Live Performing Arts Sector - Tax Credit Research

Final Report

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Executive Summary

Tax Credits Overview

Tax credits lower operating costs for organizations, regardless of their business model. They work as a subtraction and reimbursement of a percentage of certain targeted expenditures. They are often a rebate or reimbursement of expenditures used by a company, and do not necessarily correspond with taxes owed. There are several common elements across all tax credits:

Eligible Organizations: The types of companies or organizations that qualify for a tax credit program. Some tax credits target specific subsectors within the live performing arts industry, (e.g., live theatre), while others are inclusive of several subsectors.

Eligible Expenditures: The types of expenditures that qualify for tax credit reimbursement. Some tax credits allow a broad range of production expenditures to be claimed for the tax credit (e.g., labour, material costs, venue rental, etc.), while others may focus solely on labour expenditures.

Annualized vs. Project-based Reporting Process: Annualized reporting allows a production company to apply for a given year's tax credit claims all at once when they are filing their annual tax returns. Project-based reporting allows a production company to apply for the tax credit immediately upon completion of a production.

Minimum Eligible Expenditures: The minimum amount a production company must spend to qualify for the tax credit. This requirement functions to limit and to encourage increased production spending, thereby lowering the application bottleneck.

Program Cap: The total amount of annual funding available to be dispersed through tax credits. Some tax credits have program caps, while others do not.

Maximum Credit Threshold: The maximum amount a single production company or organization can claim per year or claim session. Some tax credits have maximum thresholds, while others do not.

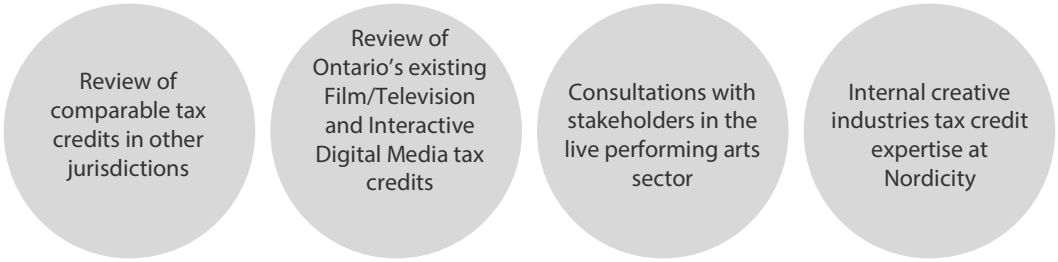
Ontario Context

Ontario is home to many performing arts organizations, including many smaller not-for-profit organizations and operators, and a more limited number of large not-for-profit (e.g., major theatre companies, symphonies, dance, ballet) and commercial entities (e.g., with Mirvish Productions being the dominant player in commercial theatre and Live Nation being the foremost entity in large-scale live music). Performing arts organizations in Ontario report that the situation is very precarious, including that:

- **Financial challenges** are being felt with the rising costs of materials and labour, coupled with the rising cost of living resulting in lower ticket sales;
- Companies are feeling the **conflict of balancing riskier productions and the necessity of cost recovery**, resulting in a more conservative programming slate and tighter budgets; and,
- A healthy and sustainable sector is one that is **inclusive of for-profit and not-for-profit organizations**, and so any intervention should be as inclusive as possible.

A Notional Tax Credit Model for Ontario

To address the challenges facing live performing arts organizations in Ontario, a notional tax credit model was developed. Structured around the common elements of a tax credit, the notional credit was developed through:



The recommended parameters for a notional tax credit for Ontario are as follows:

Eligible Organizations A company should be Canadian-owned or non-Canadian-owned company that is **incorporated in Ontario**, and engaged in the production of live performing arts **Refundable tax credits** would be issued to all successful applicants.	***Why a refundable tax credit?*** A refundable tax credit is a refund to an eligible organization based on their eligible expenditures, regardless of whether they owe taxes. As such, it **applies equally to for-profit and not-for-profit entities**. Refundable credits are a **familiar model in Ontario**; the current Ontario Film/TV and IDM tax credits are refundable. Refundable credits are also **common in other live performing arts tax credit jurisdictions**, such as New York, Maryland, Louisiana and the UK.
Eligible Expenditures The recommended tax credit would capture mainly **production-based labour expenditures**, including **marketing-related labour**. Labour must be **Ontario-based to qualify** for the tax credit, with a residency exemption for "above-the-line" talent (i.e., on-stage talent, core creative team).	***Why Labour-Based?*** **Familiarity**: Ontario's existing creative industry tax credits are labour-based and support employment. **Simplicity**: Labour is a common expense across performing arts activities, whereas non-labour expenditures vary greatly based on subsector. **Including marketing labour**: Higher marketing budgets generally lead to more ticket sales, and Ontario-based marketing labour can be considered labour expenditures.

Annualized vs. Project-Based Reporting The recommended tax credit would follow an **annualized reporting process.** Applicants could claim labour expenses across several projects in a single year, or annually for long-running productions that stretch across two or more tax years.	***Why an annualized process?*** Having one submission per year allows for the submission to align with the corporate tax year, and thus **lowers the administrative burden** on both the applicant and the administering body. It also allows **entities that program on a season basis** to submit once for their entire season. Existing performing arts tax credits use a mix of project-based and annualized claims. Some of Ontario's existing creative industry tax credits follow an annualized claim reporting process.
Credit Percentage The proposed credit percentage would be set at **35% of eligible labour expenditures.**	***Why 35%?*** Ontario's creative industries tax credits are currently set at 35%. There is a range in the credit percentage across other live performance tax credits, with a median credit percentage of 25%. The proposed 35% is on the higher end of this range, but it would be offset somewhat by the exclusion of non-labour expenditures.
Minimum Eligible Expenditures **CA$300,000** per year for a **for-profit entity**. **CA$100,000** per year for a **not-for-profit entity**.	***Why?*** A minimum expenditure level corresponds with policy goals; depending on where it is set, it will target some larger production entities while filtering out some smaller entities that cannot meet that threshold. The most common minimum expenditure level from other jurisdictions is ~CA$140,000 on a per-project per-year basis. Under an annualized reporting process, however, this minimum can be met by stacking multiple projects. The **minimum is set higher for for-profit entities than for not-for-profit entities**, assuming a higher level of financial capacity for commercial work.
Program Cap and Maximum Threshold The proposed tax credit would **not be subject to an overall program funding cap**; program funding would scale with demand. The proposed program would have **no annual maximum credit threshold**.	***Why an uncapped approach?*** **Ontario's current creative industry tax credits are uncapped**, with no maximum threshold. An uncapped approach creates certainty for applicants and investors: if the production qualifies, it will receive a tax credit rebate. The approach also avoids potential conflict in tax credit allotment between for-profit and not-for-profit applicants.

Excluding a maximum credit threshold means that there is **no limit to how the credit can be used to grow the industry**.

Impacts of Notional Model

Five-year prospectus

Based on the most objective criteria for a potential live performing arts tax credit in Ontario, the notional model develops a hypothetical cost and impact from live performing arts labour and other expenses that qualify for the tax credit. The model also creates a five-year prospectus to examine how the costs and impacts could potentially grow over the next five years of implementation. The projected costs and impact can be summarized as such:

	2023	2024	2025	2026	2027
Projected Rebate Amount	CA$618 million	CA$856 million	CA$1 billion	CA$1.3 billion	CA$1.6 billion
Potential Reinvestment	CA$463 million	CA$642 million	CA$798 million	CA$979 million	CA$1.2 billion
Potential Labour Added to Industry	5,500	6,500	8,700	10,500	15,000

Tourism Impacts

The assessment investigates the broader impacts of a tax credit on the performing arts sector, specifically focusing on tourism. Increased performing arts performances attract more tourists, whose spending boosts the local economy. Tourism impacts were assessed using audience, ticketing, and attendance data from large performing arts entities in Ontario. This data included the geographical origins of visitors, classifying them based on travel distance to determine their impact on tourism spending.

Economic Impact Assessment Findings

In 2023, visitor spending in Ontario from one performing arts company contributed CA$169.3 million to the local economy, generating CA$153 million in GDP, CA$88.7 million in labor income, supporting 1,655 jobs, and producing CA$58.15 million in tax revenues.

A proposed tax credit is expected to result in more performances, attracting additional visitors and further boosting the economy. The average performance in 2024 is projected to contribute CA$153,000 in GDP, 2 FTEs, and CA$58,000 in taxes. Tourism spending alone is estimated to add approximately CA$167,000 in GDP per performance.

Key Takeaways

- Each additional performance leads to a linear increase in economic impact, with the average large performing arts entity producing 1,100 performances in 2023.
- Maintaining this scale in 2024, each entity is projected to generate CA$188 million in visitor spending, CA$99 million in labor income, and 1,800 FTE jobs.

- The assessment excludes domestic spending, ensuring that the measured economic contributions are solely from tourism.

This approach demonstrates the scalable relationship between the number of performances and the economic benefits derived from tourist spending.

1. Introduction

The live performing arts sector has recently been in a difficult position. Inflation has driven up costs which cannot easily be recovered, despite record revenues. Performing arts organizations in Ontario report that the situation provides an optimal time for intervention, with the following conditions:

- Financial challenges are being felt with the rising costs of materials and labour, coupled with the rising cost of living resulting in lower ticket sales;
- Companies are feeling the conflict of balancing riskier productions and the necessity of cost recovery, resulting in a more conservative programming slate and tighter budgets; and,
- A healthy and sustainable sector is one that is inclusive of for-profit and not-for-profit organizations, and as such any intervention should be as inclusive as possible.

Many jurisdictions use a tax credit system to help support and bolster the economic activities of their live performing arts sectors. Multiple jurisdictions surrounding Ontario (including Quebec, Illinois, New York, and Ohio) established some form of live performing arts tax credit program in their jurisdiction even before the pandemic. In Ontario, concerns about losing talent, revenue, and other impacts to these jurisdictions can be felt as early as 2012.[1]

In general, refundable tax credits lower the operating costs for organizations, regardless of their business model, by rebating a portion of their expenses. For companies in the live performing arts, the lower cost of production allows them to mitigate risk, retain staff, support longer commercial runs, and induce other impacts (e.g., economic, tourism). Risk mitigation can also create the environment for new players to enter the industry (e.g., new investors and new production entities).

This report lays out a notional model for a live performing arts tax credit in Ontario, and thus begins to assess the potential impact of such an intervention.

2. Notional Live Performing Arts Tax Credit for Ontario

Nordicity developed a high-level design for a live performing arts tax credit in Ontario by:

- Assessing how live performing arts tax credit programs in other jurisdictions function;[2]
- Applying existing tax credit expertise; and,
- Understanding the specific Ontario context.

Interviews and roundtable discussions provided a more nuanced understanding of the needs of the live performing arts sector in Ontario. Interviewees included people who work in:

- Commercial theatre;
- Large performing arts companies, mainly not-for-profit;
- Smaller not-for-profit performing arts organizations;
- The live music sector;
- Performing arts organizations outside of Toronto; and,

[1] https://www.theglobeandmail.com/arts/theatre-and-performance/in-toronto-vs-chicago-theatre-war-tax-credits-are-the-new-ammo/article554545/

[2] See Appendix 6.3 for the complete review.

- Unions that represent people who work in live performing arts.[3]

2.1 Recommended Model

The notional model laid out in this report is structured around the common and critical elements of a tax credit.[4] The recommended notional tax credit model is as follows:

- **Eligible Organizations:** a Canadian or non-Canadian owned company that is incorporated in Ontario, and engaged in the live performing arts would be eligible. Whether a company is For-Profit or Not-for-Profit does not matter, as the tax credit is refundable.
- **Eligible Expenditures:** The tax credit would capture mainly production-based labour expenditures.
- **Reporting Process:** Applicants would be able to file for the credit each year.
- **Credit Percentage:** The proposed credit percentage would be set at 35% of eligible labour expenditures.
- **Minimum Eligible Expenditures:** Expenditures would be set at a minimum of CA$300,000 per year for a for-profit entity and CA$100,000 per year for a not-for-profit entity.
- **Program Cap and Maximum Credit Threshold:** The proposed tax credit would not be subject to an overall program funding cap; program funding would scale with demand. And the proposed program would have no annual maximum credit threshold.

Each of these concepts and recommendations are explored further in the subsequent subsections.

2.2 Eligible Organizations

Recommendation

To be eligible for the tax credit, a company should be a **Canadian or non-Canadian owned company** that is **incorporated in Ontario** for tax purposes. Eligible companies must also be **engaged in the live performing arts**.

The tax credit should allow foreign entities that have an established business in live performance to apply for the program; a foreign owner, entity, or business must be incorporated in Ontario and have some established business activity for a minimum of one year before becoming eligible to apply for the tax credit.

Not-for-profit organizations that are incorporated in Ontario are eligible to apply for the tax credit. Incorporation is important as the tax credit disbursements will be conducted by the Canada Revenue Agency (CRA). Incorporated not-for-profit organizations already file annual tax returns, which will streamline the tax credit evaluation process for both the tax credit administration and the CRA.[5]

This design would issue **refundable tax credits**, in alignment with all of Ontario's existing creative industries tax credit programs.

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[3] International Alliance of Theatrical Stage Employees (IATSE); Toronto Musicians' Association (TMA)/Canadian Federation of Musicians (CFM); Canadian Actors' Equity Association (CAEA).

[4] As determined through the jurisdictional review - see Appendix 6.3.

[5] https://www.canada.ca/en/revenue-agency/services/tax/businesses/topics/corporations/corporation-income-tax-return.html

Context and Research

The live performing arts landscape in Ontario consists of smaller not-for-profit organizations and operators, and a more limited number of large not-for-profit (e.g., major theatre companies, symphonies, dance, ballet) and commercial entities (e.g., with Mirvish Productions being the dominant player in commercial theatre and Live Nation being the dominant player in large-scale live music). A tax credit program for Ontario should be as inclusive as possible, to capture the full breadth of the province's live performing arts sector, but specific enough to ensure it benefits the intended targets. There are two areas where added specificity is required in the model – what is included under "live performing arts", and the eligible business models (i.e., for-profit and not-for-profit).

Definition of Live Performing Arts

Different subsectors within performing arts (i.e., theatre, live music, circus, orchestras, etc.) follow very different business models with different breakdowns of expenditures. Tax credits in other jurisdictions vary in terms of how prescriptively they define performing arts, and their eligibility requirements are defined accordingly. Some (e.g., New York, Maryland, Illinois) target only commercial theatre, while others (e.g., Louisiana, Quebec) are somewhat more open to areas like live music and circus. The United Kingdom's creative industries tax relief administrators warn that it took their government several revisions to create an appropriately limited definition of "theatrical production", so as not to accidently make theatre-adjacent activities like parades and wedding performances eligible for tax credits. Any new tax credit design should accordingly consider where it will draw the line for qualifying productions to ensure that program design is aligned with program goals.

This notional tax credit model proposes to capture a wide breadth of performing arts activities using StatsCan's broad definition of performing arts, which covers theatre, musicals, operas, dance, live music, orchestras, circus, puppetry, and other performing arts, as well as some elements of festivals and celebrations.[6] More precise definitions for each performing arts subsector could be considered later in the policy development process, once the intended scope of eligibility for each subsector has been refined.

More discussion on the definition of live performing arts used in this notional model can be found in section 3.3.4 of this report.

Not-for-profit organizations

If the credit is *refundable*, it does not matter whether the applicant owes taxes; the applicant will be eligible to receive the sum of their tax credit, so long as they have filed a tax return. **Not-for-profit entities would be captured under a refundable model** despite not incurring tax liabilities.

A refundable tax credit is defined as a tax credit amount that will be refunded to the qualified company or organization, regardless of their taxes owed.[7] Companies that owe taxes and those that do not (such as not-for-profit entities) are equally eligible for a refundable tax credit, as regardless of the amount owned in taxes (even $0), the balance comes back to the organization.

The refundable tax credit model is consistent with Ontario's existing creative industries tax credits (Ontario's Film and Television Tax Credit (OFTTC) and Ontario's Interactive Digital Media Tax Credit (OIDMTC)) and reflects the model of many of the comparable programs seen in other jurisdictions (e.g., UK, Louisiana, Maryland, New York). Both the UK and Louisiana's live performing arts tax credit

[6] Statistics Canada, https://www150.statcan.gc.ca/n1/en/pub/87-542-x/87-542-x2011001-eng.pdf?st=ihKPe-SJ

[7] See glossary in Appendix 6.3 for a full list of relevant definitions.

programs specify that they are open to not-for-profit organizations. In the case of Louisiana's program, not-for-profit organizations are issued credits in the form of a "refund of overpayment" by the Louisiana Department of Revenue.

According to the UK and Louisiana tax credit administrators, the inclusion of not-for-profit organizations in the live performing arts tax credit is more of a communications and administrative challenge than a practical one. The not-for-profit sector is generally not accustomed to applying for tax credits. As such, more administration time is typically required to: inform the not-for-profit sector that they are eligible; educate them on the reporting process; provide ongoing guidance; and review incorrect applications. Certifying organizations prior to their application can be one way to mitigate incorrect or ineligible applications and lessen the year-to-year administrative burden.

