



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

HB3736

Introduced 2/22/2021, by Rep. Marcus C. Evans, Jr.

SYNOPSIS AS INTRODUCED:

35 ILCS 5/222
35 ILCS 17/10-10
35 ILCS 17/10-20

Amends the Illinois Income Tax Act. Provides that the live theater production credit applies for tax years beginning prior to January 1, 2029 (currently, January 1, 2022). Amends the Live Theater Production Tax Credit Act. Includes commercial Broadway touring productions in the list of accredited productions. Increases the maximum aggregate credit amount from \$2,000,000 per fiscal year to \$4,000,000 per fiscal year. Provides that, beginning in State fiscal year 2021, \$2,000,000 of the \$4,000,000 cap shall be reserved for applicants that are operators of qualified production facilities solely in connection with the presentation of commercial Broadway touring shows. Effective immediately.

LRB102 16798 HLH 22200 b

1 AN ACT concerning revenue.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Illinois Income Tax Act is amended by
5 changing Section 222 as follows:

6 (35 ILCS 5/222)

7 Sec. 222. Live theater production credit.

8 (a) For tax years beginning on or after January 1, 2012 and
9 beginning prior to January 1, 2029 ~~January 1, 2022~~, a taxpayer
10 who has received a tax credit award under the Live Theater
11 Production Tax Credit Act is entitled to a credit against the
12 taxes imposed under subsections (a) and (b) of Section 201 of
13 this Act in an amount determined under that Act by the
14 Department of Commerce and Economic Opportunity.

15 (b) If the taxpayer is a partnership, limited liability
16 partnership, limited liability company, or Subchapter S
17 corporation, the tax credit award is allowed to the partners,
18 unit holders, or shareholders in accordance with the
19 determination of income and distributive share of income under
20 Sections 702 and 704 and Subchapter S of the Internal Revenue
21 Code.

22 (c) A sale, assignment, or transfer of the tax credit
23 award may be made by the taxpayer earning the credit within one

1 year after the credit is awarded in accordance with rules
2 adopted by the Department of Commerce and Economic
3 Opportunity.

4 (d) The Department of Revenue, in cooperation with the
5 Department of Commerce and Economic Opportunity, shall adopt
6 rules to enforce and administer the provisions of this
7 Section.

8 (e) The tax credit award may not be carried back. If the
9 amount of the credit exceeds the tax liability for the year,
10 the excess may be carried forward and applied to the tax
11 liability of the 5 tax years following the excess credit year.
12 The tax credit award shall be applied to the earliest year for
13 which there is a tax liability. If there are credits from more
14 than one tax year that are available to offset liability, the
15 earlier credit shall be applied first. In no event may a credit
16 under this Section reduce the taxpayer's liability to less
17 than zero.

18 (Source: P.A. 100-415, eff. 1-1-18.)

19 Section 10. The Live Theater Production Tax Credit Act is
20 amended by changing Sections 10-10 and 10-20 as follows:

21 (35 ILCS 17/10-10)

22 Sec. 10-10. Definitions. As used in this Act:

23 "Accredited theater production" means a for-profit live
24 stage presentation in a qualified production facility, as

1 defined in this Section, that is either (i) a pre-Broadway
2 production, ~~or~~ (ii) a long-run production for which the
3 aggregate Illinois labor and marketing expenditures exceed
4 \$100,000, or (iii) a commercial Broadway touring show.

5 "Commercial Broadway touring show" means a production
6 playing in 3 or more markets across North America and
7 recognized as a commercial Broadway touring show by the
8 Broadway League, the national trade association for the
9 Broadway industry.

10 "Pre-Broadway production" means a live stage production
11 that, in its original or adaptive version, is performed in a
12 qualified production facility having a presentation scheduled
13 for Broadway's Theater District in New York City within 12
14 months after its Illinois presentation.

15 "Long-run production" means a live stage production that
16 is performed in a qualified production facility for longer
17 than 8 weeks, with at least 6 performances per week, and
18 includes a production that spans the end of one tax year and
19 the commencement of a new tax year that, in combination, meets
20 the criteria set forth in this definition making it a long-run
21 production eligible for a theater tax credit award in each tax
22 year or portion thereof.

23 "Accredited theater production certificate" means a
24 certificate issued by the Department certifying that the
25 production is an accredited theater production that meets the
26 guidelines of this Act.

1 "Applicant" means a taxpayer that is a theater producer,
2 owner, licensee, operator, or presenter that is presenting or
3 has presented a live stage presentation located within the
4 State of Illinois who:

5 (1) owns or licenses the theatrical rights of the
6 stage presentation for the Illinois production period; or

7 (2) has contracted or will contract directly with the
8 owner or licensee of the theatrical rights or a person
9 acting on behalf of the owner or licensee to provide live
10 performances of the production.

