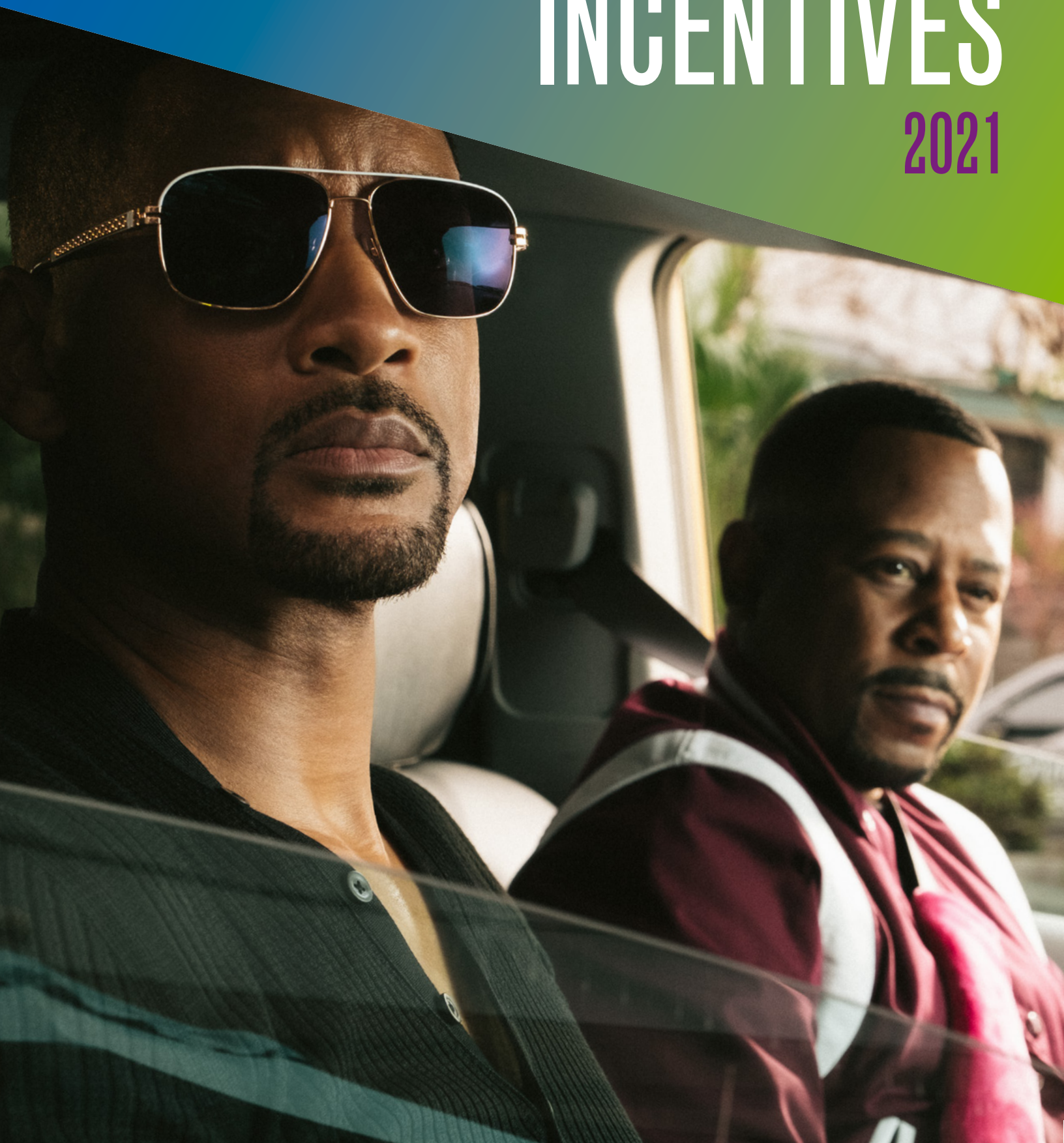




FILM TAX INCENTIVES

2021



THANK YOU FOR CONSIDERING GEORGIA FOR YOUR FILM, TELEVISION, OR COMMERCIAL ENTERTAINMENT PROJECT!

In this brochure you will find information regarding eligibility and qualification, as well as the application and certification process for the Georgia Entertainment Industry Investment Act (GEIIA, also known as the Film Tax Credit). The Georgia Department of Economic Development (GDEcD) certifies projects that meet the qualifications for the incentive. The Georgia Department of Revenue (GDOR) oversees the earning and claiming of the credits. For more information about how the credits are earned, or what types of expenditures will qualify for the credit, please contact the Georgia Department of Revenue.