2.3 Eligible Expenditures

Recommendation

This tax credit program should capture **labour expenditures** directly related to the development of certified productions within Ontario. They would include Ontario-based marketing expenditures.[8]

Production-based labour (i.e., stage crew, sound technicians, wardrobe staff) must be Ontario-based to qualify for the tax credit program; "above-the-line" talent (i.e., on-stage talent, creative team) would be exempt from any residency requirement.

Context and Research

Typically, tax credits are either labour-based, or include labour and other eligible expenses. Most live performing tax credits reviewed offset a portion of labour and non-labour production expenses under eligible expenses. In Ontario, the OFTTC and OIDMTC are solely labour based. Quebec's live performing arts tax credit is also labour based. Following a similar model for the proposed live performance tax credit creates natural alignment across Ontario's existing creative industries tax credit programs, and Canada's only other live performing arts tax credit.

Those working in the sector reported labour as their most substantial expense. Moreover, while there is variety in non-labour expenditures incurred by different entities, labour is a common expense across all live performing arts organizations. As such, a **labour-based credit is a simpler administrative approach** and could be more easily applied to a wide range of performing arts activities.

Eligible expenditures would comprise all salaries, wages, fees, per-diems and other compensation (including benefits) directly related to production development, marketing and performance – including artist and creative team compensation. Non-labour expenditures (e.g., facility rental, transportation, insurance, and material costs like sets and costumes) would be ineligible. Also ineligible would be some labour that may be indirectly related to production but is not production-based, such as administrative salaries, front-of-house staff, and janitorial services.

This tax credit would support the employment of local skilled workers, albeit to different levels based on the type of worker and the residency requirements that apply to them. Above-the-line talent is a production element that is harder to fill locally; for example, major theatre productions will generally keep a consistent cast of actors across production locations, and concert tours are specific to the on-stage performer(s). As such, a strict residency requirement for above-the-line talent would create a barrier to access for the types of productions that this tax credit seeks to incent. The relevant unions generally acknowledged and supported the idea that IATSE members would likely benefit the most

[8] Insofar as expenditures are for Ontario-based marketing vendors/companies.

from such a tax credit, while CAEA and CFM members would see more limited benefits given the need for a **residency exemption for above-the-line talent**.

Marketing expenses were another key cost pressure raised by theatre stakeholders (marketing is estimated at about 15% of the typical commercial theatre budget).[9] Given that higher marketing budgets generally lead to more ticket sales, a tax credit meant to generate increased economic activity and alleviate unrecouped production costs would benefit from its inclusion. Ontario-based marketing expenditures would be captured under the labour-based model. The OIDMTC captures "eligible marketing and distribution expenses,"[10,11] albeit without a residency requirement given that Ontario-based marketing labour is already captured under labour expenditures.

Rent can be a particularly onerous expense for music sector stakeholders who reported a 50/50 split of rent and labour in their typical cost breakdown. Accordingly, a tax credit that excludes venue rental costs from eligible expenditures might be seen to advantage entities that own their venues over those that do not. However, non-venued entities are subject to rental rates set by venue owners. A labour-based approach avoids the risk of seeing fixed non-labour costs being inflated by other parties due to presumption of future tax credit subsidy – for example, facility rental costs being increased by landlords in lockstep with the tax credit percentage.

2.4 Annualized vs. Project-based Reporting Process

Recommendation

The tax credit should follow an **annualized reporting process**. Applicants can claim labour expenses incurred in the province in a given corporate tax year, across several projects or for long-running productions that are in the middle of their run during the end of a corporate tax year.

Context and Research

Most existing tax credit programs require applicants to apply annually by a specific date, typically by the end of the corporate taxation year. Many of these programs only allow completed productions to be claimed for tax credit purposes; this format is referred to as a *project-based claim.* However, some jurisdictions such as the UK, Illinois, and Quebec, allow productions to be claimed that have started, but not completed, their run within a given fiscal year. This format is called an *annualized claim*. In Ontario, the OFTTC allows multi-year productions to claim a tax credit for the fiscal year, provided that the production company submits final documentation to confirm that the production satisfies all eligibility criteria. The OIDMTC allows companies to apply with a project-based or annualized claim, provided they meet certain criteria for the selected type of claim.

An annualized reporting process would apply more seamlessly across different forms of performing arts. Project-based reporting assumes an applicant is managing projects in isolation from one another, which would not be true of all potential applicants for this tax credit; for example, orchestras typically run seasons with salaried employees rather than individual projects, live music follows a variety of different models, and not-for-profit theatre productions typically have shorter runs than commercial theatre productions.

Furthermore, the use of an annualized tax credit system streamlines the process for the CRA to audit a production company's tax return and to determine the eligible expenditures that incur the tax credit.

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[9] This estimate came through interviews with stakeholders in commercial theatre.

[10] Ontario Creates – Ontario Film & Television Tax Credit

[11] Ontario Creates – Ontario Interactive Digital Media Tax Credit

One strength of Ontario's existing creative industries tax credits is that they do not prescribe an audit process by the issuing organization, removing an administrative barrier both for applicants and the issuing organization. Apart from the initial assessment of the application to qualify for rebate, any intensive accounting or auditing process would be delegated to the CRA during the tax application season.

2.5 Credit Percentage

Recommendation

Nordicity proposes a **35% credit on eligible expenditures**. This percentage mirrors both the OFTTC and the OIDMTC, creating alignment among Ontario's creative industries tax credits.

Context and Research

There is a range in the credit percentage across other live performance tax credits, averaging ~23% (see table below for full list).[12]

Table 1: Credit Percentage in other jurisdictions

Jurisdiction	Rebate/ Credit Percentage
New York (State)	25%
New York (City)	25%
Illinois	20%-35%
Ohio	30%
Maryland	25%
Rhode Island	30%
Connecticut	30%
Louisiana	7%-18%
Georgia	15%-20%
United Kingdom	20%-25%
France	15%-30%
Quebec	~22.75%

As compared to live performance tax credits in other jurisdictions, 35% is above average, on the high end of the existing comparable programs. However, most of those tax credit programs correspondingly capture a wider range of non-labour production expenditures (e.g., venue rental, material costs), whereas this tax credit is proposed to be limited to production-based labour expenditures (e.g., ushers, stage crew, dressers, AV technicians, etc.), as well as Ontario-based marketing expenditures. An exclusion of non-labour production expenditures would functionally

[12] See Appendix 6.3 for full review.

lower the financial impact of a 35% tax credit into a range that more closely reflects the rebates offered by other jurisdictions that do capture non-labour production expenditures.

As an added benefit, investors from outside of Canada would enjoy additional savings based on relative currency rates by mounting a production in Ontario, rather than a US state, which should further strengthen the competitive position of a performing arts tax credit in Ontario.

2.6 Minimum Eligible Expenditures

Recommendation

The recommended minimum eligible expenditure should be set **at CA$300,000 per year for a for-profit entity** and **CA$100,000 per year for a not-for-profit entity**, given that the proposed tax credit design follows an annualized application process.

The most common minimum expenditure level from other jurisdictions is ~CA$140,000 on a per-project, per-year basis. Since the proposed tax credit is annualized, a CA$300,000 annual minimum assumes that a for-profit production company might run a minimum of two to three productions with a minimum eligible spend of CA$100,000 – CA$150,000 each before the end of the tax year. Likewise, a not-for-profit organization may run two productions that have a minimum eligible expenditure of CA$50,000 per production before the end of the tax year.

Context and Research

Other jurisdictions are split on whether there should be a minimum eligible expenditure in the tax credit application process. In jurisdictions that contain a minimum expenditure, the amount is typically at least US$100,000 (CA$140,000). Ontario's other creative industries tax credits set minimum qualified labour expenditures between CA$240,000 and CA$1 million.

A minimum expenditure level is a policy choice to target larger production entities that are prepared and able to invest a certain level of capital into a given production or programming year, while filtering out smaller entities that cannot meet that threshold.[13] The United Kingdom does not have a minimum expenditure level for their Theatre Tax Relief program, and this criteria informs who accesses the program and how much relief the government ultimately provides. In the 2021-2022 fiscal year, 37% of all claims processed in the UK were for £10,000 or less.[14]

2.7 Program Cap and Maximum Credit Threshold

Recommendation

The proposed live performing arts tax credit program would **not be subject to an overall annual program funding cap**. This means that there would be no upper limit on the overall amount of tax credits that could be conferred by the government to eligible organizations each year, which is consistent with Ontario's existing creative industries tax credit programs.

The proposed program would also have **no maximum credit threshold** for individual organizations; the amount of tax credits available to be utilized by any single production or organization would be unlimited, scaling with their eligible expenditures. This approach would avoid the risk of imposing an artificial cap on labour expenditures below what an investor might otherwise be willing to spend on

[13] In many cases, smaller production entities will also have less administrative capacity to undertake a tax credit application in the first place.

[14] Government of the United Kingdom: Creative industries statistics commentary: August 2023.

productions. Given that this proposed tax credit program would operate on an annualized reporting basis, there would be no need to delineate whether any threshold should apply to individual projects or to the overall annual production volume of a single entity.

Context and Research

Apart from the UK and Quebec, all other comparable live performing arts tax credit programs reviewed contain an overall program cap; these caps represent the maximum annual budget available to the tax credit issuing organization for disbursement through the program. These caps range from as low as ~CA$3.5 million (US$2.5 million) in Connecticut, to as high as CA$415 million (US$300 million) over five years in New York City.

A program cap makes the annual cost of a tax credit program more predictable for the funder, which can be seen to enhance transparency over taxpayer dollars. It can also motivate production companies to complete their application process and submit as soon as possible, to not miss out on the given year's available program budget. However, a program cap can limit investment if the investor cannot guarantee in advance of production that their eligible production spending would be captured underneath that cap (i.e., in a scenario where other productions have already been approved in the given year). It can also be problematic in terms of the division of tax credit allotment between for-profit and not-for-profit organizations, as it might require policymakers to determine what proportion of available funds should be reserved for each. For example, Louisiana reserves 50% of their overall program cap for not-for-profit applicants.[15]

Ontario's creative industry tax credits (i.e., OFTTC, OIDMTC) are not capped, nor are performing arts tax credits in Quebec and the UK. The exclusion of a program cap reduces risk to investment in live performing arts, as investors can be certain that, if their production qualifies, they can count on a rebate amount for their invested capital. This level of guarantee affords companies and organizations an enhanced level of predictability that can inform their financial planning.

Most of the tax credit programs reviewed also have a maximum credit threshold; this threshold represents the amount of money (or proportion of the program cap) that can be made available for any single application. These thresholds range from as low as ~CA$480,000 (US$350,000) in New York City (Level 2 Facility) to ~CA$7 million (US$5 million) in Rhode Island. Maximum credit thresholds serve to ensure that no single entity takes too big a proportion of the available funding in a given year, such that funding remains available for other applicants. Several jurisdictions however, like the UK, Ohio and New York State, have no maximum threshold, meaning that there is theoretically no limit to the amount of tax credit – or proportion of an overall program cap – a single entity could claim in a given year based on the scale of their production activities.

3. Impact Assessment of the Notional Tax Credit

The criteria formulated in section 2 create the inputs for the notional tax credit model (see Excel spreadsheet in Appendix 6.1). This tax credit model showcases the estimated amount that a notional live performing arts tax credit would cost the Government of Ontario. The model provides the ability to add, omit, or alter any input variables from the qualifying criteria, to examine the costs and benefits of a proposed tax credit.

3.1 Model Content

[15] Louisiana Entertainment – Live Performance Production Incentive Program.

The methodology behind the model consists of identifying qualifying labour count, average salary, and an estimated amount of rebate that would cost the province if they implemented a tax credit incentive.

The model consists of the following tabulation:

- **Live Performance Labour**: Estimated calculation of the amount of labour that qualifies for the tax credit.
- **Estimated Salary Wages**: An estimated average salary of live performance labour in Ontario.
- **Tax Incentive Calculation**: The calculation to determine the estimated rebate amount of the tax credit to the industry.
- **Potential Reinvestments**: The calculation to estimate the potential labour reinvestment of the rebate to future projects.

The model also includes several other sections:

- **Company Eligibility**: A ratio calculation of live performance labour that potentially qualifies for the tax credit.
- **Ersatz Production**: The breakdown of a hypothetical live performance production to determine the proportion of eligible labour and marketing costs.
- **Job and Wages Calculation**: The section utilizes data from Statistics Canada to calculate the live performance labour in Ontario and the average wage per person of the industry.
- **Reinvestment Calculation**: This section evaluates and sets the ratio of the rebate that will be used to reinvest in future projects.

Most of the sections of this model contain multiple inputs that allow for changes, inclusions, and exclusions to inform more accurate projections.

3.2 Impact

Based on the high-level model, the proposed tax credit would have cost the province an estimated CA$514 million in 2022 and CA$618 million in 2023. By creating a 5-year prospectus, the tax credit would cost the government approximately CA$1.6 billion by 2027. The model also estimates that the industry would reinvest over CA$385 million of the 2022 rebate back into future production. Of that amount, approximately CA$270 million would be used towards labour costs. That amount would roughly increase the labour pool by 5,500 FTEs or 11.9% of the labour pool of Ontario. The model anticipates that companies will reinvest over CA$1.2 billion dollars of the rebate back to the industry by 2027. The 2027 reinvestment will also potentially add approximately 15,000 jobs into the industry, approximately 14% of the total industry in Ontario. The projected cost and result can be summarized in the below table.

Table 2: Projected Rebate Amount and Reinvestment Summary Table

	2023	2024	2025	2026	2027
Projected Rebate Amount	CA$618 million	CA$856 million	CA$1 billion	CA$1.3 billion	CA$1.6 billion
Potential Reinvestment	CA$463 million	CA$642 million	CA$798 million	CA$979 million	CA$1.2 billion
Potential Labour Added to Industry (FTEs)	5,500	6,500	8,700	10,500	15,000

3.3 Sources

3.3.1 Historic Growth Rate and Wages

Data from Statistics Canada was used to calculate both the total direct labour and the average wage per person working in the live performance industry in Ontario.[16] "Live Performance" in the Statistics Canada data is defined as theatre, musicals, operas, dance, live music, festivals, celebrations, and other performing arts.[17] The model was then refined, still using Statistics Canada data (as it is the most accurate method of calculating the growth rate), but a different approach in calculating the labour count (see section 3.3.2). The final model still uses the Statistics Canada data to base the 2022 wage of each labour count in the model. Statistics Canada's data is still most accurate aggregate that is available.

3.3.2 Labour Calculation

The model utilizes a mix of CADAC's statistics data of the not-for-profit live performing arts organizations in Ontario[18] with data from Statistics Canada to identify the ratio of not-for-profit labour and for-profit labour.[19] In the labour calculation, the model removes all other labour that is not part of the main production process. For example, while ushers, bartenders, and ticketing staff improve the overall experience of a live performance to the audience, they are not part of the labour process involved in developing the production. In this case, these roles would be classified as part of the administrative or operational labour.

Based on CADAC data, the number of not-for-profit performing arts labour is about 27,800 people in 2022.[20] Statistics Canada data of "performing arts: summary statistics" indicates that the ratio of wages paid to labour between not-for-profit and for-profit is 1 to 0.7. Meaning that the for-profit labour base is roughly 0.7 times the labour number of not-for-profit organizations in Ontario. As such, the model estimates the for-profit labour base to be approximately 19,200. The model estimates the total Ontario labour for 2022 to be approximately 47,000 people.

3.3.3 Reinvestment Calculation

Additional insights from the sector helped to refine the reinvestment calculation. The model decreases the percentage of the rebate that would be used for administrative expenditures from its original iteration. The model also increases the potential reinvestments into non-labour costs based on the new insights provided by other organizations. The model's final ratio can be seen in the Appendix (section 6.1).

3.3.4 Other Sources and Considerations

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[16] Statistics Canada, Table 36-10-0453-01 Culture and sport indicators by domain and sub-domain, by province and territory, industry perspective (x 1,000).

[17] Statistics Canada, https://www150.statcan.gc.ca/n1/en/pub/87-542-x/87-542-x2011001-eng.pdf?st=ihKPe-SJ.

[18] CADAC, *Explore Our data*.

[19] Statistics Canada, https://www150.statcan.gc.ca/t1/tbl1/en/tv.action?pid=2110018201&pickMembers%5B0%5D=1.7&pickMembers%5B1%5D=2.1&cubeTimeFrame.startYear=2014&cubeTimeFrame.endYear=2022&referencePeriods=20140101%2C20220101

[20] See Appendix 6.1 – section 6.1.4 (New: Jobs calculation)

The current inflation rate was applied to the expected wage rates of 2022, 2023, and 2024 based on the economic outlook from the Government of Ontario website.[21] The Ersatz Production sources the hypothetical productions based on initial interviews with stakeholders and from the Canadian Live Music Association report.[22] Furthermore, the data obtained from CADAC refines the Ersatz model significantly, particularly on the cost of marketing incurred during production. The tax credit rate of 35% is based on the tax credit rates of other creative industry of Ontario (the Ontario Film and TV Tax Credit and the Interactive Digital Media Tax Credit), as discussed in section 2.5.

