

## Live Theater Tax Credits

By: Sarah Leser, Legislative Analyst II  
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### Issue

Summarize live theater tax credits available in other states.

### Live Theater Tax Credits

At least six states, Illinois, Louisiana, Maryland, New York, Ohio, and Rhode Island, currently offer a live theater or musical production tax credit. The table below compares how these states implement the tax credits. For each state, the table indicates the (1) taxes against which the credit applies, (2) eligibility criteria, (3) credit amount, (4) limitations on the amount of credit that can be claimed in a year, and (5) carryforward and other provisions related to unused credits.

Until recently, Georgia also offered a corporate tax credit to live musical or theatrical production companies through the Georgia Musical Investment Act. However, credits will no longer be available for tax years starting on or after January 1, 2023. Though expired, this credit is still included in the table below as a recent example of one approach a state may take to providing live theater tax credits.

Connecticut currently offers a film production tax credit (see OLR Report [2020-R-0246](#)) but does not offer any similar credit for live theater productions.

**Table 1: Theater Tax Credits in Other States**

<i>State Theater Credit Program</i>	<i>Applicable Taxes</i>	<i>Eligible Applicants and Activities</i>	<i>Amount</i>	<i>Limits</i>	<i>Unused Credits</i>
Georgia – Musical Investment Act <a href="#">(O.C.G.A. § 48-7-40.33)</a>	Corporation	<p>Production company with qualified expenditures of at least \$500,000 to produce live musical or theatrical performance that originates in the state.</p> <p>Qualified expenditures are all costs incurred in the state for activities related to the preparation, planning, recording, or staging of a state certified production.</p>	<p>Credit equals 15% of the qualified production expenditures, plus an additional 5% for expenditures incurred in designated tier 1 or tier 2 counties (i.e., less developed areas)</p> <p>(Credits will no longer be available for tax years starting on or after January 1, 2023)</p>	<p>The aggregate annual cap is \$15 million in tax year 2022.</p> <p>A single production company and its affiliates cannot claim more than 20% of the aggregate amount of tax credits available for that tax year.</p>	<p>The credit is nonrefundable.</p> <p>Unused credits may be carried forward for 5 years.</p>
Illinois – Live Theater Production Tax Credit Act <a href="#">(35 ILCS 17/)</a>	Individual, corporation, trust, and estate income	<p>Theater producers, owners, licensees, operators, or presenters who spend \$100,000 or more on labor and marketing for either:</p> <p>(1) a production scheduled for Broadway's Theater District in New York City within 12 months after its Illinois presentation or</p> <p>(2) a production that runs in an Illinois theater for more than 8 weeks with at least 6 performances each week.</p> <p>Labor expenses may include up to \$100,000 each tax year in salaries or wages.</p>	<p>Credit equals 20% of Illinois labor expenses each tax year and 20% of the Illinois production spending for each tax year.</p> <p>Applicants can claim an additional credit of 15% for Illinois labor expenses paid to state residents in geographic areas of high poverty or high unemployment each tax year.</p>	<p>The credit cannot reduce the taxpayer's liability to less than zero.</p> <p>Illinois caps the credit at:</p> <ul style="list-style-type: none"> <li>- \$500,000 each tax year for each applicant and</li> <li>- \$2 million each fiscal year for all applicants (temporarily increased to \$4 million for FY 23).</li> </ul>	<p>The credit is nonrefundable.</p> <p>Unused credits may be carried forward for 5 years.</p> <p>Taxpayers can transfer all or part of the credit within 1 year after the credit was awarded.</p>

Table 1 (continued)