If you are looking for information about the postproduction film tax credit for eligible postproduction companies, please visit <https://dor.georgia.gov/how-submit-post-production-film-tax-credit> or contact the Georgia Department of Revenue.

Georgia Department of Revenue
Legal Affairs & Tax Policy
1800 Century Blvd., N.E. Suite 15322
Atlanta, Georgia 30345
Phone: 404.417.6605
Fax: 404-417-2293
www.dor.ga.gov



FOR PRODUCERS OF FILM & TELEVISION PROJECTS:

Over the past decade, Georgia has become a production destination. With more than 2 million square feet of stage space, a deep crew base, a tremendous support service infrastructure, diverse locations, and easy access, it is not surprising that Georgia has hosted more than 3000 film & television projects in the past ten years. You can shoot, develop, edit, and even score your production with highly trained professional crews in state-of-the-art facilities, and the state's diverse geography offers countless location choices to match any script. Of course, in addition to these amenities, Georgia also offers production companies strong financial tools that make working in our state the smart choice.

The Georgia Entertainment Industry Investment Act grants an income tax credit of 20% to qualified productions which include feature films, television movies or series, documentaries, commercials, and music video projects. Feature films, television projects and music videos are also eligible to receive an additional 10% Georgia Entertainment Promotion (GEP) tax credit after certain distribution requirements and agreed upon marketing promotion for the state have been met. Marketing promotion may include an embedded GEP Logo in the end credits of the finished product as well as a link to <http://www.exploregeorgia.org/film> on the production's promotional website, or GDEcD approved alternative marketing options, where GDEcD has determined they provide equal or greater promotion for the state.

For more information about the incentives for live action film & television projects, please contact:

Alison Fibben
Georgia Film, Music & Digital Entertainment
Georgia Department of Economic Development
75 Fifth Street, N.W. Suite 1200
Atlanta, Georgia 30308
Phone: 404.962.4052
Fax: 404.962.4053
Email: taxcredit@georgia.org

To Access the forms needed to apply for certification of the tax credits, please follow this link: <http://www.georgia.org/industries/entertainment/georgia-film-tv-production/production-incentives/>

HIGHLIGHTS OF THE GEORGIA ENTERTAINMENT INDUSTRY INVESTMENT ACT

The Georgia Entertainment Industry Investment Act (“GEIIA”) offers an across-the-board flat tax credit of 20 percent to certified projects, based on a minimum investment of \$500,000 over a single tax year on qualified expenditures in Georgia.

An additional 10 percent uplift can be earned by including an embedded animated or static Georgia promotional logo provided by the Georgia Film Office and including a link to <http://www.exploregeorgia.org/film> on the project’s promotional website for certain approved & commercially distributed projects.

Qualified expenditures include materials, services, and labor. An overview of GDOR’s eligible expenditures under the program can be found here: <https://dor.georgia.gov/list-film-tax-credit-expenditures>. The credit applies equally for Georgia residents and non-residents. There is a salary cap of \$500,000 per person, per production, when the employee is paid by “salary,” which is defined as being properly paid by W2. If the production company pays an individual for services as a loanout, as a personal services contract, or a 1099 individual meets the criteria for a loanout, then Georgia income tax must be withheld and remitted by the production company for those costs to qualify.

Eligible productions include feature films; television films, pilots, or series; televised specials; televised commercials; and music videos that are distributed outside of Georgia. Sound recordings used in qualified feature films, television movies or specials, television series; including motion picture soundtracks produced in Georgia are qualified expenditures but licensing fees are not eligible.

The \$500,000 annual minimum expenditure threshold can be met with one project or the total of multiple projects aggregated in a single tax year.

The tax credit may be used against Georgia income tax liability or the production company’s Georgia withholding. If the production company chooses, they can sell or transfer the tax credit to one or more Georgia taxpayers—either individuals or corporations.



CERTIFICATION PROCESS FOR THE 20 PERCENT BASE GEORGIA FILM TAX CREDIT

For a project to be eligible for the 20% base transferable tax credit, the Georgia Department of Economic Development must certify the project. Certification for live action projects will be through the Georgia Film Office. A Base Certification Application may be submitted within 90 days of the start of principal photography but must be received before the end of principal photography.

If the project does not begin filming within thirty (30) days of the date indicated on the certification letter; amendments to the application must be made in writing to GDEcD.

Applications should be submitted when the project is green-lit, fully funded and has secured a commercial production office in Georgia to start preproduction.