The model also allows the option to adjust the definition of "live performance arts" and address how any adjustment could impact the output of the model (see section 3.2). Sector feedback on the initial model indicated more concern with the viability of the model and the labour categories that would be covered, rather than where the limitations are set for what constitutes "live performing arts". As such, the model currently utilizes Statistics Canada's definition of live performing arts, which covers theatre, musicals, operas, dance, live music, orchestras, circus and other performing arts; the model also accounts for a proportion of "festivals and celebrations" activity that contributes to the production of live performing arts.[23] The creation of a more refined set of definitions for each included performing arts subsector would be best addressed later through the program development process, based on a clear understanding of program goals.

While the model assumes that labour costs associated with marketing of the production should be captured as eligible expenditures, the model currently assumes that any marketing costs not associated with labour, such as ad-spend, marketing materials, and software, will not be rebated. The rationale for not including this cost is that it aligns with the overarching exclusion of non-labour costs in other sections of a live performance production. As such, the model retains the assumption not to include this cost.

4. Tourism Impacts

4.1 Purpose and Data Sources

There are also additional impacts to a tax credit, beyond direct economic benefits, namely impacts from tourism. Tourism impacts are an important data point to look at to understand the impacts of a tax credit, as more live performing arts performances bring in more tourists, who in turn spend money, and contribute to the economy.

Potential tourism impacts were assessed through analysis of the contributions to the economy made by tourists attending live performing arts events in Ontario. This analysis primarily focuses on the offsite spending of tourists which includes travel, transportation, hospitality, food & beverage, and retail purchases. The primary objective of this exercise is to determine the extent to which the economy is stimulated by tourism due to a single additional production.

Using audience, ticketing and attendance data provided from large performing arts entities in Ontario, a detailed breakdown of each visitor and their geographical origins was established. This data was utilized as a representative sample to inform and approximate the Ontario production sector. A breakdown can be seen in the table below. For analysis purposes, any resident who traveled

[21] Government of Ontario, https://budget.ontario.ca/2023/fallstatement/chapter-2.html.

[22] Canadian Live Music Association, https://static1.squarespace.com/static/60a7b661c8fc307f1c677333/t/61803afac55aa51fc77bb398/1635793660188/Here_the_Beat_Nordicity.pdf.

[23] Statistics Canada, https://www150.statcan.gc.ca/n1/en/pub/87-542-x/87-542-x2011001-eng.pdf?st=ihKPe-SJ.

less than 40 km to the site is not classified as a visitor. Consequently, their consumption patterns are excluded from the tourism expenditure calculations. Visitors are further categorized by the length of their stay. Those who traveled between 40 km and 100 km are assumed to have made a one-day trip, while visitors who traveled farther are assumed to have spent at least two days in Ontario[24].

Table 3: Audience Place of Origin

Region	Ontario <40km	Ontario 40-100km	Ontario >100km	Ontario Unknown	Rest of Canada	USA	International
% of Tickets	60.2%	22.6%	10.7%	0.3%	2.0%	1.8%	0.9%

The percentages presented in the figure may not total 100 percent due to rounding.

4.2 Economic Impact Assessment Findings

Using the above data, Nordicity estimated the economic impact of one performing arts company in 2023. The economic impact of visitor spending in Ontario totaled CA$169,300,000, which contributed significantly to the local economy, with a Gross Domestic Product (GDP) impact of CA$153,000,000. Labour income generated from this spending amounts to CA$88,700,000. Also, the activities support 1,655 jobs across various sectors. Tax revenues generated from these economic activities total CA$58,150,000, enhancing fiscal contributions to federal, provincial, and municipal governments.

Should a tax credit be implemented, an anticipated incremental benefit for each production company is expected to result in more performances. More performances would attract more visitors, further boosting the local economy. To assess this incremental gain, we aimed to analyze the economic impact of producing a single performance within a year. Nordicity estimates that the average performance in 2024 will contribute approximately CA$153,000 in gross domestic product (GDP) and 2 full-time equivalents (FTEs) of employment to the Ontario economy as well as approximately CA$58,000 in total taxes.

Table 4: Summary of Total Economic Impact (Per Performance in Canadian $)

Impact Category	Total
Employment (FTEs)	**2**
Total Labour Income	**$88,204**
Gross Domestic Product	**$152,698**
Taxes	
Federal	$27,798
Provincial	$29,565
Municipal	$683
	$58,046

Note: total economic impact includes aggregated figures from operational and tourism impacts. Onsite spending is captured as a subset within these categories.

[24] Note that length of stay can vary for rural vs. urban locations – the model assumes rural stays would be longer than urban ones, as more time to travel is involved.

Nordicity also estimates that approximately CA$167,000 in GDP is attributable to tourism spending by the average 432 visitors per performance in Ontario.

Table 5: Detailed breakdown of Total Economic Impact (Per Performance in Canadian $)

Economic Impact	Direct	Indirect	Induced	Total
Employment (FTEs)	1	0.5	0.5	2
Labour Income	$47,954	$21,121	$19,129	$88,204
Gross Domestic Product	*$88,431*	*$32,909*	*$31,359*	*$152,698*

Detailed explanation of the terms and definitions are provided in Appendix 6.2.

4.3 Key Takeaways

The largest performing arts entities across Canada produced on average 1100 performances in 2023[25]. If these entities maintain this scale of production in 2024, it is projected that they would each generate approximately CA$188 million in visitor spending, CA$99 million in labor income, and create 1,800 full-time equivalent jobs. Importantly, this estimate remains conservative since it does not account for the likelihood of an increased number of performances in 2024.

The economic impact assessment highlights that the analysis is exclusively based on tourist spending, deliberately excluding any domestic expenditures. This approach ensures that the economic contributions measured are solely attributable to tourism. A key finding of the assessment is that each additional performance leads to a linear increase in the economic impact. For instance, the financial impact figures provided can be doubled to estimate the effect of two performances, illustrating a straightforward, scalable relationship between the number of performances and the economic benefits derived from tourist spending. The following table details these financial impacts, providing a comprehensible and comparable representation of the economic benefits.

Table 6: Estimated Economic Impact of Additional Performances Based on Tourist Spending

Impact Category	Number of Performances					
	1	10	50	250	500	1000
Employment (FTEs)	2	20	100	500	1000	2000
Total Labour Income	$88,204	$882,040	$4,410,200	$22,051,000	$44,102,000	$88,204,000
Gross Domestic Product	$152,698	$1,526,980	$7,634,900	$38,174,500	$76,349,000	$152,698,000

[25] Data was collected from the largest performing arts organizations as a representation of the industry.

Impact Category	Number of Performances					
	1	10	50	250	500	1000
Taxes						
Federal	$27,798	$277,980	$1,389,900	$6,949,500	$13,899,000	$27,798,000
Provincial	$29,565	$295,650	$1,478,250	$7,391,250	$14,782,500	$29,565,000
Municipal	$683	$6,830	$34,150	$170,750	$341,500	$683,000
Total	$58,046	$580,460	$2,902,300	$14,511,500	$29,023,000	$58,046,000

These figures are estimates; as the number of performances increases, the potential range of economic impact also increases.

5. Conclusion

5.1 Additional Components for Future Consideration

There are some non-essential components included in other live performing tax credit programs, which could be considered for Ontario.

For one, Ontario could consider a regional bonus, following the example of the OFTTC as well as other live performing arts tax credit programs in Illinois and Georgia. This bonus could apply a small additional tax credit percentage (5%-15%) to productions mounted within or outside of the Greater Toronto Area (GTA). Ontario includes a 10% regional bonus to film and television productions outside of the GTA, whereas Illinois and (formerly) Georgia apply regional bonuses to incentivize live performance in high poverty and less-developed regions.

Ontario could also consider imposing additional requirements for qualification based on defined social goals. Following the example of New York City, companies could be required to create new opportunities to bring in low-income audience members (such as offering low-cost tickets based on income), or to pay into a cultural fund if their production meets a certain threshold of profitability. New York City and Illinois also require that DEI standards be met in applicant companies' hiring practices.

Lastly, this proposed tax credit could take an additional step toward reducing barriers by affording not-for-profit applicants an additional eligible expenditure category: the costs related to hiring an accountant for the purpose of applying for this tax credit program. Not-for-profit organizations often lack the administrative capacity to deal with complex government applications, and an additional measure to assist with the application process could alleviate the kind of challenges that other jurisdictions (i.e., Louisiana, UK) have had in facilitating program access for not-for-profit organizations.

5.2 Next Steps

A tax credit for live performing arts in Ontario would be a powerful policy intervention for the industry, helping local companies endure rising cost pressures in the sector and facilitating greater reinvestment into future productions. It would also help strengthen Ontario's standing as a site for incoming performing arts investment and production. All these activities can positively support tourism in Ontario, attracting visitors and boosting the local economy through increased GDP and job creation.

In terms of program administration, there are essentially three models – or types of administering bodies – observed in other jurisdictions: a Government Department of Finance, Commerce or

Revenue; an Economic Development Department or Agency; and an Arts and Culture Department or Agency. As the performing arts community advocates to advance performing arts tax credit policy in Ontario, this advocacy should consider how and by whom a potential tax credit program should be administered. The potential program will benefit from having administrators that know how the performing arts industry works and understand the Ontario industry context.

The performing arts tax credit space is quickly evolving in jurisdictions around the world as the economic benefits of performing arts investment become more widely acknowledged in those jurisdictions. In 2024 alone, Connecticut's new tax credit has come into force,[26] Massachusetts House of Representatives introduced a theatre tax credit of their own,[27] and the United Kingdom's theatre tax relief program has introduced a planned increase to its rebate percentage for April 1, 2025.[28] As costs rise for all performing arts activities, the competitive landscape for major live performing arts investment also continues to get even more competitive. There is therefore some urgency for the performing arts community to advocate for policy that puts Ontario on stronger footing to attract incoming production and to sustain its capacity for local production.

[26] Connecticut's Official State Website, Live Theatre Production Tax Credit

[27] Boston Globe, In boost to Mass. arts economy, theater tax credits could finally take center stage

[28] His Majesty's Revenue and Customs, Permanent 40% and 45% rates for theatre, orchestra, museum and galleries tax reliefs

6. Appendices

6.1 High-level Notional Tax Credit system

Please see attached spreadsheet for full model. Screenshots included below for ease of reference while reading report.

6.1.1 Overview of Notional Model (5 Years Prospectus from 2023 to 2027)

Live Performing Arts Notional Tax Credit	2022	2023	2024	2025	2026	2027
Live Performance Labour						
Total Direct Labour	47,000	54,785	63,859	75,586	89,651	106,361
Company Eligibility Effect	31,490	36,706	49,285	59,369	70,578	83,759
Less Management and Admin	- 3,905	- 4,552	- 6,111	- 7,362	- 8,752	- 10,386
Qualifying Headcount	27,585	32,154	43,173	52,008	61,827	73,373
Growth Rate	4.7%	4.7%	4.7%	4.7%	4.7%	4.7%
Estimated Salaries Wages						
Full-Time Wages	$48,366	$49,913	$51,511	$53,159	$54,860	$56,616
Tax Incentive Calculation /$M						
Qualifying Wages	$1,334	$1,605	$2,224	$2,765	$3,392	$4,154
Ontario-based marketing expenditures	$133	$160	$222	$276	$339	$415
Tax Credit Rate	35%	35%	35%	35%	35%	35%
Rebate Amount	**$514**	**$618**	**$856**	**$1,064**	**$1,306**	**$1,599**
Potential Reinvestment on future projects /$M	$385	$463	$642	$798	$979	$1,199
Potential Reinvestment on Employees /$M	$270	$324	$450	$559	$686	$840
New Employees Created	**5576**	**6499**	**8726**	**10512**	**12497**	**14830**
% potential employment added back into the industry	11.9%	11.9%	13.7%	13.9%	13.9%	13.9%

6.1.2 Company Eligibility Calculation

	Ratio Effect	Rationale
Estimated Live Performance labour in Ontario	1	Labour is based on two sets of data: The first is the not-for-profit labour data from CADAC's 2022 data. That data amounts to approximately 27,000. The for-profit labour data comes from the wage ratio between not-for-profit and for-profit derived from StatsCAN's Performing Arts financial data. The ratio is set at 70% of CADAC's labour data. As such, the team set the labour amount of 2022 to 47,000.
Non Qualifying Ontario Companies (Medieval Times, Gala shows, benefit dinners, etc.)	20%	
Individuals/Organizations too small to apply	10%	
Non-qualifying Festivals	3%	The notional model estimates that roughly 3-5% of "Festivals" in Ontario, as categorized by Statistics Canada, do not qualify for the Live Performance tax credit (e.g., the Ontario Royal Winter Fair).
Qualifying Ontario Registered Companies	70%	Not all Ontario Live Performance labour may be affiliated with registered Ontario companies. Some of the live performance companies may not fit the general aim of what Live Performance should be (e.g., Medieval Times, Gala shows, benefits, performances as part of a bigger business model like restaurant).The notional model estimates about 70% of the labour headcount can be categorize under the qualifying company umbrella.
Total Qualifying Companies Ratio	**0.67**	
Qualifying Live Performance: Musical/Theatre/Opera	60%	This percentage is an estimated segment of the Live Performance industry in Ontario. This data can be altered when more information regarding the segmentation of the Live Performance Industry can be gathered. The segmentation is roughly based on Statistics Canada's definition and categorization of a Live Performance statistics in their "Culture and sport indicators" statistics.
Qualifying Live Performance: Live Music	20%	
Qualifying Live Performance: Orchestra	12%	
Qualifying Live Performance: Comedy/Live Shows	5%	
Qualifying Live Performance: Circus/Mimes	3%	
Multiplier effect of Total Qualifying Live Performances:	**0.67**	

6.1.3 Ersatz Production (Weighted Average)

		Weighted Average			
LABOUR PRODUCTION		**% of Labour/Non-Labour**	**Estimated Amount**		
Artistic	Actors/Musicians	21%	$416,800	Total Production Cost	$2,000,000
	Orchestra	4%	$84,000	Production Labour Cost	$1,000,000
Creative/Direction	Choreographer	1%	$24,000	Non-labour Cost	$552,000
	Casting Director	1%	$14,400	Admin and Management	$436,000
	Lighting Designer	2%	$32,000	Marketing	$452,000
	Sound Designer	2%	$32,000		
	Music Director	2%	$31,200		
	Director	3%	$52,800		
Production/Stage	Stage Crew	6%	$122,400		
	Sound Crew	3%	$56,000		
	Lighting Crew	3%	$51,200		
	Wardrobe Crew	2%	$35,200		
	Production Assistants	2%	$48,000		
Non-production Labour	Admin and Backoffice	12%	$248,000		
	Marketing Labour	10%	$200,000		
Total Labour Cost		72%	**$1,448,000**		
NON-LABOUR EXPENDITURES					
Production	Set Design and Costuming	12%	$236,000		
	Rentals and Intellectual Property	4%	$76,000		
Overhead (rent, property tax, etc.)		9%	$188,000		
Marketing	Marketing Content Creation	2%	$32,000		
	Publicity Costs	1%	$20,000		
Total Non-Labour Cost		28%	**$552,000**		

6.1.4 Jobs and Wages Calculation

Growth Rate and Wage Calculation

		2015	2016	2017	2018	2019	2020	2021	2022F	2023F	2024F	Growth Rate
	Ontario Job	22,127	23,424	24,473	24,418	28,145	20,805	21,441	22,449	23,504	24,608	4.700205
	National Job	64,654	69,852	69,960	70,208	75,433	54,020	57,935	61,063	64,361	67,836	5.404949
		0.65776286	0.664662429	0.65018582	0.652204877	0.626887437	0.61486486	0.62991283	0.642354	0.640153	0.636652	
	Ontario GDP (x1,000)	$833,223	$852,332	$1,051,933	$1,096,997	$1,262,978	$948,272	$1,004,853				
	National GDP (x1,000)	$2,647,447	$2,732,422	$3,003,745	$3,121,288	$3,400,391	$2,408,903	$2,593,448				
		0.68527302	0.688067217	0.64979284	0.648543486	0.628578596	0.60634696	0.61254168	0.645592			
		2021	2022F	2023F								
	Live Performance Ontario Wages	$ 46,866	$ 48,366	$ 49,913								
	Live Performance National Wages	$ 44,765	$ 46,197	$ 47,676								
Source:	https://budget.ontario.ca/2023/fallstatement/chapter-2.html											
	Inflation:	3%										

NEW: Jobs Calculations:

New Jobs Calculation:	**2022**
CADAC Artists	25000
CADAC FTE Crew	1500
CADAC Part-time Crew (x0.5)	1300
For Profit Jobs (ratio: x0.7)	19460
Total	47260

6.1.5 Reinvestment Calculation

Reinvestment Calculation:		Rationale
Ratio of the rebate amount:	1	Amount after the proposed tax credit rebate.
Percentage used for admin expenditures	20%	Amount that would be used to process the rebate and any necessary payments to investors. After consulting various live performance organization, the percentage has been adjusted to 20%. While the allocation is higher for for-profit companies, not-for-profit companies will typically use less admin expenditures.
Executive bonus	5%	Amount that would be allocated for bonus. Typically for-profit organizations will have some bonuses awarded to executive companies, typically around 20-25%. However, most, if not all not-for-profit organizaations will have zero bonuses paid to the executive teams.
Ratio for reinvestment to future productions	**0.8**	The rebate amount that the notional model estimates will be used for future production.
Reinvestment into non-labour costs	30%	This estimate comes from a combined estimation from the Ersatz model and the insights provided from some live performance organizations. The organizations' insights are roughly the same as the Ersatz model. To be more conservative, the model estimates a higher range at 30% from 28%.
Reinvestment into labour cost ratio	**0.5**	

6.2 Tourism Impact Assessment - Definitions

The following table provides some insight as to the types of activities included in each of the economic impact analyses conducted, the data sources used for each, and the models employed to conduct the analyses.

