



**Empire State
Development**

NEW YORK STATE MUSICAL AND THEATRICAL TAX CREDIT PROGRAM GUIDELINES

PROGRAM PURPOSE

The New York State Musical and Theatrical Tax Credit Program is designed to increase the Musical and Theatrical industry presence in upstate New York and provide an overall positive impact on the State's economy.

PROGRAM OVERVIEW

The Musical and Theatrical Tax Credit Program provides incentives to qualified musical and theatrical production companies that are principally engaged in the production of a qualified musical or theatrical productions and performs in a qualified production facility and incur costs associated with the creation of these musical and theatrical productions.

AMOUNT OF CREDITS AVAILABLE

Program credits of \$4 million per year can be allocated and used to encourage companies to perform and conduct technical rehearsals and other pre-tour activities in Upstate New York to help stimulate the upstate economy. There are no per project caps for credits, and there is rollover in the annual \$4 million allocation going forward until 2019.

Qualified companies may be eligible to receive a fully refundable credit of 25 percent of certain production, labor and transportation expenditures directly and predominantly related to the technical period at a qualified facility in Upstate New York.

Expenses associated with performing a show for a paying audience in a qualified production facility are eligible if the show in question has not been previously performed in any facility, other than a qualified production facility, subsequent to the completion of the technical period* in a qualified production facility.

ELIGIBILITY CRITERIA

The Program provides incentives for qualified production companies to conduct technical rehearsals and other pre-tour activities and perform shows in qualified production facilities throughout Upstate New York.

A qualified production facility is one that is located within New York State, is located outside of the city of New York, contains at least one stage, has a seating capacity of at least one thousand (1000) or more seats and dressing rooms, storage areas, and other ancillary amenities necessary for the qualified musical and theatrical production. Qualified facility ticket sale receipts must constitute seventy-five (75) percent or more of gross receipts of the facility and the facility is not a licensee, or affiliated with a licensee, of the NYS gaming commission under racing, pari-mutuel wagering and breeding law.

To be considered a qualified touring production, applicants must attest that the musical and theatrical production in question will be a live, dramatic stage production that, in its original or adaptive version, is performed in a qualified production facility and has begun or will begin a tour consisting of eight (8) or more shows in three (3) or more localities.

More specific eligibility requirements for the credits are outlined below. You may also wish to review Appendix A to these Program Guidelines for more complete definitions used in these Guidelines and for more detailed information about Program requirements.

QUALIFIED COSTS

Qualified production expenditures include any costs for tangible property used and services performed directly and predominantly in the production of a qualified musical and theatrical production within the state.

Eligible expenditures include:

- Pre-tour production costs for design, construction, and operation, including sets, special and visual effects, costumes, wardrobes, makeup, accessories and costs associated with sound, lighting, and staging.
- All salaries, wages, fees, per-diems and other compensation including related benefits for services performed. Total allowable expenses are not to exceed two hundred thousand dollars per week.
- Technical and crew production costs, such as expenditures for qualified production facilities, or any part thereof, props, make-up, wardrobe, costumes, equipment used for special effects, sound recording, set construction and lighting.

Expenses associated with performing a show for a paying audience in a qualified production facility are eligible if the show in question has not been previously performed in any facility, other than a qualified production facility, subsequent to the completion of the technical period in a qualified production facility.

A SCHEDULE OF QUALIFIED EXPENDITURES provides detailed information on specific costs that are eligible for the credit.

HOW TO APPLY

All application materials can be downloaded from

<http://esd.ny.gov/BusinessPrograms/MusicTheaterCredit.html>

Completed forms should be emailed to musictheatercredits@esd.ny.gov with the project title in the subject line of the email.

Applications must be submitted prior to commencement of the technical period of a qualified musical and theatrical production for which it seeks a tax credit.

APPLICATION MATERIALS

SCHEDULE OF QUALIFIED EXPENDITURES

The schedule indicates, line by line, whether a particular budget line item is or is not considered a qualified cost eligible for the calculation of thresholds and for the tax credit. The SUPPLEMENT TO THE SCHEDULE OF QUALIFIED EXPENDITURES provided additional information and clarification on qualified/nonqualified production expenditures. The SCHEDULE OF QUALIFIED EXPENDITURES and the SUPPLEMENT can be found at <http://esd.ny.gov/BusinessPrograms/MusicTheaterCredit.html>

This schedule is for reference purposes only. It is not a Form that has to be completed by an applicant. The expenses listed on the SCHEDULE should be used as a reference when completing the BUDGET COST QUALIFIER. Please note the comments provided on this Form alongside certain line items, or call or email the Department for further clarification at musictheatercredits@esd.ny.gov or (518) 292-5364.