To apply for the 20% certification for feature films, television pilots, television series and music videos a production company must:

- a) complete the 20 percent certification application per project; and
- b) attach a final shooting script or story boards for commercials and music videos
- c) attach proof of funding

To review the rules and regulations that apply to the Film Tax Credit or to download an application, please visit:

<http://www.georgia.org/industries/entertainment/georgia-film-tv-production/production-incentives/>

OR

<https://etax.dor.ga.gov>

An additional 10 percent uplift can be earned by including an embedded animated or static Georgia logo within certain approved and commercially distributed projects.



CERTIFICATION PROCESS FOR THE 10 PERCENT GEORGIA ENTERTAINMENT PROMOTION (GEP) UPLIFT

A separate application must also be completed for the Georgia Entertainment Promotion (GEP) Uplift, which is an additional 10% tax credit earned for certain approved projects that include a five-second-long, embedded Georgia logo in the finished & commercially distributed product beginning with the initial public screening, and a link to <http://www.exploregeorgia.org/film> on the project's promotional website. For features and indies, this placement is in the end title credits scroll after contractual agreements, after the cast and stunt scroll and before the start of the below-the-line production crew. Television and music video projects placement are in the body of the program; or in the opening title sequence; or as a bumper into and out of a commercial break or the end title credits.

The GEP Uplift logo application must be submitted in conjunction with the 20% Georgia Entertainment Industry Tax Credit application.

In lieu of the inclusion of the GEP Uplift logo, the production company may offer alternative marketing promotion opportunities acceptable to Georgia Department of Economic Development. In addition to fulfilling the logo or alternative marketing promotion cases, project must be commercially distributed to earn the 10% uplift.

The GEP uplift will be allowed for projects which GDEcD has determined will create promotional value that will enhance the State's brand. GDEcD will review applications and will notify the applicant of the decision. If the GEP Uplift application is approved, GDEcD will provide all necessary copies of the conformed logo for inclusion in the project at no cost to the applicant. The decision whether to include the GEP Logo or pursue the Alternative Marketing Opportunity must be made at the time the project submits an application to pursue the GEP Tax Credit.

If the applicant has applied for the GEP tax credit but fails to meet all agreed upon obligations and fulfillment of logo requirements or alternative marketing opportunities agreement with GDEcD or does not receive commercial distribution in multiple markets within five (5) years from the date that the first Base Certification Letter was issued the GEP tax credit will be denied.



This GEP uplift is available for feature films, television series, pilots, television movies, and music videos.

To apply for 10% GEP Uplift certification for feature films, television pilots, television series and music videos each project must:

- a) complete the 20% certification application per project; and
- b) attach a final shooting script and storyboards for music videos
- c) attach proof of funding
- d) complete the 10% GEP Uplift application
- e) at distribution complete form GDEcD-D Commercials are not eligible for the 10% GEP uplift.

Once the project is certified, the production company will receive a base certification letter from GDEcD to attach to its Georgia income tax return to claim the earned tax credit. Once the project has provided evidence that it has been distributed and has met all of the promotional and other requirements of the program, the film office will issue the GEP uplift certification letter and the 10% uplift can be claimed.

Projects that fail to provide proof of completion to GDEcD within five (5) years from the date that the first Base Certification Letter was issued will not be eligible for the GEP Tax Credit. In the case of projects that have Base Certification Letters issued for multiple tax years, the five (5) year period shall begin from the date of the first Base Certification Letter was issued for the project.

Please forward DVD copies of film, television and music videos which have included the GEP logo to the Georgia Film Office.

Completed certification applications for film, television, commercial and music video projects may be mailed or emailed to:

Alison Fibben
Georgia Film Office
Georgia Department of
Economic Development
75 Fifth Street, N.W. Suite 1200
Atlanta, Georgia 30308
Phone: 404.962.4052
Fax: 404.962.4053
Email: taxcredit@georgia.org

In the case of a denial of a base certification application, an appeal may be made to General Counsel, Georgia Department of Economic Development, 75 Fifth Street, NW, Suite 1200, Atlanta, Georgia 30308, within thirty (30) days from the date of issuance of the Base Tax Credit certification denial or retraction letter by GDEcD or within ninety (90) days from the submission of a Base Tax Credit Application from which no certification decision was issued.

Failure to request an appeal within the applicable timeframe will finalize the denial decision and reapplications will not be accepted. The decision to allow the 10% GEP is at GDEcD's sole discretion and is not appealable.

QUALIFIED COMPANIES AND PROJECTS

Only production companies are eligible to apply for the Film Tax Credit. Preproduction, production and postproduction of film, television, commercial or music video projects that are recorded in Georgia and intended for multimarket commercial distribution outside of the state are eligible for the base tax credit. Only greenlit and fully-funded projects will be considered for certification. Only projects that can verify commercial distribution in multiple markets outside the state of Georgia and that have met all promotional and agreed upon obligations will be approved for the 10% GEP uplift.