	Operations	Tourism	Attendance
Direct Impact	Event workers	Incremental jobs and economic activity generated by travel, accommodation/hotels, and local retail offsite from festivals	n/a
Indirect Impact	Jobs and economic activity generated by the rental/purchase of event equipment and other supplies	Jobs and economic activity generated by the supply chain, including businesses that provide goods and services to support sectors such as travel, accommodation, and retail	Economic activity generated by attendees by purchases supplied by restaurants and food, hotels, and local retail
Induced Impact	Employment and economic activity generated by direct and indirect workers' re-spending of labour income in the Ontario economy		
Models	Nordicity MyEIA model (based on Statistics Canada IO tables) and the Ontario Ministry of Heritage, Sport, Tourism and Culture Industries (TREIM) Model		
Data Sources	Mirvish and Live Nation data including ticketing data for visitor origin and attendance data		

6.3 Background Research (Phase 1 Report)

6.3.1 Introduction

This research report examines how jurisdictions established their tax credit programs, what the mechanics of each entail, and explores evident impacts and risks involved in the establishment of such programs. This report provides a clear assessment and benchmarks different tax credits in various jurisdictions across the following criteria:

- The amount of tax credits/rebate available;
- Eligibility process of these tax credits and restrictions;
- Reasons and time of the implementation of the tax credits; and,
- Impacts of the tax credits, including positive impacts, risks, disadvantages, and controversies.

The goal of this report is to explore the tax incentive systems that are available in North America and Europe. This research is intended to guide measures that could be implemented, and an understanding of the considerations involved in developing a live performance tax credit in Ontario.

6.3.2 What is a Tax Credit?

A tax credit is a government mechanism to provide financial assistance to companies and organizations that have provided investments to a targeted jurisdictions by hiring local labour or purchasing goods and service of a specific jurisdiction. The tax credit is typically a subtraction and reimbursement of a percentage of targeted expenditures (typically labour, sometimes goods, occasionally both) that was incurred by a jurisdiction. The most important factor of a tax credit is that the mechanism is a form of rebate or reimbursement of expenditures used by a company, it does not necessarily deduct the amount of tax amount owed to the government, although the reimbursed amount can be used to lower the tax amount. As such, tax credit functions as a risk mitigation for both the company and investors that are incurring expenses in the jurisdiction by relieving some costs that a company initially used to create business activities in the jurisdictions.

Depending on the industry and expenditures that a jurisdiction intends to target, tax credits can be used for both for-profit and not-for-profit organizations, if the not-for-profit organization follows the appropriate guidelines of the jurisdictions to qualify for the tax credit program. In the case of the various live performing arts tax credits examined, only two jurisdictions allow the not-for-profit organizations to claim the live performing arts tax credits.

There are three main methods in which the approved tax credit can be reimbursed:

Tax Credit Reimbursement Type	Description
Refundable Tax Credits	A qualifying tax credit amount that will be refunded to the qualified company after deducted from the tax amount owed the government.
Non-refundable Tax Credits	A qualifying tax credit amount that cannot be refunded to the qualified company after deducted from the tax amount owed to the government.
Transferable Tax Credits	A qualifying tax credit amount that can be sold to other unrelated taxpayers after deducted from the tax amount owed to the government. The reimbursement of the tax credit comes from other taxpayers/companies rather than directly from the government.

6.3.3 Glossary

As this report is intended to be a foundational guide for further exploration of a tax credit for live performing arts in Ontario, a glossary of terms is included below to ensure common understanding.

1. **Minimum Project Costs:** The minimum amount of project spending necessary to qualify for the tax credit.
2. **Maximum credit threshold:** the maximum amount of spending that can be subsidized by the program on a single project.
3. **Program cap:** The total available annual budget for the tax credit program (if a maximum has been defined).
4. **Rebate/credit percentage:** The percentage of eligible project costs that will be subsidized by the tax credit.
5. **Refundable tax credit:** A tax credit where the organization receives the entire amount of the credit, and if the credit exceeds the tax owed, they receive the remaining amount as a tax refund.
6. **Nonrefundable tax credit:** A tax credit that lowers the amount of taxes owed. If the credit is greater than the taxes owed, the taxes are reduced to zero, but the organization does not receive the balance as a refund.
7. **Transferable tax credit:** A tax credit that can be transferred from one corporate entity to another. Often transferability is included for nonrefundable tax credits, as companies may choose to transfer unused tax credits to another entity to cover a future tax liability.

6.3.4 Overview of reviewed jurisdictions

This report was developed through desk research and interviews (on-going) to collect information on 12 jurisdictions with existing tax credit programs pertaining to live performing arts. These jurisdictions comprised several US states, two national governments (UK and France), one US city (New York City) and one Canadian province (Quebec). Though each jurisdiction under examination generally shares the same broad objectives of encouraging activity in the live performing arts sector, their tax credits vary substantially in terms of program design.

Table 7 below provides a snapshot of each program according to a few key elements. To note when reviewing the table, the columns are defined as follows (several column titles echo the glossary definitions above, but are included again below for ease):

- *Rebate/Credit Percentage*: the percentage of eligible project costs that will be subsidized by the tax credit.
- *Refundable or Nonrefundable*: indicates whether or not a tax credit creates a tax refund when the value of the credit exceeds the company's current year tax liabilities.
- *Program Cap*: the total available annual budget for the tax credit program (if a maximum has been defined).
- *Minimum Project Costs*: the minimum amount of project spending necessary to qualify for the tax credit.
- *Maximum Credit Threshold*: the maximum amount of spending that can be subsidized by the program on a single project.
- *Notes*: any other unique or specific details that are important to understand a particular program.

Table 7: Snapshot of Tax Credit Programs (currency in USD unless otherwise noted)

Jurisdiction	Rebate/ Credit Percentage	Refundable or Nonrefundable	Annual Program Cap	Minimum Project Costs	Maximum Credit Threshold	Notes
New York (State)	25%	Refundable	$8,000,000	None	None	Total labour expenses cannot exceed $200,000 per week Recent Program Expenditures: 2021: $2.7 million 2022: $1.9 million
New York (City)	25%	Refundable	$300,000,000 (cap for 5 years, 2021-2025)	Level 1: $0 Level 2: $750,000	Level 1: $3,000,000 Level 2: $350,000	Level 1 Facility: Broadway Level 2 Facility: "Off-Broadway" Total labour expenses cannot exceed $200,000 per week
Illinois	20%-35%	Nonrefundable	$4,000,000	$100,000	$500,000	Standard credit is 20%, additional 15% for labour expenses for state residents in high poverty or high unemployment areas Credit may be carried over for up to three years
Ohio	30%	Refundable	$5,000,000	$300,000	None	Program is administered alongside state's film/TV credit; $5M is pre-apportioned from overall $50M program cap. Two application review rounds annually
Maryland	25%	Refundable	$5,000,000	$100,000	$2,000,000	
Rhode Island	30%	Nonrefundable	$15,000,000	$100,000	$5,000,000	Credits can be carried over for up to three years; can be transferred, assigned, or sold
Connecticut*	30%	Nonrefundable	$2,500,000	None	None overall; $250,000 per week payroll cap	*Introduced in 2023, will become active in 2024
Louisiana	7%-18%	Refundable	$10,000,000	$100,000	$1,000,000	Three levels (7%, 14%, 18%) based on total base project investment

Jurisdiction	Rebate/ Credit Percentage	Refundable or Nonrefundable	Annual Program Cap	Minimum Project Costs	Maximum Credit Threshold	Notes
						Credits are transferable on a one-time basis Recent program expenditures: 2019: $3,214,714 2020: $2,463,736 2021: $2,222,466 2022: $986,038
Georgia*	15%-20%	Nonrefundable	$15,000,000	$500,000	Max 20% of overall program budget	Standard credit is 15%, additional 5% if operating in least-developed counties Credits can be carried forward for five years *Program discontinued in 2023
United Kingdom	20%-25%	Refundable	None	None	None	Standard credit is 20%, 25% for touring productions; temporarily raised to 45% and 50% respectively as a COVID-19 relief measure (2021-2025) Expenditure deduction based on lower of: 80% of total core expenditure, or total core expenditure in UK or EEA Recent Program Expenditures: 2018-19: £78 million 2019-20: £71 million 2020-21: £38 million 2021-22: £55 million
France	15%-30%	Refundable	€19,000,000	None	€750,000 per business €500,000 per show	Credit is 15% for large enterprises and 30% for SMEs
Quebec	~22.75%	Refundable	None	None	CA$350,000 for comedy shows CA$1,250,000 for musicals	Credit calculated as 35% of 65% of eligible labour cost Projects must meet Quebec content criteria

Jurisdiction	Rebate/ Credit Percentage	Refundable or Nonrefundable	Annual Program Cap	Minimum Project Costs	Maximum Credit Threshold	Notes
					CA$750,000 for other live productions	Eligible costs must exclude other government assistance

The tax credit programs described in this section are grouped by jurisdiction to inform the understanding of themes and key takeaways. Each description starts with a summary of the program's history and the motivations of the respective policymakers. This summary is followed by an explanation of the rebate percentage and the types of productions that qualify for the program, before concluding with a brief discussion of eligible expenditures, program minimums and maximums, and any other relevant details.

6.3.5 Northeastern United States

Northeastern states have been grouped together for this section as they all share proximity to New York City's Broadway theatre district and their designs generally reflect that proximity and the competitive environment in which they operate. These programs are all predominantly targeted toward theatrical productions.

6.3.5.1. New York (State)

Table 8: Snapshot of New York (State) Tax Credit Program (in USD)

Year of Adoption	Rebate percentage	Refundable or Non-Refundable	Annual Program Cap	Recent Program Expenditures	Minimum Project Cost	Maximum Credit Threshold
2015	25%	Refundable	$8 million	2021: $2.7 million 2022: $1.9 million	None	None

The Empire State Musical and Theatrical Production Tax Credit Program provides a financial incentive for **pre-tour musical and theatrical production activities** in Upstate New York. This fully refundable tax credit program offers a 25% rebate on certain production expenditures linked to the technical and rehearsal periods and initial runs at qualified facilities in Upstate New York.

The tax credit was introduced in 2015 in a regional context whereby several neighbouring Northeastern states had already extended tax incentives for live performing arts. As such, the state aims to compete by **promoting the use of its own regional performing arts venues for the technical period of major theatre productions**, thereby stimulating the Upstate economy. To qualify, live dramatic musical or theatrical productions must take place in "Qualified Production Facilities" with a capacity of at least 1,000 seats. Qualified touring productions must consist of eight or more performances in three or more localities, and for development and technical costs to be eligible they must take place prior to the commencement of the tour.

Eligible expenditures include pre-tour production costs, salaries, technical and crew production expenses, such as set construction, costumes, and special effects. Labour expenses are subject to a cap of US$200,000 per week. Expenditures are eligible during the technical period of production, and for subsequent performances, provided the show has not been performed elsewhere in the interim. The program has a cap of US$8,000,000 annually to support these activities, but it does not set a minimum project cost or a maximum threshold for a single project.

The program does not explicitly denote the eligibility of not-for-profit production companies, and the tax credit is fully refundable – meaning, theoretically applicable to not-for-profit entities. However, eligible companies are only those mounting "qualified touring productions," which in practice are predominantly for-profit entities. Confirmation with the program administrator would be necessary to verify this point.

6.3.5.2. New York (City)

Table 9: Snapshot of New York (City) Tax Credit Program (in USD)

Year of Adoption	Rebate percentage	Refundable or Non-Refundable	Annual Program Cap	Recent Program Expenditures	Minimum Project Cost	Maximum Credit Threshold
2021	25%	Refundable	$300 million over 5 years	Data not available	Level 1: $0 Level 2: $750,000	Level 1: $3 million Level 2: $350,000

The New York City Musical and Theatrical Production Tax Credit is an incentive program designed by New York City **in 2021 to respond to economic challenges brought on by the COVID-19** pandemic, and to offset the additional costs associated with producing shows during the city's pandemic recovery. It provides a 25% tax credit for **for-profit musical and theatrical production** in New York City. The program is extremely well-funded as compared to other comparable programs, setting a **funding cap of US$300,000,000 over the duration of program**, which is currently set to run from 2021-2025**.** The program was initially budgeted for US$100,000,000 over 2 years in 2021, then extended and expanded to US$200,000,000 over 3 years, and then to its current US$300,000,000 allocation over five years.

To qualify, **a live, scripted performance should take place in either a Level 1 or a Level 2 Qualified New York City production facility**; Level 1 facilities include "Broadway" theatres with over 500 seats located within a specific quadrant of midtown Manhattan, while Level 2 facilities consist of "Off-Broadway" theatres within Manhattan, having at least 100 seats. Eligible expenditures for qualified productions encompass various areas, such as production costs for sets, costumes, and technical equipment, along with salaries, wages, and fees; labour expenses are capped at US$200,000 per week. Level 1 facilities have no minimum project cost and a US$3,000,000 maximum credit threshold, whereas Level 2 facilities have a US$750,000 minimum project cost and a US$350,000 maximum credit threshold.

Companies seeking to utilize the New York City Musical Theatre Production Tax Credit are required to **introduce measures to enhance access for low-income residents**, as well as adopt a New York State-approved diversity and arts jobs training plan. Highly successful productions, with ongoing revenues exceeding 200% of their ongoing production costs after the conclusion of the credit period, are expected to contribute to the New York State (NYS) Council for The Arts Cultural Program Fund; this contribution can reach up to 50% of the value of the tax credit received.

6.3.5.3. Illinois

Table 10: Snapshot of Illinois Tax Credit Program (in USD)

Year of Adoption	Rebate percentage	Refundable or Non-Refundable	Annual Program Cap	Recent Program Expenditures	Minimum Project Cost	Maximum Credit Threshold
2012	20%-35%	Nonrefundable	$4 million	Data Not Available	$100,000	$500,000

The Live Theatre Production Tax Credit Program in Illinois, initiated in 2012, is designed to support the state's **for-profit live theatre industry**. It also seeks to enhance Chicago's profile amongst other

prominent theatre cities in North America and globally. The program offers producers a 20% tax credit on all qualified Illinois expenditures related to the production of live theatre, including Illinois resident salaries (non-talent). Additionally, an extra 15% credit can be claimed for Illinois labour expenses paid to state residents in areas with high poverty or high unemployment. Credits are nonrefundable, and unused credits can be carried forward for up to five years.

Eligible production facilities are for-profit, with a minimum of 1,200 seats. Productions must either qualify as a **"long-run production"** by meeting a minimum span of more than eight weeks (at least six performances per week) **or otherwise be a pre-Broadway run** (scheduled for Broadway performances within 12 months) **or an established Broadway touring production**. Labour costs are covered, with a cap of US$100,000 per employee, encompassing various aspects of production, from scriptwriting and casting to advertising and performance costs. The program sets an annual funding cap of US$4,000,000, a minimum project cost of US$100,000, and a maximum credit threshold of US$500,000 per project.

6.3.5.4. Ohio

Table 11: Snapshot of Ohio Tax Credit Program (in USD)

Year of Adoption	Rebate percentage	Refundable or Non-Refundable	Annual Program Cap	Recent Program Expenditures	Minimum Project Cost	Maximum Credit Threshold
2019 (for theatre)	30%	Refundable	$5 million	Data Not Available	$300,000	None

The Ohio Motion Picture Tax Credit program was initially **established in 2009 to promote film and TV production** across Ohio and **expanded in 2019 to include live theatre productions**. This program offers a 30% refundable tax credit for pre-Broadway runs, tour launches or long-run theatre productions (minimum five weeks, six performances per week) so long as they spend a minimum of US$300,000 within the state of Ohio and are "directly associated" with New York City's Broadway theatre district. Eligible expenditures include all costs related to production activities, involving goods or services purchased and consumed within the state.[29]

The broad tax credit system operates with a larger annual program cap (US$50,000,000) than most other comparable tax credit programs. However, that larger budget is shared amongst other eligible media forms and a significant portion of funds are typically allocated to film and TV projects. The state indicates that US$5,000,000 per year is reserved for theatrical productions, though theatrical productions could in theory qualify for an additional portion of the overall program budget in any given year. Ohio sets a minimum project cost of US$300,000 and does not specify maximum project costs or thresholds. Unique to Ohio, applications are reviewed and awarded in two rounds annually (one by July 31st and the other by January 31st).

6.3.5.5. Maryland

[29] The Ohio Legislature recently introduced a bill that seeks to amend the program and include "capital improvement projects" to encourage rehabilitation of performing arts facilities: S.B. No. 4 – The Ohio Legislature.

Table 12: Snapshot of Maryland Tax Credit Program (in USD)

Year of Adoption	Rebate percentage	Refundable or Non-Refundable	Annual Program Cap	Recent Program Expenditures	Minimum Project Cost	Maximum Credit Threshold
2022	25%	Refundable	$5 million	Data Not Available	$100,000	$2 million

The Maryland Theatrical Production Tax Credit program was introduced in 2022 to incentivize producers to choose Maryland for extended periods of technical work and rehearsals before launching national tours or bringing new shows to Broadway. This program offers a 25% refundable tax credit.