11 An applicant that directly or indirectly owns, controls,
12 or operates multiple qualified production facilities shall be
13 presumed to be and considered for the purposes of this Act to
14 be a single applicant; provided, however, that as to each of
15 the applicant's qualified production facilities, the applicant
16 shall be eligible to separately and contemporaneously (i)
17 apply for and obtain accredited theater production
18 certificates, (ii) stage accredited theater productions, and
19 (iii) apply for and receive a tax credit award certificate for
20 each of the applicant's accredited theater productions
21 performed at each of the applicant's qualified production
22 facilities.

23 "Department" means the Department of Commerce and Economic
24 Opportunity.

25 "Director" means the Director of the Department.

26 "Illinois labor expenditure" means gross salary or wages

1 including, but not limited to, taxes, benefits, and any other
2 consideration incurred or paid to non-talent employees of the
3 applicant for services rendered to and on behalf of the
4 accredited theater production. To qualify as an Illinois labor
5 expenditure, the expenditure must be:

6 (1) incurred or paid by the applicant on or after the
7 effective date of the Act for services related to any
8 portion of an accredited theater production from its
9 pre-production stages, including, but not limited to, the
10 writing of the script, casting, hiring of service
11 providers, purchases from vendors, marketing, advertising,
12 public relations, load in, rehearsals, performances, other
13 accredited theater production related activities, and load
14 out;

15 (2) directly attributable to the accredited theater
16 production;

17 (3) limited to the first \$100,000 of wages incurred or
18 paid to each employee of an accredited theater production
19 in each tax year;

20 (4) included in the federal income tax basis of the
21 property;

22 (5) paid in the tax year for which the applicant is
23 claiming the tax credit award, or no later than 60 days
24 after the end of the tax year;

25 (6) paid to persons residing in Illinois at the time
26 payments were made; and

1 (7) reasonable in the circumstances.

2 "Illinois production spending" means any and all expenses
3 directly or indirectly incurred relating to an accredited
4 theater production presented in any qualified production
5 facility of the applicant, including, but not limited to,
6 expenditures for:

7 (1) national marketing, public relations, and the
8 creation and placement of print, electronic, television,
9 billboard, and other forms of advertising; and

10 (2) the construction and fabrication of scenic
11 materials and elements; provided, however, that the
12 maximum amount of expenditures attributable to the
13 construction and fabrication of scenic materials and
14 elements eligible for a tax credit award shall not exceed
15 \$500,000 per applicant per production in any single tax
16 year.

17 "Qualified production facility" means a facility located
18 in the State in which live theatrical productions are, or are
19 intended to be, exclusively presented that contains at least
20 one stage, a seating capacity of 1,200 or more seats, and
21 dressing rooms, storage areas, and other ancillary amenities
22 necessary for the accredited theater production.

23 "Tax credit award" means the issuance to a taxpayer by the
24 Department of a tax credit award in conformance with Sections
25 10-40 and 10-45 of this Act.

26 "Tax year" means a calendar year for the period January 1

1 to and including December 31.

2 (Source: P.A. 97-636, eff. 6-1-12.)

3 (35 ILCS 17/10-20)

4 Sec. 10-20. Tax credit award. Subject to the conditions
5 set forth in this Act, an applicant is entitled to a tax credit
6 award as approved by the Department for qualifying Illinois
7 labor expenditures and Illinois production spending for each
8 tax year in which the applicant is awarded an accredited
9 theater production certificate issued by the Department. The
10 amount of tax credits awarded pursuant to this Act shall not
11 exceed (i) \$2,000,000 in any fiscal year prior to State fiscal
12 year 2021 and (ii) \$4,000,000 per fiscal year beginning in
13 State fiscal year 2021; provided, however, that beginning in
14 State fiscal year 2021, \$2,000,000 of the \$4,000,000 cap shall
15 be reserved for applicants that are operators of qualified
16 production facilities solely in connection with the
17 presentation of commercial Broadway touring shows. Credits
18 shall be awarded on a first-come, first-served basis.
19 Notwithstanding the foregoing, if the amount of credits
20 applied for in any fiscal year exceeds the amount authorized
21 to be awarded under this Section, the excess credit amount
22 shall be awarded in the next fiscal year in which credits
23 remain available for award and shall be treated as having been
24 applied for on the first day of that fiscal year.

25 (Source: P.A. 97-636, eff. 6-1-12.)

1 Section 99. Effective date. This Act takes effect upon
2 becoming law.