QUALIFIED PROJECTS INCLUDE:

- Feature films
- Television series, pilots, or movies
- Televised commercials
- Documentaries
- Music videos

Production companies do not have to be incorporated or headquartered in Georgia or hold a Georgia bank account to qualify for the tax credit. Production companies or corporations formed for a specific project are eligible to apply. To claim the credit, production companies must not be in default on any tax obligation to the state or default on any loan guaranteed by the state.

COMMERCIALS AND MUSIC VIDEOS

Televised commercial and music video productions qualify for the 20% income tax credit if qualified expenditures by a single production company on one or more projects reach at least \$500,000 in a single tax year. Music videos are also eligible to be considered for the 10% GEP Uplift.



COMPANIES AND PROJECTS THAT DO NOT QUALIFY

Service companies, including postproduction houses, catering companies, rental houses, and other service providers are not eligible to apply for the film tax credit.

Projects that are not eligible to receive the Film Tax Credit include:

Live or prerecorded broadcast of athletic events;

Live or prerecorded news or current affairs programming covering news that has recently occurred or is ongoing at the time of the broadcast;

Local interview or talk shows or other local interest programming not intended for Commercial Multimarket Distribution;

Projects and content consisting solely of footage not shot, recorded, or originally created in Georgia;

Website development;

Corporate marketing, industrial, or training productions;

Any production in violation of Title 16 Chapter 12 of the state's Obscenity Statute;

Infomercials, Infotainment, or Solicitation-based productions;

Certain instructional or how-to-video based content and programming;

Political or Editorial-based content programming;

Marketing or political campaigns;

Live concerts or events that are not filmed for purposes of multimarket commercial distribution and rebroadcast;

Film or television Projects created for a limited audience, including, but not limited to museum or park installations;

Film or program intended primarily for industrial, corporate, or institutional end-users;

Any Project that falls outside of industry standards as determined by GDEcD;

and

Any Project where filming is merely incidental or ancillary to the primary purpose of the Project;

Creation of phone, tablet or desktop apps that do not meet the defined requirements of Interactive Entertainment.

More information about eligible and non-eligible projects is provided in the Rules & Regulations at: <http://www.georgia.org/industries/entertainment/georgia-film-tv-production/production-incentives/>

QUALIFIED PRODUCTION EXPENDITURES

Qualified production activities include the production of new film, television, theatrical, streaming and broadcast projects produced and recorded in the state. Postproduction that takes place in Georgia on projects shot in Georgia, is a qualified expenditure; however, postproduction on footage shot outside of Georgia does not qualify.

Purchases, rentals, and services must satisfy the Georgia vendor rule in Revenue Regulation 560-7-8-45 to be included as production expenditures.

Development costs, fees, marketing, and distribution costs are not qualified expenditures

Items that may be included in the company's total Georgia expenditure include, but are not limited to:

- Camera equipment, supplies and accessories
- Motion picture film
- Digital discs, masters, and hard drives
- Lighting equipment, including gels, bulbs, and lamps
- Stage and studio equipment rentals
- Cranes, booms, dollies and jibs, camera cars and picture cars
- Electric stands, cables, and wires
- Generators, fuel, and cables
- Location fees and location supplies
- Sound recording equipment
- Costumes, props, scenery, and materials to construct them
- Design services, materials, and equipment
- Heating and air conditioning equipment used on the set
- Drafting equipment and supplies
- Special effects supplies, equipment, and services
- Photographic film
- Animation equipment and services
- Computer hardware, software, graphic equipment, and services
- Equipment and supplies for duplication, sound mixing, editing, and conforming
- Rental of production office space and stage space
- Makeup, supplies and accessories
- Film processing and color correction services
- Film and digital editing and related services
- Transfers of film to digital format
- Hotel rooms and lodging
- One airfare from home state to the production and return if purchased through a Georgia travel agency or company
- Insurance and bonding if purchased through a Georgia insurance agency or company
- Purchase or rental of motor vehicles exclusively used in production (if purchased, depreciation for the time used in Georgia is allowed)

- Per diem, box rental
- Catered food and beverage
- Office supplies and furniture
- Shipments to and from the production office via Fed Ex/UPS/USPS
- Payroll up to \$500,000 per person, per production if properly paid by W2; no

- cap if workers are properly paid by 1099 or by personal services contract or are working as a loanout
- Sound recordings excluding license fees used in feature films, television specials, television series for projects produced in the State of Georgia

A list of eligible expenditures can be found at <https://dor.georgia.gov/list-film-tax-credit-expenditures>

Please note that all purchases and rentals must have been used in Georgia and must have come from a qualified Georgia vendor to qualify for the Film Tax Credit. Goods are not considered purchased or rented in Georgia if the goods are shipped or delivered from the Georgia vendor's location outside of Georgia unless a substantial amount of the same type of goods shipped or delivered from outside of Georgia are normally held in inventory in Georgia by the Georgia vendor.