To be eligible for the credit, productions must fall under the category of **for-profit national touring or pre-Broadway productions** for live stage theatrical performances. National touring productions require a minimum of two public performances and must be subsequently performed for a total of four weeks or more in at least four cities outside the state after their final in-state performance, while pre-Broadway productions need to have at least eight public performances, with no significant prior performances within the preceding five years and with Broadway performances scheduled within 12 months. Productions must take place in a qualified theatre production facility, the criteria for which essentially encompasses all theatres.

Eligible production expenses encompass labour costs and various other elements, including set construction and operation, wardrobe, makeup, sound, lighting, staging, advertising, facility rental, food, lodging, and travel expenses associated with bringing personnel to the state. The program has an annual program cap of US$5,000,000, a minimum project cost of US$100,000, and a maximum credit threshold of US$2,000,000.

6.3.5.6. Rhode Island

Table 13: Snapshot of Rhode Island Tax Credit Program (in USD)

Year of Adoption	Rebate percentage	Refundable or Non-Refundable	Annual Program Cap	Recent Program Expenditures	Minimum Project Cost	Maximum Credit Threshold
2012	30%	Nonrefundable	$15 million	Data Not Available	$100,000	$5 million

The Rhode Island Musical and Theatrical Production Tax Credit program **aims to make Providence** (the capital and most populus city in Rhode Island) a **strong alternative to nearby cities** like Boston for major theatre productions. Under this program, companies can claim a 30% nonrefundable credit against Rhode Island corporate income tax for a portion of their total production and performance expenditures. This credit was introduced in 2012 at 25%, then was enhanced to 30% in 2019. The program allows for transfer, assignment, or sale of tax credits, and for them to be carried over for up to three years.

To qualify, productions must be **"accredited theater productions," which are for-profit pre-Broadway productions (within 36 months of a confirmed Broadway engagement) or post-Broadway productions (such as national tours of Broadway shows)**. These productions should take place in a qualified production facility, which is a purpose-built theatre with at least 1,000 seats; in

Rhode Island, this criteria makes the Providence Performing Arts Centre the primary beneficiary.[30] Eligible expenditures covered by the program include production and performance costs (i.e., labour costs and other expenses related to production development, set construction, wardrobe, sound and lighting, facility rentals, etc.) as well as transportation expenses.

The program has a maximum annual budget cap of US$15,000,000, but that figure represents a combined budget with the state's Motion Picture Tax Credit. Theatre productions have a minimum project cost of US$100,000 and a maximum credit threshold of US$5,000,000.

6.3.5.7. Connecticut

Table 14: Snapshot of Connecticut Tax Credit Program (in USD)

Year of Adoption	Rebate percentage	Refundable or Non-Refundable	Annual Program Cap	Recent Program Expenditures	Minimum Project Cost	Maximum Credit Threshold
2024	30%	Nonrefundable	$2.5 million	Data Not Available	None	None

Connecticut's House Bill 6919, "An Act Establishing a Tax Credit for Certain Pre-Broadway and Post-Broadway Theater Productions," was passed in 2023, with the tax credit taking effect in January 2024. The program aims to position the state as an attractive destination for Broadway producers to conduct technical work and short-term runs before launching their productions for Broadway or national tours. This initiative comes as **Connecticut seeks to regain opportunities it lost to other nearby states** like New York, Rhode Island, and Maryland, which offer theatre production tax credits that predate Connecticut's. The nonrefundable tax credit will be set at 30%, which is 5% higher than what New York and Maryland currently provide.

To be eligible for this tax credit, the production must be a **for-profit live stage presentation of either a pre-Broadway (scheduled for Broadway within 12 months of first in-state performance) or post-Broadway production which opens its national tour in Connecticut**. These productions must take place at a qualified production facility in Connecticut which has a minimum of 1000 seats. All production and performance expenditures are eligible, including various costs related to developing, producing, and performing an accredited theater production (such as payroll, set design and construction, sound, lighting, staging, facility expenses, and transportation). The program is designed for for-profit entities, and the legislation indicates an annual funding cap of US$2,500,000. There will be no overall maximum project cost or maximum credit threshold, but there will be a maximum eligibility of US$250,000 per week for payroll expenses.

6.3.6 Southern United States

These jurisdictions represent a somewhat different approach to live performing arts tax credits; distinct from the Broadway-centric focus of the Northeastern states, Louisiana and Georgia open eligibility to other major live performance mediums like concert tours and touring variety shows.

6.3.6.1. Louisiana

[30] Ushering first-run theater to Providence – The Providence Journal

Table 15: Snapshot of Louisiana Tax Credit Program (in USD)

Year of Adoption	Rebate percentage	Refundable or Non-Refundable	Annual Program Cap	Recent Program Expenditures	Minimum Project Cost	Maximum Credit Threshold
2007	7%-18%	Refundable	$10 million	2019: $3,214,714 2020: $2,463,736 2021: $2,222,466 2022: $986,038	$100,000	$1 million

The Louisiana Musical and Theatrical Production Income Tax Credit Program aims to establish and promote Louisiana as a primary hub for thriving live performances, from creation to presentation. The program was **introduced in 2007 in the aftermath of Hurricane Katrina** to support economic development, leveraging Louisiana's reputation as a tourist destination and creating diverse employment opportunities. The state also indicates a policy interest in the program supporting the rejuvenation of abandoned properties into performance or rehearsal spaces.

Whereas many other comparable programs are limited to long-run, pre-Broadway and touring theatre production, **Louisiana's tax credit has a wider reach extending into areas like regional theatrical productions, music concert tours and other touring shows** (such as Cirque Du Soleil). The program offers a 7% refundable tax credit for projects with costs between US$100,000 and US$300,000, 14% for project costs between US$300,000 and US$1,000,000, and 18% for project costs exceeding US$1,000,000; prior to cutbacks in 2015 these percentages were 10%, 20% and 25% respectively. There is an additional credit of 7% for payroll expenditures to Louisiana residents and an additional 0.1% credit for the employment of students. Qualifying production facilities must have a minimum fixed seating capacity of 500 seats. Both **for-profit or not-for-profit entities** are eligible for this program.

Eligible expenses encompass salaries directly related to in-state certified productions, physical production costs, artist compensation, crew compensation, transportation costs, facility rental construction, repair, or renovation costs, and other qualified production-based expenditures. This program is applicable to both for-profit and not-for-profit entities, with an annual program cap of US$10,000,000, a minimum project cost of US$100,000, and a maximum credit threshold of US$1,000,000.

6.3.6.2. Georgia

Table 16: Snapshot of Georgia Tax Credit Program (in USD)

Year of Adoption	Rebate percentage	Refundable or Non-Refundable	Annual Program Cap	Recent Program Expenditures	Minimum Project Cost	Maximum Credit Threshold
2017 (repealed in 2023)	15%-20%	Nonrefundable	$15 million	Data Not Available	$500,000	$3 million

The former Georgia Music Investment Act, initiated in 2017 and repealed in 2023, established a 15% income tax credit on qualified musical and theatrical production expenses within Georgia to boost the state's live production, recording and scoring industries. The base credit was set at 15%, with an additional 5% tax credit for expenses incurred in Georgia's least developed counties, potentially bringing the maximum credit to 20%. These credits could be carried forward for up to five years but were nonrefundable and nontransferable.

To qualify for the tax credit, a musical or theatrical production **must have been a touring production** (including concerts, ballet, opera, or live variety entertainment) **that originated, developed, and had**

its initial public performance in Georgia or had its U.S. debut in the state after preparing and rehearsing for at least seven days within Georgia. Qualifying productions must have spent a minimum of 10 days or have a production site in Georgia for at least 10 days.

Qualified production expenditures encompassed all production-based expenditures, including payroll. The minimum project cost for musical or theatrical production was US$500,0000, and though there was no maximum credit threshold, each project could claim no more than 20% of the annual credit allocation. The recording and scoring streams for this program outlined different eligibility criteria and minimum project costs. The overall program was initially allocated a program cap of US$5,000,000 for 2018, which was increased to US$10,000,000 for 2019 and again to US$15,000,000 thereafter until its sunset in 2023 (see section 6.3.17 (Risks) below for more context on the ending of the credit).

6.3.7 International

The UK and France have been grouped together here as the two jurisdictions outside of North America. Their programs both have particularities that set them apart from their North American counterparts.

6.3.7.1. United Kingdom

Table 17: Snapshot of United Kingdom Tax Credit Program (in GBP)

Year of Adoption	Rebate percentage	Refundable or Non-Refundable	Annual Program Cap	Recent Program Expenditures	Minimum Project Cost	Maximum Credit Threshold
2014	20%-25%	Refundable	None	2018-19: £78 million 2019-20: £71 million 2020-21: £38 million 2021-22: £55 million	None	None

The United Kingdom's Theatre Tax Relief initiative was introduced in 2014. Inspired by the success of tax credit programs in other creative industries, this scheme provides an **incentive for theatrical productions, with a particular focus on touring productions**. By offering tax incentives, the program aims to stimulate investment in the UK's vibrant theater sector and contributing to its growth and sustainability. The standard refundable[31] tax credit is set at 20%, while 25% is available for touring productions.[32]

The tax credit is applied to the lower of a) 80% of the total 'core' expenditures or b) the total 'core' expenditures on goods and services sourced from the UK or the European Economic Area (EEA); in either case, at least 25% of 'core' costs must be from within the UK or EEA. To qualify as touring, productions must either perform at a minimum of six distinct venues during the production phase, or else present at least 14 performances across at least two separate premises.

[31] The UK's method of calculating refunds is unique and complex, as outlined in the HMRC Theatre Tax Relief Internal Manual

[32] In 2021 the UK government increased the credit percentage to 45% for non-touring and 50% for touring productions to respond to financial pressures brought on by the COVID-19 pandemic; these higher rates are currently set to remain until 2025.

'Core' eligible expenditures describe costs related to developing, producing, and closing the production (provided the show is actually produced), but importantly does not cover running costs. Examples of nonqualified costs include ordinary running costs such as venue rental and actor salaries outside of the rehearsal period, as well as other standard operating costs like marketing, accounting, and storage. This tax relief program is **open to both for-profit and not-for-profit organizations**. The initiative has no predefined cap on available program funding, no minimum project cost and no maximum credit threshold, offering a high level of flexibility with respect to eligibility and program scalability.

6.3.7.2. France

Table 18: Snapshot of France Tax Credit Program (in EUR)

Year of Adoption	Rebate percentage	Refundable or Non-Refundable	Annual Program Cap	Recent Program Expenditures	Minimum Project Cost	Maximum Credit Threshold
2020	15%-30%	Refundable	None	Data Not Available	None	€750,000 per business €500,000 per show

The Tax Credit for Theatrical Performances of Dramatic Works in France aims to bolster the creation, promotion, and digitization of theatrical performances and to support performing arts companies that actively contribute to artistic employment. This refundable tax credit offers a 15% benefit to large for-profit enterprises and a more substantial 30% for small and medium-sized for-profit enterprises (SMEs).

Eligible performances encompass comedy, tragedy, drama, vaudeville, puppet theater, and mime and gesture theatre, having been derived from existing texts, adaptations, or original on-the-spot creation. To qualify, **performances must incur their primary creation costs in France, represent the maiden presentation of a show, and engage a team of artists composed of at least 90% professionals**.[33] Performances must feature a minimum of six artists on stage, each having had a minimum of 20 rehearsal services. There must also be over 20 performance dates scheduled over 12 months, with at least half of them occurring within French territory and in at least two distinct locations. The tax credit sets a threshold of 60 performance dates.

Eligible costs are those tied to show creation and operation, such as staff salaries, room rentals, equipment, and promotion. Additionally, expenses related to show digitization, including copyrights, capturing, and post-production, are eligible. Like Quebec (below), the tax credit excludes deductions based on other government subsidies and grants collected for the supported production. This initiative has a total annual program cap of €19,000,000, with a maximum credit threshold at €500,000 per show and €750,000 per company.

6.3.8 Canada

Quebec operates Canada's sole example of a tax credit for live performing arts.

[33] The definition of "professional" for the purposes of France's tax credit could not be found through desk research.

6.3.8.1. Quebec

Table 19: Snapshot of Quebec Tax Credit Program (in CAD)

Year of Adoption	Rebate percentage	Refundable or Non-Refundable	Annual Program Cap	Recent Program Expenditures	Minimum Project Cost	Maximum Credit Threshold
1999	~22.75%	Refundable	None	Data Not Available	None	$350,000-$1.25 million

Quebec's Refundable Tax Credit for the Production of Live Shows (Crédit D'impôt Remboursable Pour La Production De Spectacles), seeks to nurture Quebec's live performance industry while promoting its continued growth and creating jobs. **Established in 1999** and administered by SODEC (Société de développement des entreprises culturelles), the program represents the oldest live performing arts tax credit examined through this jurisdictional review. This refundable tax credit, equivalent to approximately 22.75%, is calculated based on 35% of 65% of eligible labour costs (associated with Quebec residents and eligible companies with operations in Quebec). Those costs must be adjusted to account for any governmental or non-governmental financial assistance (excluding from SODEC, Canada Council for the Arts, FACTOR, Musicaction, Telefilm).

The tax credit is **available to for-profit corporations involved in the production of live shows encompassing various mediums**, including music, drama, comedy, mime, magic, circus, aquatic, and ice performances. To qualify, companies must present five or more public performances of eligible shows before a live audience in Quebec within the given tax year or the year previous. Companies must also adhere to Quebec content standards. While there is no fixed cap on funding nor a minimum project cost, the program specifies maximum credit thresholds for different categories of live shows: CA$350,000 for comedy shows, CA$1,250,000 for musical performances, and CA$750,000 for all others.

6.3.9 Trends and Tendencies

The live performing arts tax credit programs reviewed have some commonalities, but also key differences. The unique context for each of the tax credits no doubt influences some of the nuances found across jurisdictions. Understanding trends and tendencies across the various incentives is useful to inform the development of a potential new tax credit for Ontario. Overall, such tendencies include:

- Tax credits are developed to mitigate risks for investors, address crises, and to generate positive economic outcomes.
- The types of qualifying companies are primarily for-profit production companies or organizations.
- The types of eligible productions vary across incentive programs, although there are regional trends that can be observed (e.g., many live performing arts tax credits in the northeastern US focus mainly on shows heading to Broadway or touring shows that have commercial potential following success on Broadway).
- Most jurisdictions examined require a minimum qualifying expenditure (minimum project cost) to qualify for their tax credits.
- The mechanics around applying and receiving the tax incentive are relatively similar across all jurisdictions, with most jurisdictions requiring production companies to apply to receive a certificate to indicate that their live show is pre-approved for the incentive claims.

6.3.10 Purpose of Tax Credits

Before examining the content of these tax credit models, to note, the research also identifies some causes of political appetite which allows the creation of these tax credit incentives. Some jurisdictions and models share similar reasoning behind the establishment of their tax credits, while others have more urgent need to resolve crises that are threatening the industry.

In most jurisdictions, the key factor that drives the establishment of their live performing arts tax credit is the **need to mitigate risks for investors and to generate positive economic outcomes**. When the UK first established their Theatre Tax Relief program in 2014, the rationale behind the establishment derived from the need to mitigate risk for investors and producers. By creating the tax relief program, the UK government provides some cushion for producers to bring in critically and commercially successful theater production, like the Book of Mormon.[34] Likewise, the creation of Illinois' Live Theater Production Tax Credit Program functions to generate more economic output through job creations and to attract more tourists into Illinois and especially to the city of Chicago.[35] As well, Quebec's *Crédit D'impôt Remboursable Pour La Production De Spectacles* aims to support job creation and allow productions of more ambitious projects in Quebec.[36]

In some cases, **crises necessitate the creation of a live performing arts tax credit in a specific jurisdiction**. These tax credits seek to entice investors and producers to help renovate or revitalize the live performing arts industry. At the same time, the tax credit also provides the added bonus of mitigating risks for financiers to invest in the specific region. For example, after parts of Louisiana were severely damaged by Hurricane Katrina, the government approved the establishment of the Musical and Theatrical Production Income Tax Credit in 2007. The initial aim of that incentive program was to rebuild and revitalize the theater and live performance industry of Louisiana, particularly in New Orleans.[37] While that was the initial intent, the tax credit eventually became a key factor in the development of economic growth for the State. More recently, the state of New York implemented their New York City Musical and Theatrical Production Tax Credit in 2021. The implementation of this tax credit specifically for New York City is an explicit reaction to the recovery period of the COVID-19 pandemic.[38] The goal of the tax credit is to help New York City's live performing arts industry recover from those impacts.

