

## **35 ILCS 17/) Live Theater Production Tax Credit Act.**

(35 ILCS 17/Art. 1 heading)

Article 1. Findings

(Uncodified provisions; text omitted)

(Source: P.A. 97-636, eff. 6-1-12; text omitted.)

(35 ILCS 17/Art. 5 heading)

Article 5. Illinois Independent Tax Tribunal Act

(The Illinois Independent Tax Tribunal Act is compiled at 35  
ILCS 1005/)

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

(35 ILCS 17/Art. 10 heading)

Article 10. Live Theater Production Tax Credit Act

(This Article may contain text from a Public Act with a  
delayed effective date)

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

(35 ILCS 17/10-1)

(This Section may contain text from a Public Act with a  
delayed effective date)

Sec. 10-1. Short title. This Article may be cited as the  
Live Theater Production Tax Credit Act. References in this  
Article to "this Act" mean this Article.

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

(35 ILCS 17/10-5)

(This Section may contain text from a Public Act with a  
delayed effective date)

Sec. 10-5. Purpose. The Illinois economy depends heavily  
on the commercial for-profit live theater industry and the  
pre-Broadway and long-run shows that are presented in  
Illinois. As a result of intense competition from other  
prominent theater cities in the United States and abroad in  
attracting pre-Broadway and long-run shows, Illinois must move  
aggressively with new business development investment tools so

that Illinois is more competitive in site location decision making for show producers. In an increasingly global economy, Illinois' long-term development will benefit from the rational, strategic use of State resources in support of pre-Broadway live theater and long-run show development and growth. It is the purpose of this Act to preserve and expand the existing work force used in live theater and enhance the marketing of the presentation of live theater in Illinois. It shall be the policy of this State to promote and encourage the training and hiring of Illinois residents who represent the diversity of the Illinois population through the creation and implementation of training, education, and recruitment programs organized in cooperation with Illinois colleges and universities, labor organizations, and the commercial for-profit live theater industry.

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

(35 ILCS 17/10-10)

(This Section may contain text from a Public Act with a delayed effective date)

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

"Accredited theater production" means a for-profit live stage presentation in a qualified production facility, as defined in this Section, that is either (i) a pre-Broadway production or (ii) a long-run production for which the aggregate Illinois labor and marketing expenditures exceed \$100,000.

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

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

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

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

- (1) owns or licenses the theatrical rights of the stage presentation for the Illinois production period; or
- (2) has contracted or will contract directly with the owner or licensee of the theatrical rights or a person acting on behalf of the owner or licensee to provide live

performances of the production.

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

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

"Director" means the Director of the Department.

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

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

(2) directly attributable to the accredited theater production;

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

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

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

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

(7) reasonable in the circumstances.

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

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

(2) the construction and fabrication of scenic materials and elements; provided, however, that the maximum amount of expenditures attributable to the construction and fabrication of scenic materials and elements eligible for a tax credit award shall not exceed

\$500,000 per applicant per production in any single tax year.

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

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

"Tax year" means a calendar year for the period January 1 to and including December 31.

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

(35 ILCS 17/10-15)

(This Section may contain text from a Public Act with a delayed effective date)

Sec. 10-15. Powers of the Department. The Department, in addition to those powers granted under the Civil Administrative Code of Illinois, is granted and has all the powers necessary or convenient to carry out and effectuate the purposes and provisions of this Act, including, but not limited to, the power and authority to:

(1) adopt rules deemed necessary and appropriate for the administration of the Tax Credit Award program; establish forms for applications, notifications, contracts, or any other agreements; and accept applications at any time during the year;

(2) assist applicants pursuant to the provisions of this Act to promote, foster, and support live theater development and production and its related job creation or retention within the State;

(3) gather information and conduct inquiries, in the manner and by the methods set forth in this Act, required for the Department to comply with Section 10-40 and, without limitation, obtain information with respect to applicants for the purpose of making any designations or certifications necessary or desirable to assist the Department with any recommendation or guidance in the furtherance of the purposes of this Act and relating to applicants' participation in training, education, and recruitment programs that are organized in cooperation with Illinois colleges and universities or labor organizations designed to promote and encourage the training and hiring of Illinois residents who represent the diversity of the Illinois population;

(4) provide for sufficient personnel to permit administrative, staffing, operating, and related support required to adequately discharge its duties and responsibilities described in this Act from funds as may be appropriated by the General Assembly for the administration of this Act; and

(5) require that the applicant at all times keep proper books and records of accounts relating to the tax credit award, in accordance with generally accepted accounting principles consistently applied, and make, upon reasonable written request by the Department, those books and records available for reasonable Department inspection and audit during the applicant's normal business hours. Any documents or data made available to or received from the applicant by any agent, employee, officer, or service provider to the Department shall be deemed confidential and shall not constitute public records to the extent that the documents or data consist of commercial or financial information regarding the operation by the applicant of any theater or any accredited theater production, or any recipient of any tax credit award under this Act.  
(Source: P.A. 97-636, eff. 6-1-12.)