State Theater Credit Program	Applicable Taxes	Eligible Applicants and Activities	Amount	Limits	Unused Credits
<p>Louisiana – Musical and theatrical production income tax credit  <a href="#">(La R.S. § 47:6034)</a></p>	<p>Corporation,                      Personal Income</p>	<p>Credits are available to companies or financiers of a production for the following costs and expenditures:</p> <ul style="list-style-type: none"> <li>- qualified production expenditures made from investments in a state-certified musical or theatrical production</li> <li>- construction, repair, or renovation of facilities related to such productions and performances</li> <li>- payroll of Louisiana residents employed in connection with a state-certified musical or theatrical production</li> <li>- employing college, university, and vocational-technical students in connection with a state-certified musical or theatrical production</li> </ul>	<p>Credit equals:</p> <ul style="list-style-type: none"> <li>- 7% if the total base investment is &gt; \$100,000 and less than or equal to \$300,000</li> <li>- 14% if the total base investment is &gt; \$300,000 and less than or equal to \$1 million</li> <li>- 18% if the total base investment is &gt; \$1 million</li> </ul> <p>An additional credit equal to 7% of payroll for Louisiana residents employed in qualified jobs is available, capped at \$1 million paid to any single individual.</p> <p>An additional credit is available equal to 0.072% of amount expended to employ students.</p>	<p>Tax credits associated with a theatrical production or a theatrical facility infrastructure project cannot exceed the total base investment in that production or infrastructure project.</p> <p>Louisiana caps the credit at:</p> <ul style="list-style-type: none"> <li>- \$1 million per project and</li> <li>- \$10 million each fiscal year for all projects.</li> </ul> <p>50% of total credits available are reserved for projects by nonprofit organizations.</p>	<p>The credit is refundable.</p> <p>Taxpayers can make a one-time transfer of the credit or any refund of an overpayment to an individual or other entity.</p>

Table 1 (continued)

State Theater Credit Program	Applicable Taxes	Eligible Applicants and Activities	Amount	Limits	Unused Credits
<p>Maryland – Theatrical Production Tax Credit  <a href="#">(Md. Code, Tax-Gen. § 10-756)</a></p>	<p>Income</p>	<p>A qualified theatrical production entity may claim a credit for total direct costs incurred in Maryland to carry out the development, production, performance, or operation of a theatrical production. To qualify, estimated total direct costs must exceed \$100,000.</p> <p>Any pay or compensations for an individual receiving more than \$100,000 per week may not be included in total costs.</p>	<p>Credit equals 25% of total direct costs incurred for qualified theatrical productions in Maryland</p>	<p>Maryland caps the credit at:                      - \$2 million for a single theatrical production and                      - \$5 million for all productions in any fiscal year.</p>	<p>The credit is refundable.</p>
<p>New York – Empire State Musical and Theatrical Production Tax Credit Program  <a href="#">(5 NYCRR § 240)</a></p>	<p>Franchise, Personal Income</p>	<p>A qualified musical or theatrical production company that produces a live, dramatic stage presentation in a qualified production facility on a tour that consists of eight or more shows in three or more localities may apply for a credit for the following expenses:                      - pre-tour production costs,                      - salaries, wages, and other compensation, capped at \$200,000 per week; and                      - technical and crew production costs.</p>	<p>Credit equals 25% of qualified expenditures</p>	<p>New York <a href="#">caps the credit</a> at \$8 million for all productions per year.</p>	<p>The credit is refundable.</p>
<p>Ohio Motion Picture Tax Credit  <a href="#">(Ohio R.C. § 122.85)</a></p>	<p>Commercial Activity, Franchise, Personal Income</p>	<p>To be eligible, a Broadway theatrical production must spend at least \$300,000 per production in the state of Ohio, in a pre-Broadway production, long run production, or tour launch that is directed, managed, and performed by a professional cast and crew and that is directly associated with New York city's Broadway theater district.</p> <p>Eligible expenditures include all expenditures for goods or services purchased and consumed in the state directly related to production activities.</p>	<p>Credit equals 30% of eligible expenditures</p>	<p>Ohio caps the credit at \$40 million per year for all motion picture and Broadway productions.</p>	<p>The credit is refundable.</p>

Table 1 (continued)

<b>State Theater Credit Program</b>	<b>Applicable Taxes</b>	<b>Eligible Applicants and Activities</b>	<b>Amount</b>	<b>Limits</b>	<b>Unused Credits</b>
Rhode Island – Musical and Theatrical Production Tax Credits <a href="#">(RI Gen. Laws § 44-31.3-2)</a>	Bank Income, Corporation, Insurance Companies, Franchise Personal Income, Public Service Corporation	Musical and theatrical production companies with a minimum production budget of \$100,000 may claim a credit for production, performance, and transportation expenditures for a pre-Broadway or post-Broadway production.	Credit equals 30% of the total expenditures	Rhode Island caps the credit at - \$5 million per taxpayer and - \$15 million for all taxpayers, applicable to this credit and the film production credits.	The credit is nonrefundable.  The credit may be carried forward for 3 years.  Unused credits may be assigned, transferred, or sold, in whole or in part.

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