the corporation business and insurance premiums taxes
Three-year carryforward; nonrefundable
Credit must be claimed in the income year in which the expenditures were incurred
Transferable, up to three times
Total credits capped at \$15 million per year

Source: [PA 07-236](#), as amended by [PA 07-4, JSS](#), and [PA 07-5, JSS](#)

Table 7: Legislative Changes to the Digital Animation Tax Credit Program, 2008 to Present

Credit Amount	Eligibility Criteria	Credit Claims and Transfers	Administration	Effective Date of Changes
2009				
Increased minimum expenditures from \$50,000 to \$100,000	Changed the limit on credit-eligible compensation from \$15 million paid to a single star to an aggregate \$20 million for all star talent featured in the production (and required star talent to be subject to Connecticut income tax in order to count towards credit)	Eliminated three-year carryforward, but continued to allow taxpayers to claim the credits in the year in which the expenditures were made or in the three succeeding income years	Transferred authority for administering the credit from CCCT to DECD	PA 09-3, JSS ; PA 09-8, SSS
Established a variable credit percentage: <ul style="list-style-type: none"> 10% for expenses between \$100,000 and \$500,000 15% for expenses over \$500,000 up to \$1 million 30% for expenses over \$1 million 	Excluded audit costs from credit eligibility		Applied the existing limits on post-certification remedies and audits to transferred credits	Upon passage; applied to income years beginning on or after January 1, 2010
			Required companies to use an audit professional chosen from a DECD-compiled list; required DECD to charge a reasonable fee to analyze credit applications	

Tax Credit Limits

Over the same time period in which the legislature revised, and in some cases rolled back, the film tax credit program, it made several changes to the tax credit limits for the insurance premiums and corporation business tax. Although these limits are not directly tied to the film tax credit program, they affect the extent to which businesses can use the credits to reduce their tax liability.

Insurance Premiums Tax Credit Limit

The first such change was in 2011, when the legislature revised the insurance premiums tax credit limit by classifying tax credits into three types, specifying the order in which the credit types should be applied, and establishing three levels of maximum tax liability that an insurer could offset in calendar years 2011 and 2012 by claiming one or more of these credits. [PA 11-61](#), § 48, designated digital animation credits as a type 1 credit with a maximum tax reduction of 55%. (Insurance Reinvestment Fund credits were designated as type 2 with a 70% maximum reduction and all other credits were designated as type 3 with a 30% maximum.)

Later that same year, the legislature expanded type 1 credits to include film production and infrastructure investment tax credits, thus allowing insurers to reduce their 2011 and 2012 premiums tax liability with these credits by up to 55% instead of 30% ([PA 11-1, OSS](#), § 54). In 2012, the legislature moved film production and infrastructure credits from type 1 to type 3 for the 2012 calendar year ([PA 12-1, December Special Session](#) (DSS), § 42). In doing so, it changed the order in which insurers applied film production and film infrastructure credits to offset liability and generally lowered the amount by which an insurer could use these credits to reduce its tax liability.

[PA 13-184](#), § 72, extended the credit limit to 2013 and 2014 and reimposed the tax credit classification that designated all three of the film tax credits as type 1 credits (i.e., 55% credits). [PA 15-244](#), § 85, subsequently extended the limit to 2015 and 2016. [PA 17-2, JSS](#), § 625, restored the limit and made it permanent.

Corporation Business Tax Credit Limit

In 2015, the legislature reduced the corporation business tax credit limit from 70% to 50.01% starting with the 2015 income year ([PA 15-244](#), § 88). Later that same year, the legislature established a schedule for raising the cap over a four-year period to 70, but only with respect to specific tax credits. The film tax credits were not among the types of credits subject to the increased credit cap ([PA 15-1, DSS](#), § 29). In 2019, the legislature reduced the cap back to 50.01% for all corporation business tax credits ([PA 19-117](#), § 349).

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