(35 ILCS 17/10-20)

(This Section may contain text from a Public Act with a delayed effective date)

Sec. 10-20. Tax credit award. Subject to the conditions set forth in this Act, an applicant is entitled to a tax credit award as approved by the Department for qualifying Illinois labor expenditures and Illinois production spending for each tax year in which the applicant is awarded an accredited theater production certificate issued by the Department. The amount of tax credits awarded pursuant to this Act shall not exceed \$2,000,000 in any fiscal year. Credits shall be awarded on a first-come, first-served basis. Notwithstanding the foregoing, if the amount of credits applied for in any fiscal year exceeds the amount authorized to be awarded under this Section, the excess credit amount shall be awarded in the next fiscal year in which credits remain available for award and shall be treated as having been applied for on the first day of that fiscal year.  
(Source: P.A. 97-636, eff. 6-1-12.)

(35 ILCS 17/10-25)

(This Section may contain text from a Public Act with a delayed effective date)

Sec. 10-25. Application for certification of accredited theater production. Any applicant proposing an accredited theater production located or planned to be located in Illinois may request an accredited theater production certificate by application to the Department.  
(Source: P.A. 97-636, eff. 6-1-12.)

(35 ILCS 17/10-30)

(This Section may contain text from a Public Act with a delayed effective date)

Sec. 10-30. Review of application for accredited theater production certificate.

(a) The Department shall issue an accredited theater production certificate to an applicant if it finds that by a preponderance the following conditions exist:

(1) the applicant intends to make the expenditure in the State required for certification of the accredited theater production;

(2) the applicant's accredited theater production is economically sound and will benefit the people of the State of Illinois by increasing opportunities for employment and will strengthen the economy of Illinois;

(3) the following requirements related to the implementation of a diversity plan have been met: (i) the applicant has filed with the Department a diversity plan outlining specific goals for hiring Illinois labor expenditure eligible minority persons and females, as defined in the Business Enterprise for Minorities, Females, and Persons with Disabilities Act, and for using vendors receiving certification under the Business Enterprise for Minorities, Females, and Persons with Disabilities Act; (ii) the Department has approved the plan as meeting the requirements established by the Department and verified that the applicant has met or made good faith efforts in achieving those goals; and (iii) the Department has adopted any rules that are necessary to ensure compliance with the provisions set forth in this paragraph and necessary to require that the applicant's plan reflects the diversity of the population of this State;

(4) the applicant's accredited theater production application indicates whether the applicant intends to participate in training, education, and recruitment programs that are organized in cooperation with Illinois colleges and universities, labor organizations, and the holders of accredited theater production certificates and are designed to promote and encourage the training and hiring of Illinois residents who represent the diversity of Illinois;

(5) if not for the tax credit award, the applicant's accredited theater production would not occur in Illinois, which may be demonstrated by any means, including, but not limited to, evidence that: (i) the applicant, presenter, owner, or licensee of the production rights has other state or international location options at which to present the production and could reasonably and efficiently locate outside of the State, (ii) at least one other state or nation could be considered for the production, (iii) the receipt of the tax award credit is a major factor in the decision of the applicant, presenter, production owner or licensee as to where the production will be presented and that without the tax credit award the applicant likely would not create or retain jobs in Illinois, or (iv) receipt of the tax credit award is

essential to the applicant's decision to create or retain new jobs in the State; and

(6) the tax credit award will result in an overall positive impact to the State, as determined by the Department using the best available data.

(b) If any of the provisions in this Section conflict with any existing collective bargaining agreements, the terms and conditions of those collective bargaining agreements shall control.

(c) The Department shall act expeditiously regarding approval of applications for accredited theater production certificates so as to accommodate the pre-production work, booking, commencement of ticket sales, determination of performance dates, load in, and other matters relating to the live theater productions for which approval is sought.