A Georgia vendor is a vendor that:

- 1) Sells or rents a type of property, with an inventory of the same type of goods in Georgia, or provides a service not performed at the filming site, which is the subject of the production expenditure, in their ordinary course of business;
- 2) Has a physical location in Georgia with at least one individual working at such location on a regular basis, including home-based businesses that otherwise meet the requirements of a Georgia vendor. Registering with the Georgia Secretary of State or appointing a registered agent in Georgia does not establish a physical location in Georgia.
- 3) Is registered with the Department of Revenue for collection of sales and use tax when required by Chapter 8 of Title 48;
- 4) Has a local Georgia business license. The production company is required to obtain a copy of the license from any Georgia vendor where the total amount of purchases exceed \$10,000 for such vendor during the taxable year on the Department of Economic Development's certificate for the project; and
- 5) For services rendered on set, such persons or vendors providing such services, are identified on the daily production reports.

A vendor that acts as a conduit to enable purchases and rentals to qualify (a pass through) that would not otherwise qualify shall not be considered a Georgia vendor with respect to such purchases and rentals.

CALCULATING YOUR SAVINGS

Determine your base investment or the total amount of all qualified production expenditures in Georgia. This includes expenditures made in Georgia that are directly used in a qualified production.

To calculate your tax credit, simply multiply your qualified Georgia expenditures by .20.

For example, for a base investment in Georgia of \$20,000,000, your savings would be \$4,000,000.

If you include the GEP Uplift in the finished project, your credit would be at the 30% level, or $20,000,000 \times .30 = \$6,000,000$ in Georgia tax credit! Keep in mind that you may use this credit against your Georgia income tax liability or Georgia payroll withholding, or you may transfer (sell) the earned tax credit to any Georgia taxpayer.



DEPARTMENT OF REVENUE REGISTRATION AND FILING FOR THE GEORGIA ENTERTAINMENT INDUSTRY TAX CREDIT

Film Withholding Account:

The production company must register at the Georgia Tax Center to obtain a film withholding account. The form is online and there is no fee. The loanout company, 1099 or personal services contract labor must also register at the Georgia Tax Center, for a payroll withholding account, and provide the production company with the loanout company's federal identification number and Georgia withholding identification number. The production company must report the rate imposed by subsection (a) of O.G.C.A § 48-7-21 on all payments to loan-out companies for services performed in Georgia at the Georgia Tax Center using the withholding account numbers.

Claiming the earned tax credit:

To claim the earned tax credit, the certified production company must file a Georgia Income Tax Return with GDOR and substantiate production expenditures made in Georgia. GDOR requires the following:

1. The estimated base investment or excess base investment in this state;
2. The film tax credit percentage amount, either 20 percent or 30 percent;
3. The Department of Economic Development certification number; and
4. The Department of Economic Development Certification letter

Mandatory Film Tax Credit Audit

Beginning January 1, 2021, with staggered dates depending on the amount of tax credits claimed, projects will undergo mandatory audits in order to claim Film Tax Credits. Prior to issuing a final certification to projects GDOR will conduct an audit of each project by the GDOR (or an independent third party certified by the GDOR as an eligible auditor) based on the timelines below:

For any project first certified by the Department of Economic Development on or after January 1, 2021 and on or before December 31, 2021, if the total amount of such film tax credit for the project exceeds \$2.5 million, the film tax credit shall not be claimed, transferred, or utilized in any manner until the production company applies for a mandatory film tax credit audit with GDOR and the GDOR issues a final certification(s) of the film tax credit.

For any project first certified by the Department of Economic Development on or after January 1, 2022 and on or before December 31, 2022, if the total amount of such film tax credit for the project exceeds \$1.25 million, the film tax credit shall not be claimed, transferred, or utilized in any manner until the production company applies for a mandatory film tax credit audit and GDOR issues a final certification(s) of the film tax credit.

For any project first certified by the Department of Economic Development on or after January 1, 2023, the film tax credit shall not be claimed, transferred, or utilized in any manner until the production company applies for a mandatory film tax credit with GDOR and GDOR issues a final certification(s) of the film tax credit under paragraph (19) of this regulation.