Apart from economic growth or recovery need, some jurisdictions are also implementing tax credits to **maintain the competitiveness of their local live performing arts industry**. In 2022, Maryland established their tax credit as a measure to maintain competitiveness of their industry in their state. Baltimore has historically been a tryout city for pre-Broadway productions. This tax credit ensures producers and investors will still consider Maryland as the preferred jurisdiction for pre-Broadway

[34] https://www.theguardian.com/stage/2014/sep/01/tax-relief-uk-theatre-investment-boom

[35] https://www.broadwayworld.com/chicago/article/Lou-Raizin-Releases-Statement-on-the-Live-Theatre-Production-Tax-Credit-20111213

[36] https://www.assnat.qc.ca/Media/Process.aspx?MediaId=ANQ.Vigie.Bll.DocumentGenerique_102939

[37] https://www.nola.com/news/business/new-orleans-theater-openings-bring-city-closer-to-broadway-south-vision/article_65fa5a7c-4808-5417-9f01-578b1c7f6898.html

[38] https://playbill.com/article/100-million-new-york-city-musical-and-theatrical-production-tax-credit-launched

shows.[39] Connecticut, likewise, passed their version of a live performing arts tax credit in 2023 to combat the encroaching competition from Rhode Island and New York's tax credit measures.[40]

6.3.11 Qualifying Companies

One of the major themes of the different approaches across jurisdictions is the determination of qualifying production companies or organizations. Namely, research revealed that there are many similarities on how each jurisdiction defines the qualifying production companies. These similarities include requirements for the minimum runtime of a production, the minimum number of seats, or qualified production facilities or theaters. The similarities ultimately stem from how these tax credit programs attempt to identify a live performing arts production company. However, there are a few qualifying specifications in different jurisdictions to note.

Two of twelve jurisdictions examined **aim for both not-for-profit and for profit organizations** to benefit from the tax credit, two remain undefined, while the remaining eight of twelve require the production company or organization to be a for-profit company. Of the two jurisdictions that allow not-for-profit organizations to claim their tax credits, the UK Theatre Tax Relief program has specific definitions and descriptions for not-for-profit organizations to claim tax credit from the program.

One of the more unusual restrictions for qualifying companies or organizations appears in the Quebec tax credit program. While Quebec's criteria for a qualifying production company seems similar to the other jurisdictions (e.g., a qualifying tax-paying corporation with a physical presence in Quebec), the province's tax credit also places a restriction where **live performances cannot be a component of another business**. For example, live shows that are performed in a restaurant do not qualify for the tax credit.

6.3.12 Qualifying Production/Genres

While the criteria of a production company for many of these jurisdictions are similar, the tax credit programs reviewed have different criteria on eligible productions that qualify for these incentives. Specifically, the range of live performances varies depending on what the aim of the tax credit incentive is. Some tax credit incentives (e.g., UK Theatre Tax Relief) provide a comprehensive list of different live performance genres, while others have more specific genres.

Many tax credit jurisdictions in the US focus mainly on shows that have Broadway potential (pre-Broadway) and touring shows that have commercial potential from their success on Broadway (post-Broadway). These shows tend to have bigger budgets and provide a higher risk to the production companies and investors. Likewise, some jurisdictions also include touring live concerts or touring live shows (e.g., Cirque du Soleil) as part of the qualifying production genres because these productions also have **a large budget, carry greater financial risk, and may command higher potential revenue** and attraction (i.e., uptick on tourism) to the jurisdiction.

Apart from economic factors, one jurisdiction also focuses **on targeted genres that are culturally popular in the jurisdiction**. Quebec's tax credit includes the specific inclusion of live comedy and miming performances in their program. While these targeted genres may not generate more economic activity than big budget Broadway productions, the government of Quebec wants to ensure that these specific types of performances receive the same assistance and attention as big budget live productions.

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[39] https://patch.com/maryland/across-md/new-bill-grants-theatrical-production-tax-credit-maryland

[40] https://www.hartfordbusiness.com/article/theater-execs-hope-new-tax-credit-will-lure-more-pre-and-post-broadway-productions-to-ct

6.3.13 Eligibility Process

When considering the qualified expenditures of qualifying shows, there are some important patterns regarding how different tax credit models approach the eligible expenses that can be funded or reimbursed. Much like the other themes of this section, there are several crossovers and similarities between these models, but there are also significant differences and choices to note.

Most jurisdictions examined require a minimum qualifying expenditure (minimum cost of the project) in order to qualify for their tax credits. The minimum amount ranges between US$100,000 to US$750,000. Some jurisdictions, like New York City and Louisiana, contain tiered minimum budgets. New York City's tiered minimum budget depends on whether the production is a Broadway production (US$0 minimum budget) or an off-Broadway production (US$750,000 minimum budget). For Louisiana, the budget determines the percentage tax credit that is claimable (US$100,000 for 7%, US$300,000 for 14%, US$1 million for 18%). In contrast, **several jurisdictions** (UK, France, Quebec, Connecticut, New York State, Broadway productions for New York City) **do not require a minimum budget**.

Another key factor informing program design is the way in which each jurisdiction approaches the maximum threshold (i.e., maximum amount the tax credit program can reimburse per company or project). Some jurisdictions, like the UK and the State of New York, have no maximum threshold. Quebec and New York City have set different maximum thresholds based on the types of live shows being produced (i.e., Broadway vs. off-Broadway, theatre vs. comedy). France includes different maximum thresholds per show and per production company, which can be claimed annually.

In terms of the qualifying expenditures, **many jurisdictions follow similar regulations and requirements as their film and television tax credits legislations**. Many expenditures include not just the labour costs of performers and other creative labour, but also set design, makeup, and costuming. Jurisdictions that adopted their live performance tax credit legislation from film and television also include eligible expenses from marketing, acquisition of intellectual property, rentals, and travel costs. **Quebec is the only jurisdiction that restricts qualifying expenditures strictly to labour costs**. Even so, Quebec only allows 65% of labour costs to be a part of the total costs.

In determining eligibility of costs, many models have varying concepts of minimum budgets and thresholds of reimbursements. However, most models allow a broad range of costs as qualifying expenditures. Quebec remains the exception by only allowing eligible labour costs as eligible expenditures.

6.3.14 Mechanics

The mechanics in applying and receiving the tax incentive are relatively similar across all jurisdictions. These mechanisms include whether the models require a certification process or how a production company can claim the tax credit. Some mechanics also include how the claims are disbursed and the maximum amount budgeted by jurisdictions to be imbursed for the year. The mechanism behind the models ultimately deals with how applications are being examined and how limitations or statutes are being created.

Based on the findings, **most jurisdictions require production companies to apply to receive a certificate** to indicate that their live show is pre-approved for the incentive claims. The main exception is the UK Theatre Tax Relief program where the application is part of the production company's tax filing to His Majesty's Revenue and Customs (HMRC). **Some jurisdictions require one certification** process either before the production of the shows is greenlit or after the show concludes its run. **Other jurisdictions require two certifications**, one pre-production as an interim approval and a second final approval certificate after the show concludes.

In terms of how the claimable amount can be redeemed, most jurisdictions allow the amount to offset the corporate or profit tax that the production must pay. The jurisdiction can then pay the

remaining claimable amount as a rebate. Some jurisdictions, like Louisiana allow the tax credit to be transferred to another entity or taxpayer. Almost all jurisdictions require an annual filing around the jurisdiction's tax season. Most jurisdictions will only allow claims to be made after the completion of production. **The UK, however, allows multi-year productions to file** the estimated amount of production costs for the specific fiscal year while productions are still on-going.

In addition, **many jurisdictions contain a financial cap** for the maximum amount of funding that can be allocated for the year. The cap amount varies from jurisdiction to jurisdiction, and generally ranges between US$2.5 million to US$15 million. That said, there are a few notable outliers. The Ohio Motion Picture Tax Credit program is capped at US$50 million (film and TV incentives typically represent the largest proportion of overall cap), and though only US$5 million is reserved for live theatre, theatrical productions can theoretically exceed that reserved amount. New York City allocates about US$300 million dollars as their cap, but that figure represents a time-limited, five-year allocation (rather than an annual ongoing budget item). The UK and Quebec chose not to have a cap in their tax incentive program. Instead, the two jurisdictions have an understanding and estimation of how much these claims are every year.

Finally, some jurisdictions have embedded other **social and/or redistributive goals within their tax credit programs**. Illinois commits to increasing its credit percentage by 15% (from 20% to 35%) on wages paid to Illinois residents in geographic areas of high poverty or high unemployment, as defined by the state; Georgia's program had a similar 5% bump (from 15% to 20%) for expenses incurred in the state's least developed counties. New York City's program comes with several stipulations: a) that credit-receiving productions must create new opportunities for low-income residents to see their shows, b) that highly successful productions (ongoing revenues exceeding 200% of ongoing production costs) contribute a portion of profits to a state cultural fund, and c) that credit-receiving productions adopt a state-approved diversity and arts jobs training plan. Illinois picks up on the third of those requirements; the program "contains a diversity reporting requirement which means that no production will receive the tax credit without proof of a best faith effort to hire women and minorities as part of the technical crew and office staff."[41]

6.3.15 Impacts and Risks

While the design and intended purpose of various live performance tax credit programs are documented in detail earlier in this report, a deeper understanding of their **associated impacts and risks** is only made possible through observation over time of real-world policy application. It is important to understand if a tax incentive achieved its desired purpose, to effectively assess the various structures towards the development of a model for Ontario. The work was informed by limited (to date)[42] primary research and secondary desk research into available documentation on practical outcomes in the reviewed jurisdictions. This section helps to account for the degree to which current programs see policy and practice aligned.

6.3.16 Impacts

Discussion of the impacts of tax incentive policy for live performing arts takes place in a context whereby performing arts activities and venues have been long understood in urban policy discourse

[41] Illinois Live Theater Tax Credit Annual Report FY2022: July 1, 2021 – June 30, 2022 – State of Illinois

[42] At time of reporting, an interview has been completed with Louisiana, and additional 1:1 Interviews are being scheduled. These discussions will continue to inform this work.

generally as drivers of vibrancy and growth.[43] Broadly speaking, many attendees are likely to be visiting from out of town and renting a hotel room, going out for dinner, shopping at nearby stores, and buying breakfast the following morning. All those businesses, and all those businesses' employees, benefit from that live performance taking place, and the local jurisdiction benefits from increased tax revenue throughout the value chain. Taken another step, an area that has lots of performance venues and other interesting cultural experiences is more likely to attract more people to live and work, driving demand for housing and amenities and increasing the economic and intrinsic value of the area.

The ascendency of various arts-oriented economic policies in jurisdictions around the world has largely been grounded in this understanding that arts and cultural development induces a measurable socio-cultural and economic multiplier effect that reaches well beyond its immediate impacts. As Chicago, Illinois studied their own arts district (The Loop) in 2019,[44] they estimated a US$2.25 billion annual economic impact; this impact included tens of millions of dollars in each of tax revenue, restaurant revenue, real estate revenue, hotel revenue, retail sales, and transportation and parking revenue, as well as supporting 15,550 FTE jobs in the arts, restaurants, hotels, real estate, and so on. For every dollar spent on a ticket to an arts activity in the arts district, US$12 in local economic impact was induced. In premise, policy that supports the viability of high-quality live performances is poised to help enhance these benefits.

As to the impact that tax credit programs have had on the jurisdictions review in this report, detailed financial reporting and analysis is relatively inaccessible in most jurisdictions, with some exceptions. The most substantial available public reporting is for Louisiana's Musical and Theatrical Production Income Tax Credit Program, for which the program administrators are required to file an economic and fiscal impact report every two years (see Table 20 below).[45]

Table 20: 2019-2022 Summary, Economic and Fiscal Impact of Live Performance Production Program, Louisiana Entertainment[46] (USD)

Performance Metric	2019	2020	2021	2022
Eligible Production Spending	$16,054,753	$12,045,995	$10,852,086	$4,735,860
Tax Credits Certified	$3,214,714	$2,463,736	$2,222,466	$986,038
In-State Spending Generated	$30,276,482	$22,786,799	$20,945,872	$9,105,540
Tax Credit Multiplier on Spending (spending per dollar in credits issued)	$9.42	$9.25	$9.42	$9.23
Resident Earnings Generated	$11,014,078	$12,295,541	$11,014,195	$5,082,598

[43] This point invokes Richard Florida's *The Rise of the Creative Class*, Charles Landry's *The Creative City*, and a litany of derivative academic and industry research that has supported the association between the arts and urban economic development.

[44] Arts In The Loop Economic Impact Study – Chicago Loop Alliance

[45] Source: Interview with Chris Stelly, Louisiana Economic Development

[46] Economic and Fiscal Impact: Live Performance Production Program, FY 2021-2022 – Louisiana Entertainment; Economic and Fiscal Impact: Live Performance Production Program, FY 2019-2020 – Louisiana Entertainment

Performance Metric	2019	2020	2021	2022
Tax Credit Multiplier on Resident Earnings (earnings per dollar in credits issued)	$3.43	$4.99	$4.96	$5.15
FTEs Supported	414	456	394	181
New State & Local Tax Revenue	$1,609,844	$1,542,808	$1,420,460	$659,369
Rate Of Return (% of tax credit dollars earned back in tax revenue)	50%	63%	64%	67%

For every dollar of credits certified in 2022, the State of Louisiana saw US$9.23 in new spending and US$5.15 in earnings for Louisiana residents. Over four years, Louisiana Entertainment's program evaluation shows some year-over-year fluctuation in gross figures depending on the number of tax credits approved each year, but these **tax credit multipliers on spending and earnings remain relatively consistent**; the program generally retains its efficacy across the scales represented in this data. Though there is a US$10 million annual cap on tax credits issued, none of the years between 2019 and 2022 even reached one third of that amount.

Moving beyond Louisiana, some other jurisdictions do provide some brief annual financial reporting, though without broader economic impact estimates. Illinois is one such jurisdiction: in the 2022 fiscal year, the Live Theatre Production Tax Credit brought US$19.4 million in live theatre production spending to Illinois, representing 942 direct jobs (not FTEs, as many jobs are short-term assignments), 44% of which were filled by women and non-white workers.[47] New York State publishes a similarly brief annual program report for the Empire State Musical and Theatrical Production Tax Credit; for 2022, the state received three new tax credit applications for an estimated US$7.4 million in qualifying expenditures, 367 hires and US$1.9 million in tax credits.[48] By comparison, 2021 saw five new tax credit applications for an estimated US$11 million in qualifying expenditures, 557 hires, and US$2.7 million in tax credits.[49] Finally, the UK reports annually on statistics for their slate of creative industries incentives: in the 2021-22 financial year, 725 claims were made totaling £55 million in relief.[50] A full 37% of all claims were made for £10,000 or less, which is made possible by the UK's choice not to impose a minimum project cost. Claims over £250,000 represented only 9% of all claimants, but 59% of the total relief paid out.

6.3.17 Risks

While the possible impacts of the tax credit can provide many positive changes to the live performing arts industry and the improvement of economic conditions in a jurisdiction, there are several risks that may appear from the development and implementation of the tax credit that are useful to identify and understand when considering a tax credit for Ontario.

The risks described here also include the effects of other entertainment tax credits that share similar mechanisms as live performing arts tax credits. While the inclusion of other entertainment tax credits

[47] Illinois Live Theater Tax Credit Annual Report FY2022: July 1, 2021 – June 30, 2022 – State of Illinois

[48] Musical And Theatrical Tax Credit – Annual Report Calendar Year 2021 – Empire State Development

[49] Musical And Theatrical Tax Credit – Annual Report Calendar Year 2022 – Empire State Development

[50] Creative industries statistics commentary: August 2023 – Government of the United Kingdom

is an expansion of the scope of the report, these tax credits offer some insight into similar risks that the establishment of an Ontario live performing arts tax credit may encounter. Such risks relate to different players in the equation – both the administering bodies and the organizations the tax credit is intended for.

For the administering bodies, the most crucial risk to the viability of a live performance tax credit program is the **presence of political will and appetite to prioritize its development and budgetary allocation**. Implementation can involve a rigorous, years-long process to determine the legislation and mechanisms of the program. And even after the program is established, it can be at continual **risk of being eliminated due to budgetary constraints**. In the case of Georgia's now-repealed tax credit, the program was the victim of bad budgetary timing as it came forward for reauthorization just as a new legislative committee was set to undertake a cost-benefit review of all state tax credits, which undermined the legislative appetite for immediate renewal.[51] Furthermore, the short-term demands that arise through the budgetary process can also put pressure on legislators to reduce the scope of tax credit programs – as happened in Louisiana in 2015[52] – which can then diminish the impact of the program. It is incumbent upon program administrators to regularly collect and share program data that supports advocacy efforts for these tax credits in terms of their broader economic benefits.

A risk for organizations that the tax credit is intended for is **the types of productions and costs that may be allowed to receive the incentive**. The tax credit ultimately may not be able to cater to every company in the live performing arts industry. Some companies might not spend enough to reach the minimum tax credit, not-for-profits can be challenged when navigating through a different funding system,[53] or live shows that do not meet the production type requirements. Additionally, some organizations may start changing their productions to fit the requirements.

In other entertainment tax credit programs, there are also concerns for organizations that bigger production companies will take priority over smaller ones.[54] While it is important to understand how the tax credit will benefit the intended organizations, administering bodies should consider the risk that **broader inclusion of the tax credit may lead to misuse and misappropriation of the tax program.** One example is the Ontario Interactive Digital Media Tax Credit (OIDMTC). In this case, the broad description of what "interactive digital media" is allowed other industries to utilize the tax credit outside of its intended use and target industry.[55] The exclusions eventually become more pronounced later, but not before non-related organizations took advantage of it.