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

(35 ILCS 17/10-35)

(This Section may contain text from a Public Act with a delayed effective date)

Sec. 10-35. Training programs for skills in critical demand. To accomplish the purposes of this Act, the Department may use the training programs provided under Section 605-800 of the Department of Commerce and Economic Opportunity Law of the Civil Administrative Code of Illinois.

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

(35 ILCS 17/10-40)

(This Section may contain text from a Public Act with a delayed effective date)

Sec. 10-40. Issuance of Tax Credit Award Certificate.

(a) In order to qualify for a tax credit award under this Act, an applicant must file an application for each accredited theater production at each of the applicant's qualified production facilities, on forms prescribed by the Department, providing information necessary to calculate the tax credit award and any additional information as reasonably required by the Department.

(b) Upon satisfactory review of the application, the Department shall issue a tax credit award certificate stating the amount of the tax credit award to which the applicant is entitled for that tax year and shall contemporaneously notify the applicant and Illinois Department of Revenue in accordance with Section 222 of the Illinois Income Tax Act.

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

(35 ILCS 17/10-45)

(This Section may contain text from a Public Act with a delayed effective date)

Sec. 10-45. Amount and payment of the tax credit award. The tax credit award shall be calculated each tax year based upon the filing by the applicant on forms prescribed by the Department containing information regarding qualifying and quantified Illinois labor expenditures, as defined in Section 10-10, net of the limitation in that Section, and Illinois production spending, as defined in Section 10-10, net of the limitation in that Section. From the amount calculated, the applicant shall be entitled to receive a tax credit award of up to:

- (1) 20% of the Illinois labor expenditures for each tax year; plus
- (2) 20% of the Illinois production spending for each tax year; plus
- (3) 15% of the Illinois labor expenditures generated by the employment of Illinois residents in geographic areas of high poverty or high unemployment in each tax year, as determined by the Department.

Following the Department's determination of the tax credit award, the Department shall issue the tax credit award to the applicant.

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

(35 ILCS 17/10-50)

(This Section may contain text from a Public Act with a delayed effective date)

Sec. 10-50. Live theater tax credit award program evaluation and reports.

(a) The Department's live theater tax credit award evaluation must include:

- (i) an assessment of the effectiveness of the program in creating and retaining new jobs in Illinois;
- (ii) an assessment of the revenue impact of the program;
- (iii) in the discretion of the Department, a review of the practices and experiences of other states or nations with similar programs; and
- (iv) an assessment of the overall success of the program. The Department may make a recommendation to extend, modify, or not extend the program based on the evaluation.

(b) At the end of each fiscal quarter, the Department shall submit to the General Assembly a report that includes, without limitation:

- (i) an assessment of the economic impact of the program, including the number of jobs created and retained, and whether the job positions are entry level, management, vendor, or production related;
- (ii) the amount of accredited theater production spending brought to Illinois, including the amount of

spending and type of Illinois vendors hired in connection with an accredited theater production; and

(iii) a determination of whether those receiving qualifying Illinois labor expenditure salaries or wages reflect the geographical, racial and ethnic, gender, and income level diversity of the State of Illinois.

(c) At the end of each fiscal year, the Department shall submit to the General Assembly a report that includes, without limitation:

(i) the identification of each vendor that provided goods or services that were included in an accredited theater production's Illinois production spending;

(ii) a statement of the amount paid to each identified vendor by the accredited theater production and whether the vendor is a minority or female owned business as defined in Section 2 of the Business Enterprise for Minorities, Females, and Persons with Disabilities Act; and

(iii) a description of the steps taken by the Department to encourage accredited theater productions to use vendors who are minority or female owned businesses.

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

(35 ILCS 17/10-55)

(This Section may contain text from a Public Act with a delayed effective date)

Sec. 10-55. Program terms and conditions. Any documentary materials or data made available or received from an applicant by any agent or employee of the Department are confidential and are not public records to the extent that the materials or data consist of commercial or financial information regarding the operation of or the production of the applicant or recipient of any tax credit award under this Act.

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

(35 ILCS 17/10-80)

Sec. 10-80. (Amendatory provisions; text omitted).

(Source: P.A. 97-636, eff. 6-1-12; text omitted.)

(35 ILCS 17/Art. 15 heading)

Article 15. Amendatory Provisions  
(Amendatory provisions; text omitted)

(Source: P.A. 97-636, eff. 6-1-12; text omitted.)