TRANSFERABILITY

Tax credits will be available for use against Georgia income tax liability or the company's Georgia withholding. The production company can make a one-time sale or transfer of the film credit to a Georgia taxpayer(s). (See GDOR IT-TRANS form) Tax credits can be carried forward for three years.

The expiration of the carry-forward period is based on the end of the tax year in which the production company was issued its final certification. Any unused film tax credit, for the production company or any transferees, can be carried forward for three years from the close of the taxable year in which the film tax credit was issued its final certification.

Film tax credits may not be carried back and applied against prior year's income tax liability.

Tax credits may only be sold or transferred once; however, the sale or transfer may involve multiple Georgia transferees or buyers as provided in Georgia Department of Revenue's Film Tax Credit Rules & Regulations (560-7-8-.45).

The credit must be sold for a minimum of 60% of the credit amount and Form IT-TRANS (Notice of Credit Transfer) must be filed with both the GDEcD and GDOR at the Georgia Tax Center within 30 days of transfer or sale of the film tax credit.

For additional details, please see the Georgia Department of Revenue's Film Tax Credit Rules & Regulations (560-7-8-.45).

FREQUENTLY ASKED QUESTIONS – GEORGIA ENTERTAINMENT INDUSTRY INVESTMENT ACT

HOW DOES THE PRODUCTION COMPANY APPLY FOR THE 20% INCOME TAX CREDIT?

The company will submit an application to the GDEcD for certification of the project. The application can be emailed to taxcredit@georgia.org. The certification letter and GDOR's Form IT-FC should be attached to the production company's tax return when claiming the tax credit.

HOW DOES THE COMPANY APPLY FOR THE ADDITIONAL 10% GEORGIA ENTERTAINMENT PROMOTION UPLIFT?

Feature films and television projects must submit the final shooting scripts along with a completed GEP Uplift application to GDEcD. Music videos must submit the song lyrics and storyboards, along with a completed GEP Uplift application. TV commercials do not qualify for the GEP Uplift. The 10% GEP Uplift will not be awarded until proof of multimarket distribution, proof that the GEP logo has been included in the project as legislated or Alternative Marketing Agreements have been met, and all supporting materials (crew & contact lists, promotional photographs, a completed Community Spend Report (CSR) etc. have been provided to the Georgia Film Office within 5 years of the awarding of the Base Certification Letter.

HOW DOES A COMPANY GET THE GEORGIA ENTERTAINMENT LOGO TO INCLUDE IN THEIR PROJECTS?

After being approved for the GEP Uplift, GDEcD will provide electronic versions of the promotional logo.



WHAT IF A PRODUCTION COMPANY CANNOT OR DOES NOT WANT TO INCLUDE THE LOGO IN THEIR PROJECT?

Projects can apply for the 20% income tax credit only, or in lieu of the inclusion of the GEP Uplift logo, the production company may offer alternative marketing promotion opportunities (form GDEcD-A) acceptable to GDEcD. The decision whether to include the GEP Logo or pursue the Alternative Marketing Opportunity must be made at the time the project submits an application to pursue the GEP Tax Credit.



WHAT IF A COMPANY APPLIES FOR THE GEP UPLIFT BUT DOES NOT SATISFY THE REQUIREMENTS FOR THE ADDITIONAL 10%?

If a production company applies for the full 30% tax credit but does not include the GEP Uplift logo as defined or does not complete the alternative marketing opportunities or the project does not get multimarket distribution, the application for the GEP Uplift will be denied.

DOES THE COMPANY APPLY AND BECOME CERTIFIED ON A PER -PROJECT BASIS?

Yes. An application must be submitted for each specific project for each year that credits will be claimed.

HOW DO YOU DEFINE WHAT IS A PROJECT?

A project may be a single televised commercial, a music video, studio feature film, indie feature film, TV pilot or episode or an entire TV series season produced in Georgia.

WHEN DOES THE COMPANY APPLY FOR THE 20% INCOME TAX CREDIT?

Application for certification of the project can be made to GDECD as soon as the Georgia preproduction begins; generally, at the time the production office opens in Georgia when key personnel crew are being hired. Applications must not be submitted earlier than 90 days prior to the start of principle photography. The tax credit may be claimed once a minimum of \$500,000 of qualified expenditures have been made and the tax credits have been certified with GDOR.

DO TELEVISED COMMERCIALS AND MUSIC VIDEO COMPANIES QUALIFY? IF SO, HOW?

Yes, if the qualified in-state production expenditures on a project or series of projects is at least \$500,000 in a single tax year. Music video producers may also submit the GEP Uplift application for consideration of the 10%. Commercials do not qualify for the GEP Uplift.