Relating to the OIDMTC case, another risk of the implementation of the tax credit for administering bodies is that it might take years for them to see the full use-case and impacts of the tax credit in their jurisdictions. In the case of OIDMTC, it took years for the people in charge to understand how the program might be abused. The risk around time was reinforced through discussions with Louisiana Economic Development, where it was noted that the shift in the tax credit budget or the percentage of incentive could not be seen until five to six years down the line.[56] As jurisdictions take a while to

[51] https://flagpole.com/news/news-features/2023/05/01/georgia-lawmakers-turn-down-the-volume-on-incentives-for-the-music-business/

[52] Source: Interview with Chris Stelly, Louisiana Economic Development

[53] Source: Interview with Chris Stelly, Louisiana Economic Development

[54] https://medium.com/@jacobparry/vancouver-video-gamers-fear-end-of-tax-break-19f19a8b5d91

[55] https://www.theglobeandmail.com/technology/review-spurs-debate-about-ontario-video-game-tax-credit/article23255263/

[56] Source: Interview with Chris Stelly, Louisiana Economic Development

feel the effects of these changes, the public and legislators may not even see any substantial impacts of the tax credit, which leads back to the first risk discussed in this section, the decrease of political will to continue this tax credit.

Another risk associated with the implementation of a tax credit, impacting the organizations involved, is the **payment schedule of the program to a production firm**. The mechanism to process the payment to reimburse a production firm can add to more financial insecurity for production companies interested in the tax credit program. These delays in payment schedules can become detrimental towards the performers, setting crews, and other talents. The uncertainty caused by the delay may prevent production companies from planning more accurate production and payment schedules for their casts and crews. Delays in payment schedules can further dissuade production companies from establishing permanent positions in a tax credit's jurisdiction.

6.3.18 Preliminary Key Takeaways

The review of tax credit models from various jurisdictions reveals several key takeaways and general learnings to inform the development of a potential live performing arts tax credit for Ontario. Note that as interviews are still ongoing, key takeaways will continue to be refined as this research proceeds. Overall, research to date reveals that:

- **The types of productions targeted appear to be context dependent.** Jurisdictions in and around New York have credits specifically targeting pre-Broadway runs and post-Broadway tours (namely in the New England area, NYC, NY state, Maryland). The jurisdictions that are further from this area are much broader and encompass Broadway-adjacent shows alongside major music tours, circus shows, comedy shows, etc. (e.g., Quebec, France, Louisiana, Georgia). The Louisiana credit focuses on major tours (Broadway not specifically mentioned in this case).
- **There is wide variability as to how productions are defined.** For example, "pre-Broadway", "touring productions" and even "long-run" are defined differently for different tax credits. As such, clear language and definitions are an important aspect of designing a credit. Some distinctions observed include:
    - In Rhode Island, a "pre-Broadway" production must have a Broadway show scheduled within 36 months, whereas in Connecticut, "pre-Broadway" means a production is scheduled for Broadway within 12 months. In Maryland, "pre-Broadway" productions need to have at least eight public performances, with no significant prior performances within the preceding five years. In Illinois, a "pre-Broadway" run must be scheduled for Broadway performances within 12 months.
    - In Maryland, a "touring production" require a minimum of two public performances in state, and four weeks of shows in at least four cities out of state afterwards. In New York state, a "touring production" is minimum eight shows in three separate localities. In the UK, in order to qualify as "touring", productions must either perform at a minimum of six distinct venues during the production phase, or else present at least 14 performances across at least two separate premises.
    - In Illinois, "long-run productions" are more than eight weeks (at least six performances per week), whereas in Ohio "long-run" is minimum five weeks, six shows per week.
- **Tax credits can be designed to include broader impacts.** For example, by requiring certain standards be met regarding internal DEI policies (see: New York City and Illinois), by creating a mechanism for successful productions to give back through cultural funding and low-income ticketing (see: New York City), or by increasing benefits for spending in less-developed areas (see: Illinois and Georgia).

- **The majority of tax credits are focused on driving large scale production.** This notion is supported by:
    - Minimum seating requirements for qualified theatres. When present, these requirements are typically in the 1000-seat range. In the majority of cases, smaller-scale productions are not eligible for this credit.
    - In New York City, the incentive is more generous for Broadway vs. off-Broadway.
    - Minimum project costs, with ~CA$140,000 being the most common figure (Illinois, Louisiana, Maryland, Rhode Island) supports the notion that the credit is not designed for smaller-scale shows.
- **Some of the older tax credits were introduced as novel policy for general competitive positioning** (e.g., Illinois, Rhode Island), but several others derive policy justification in terms of being reactive to other states with tax credits to whom they are losing business (especially NY State and Connecticut).
- Some tax credit programs were **developed in response to crises** (e.g., Louisiana's in response to Hurricane Katrina). That they have continued long after is indicative of their ongoing impact.
- **Some jurisdictions allow credits to be transferred, assigned or sold** (e.g., Rhode Island).
- **Many jurisdictions follow similar regulations and requirements as their film and television tax credits legislations**. Many expenditures include not just the labour costs, but other production expenditures. Quebec is the only jurisdiction that restricts qualifying expenditures strictly to labour costs.

6.4 OAC As Potential Administrator (Phase 3 Report)

6.4.1 Introduction

Ontario Arts Council (OAC) has identified a need for stronger incentives to bolster economic activity in the performing arts sector. The organization has taken on a leadership role by driving the development of foundational research into what a performing arts tax credit in Ontario could look like, considering both the local not-for-profit arts community and the potential to attract commercial investment.

If Ontario was to introduce a tax credit program for the performing arts, there are several different administering models the Ontario government could consider, including through OAC. This report provides a foundational assessment for OAC, to consider its current position to pursue an administering role for a potential performing arts tax credit.

Included within this report is summary of administering models for comparable programs in other jurisdictions, a high-level assessment of potential administering bodies in Ontario, an outline of the steps involved with annualized tax credit administration (including requisite staffing levels), and an evaluation of OAC's current capacities and the potential organizational risks and benefits associated with administering the notional tax credit model detailed in the companion research report.

6.4.2 Administration Models

A review of existing live performance tax credits revealed that there are essentially three administration models. These credits are either administered through:

- A Government Department of Finance, Commerce or Revenue;
- An Economic Development Department or Agency; or,
- An Arts and Culture Department or Agency.

Table 21: Existing Live Performing Arts Tax Credits - Grouped by Administration Model

Finance Department	Economic Development Department/Agency	Arts and Culture Department/Agency
Illinois (Department of Commerce)	**New York State** (Empire State Development)	**France** (Ministry of Culture)
Maryland (Department of Commerce)	**New York City** (Empire State Development)	**Quebec** (SODEC – Society for the Development of Cultural Enterprises)
Georgia (Department of Revenue)	**Ohio** (Department of Development – Film Office)	**Rhode Island** (Rhode Island State Council on the Arts – Film and Television Office)
United Kingdom (His Majesty's Revenue and Customs)	**Connecticut** (Department of Economic and Community Development)	
	Louisiana (Louisiana Entertainment – Louisiana Economic Development)	

Each current performing arts tax credit jurisdiction has followed a somewhat different path as to how and by whom their tax credit is administered, often corresponding with the governmental actor(s) and/or the rationale that drove the development process. For example, the individual who brough forward the UK's Theatre Tax Relief program in 2014 was the Chancellor of the Exchequer, George Osborne, reacting to the impact of the West End's long-running production of War Horse.[57] The Chancellor directly oversees His Majesty's Revenue and Customs (HMRC), which is the government department that would ultimately develop and administer the program – even though the UK's film and video game tax relief programs are administered elsewhere.

The live production tax credit programs in Ohio and Rhode Island came about as expansions to their pre-existing film and television tax credit programs, and as such these programs are housed within their states' respective film offices. In Ohio, the live performance incentive and the film incentive even share a budget cap. Meanwhile, Louisiana's Live Performance Production Incentive Program was introduced to spur economic recovery and redevelopment efforts after Hurricane Katrina. The stated program aim was more geared toward attracting major touring musical and theatrical production to the state and less about nurturing the local arts sector. Correspondingly, Louisiana Economic Development became the program administrator rather than the Department of Culture, Recreation and Tourism or Louisiana State Arts Council.[58]

[57] Interviews with UK HMRC Staff: November 22, 2023 and June 11, 2024.

[58] Interviews with Executive Director, Louisiana Entertainment: October 30, 2023 and June 12, 2024

With these examples in mind, there is no single "right" way to administer a tax credit. Comparable tax credit programs have come about organically and taken many different forms. There is no set pattern seen across the variety of jurisdictions, other than that it is often the department or agency that starts the conversation becoming the one to administer it. OAC's role in driving initial conversations and exploratory research into a live performing arts tax credit could work to the organization's benefit if it wishes to position itself as potential administering body.

6.4.3 Potential Administering Bodies for Ontario

Any one of the three administering models outlined above could be considered for Ontario, each with its own advantages and disadvantages.

Finance Department (e.g., Ontario's Ministry of Finance)

- *Expertise with the tax system and various tax credits;*
- *Rigorous compliance standards;*
- *Limited functional knowledge and relationships with the performing arts sector.*

A department of finance (or revenue, commerce, etc.) is generally filled with finance and taxation experts, and as such is going to be **well equipped to deal with the mechanics of a tax credit program from a tax perspective**. They are exposed to all economic sectors, they are used to helping companies navigate the tax system, and they know how to ensure compliance and detect errors and fraud. Given that they tend to deal with a company's entire tax return, they may also be best positioned to consider the larger financial picture for those companies, such as other tax credits, deferrals or additional financial incentives for which a company could be eligible.

However, a typical department of finance is **unlikely to have experience with the creative industries**, nor would they have working relationships with the performing arts communities within their respective jurisdictions. They will likely lack staff with knowledge of what a typical performing arts production looks like, and an inherent sense of the risk factors associated with different types of productions. Without existing relationships with the performing arts industry, they may not know how to best tweak the program from year to year based on industry feedback. And though detecting cases of fraud is an essential component of a robust review process, an over-emphasis on the detection of fraud could distract from the overarching policy goal of the tax credit program, which is to disperse money to incentivize production.

In Ontario, the equivalent governmental body would be **Ontario's Ministry of Finance**. The Ministry employs many accountants and public finance specialist, and they operate the ONT-TAXS online tax portal for businesses. From a financial management perspective, the Ministry's staffing and infrastructure could meet the needs of the proposed program. However, the mechanics of managing Ontarians' tax returns and tax incentive programs generally falls to the CRA. The Ministry does offer tax credits for businesses, such as the Ontario Innovation Tax Credit and the Ontario Made Manufacturing Investment Tax Credit but those tax credits are administered by the CRA on behalf of Ontario. The value that comes with a finance department's closeness to the tax system and the administration of tax credits is therefore somewhat blunted in an Ontario context. The Ministry also lacks any notable expertise or relationships with the performing arts industry in Ontario, which could hamper program uptake – particularly for smaller not-for-profit organizations that may not be used to working closely with the Ministry of Finance or government finance personnel.

Economic Development Department/Agency (e.g., Ontario Creates)

- *Fluency with economic incentives;*
- *Established trust with government counterparts in finance or revenue;*
- *Not deeply ingrained in not-for-profit or live performing arts sectors.*

Many jurisdictions, including Ontario, have housed their creative industries tax credits either within their respective departments of economic development, or within economic development agencies that have been purpose-built to support the creative industries. If the primary goal of a performing arts tax credit program is to generate economic activity by inducing spending on performing arts production, then it makes sense for an entity with economic development experience to have a hand in that work. **Fluency with economic incentives** is fundamental to what economic development entities do, and a tax credit for the performing arts is an incentive – not a subsidy or a grant.

Part of administering an incentive in the creative industries is selling the merits of your jurisdiction to external parties – something else that most economic development entities are experienced at doing. Furthermore, an economic development entity that already offers tax incentives is likely to have **established some trust with their government counterparts in finance or revenue** that their mechanisms of control are rigorous and efficient.

Several of the programs administered by economic development entities, such as those in Connecticut and Ohio, focus predominantly on attracting major productions and investment from outside their jurisdictions. Louisiana's incentive program caters to local not-for-profit organizations as well as out-of-state major commercial entities, but the primary motivation for the program's development was to attract those major commercial entities. The inclusion of Louisiana's not-for-profit performing arts sector was secondary, in recognition of their strong case to the legislature that their work contributes to the live production ecosystem.[59]

In Ontario, the closest equivalent governmental body would be **Ontario Creates**, with a mandate "to be the catalyst for economic development… in Ontario's creative industries."[60] Ontario Creates has demonstrated that it has the requisite knowledge and expertise to administer tax credits for the creative industries; it currently administers five tax credit programs for film and television, book publishing, production services, computer animation and special effects, and interactive digital media. The organization is not, however, deeply integrated within the performing arts industry through their programming. The Ontario Music Investment Fund is the closest performing arts overlap in Ontario Creates' current program offerings, and it does not run any programs that directly target the theatre, dance, opera, orchestra, circus or live comedy sectors. Ontario Creates' current slate of tax incentives does not currently cater to not-for-profit organizations.

Arts and Culture Department/Agency (e.g., Ontario Arts Council)

- *Mandates to support arts organizations, including Not-For-Profit organizations;*
- *Relationships with the live performing arts sector;*
- *Functional knowledge of how live performing arts production works;*
- *Limited overlap with commercial arts sector;*
- *Not typically experienced with tax incentives.*

In some cases, government entities responsible for arts and cultural development have been charged with administering tax incentives. **Their mandate would broadly align with the policy outcomes of a performing arts tax credit** (to support the sustainability of live performing artists and arts organizations). In general, an arts and culture entity is likely to be the governmental body that best

[59] Interview with Executive Director, Louisiana Entertainment: June 12, 2024

[60] Ontario Creates – About Us.

understands how the performing arts sector works, which is crucial to the success of a tax credit program for the performing arts.

Though administering an incentive program may seem to conform more naturally to the mandate of an economic development entity, arts development IS economic development when it is concerned with the growth of a vibrant local arts and cultural sector. There can be an overlap here in arts and cultural development and economic development that may make either type of entity, or both, the appropriate administering body for a performing arts tax credit. The separation of these two policy lanes is not absolute in other jurisdictions. Whereas Quebec's tax credit program is aimed inward to support the development of Quebec-based performing artists, requiring applicants to be Quebec-based and meet Quebec content requirements, Rhode Island's program – administered through their State Council for the Arts – is predominantly concerned with looking outward to attracting national theatre tours to launch in the state.

In Ontario, the equivalent government entity would be the **Ontario Arts Council** (OAC). By way of their current grant programming for disciplines such as theatre, music and dance, OAC is actively engaged in supporting the very organizations that would be the target of a proposed performing arts tax credit in the province. OAC is heavily involved in the administration of grants and subsidies for the arts, and through that experience the organization has built trusting relationships with many key stakeholders in the performing arts community. The organization does not, however, currently administer any incentive programs. Though OAC's program officers have a high level of functional knowledge of the performing arts sector, the team currently lacks practical experience with tax credits.

In summary, given the three options assessed above, on balance an Arts and Culture Department or Agency would be the best option to deliver the notional tax credit model outlined in the companion report. In Ontario, this means that Ontario Arts Council would be the best positioned administering body. Tax credit expertise can be learned and/or hired, but OAC's organizational reputation and familiarity with the performing arts sector are hard earned over years of working on-the-ground with the community. This, combined with OAC's existing program administration experience and infrastructure and its desire to initiate this work, make it a prime candidate to administer the proposed program.

6.4.4 Assessing OAC as Potential Tax Credit Administrator

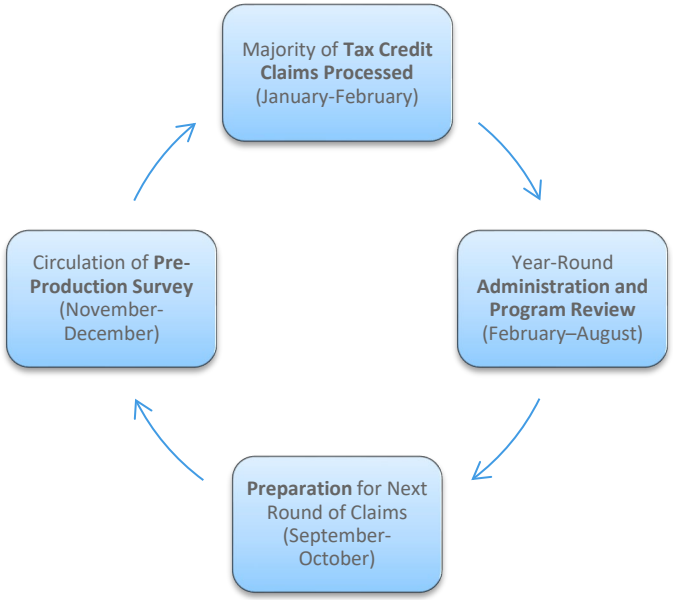
OAC is well-positioned to respond to certain requirements for the administration of a performing arts tax credit. Though OAC does not currently administer any tax credit programs, the organization would bring to a new program their unique value proposition as a governmental body that enjoys longstanding ties to Ontario's performing arts organizations and companies.

To more fully assess the suitability of Ontario Arts Council to be the administering body of a performing arts tax credit, there are a few areas to understand:

- The Annual Tax Administration Process; and,
- The Requisite Staff to administer a tax credit.