BUDGET COST QUALIFIER

This form lists the qualified costs being considered for the project's tax credit. There is a standard template (MS Excel) for the BUDGET COST QUALIFIER and it must be submitted in this format (*not as a pdf*). The BUDGET COST QUALIFIER can be found at <http://esd.ny.gov/BusinessPrograms/MusicTheaterCredit.html>

WEEKLY PAYROLL REPORT

A **WEEKLY PAYROLL REPORT** is a template used to capture to weekly payroll expenses for the salaried employees, employed by the qualified touring production. There is a standard template (MS Excel) for this report. The Weekly Payroll Report can be found at <http://esd.ny.gov/BusinessPrograms/MusicTheaterCredit.html>

EMPLOYMENT REPORT

This form is required to document all the hours worked and wages paid to qualified employees who worked on a qualified musical or theatrical production in New York and whose wages are being counted toward the qualified expenses. There is a standard template (MS Excel) for this report. A final application must include an employment report from the qualified musical and theatrical production company capturing all cast, crew, loan outs, and contractors hired directly by the qualified musical and theatrical production company and a separate report from the qualified production facility capturing all direct hires and contractors who performed work as part of the qualified musical and theatrical production on behalf of the facility. The **EMPLOYMENT REPORT** can be found at <http://esd.ny.gov/BusinessPrograms/MusicTheaterCredit.html>

PRODUCTION BUDGET

The musical and theatrical **PRODUCTION BUDGET** shows how much money will be spent on the entire project. It involves the identification and estimation of cost items for each phase of production. The estimated budget is submitted as part of the initial application and the final budget is submitted along with the updated **BUDGET COST QUALIFIER** as part of the final application.

GENERAL LEDGER REPORTS

The **GENERAL LEDGER REPORT** represents the day to day accounting of production expenses and can be generated using a variety of software programs designed specifically for musical and theatrical production accounting.

The GENERAL LEDGER REPORT is required of applicants when the final application is submitted and consists of the complete general ledger and separate GL reports that correspond with the qualified cost columns indicated in the BUDGET COST QUALIFIER.

There is no standard template for this report but each report must include:

- The date the expense was incurred
- The vendor name or payee
- Budget code (and corresponding ESD budget code)
- The amount of the transaction
- Item description

The GL reports should be emailed as MS Excel files (*not as a pdf*) to the Musical and Theatrical Tax Credit Program at musictheatercredits@esd.ny.gov

SCHEDULE OF RETAINED ASSETS

A Schedule of Retained Assets is a template used to capture assets purchased over \$3000 that were not destroyed during the production of a qualified musical and theatrical production. Assets are to be discounted by ESD, when applied towards a tax credit based on straight line depreciation of retained theater assets valued over \$3000.

RECORD RETENTION

Each authorized and approved applicant must maintain records, in paper or electronic form, of any qualified production and/or post-production costs used to calculate its potential or actual benefit(s) under this program for a minimum of three years from the date of filing of the tax return on which the applicant claims the tax credit. The Department shall have the right to request such records upon reasonable notice.

FOIL DISCLOSURE

The New York State Department of Economic Development is subject to the New York State Freedom of Information Law ("FOIL"), which governs public access to the records of government agencies (see Public Officers Law sections 84 through 90).

You should be aware that some information submitted to the Department as part of any application to the Program becomes subject to legislatively mandated reports which will be made public, and that the Department will respond to requests for information. Please refer to Appendix A of the Program Guidelines for the specific information that must be disclosed.

SUMMARY

The NYS Musical and Theatrical Tax Credit Program is designed to expand the musical and theatrical industry in NYS. The Musical and Theatrical Tax Credit is available for all eligible touring productions.

Review this guide and the appendix to the Musical and Theatrical Tax Credit Program carefully. Program staff is available to answer questions, but ultimately it is your responsibility to comply with all program requirements in order to qualify for the credit.

Submit initial application materials before starting your Musical and Theatrical project for the Musical and Theatrical production credit and/or before incurring any costs. Costs incurred prior to the initial application submission date will not be qualified.

The initial application is an eligibility determination. The credit is not allocated at this point. The credit will be allocated based on receipt of a “complete” final application. Submit final application materials after the completion of eight (8) or more shows in three (3) or more locations. Applications must be “complete” as outlined in these guidelines. If your application is incomplete, you will be notified. Final applications will not be considered for audit until it is deemed “complete.”

Good luck with your Musical and Theatrical project and we look forward to the investment and jobs it will bring to New York State.

THIS IS A NEW YORK STATE PROGRAM.

PLEASE DIRECT QUESTIONS TO:

**EMPIRE STATE DEVELOPMENT
MUSICAL AND THEATRICAL TAX CREDIT PROGRAM
212-803-2328**

<http://esd.ny.gov/BusinessPrograms/MusicTheaterCredit.html>
musictheatercredits@esd.ny.gov