WHAT DOCUMENTS CAN BE PROVIDED FOR PROOF OF FUNDING?

GDEcD will require proof that the project is Fully Funded at the time the applicant applies for certification. These assets can be owned by the applicant, be provided by a third-party pursuant to a financing or funding agreement, or combination of the two. Such proof may include, but is not limited to, completion or SAG or IATSE bonds, payroll statements, bank statements, and financing or funding agreements, including in-studio financing letters or agreements.

IF AN INDIVIDUAL WANTS TO INVEST IN A FILM, HOW IS THIS HANDLED? DOES HE OR SHE QUALIFY?

There is no investor credit in Georgia for film projects. For the investor to be able to claim any of the tax credit generated by the production company, the investor would have to be an owner (or part owner) of the production company and the production company be a flow-through entity (i.e., S-Corp., LLC, or partnership). Otherwise, the investor would have to buy the credits to be eligible to claim them on his/her tax return.

WHO BECOMES CERTIFIED OR APPLIES FOR THE CREDIT, THE LLC, OR THE PARENT COMPANY?

The entity generating the tax credit (the production company) must have the project(s) certified - for example, the LLC. The generating entity-the LLC-not the parent, can sell or transfer the film tax credit to a Georgia taxpayer. The generating entity-the LLC-not the parent, can elect to use the credit against its withholding account. For a disregarded single member LLC, the parent may use the credit against its income tax liability. For LLCs that choose to be taxed as a corporation, the credits can be claimed at the LLC level and will not be allowed to be utilized by the parent company. However, the credit can be assigned to an affiliated entity on an original return (see next question). In an S-Corp. or partnership configuration, the credits may flow through to the shareholders or partners.

CAN THE TAX CREDIT BE ASSIGNED TO SUBSIDIARIES?

The film credit may be assigned to affiliated entities under O.C.G.A. §48-7-42. If the production company assigns the credit to an affiliated entity, the affiliated entity can only utilize the credit against their income tax liability; the affiliated entity cannot use the credit against withholding. The affiliated entity cannot sell the credit. An assignment must be done on or before the due date of the return including extensions.

WHAT IF A COMPANY RENTS OR BUYS EQUIPMENT OUTSIDE OF GEORGIA?

Expenditures made outside the State of Georgia do not qualify for the tax credit. Rentals and purchases that count towards the credit are made with companies that meet the Georgia vendor rule requirement.

DO WAGES THAT ARE PAID ON BEHALF OF THE PRODUCTION COMPANY BY AN OUT-OF-STATE PAYROLL COMPANY TO AN INDIVIDUAL WORKING IN GEORGIA ON A CERTIFIED PRODUCTION QUALIFY?

The wages qualify if paid to an individual working in Georgia.

IF A DIRECTOR, ACTOR, OR OTHER PRODUCTION PERSONNEL IS EMPLOYED ON A PRODUCTION AS A “LOAN OUT”, WILL THE COSTS BE ELIGIBLE FOR THE TAX CREDIT WHILE HE/SHE IS WORKING IN GEORGIA?

Yes, provided their salaries have been reported for withholding at the Georgia Tax Center.

WOULD PAYMENTS TO A LOANOUT COMPANY, 1099 OR PERSONAL SERVICES CONTRACT INDIVIDUAL BE SUBJECT TO GEORGIA WITHHOLDING?

Yes, the production company will withhold Georgia income tax at the rate imposed by subsection (a) of O.G.C.A § 48-7-21 for services performed in Georgia to claim the costs towards the qualified expenditures. If a 1099 individual or personal services contract individual performs service in Georgia and meets the criteria of a loan out, then Georgia income tax will be withheld at the rate imposed by subsection (a) of O.G.C.A § 48-7-21.

DOES THE PRODUCTION COMPANY OR THE LOAN OUT COMPANY NEED TO REGISTER IN GEORGIA?

Yes, both the production company making payments to a loanout company and the loanout company must electronically register through the Georgia Tax Center. The registration is an online form with no fee. The production company will register to obtain a film withholding account. The loanout company will register to obtain a payroll withholding account.



ARE FRINGES CONSIDERED QUALIFIED EXPENDITURES?