6.4.4.1. The Annual Administration Cycle

As the notional tax credit (as currently designed) would use annual filings following a standard filing process, the process to administer the tax credit can be broken down cyclically. Though the parameters of this cycle may vary somewhat based on year-to-year applicant behaviour – particularly in the first few years while the tax credit program is still relatively new and unfamiliar – the administrative process can generally be expected to conform to the cycle illustrated below:



Majority of Tax Credit Claims Processed (January-February):

Under an annual filing schedule, most applicants can be expected to file their tax credit claim in January for expenses incurred in the preceding year. Early filing will give applicants quickest access to their tax credit. The administering body has an interest in dispersing tax credits as quickly as possible to enable applicant companies and organizations to reinvest those funds into their succeeding year of programming, which would complement the policy goals of the proposed program.

This period of high filing volume would correspondingly require the highest volume of accounting labour on the part of the administering body, as accountants would need to churn through applications and certify tax credits for eventual issuance by the Canada Revenue Agency (CRA).

Whereas year-round staffing can remain relatively lean, it will be incumbent upon the administering body to staff up annually with accounting capacity according to their expected demand. This "staffing up" could be managed by retaining external accounting services on an intermittent basis.

Year-Round Administration and Program Review (February-August):

Once the peak application season has ended and the bulk of tax credit applications have been processed, program staff can turn to reviewing the program itself. This period will allow for staff to assess the efficacy of the program in the preceding year and make any changes that will be necessary for ongoing program health. Areas of review might include: tweaking definitions for what constitutes a qualifying performing arts activity, refining the "hand-off" process with the CRA, refining communications processes with the community, or streamlining the application process.

At this point most accountants need not be retained, though the administering body should plan to maintain a small level of accounting capacity outside of peak season to collect any filings that are not submitted in January. Though most applicants can be expected to file in January, some may miss that window and file at other times throughout the year.

Preparation for Next Round of Claims (September-October):

In the early fall, the administering body should begin planning and preparing for another year of tax credit claims. During this period, the administering body should communicate any program changes to the performing arts community and be prepared to answer clarifying questions. They may consider

holding an annual workshop for new and returning applicants to walk them through the claim process.

During this time, the administering body should also begin preparing the dissemination of a pre-production survey, detailed below.

Pre-Production Survey (November-December)

In November of each year, the administrating body should circulate a pre-production survey to understand who intends to produce qualifying performing arts activities in the next calendar year, and what those activities will entail. The pre-production survey is a two-way street, serving a key function for both the producer and the administering body. It gives certainty to producers that the administering body has reviewed their planned production activities and given a preliminary go-ahead that their labour expenditures would qualify, and it allows the administering body to plan for the volume of claims they can expect see and the requisite accounting capacity to process those claims (please see section 6.4.7 (Appendix 1: Additional Details on Pre-Production Survey) for more details on the pre-production survey).

6.4.4.2. Staff Needed to Administer Tax Credit

The tax credit administration process described above could be administered with three layers of staff: a Program Director, a Claims Coordinator, and a flexible number of accountants based on annual program demand. The breakdown of these staff and their respective roles follows:

Program Director

The Program Director would be the titular head of the tax credit program and should represent a year-round senior position at the administering body. This individual would be responsible for the overall health and administration of the program. They would lead efforts to build awareness for the program, liaise with the community, resolve any conflicts in the interpretation of the program guidelines, and ensure internal consistency of message and approach. They would also be charged with identifying and resolving edge cases, which will take up a disproportionate amount of administrative time. Because of their key role in determining whether or not a given application is valid (i.e., sufficiently conforms to the intent and/or guidelines of the program), the Program Director must have the trust of the community that they are qualified to be making those kinds of decisions.

Claims Coordinator

The Claims Coordinator would be another year-round position, reporting to the Program Director. This individual would be responsible for implementing the guidelines set by the Program Director, and for ensuring that claims are processed smoothly in accordance with those guidelines. They would functionally be the 'chief accountant organizer' and would be in charge of building the accounting team according to requisite demand and liaising with internal resources. This individual does not need to be an accountant themselves, but they should at least have a functional knowledge of the accounting process.

Accountants

The work of processing tax credit applications would be performed by a team of accountants. These accountants would be responsible for formally ensuring that each application is completed and meets the program guidelines. They would then be responsible for certifying tax credits for issuance by the CRA.

As most applications on an annual filing basis can be expected in January, for efficiency's sake the administrating body should be prepared to "staff up" with accountants for this peak season, rather than keeping the requisite number of accountants on staff year-round. The administering body might consider hiring an external accounting firm for peak season, or if possible, sharing accounting

capacity with partner organizations and/or leaning on existing internal capacity. The claims coordinator would assess the requisite demand for accountants according to the corresponding pre-production survey; this demand would scale up according to number of applications, not amount of money dispersed.

Though most annual filings can be expected in January, the administering body should retain a low level of accounting capacity to collect filings that come at other parts of the year. This might loosely be assumed to represent 1/2 FTE annually. See section 6.4.8 (Appendix 2: Additional Tax Credit Design Considerations) for additional program design considerations that may have impacts on staffing requirements.

6.4.4.3. OAC's Current Organizational Capacity

OAC's current capacity to undertake the aforementioned process and to meet the staffing requirements can be assessed as follows:

Pros

- **Knowledge of Industry**: OAC employs program officers for each of the arts sectors in which it works that are specialists in their respective disciplines. In several cases, these individuals have previously served in leadership positions within their respective communities. As such **OAC can leverage their functional knowledge** of how the various performing arts disciplines work. OAC's team has fluency with what typical productions look like and the risk factors associated with performing arts production and could be particularly nimble and proactive in the way in which they deal with and/or advise on applications – particularly with the "edge cases" that may not neatly align with program guidelines.
- **Relationships with Community**: As a consequence of their staff's integration and experience with the organizations and companies that make up Ontario's performing arts sector, OAC has their ear to the ground as it relates to community needs. OAC has built a **strong reputation of trust and reliability** with their user organizations through their existing programming, and would be well-positioned to create initial buy-in for a new tax credit program – particularly amongst not-for-profit stakeholders that may not deal closely with other incentive administering bodies. As such, OAC would be well-equipped to administer a tax credit program in a way that benefits the arts community, and to tweak the program on a year-to-year basis based on community feedback and industry developments.
- **Existing Digital Infrastructure**: OAC has a proven track record of internal adaptability with the introduction of their grant management system. The organization's existing online portal for tracking applicant information and grant processing could be expanded upon, with functionality added to manage tax credit applications and pre-production surveys, as well as tracking all types of funding an applicant receives. OAC could also add new program information and marketing materials online for potential applicants to review without much trouble.

Cons

- **Current Staffing**: While OAC's current staffing within its Granting department would be able to leverage their existing relationships to support the program, OAC would likely have to hire for the two new dedicated roles described in section 6.4.4.2. (Staff Needed to Administer Tax Credit): a Program Director and a Claims Coordinator. These roles – particularly that of the Program Director – would be best filled by somebody with some applied knowledge of tax credits. Information could be gathered from and disseminated to the specific sector officers so that they can answer basic questions about the program, but ultimately the dedicated program staff should be the central hub for community inquiries. OAC would also need to outsource accounting capacity for peak claims season, though the existing three-person

team under the Manager of Finance, Risk & Compliance would likely be able to handle the off-peak accounting needs of an annualized tax credit. Based on OAC's recent experience with administering emergent programs during the COVID-19 pandemic, it can be reasonably assumed that any new program would come with additional funding from the Ontario government to build out the necessary capacity to administer that program.

- **Knowledge of Tax Credits**: While OAC is experienced at administering grants, the organization does not currently have staff with applied knowledge of how tax credits work, what their strengths and limitations are as a policy tool, and how they differ from grants and subsidies. Any new hiring should take this need into account to ensure efficient program administration with realistic goals. Though applicants will be responsible for their own accounting, and there would be an eventual handoff to the CRA for tax credit issuance, it is incumbent upon the administering body not to add additional reporting steps for the applicant on account of a lack of internal expertise.

OAC brings the knowledge and relationships with the sector, which take much longer to develop. The tax credit knowledge and staffing gaps indicated can be resolved through strategic hiring and short-term contract positions. As such, the gaps in current capacity are certainly solvable and thus the pros of OAC administering the tax credit appear to outweigh the cons.

6.4.5 Risks and Benefits of OAC as Administrator

While the introduction of a performing arts tax credit program administered by OAC could be transformational for the Ontario performing arts sector, the opportunity to administer a tax credit program could likewise be transformational for OAC. While the organization could benefit from adding a tax credit to their portfolio of programs, there are inherent risks with expanding the organization's programming outside of its current slate of offerings. Benefits and risks to the organization are considered below:

Risk and Benefits Assessment of OAC as Potential Tax Credit Administrator		
Widened Mandate	**Summary:** By taking on the administration of a tax credit program, OAC would functionally be expanding its own mandate beyond its current scope and into commercial arts and economic incentives.	
	Benefits: A move into the economic incentive space would diversify the organization's breadth of activities and make it a more central player in the performing arts ecosystem in Ontario. This move could contribute to OAC's overall growth and influence, helping to ensure ongoing organizational stability by adding to its portfolio of responsibilities.	**Associated Risks:** This move would also raise questions about what an Arts Council's role in Canadian cultural development should be. OAC would have to be prepared to consider and discuss the degree to which Arts Councils should or should not be in the business of supporting commercial work. Likewise, OAC would have to contend with the ways in which its core mandate of growing the not-for-profit arts sector could be skewed by the introduction of incentive-based programming.
User Base Growth	**Summary:** With a renewed mandate that is widened to include tax incentives, OAC would be adding to the number and type of organizations and companies that it engages with through its programming.	
	Benefits: This move would place commercial and for-profit performing arts entities under the umbrella of OAC's user base, expanding its organizational reach and influence. Stakeholders would largely still be Ontario-based, but depending on program design OAC may also see new	**Associated Risks:** An expanded reach could introduce some reputational risk among OAC's current not-for-profit user base, and the organization would need to be careful not to alienate that base when making a move into the commercial space. This risk is particularly acute for the smaller performing arts

Risk and Benefits Assessment of OAC as Potential Tax Credit Administrator		
	opportunities to begin working with production entities from outside the province.	organizations that may not meet the proposed program's minimum spending level. OAC would need to communicate clearly and transparently about the goals and target users of a tax credit program, and to reassure its current user base that existing funding streams would remain stable.
More Funds	**Summary:** Administering a new tax credit program would likely precipitate a significant jump in the amount of funds OAC would be tasked with managing. Under the notional tax credit model outlined for this project, the magnitude of this jump could be several times higher than the ~$57 million that OAC currently disperses through grants, outsizing that sum into the hundreds of millions of dollars.	
	Benefits: The jump in funding could support OAC in scaling up its operation. OAC experienced something similar when it was tasked with administering new temporary programming by the Ontario Government during the COVID-19 pandemic.	**Associated Risks:** An increase in the sum of funding for which OAC is responsible could expose the organization to substantial new risks, inasmuch as more money means more liability.
Signature Program	**Summary:** A major new performing arts tax credit program for Ontario would be the first of its kind in English Canada. As such, it could quickly become a "signature program" for OAC, especially considering the organization's active role in advancing early program research and development.	
	Benefits: A "signature program" could benefit OAC reputationally in the same ways as a widened mandate: by further centring the organization's place within the performing arts sector, and by expanding its user base and reach.	**Associated Risks:** It would be incumbent on OAC to ensure that its user base understands the program to be additive rather than replacing any existing streams of funding.

Overall, there is **risk potential if the performing arts tax credit were to be administered by another organization**. As discussed in section 6.4.3 (Potential Administering Bodies for Ontario) of this report, OAC brings to the table a fluency with Ontario's performing arts sector that other potential administering bodies do not, and as such is uniquely positioned to administer a tax credit program that best supports the local sector. There is some risk that in the hands of another potential administering body, a tax credit program could be less effective at delivering that support. For example, OAC's vision to capture not-for-profit organizations within a performing arts tax credit program is not one that is reflected in the majority of other comparable programs around the world, and may not be reflected in an alternate program design for Ontario. OAC's active hand in administering and refining a performing arts tax credit would better ensure that the benefits of the program accrue to the community that OAC serves.

6.4.6 Conclusion

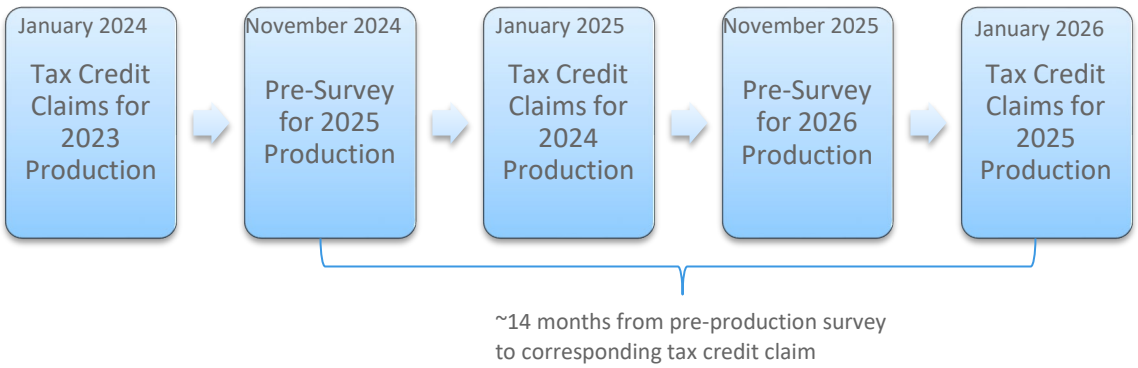
This report supports the notion of Ontario Arts Council pursuing the role of program administrator for a potential live performing arts tax credit in Ontario. Given its relationships with the performing arts community, its functional knowledge of how performing arts work, its existing administrative capacity, and its role in advancing this preliminary research, **OAC would be a natural fit to serve as administering body.**

Though there are risks inherent to OAC extending itself into new program areas and widening its reach, those **risks are outweighed by the benefits** of such a move – both for the success of the program and for OAC as an organization. OAC's current capacity to administer a tax credit program is limited predominantly by staffing and tax credit knowledge gaps, but the strengths that it would bring to the program (such as sector knowledge, reputation, infrastructure) are similarly essential to its success.

Ultimately, there is no single "right" way to build and administer a performing arts tax credit for Ontario, and there is **no foundational reason why it should not be OAC to do it**. Government agencies routinely undertake new initiatives to meet evolving community needs, and administering tax credits is no exception. By leveraging its existing strengths and addressing potential challenges head-on, Ontario Arts Council could stand poised to not only administer but also champion a performing arts tax credit that truly serves the community.

6.4.7 Appendix 1: Additional Details on Pre-Production Survey

The suggested pre-production survey would be related to production activity planned for the following year. It would not capture performing arts activities for the year in which it is circulated; those production activities will have been communicated in the previous year's survey. For example, a pre-production survey circulated in November 2024 would seek to understand what companies will be doing in 2025. In January of 2025, claims will be received for expenses incurred in 2024. In this scenario, the planned 2025 production activities captured in the November 2024 pre-production survey, would not be processed as tax credit claims until 2026. In essence, the pre-production survey in November of a given year looks ahead to the following year, whereas the tax credit claims received in January onward look backward to the preceding year. The figure below illustrates this process:



For the administrator, the pre-production survey serves a triage function, separating repeat annual applications from new applications that may require more extensive staff review. The survey will also help to identify "edge cases," or planned production activities that may not neatly confirm to the typical guidelines of the program. It is important for the administrating body to catch these edge cases at the pre-production survey phase so that they can assess those planned activities and communicate with the applicant before any production budget is spent.

Non-completion of a pre-production survey should not exclude a company or organization from filing a tax credit claim for that year, but they would be doing so having not reviewed their planned production activities with the program administrator to confirm that they will qualify.

6.4.8 Appendix 2: Additional Tax Credit Design Considerations

When designing the optimal delivery system for the tax credit program, the administering body might also consider the following areas (which could also impact the staffing and capacity needs):

- **Tourism Data**: alongside the requisite information for tax credit eligibility, the administering body might consider ensuring that companies are collecting and sharing output data that will help to quantify the tourism impact of their production activities. Information to be collected could include: number of unique visitors, visitor type (origin, age, frequency of visits, etc.), ticket type (e.g., for breakdown of ticket price by demographic), amount of money spent on-site (i.e., merch and bar sales), event-specific data, and feedback/reviews. When aggregated, this information could help the administering body to substantiate the wide-ranging benefits of the tax credit in any program updates to government.
- **Online Portal**: a consistent online portal by which applicants can fill out their pre-production survey and submit their tax credit claims could help to streamline the process for both applicants and the administering body. For example, a function whereby repeat applicants can auto-load their previous years' information would reduce the burden on those applicants, which could be particularly important for lean not-for-profit organizations.
- **Securitization**: the administering body may be asked by prospective applicants whether they can issue a certificate, or securitized bank note, in advance of a given production year, against which the applicant could borrow money. This report **does not recommend** such an approach. While the proposed pre-production survey would serve to give applicants some level of certainty about the eligibility of their planned production expenditures, it is ultimately meant to be an internal planning tool for the administering body. Securitization is an area of business that would introduce a high level of risk for the administering body.