FICA, SUI, FUI, are qualified expenditures but must be attributed to Georgia as provided in Revenue Regulation 560-7-8-.45. Hotel and meal per diems if incurred in Georgia are qualified expenditures up to the amount set forth by the United States General Services Administration (any excess must be included in the loanout company's or the person's income to be qualified). Union pension and welfare are qualified expenditures if the amounts are paid to the union as part of pension, health, and welfare (these would not be required to be paid to a vendor with a Georgia location since they are part of compensation), but they must be attributed to Georgia as provided in Revenue Regulation 560-7-8-.45. Health insurance premiums are qualified expenditures if these amounts are paid to the union as part of pension, health, and welfare (these would not be required to be paid to a Georgia based insurance company since they are part of compensation) but they must be attributed to Georgia as provided in Revenue Regulation 560-7-8-.45. Service fees paid to a payroll company (this includes workers' compensation) qualify as qualified expenditures, but only if the payroll company is a Georgia vendor and if and only to the extent the service is rendered in Georgia.

WOULD THE PAYROLL PROCESSING FEES BE A QUALIFIED EXPENDITURE?

The fees would qualify if the payroll company is a Georgia vendor and if and only to the extent the service is rendered in Georgia.

IF I SET UP A POST OFFICE BOX IN GEORGIA, WOULD THAT QUALIFY ME AS A GEORGIA VENDOR?

No. To qualify as a Georgia vendor, a company must have a physical address in Georgia, employees in Georgia, and inventory on site to meet the requirements in Revenue Regulation 560-7-8-45.



IF ONE PERSON SERVES SEVERAL ROLES IN A PROJECT, I.E., WRITER, DIRECTOR, ACTOR, ETC., WILL THEY BE ELIGIBLE FOR AS MANY SEPARATE SALARY CAPS?

No. No matter how many roles an individual has in the production of the project, the salary cap of \$500,000 per person per project will apply if the person is paid by W2.

DOES AN INSURANCE COMPANY OR TRAVEL AGENCY HAVE TO BE BASED IN GEORGIA, OR SIMPLY HAVE A GEORGIA PRESENCE TO QUALIFY FOR THE TAX CREDIT?

The insurance company or agency and travel agency or company must meet the Georgia vendor requirement but does not have to be headquartered in Georgia.

IF WE PAY FOR OUR PRODUCTION CREW TO FLY OUT OF STATE, AND USE A GEORGIA COMPANY TO PURCHASE THE AIRLINE TICKETS, WILL THE TICKETS QUALIFY FOR THE FILM TAX CREDIT?

One round-trip airfare directly associated with qualified production activity in Georgia, purchased through a Georgia travel agency or travel company, will qualify as a production expenditure for the film tax credit. To be directly associated a flight must transport someone to the qualified production activity in Georgia and will include returning them to their point of origin. If a crew member was flown out of Georgia to another location to work, and flown back to Georgia, neither leg of the flight would qualify for the film tax credit.

DOES THE PRODUCTION COMPANY TAKE THE CREDITS AT THE COMPLETION OF THE PROJECT?

The tax credit may not be claimed until the tax return is filed for the tax year in which the expenditures are incurred, and the \$500,000 minimum spend is met. If an audit is mandated on the project (see page 13 under Mandated Film Tax Credit Audits), the audit must be completed, and the tax credits certified by GDOR to claim or transfer the credits.

DOES GEORGIA REQUIRE AN INDEPENDENT AUDIT OF EACH PRODUCTION PRIOR TO SUBMITTING ITS TAX RETURN?

Beginning January 1, 2021, and as outlined in GDOR's Regulation 560-7-8-.45, projects may be required to be audited, depending on their qualified spend. Beginning in 2024, all projects will be required to be audited.

TO WHOM CAN THE CREDITS BE TRANSFERRED?

Any Georgia taxpayer whether an individual or corporation.

WHO HANDLES THE BROKERAGE OF THESE CREDITS?

Private companies only, not state agencies.

HOW LONG DO THEY HAVE TO CARRY FORWARD THE CREDITS?

Any unused film tax credit, for the production company or any transferees, can be carried forward for three years from the close of the taxable year in which the film tax credit was issued its final certification.

HOW WOULD A COMPANY UTILIZE THEIR CREDITS AGAINST THEIR WITHHOLDING TAX?

Once a company files for the tax credit, the materials will be reviewed by GDOR. Should the production company wish to apply the excess credit against withholding, for taxable years beginning before January 1, 2017, Form IT-WH (Notice of Intent) must be filed with GDOR at least 30 days prior to the earlier of the due date of the return or the date the return is filed; for taxable years beginning on or after January 1, 2017, Form IT-WH (Notice of Intent) must be filed through the Georgia Tax Center within thirty (30) days after a timely filed return. GDOR will then notify the production company specifying the amounts available to utilize against withholding.

WHAT DEPARTMENT OR OFFICE WOULD BE THE MAIN POINT OF CONTACT TO ANSWER QUESTIONS OR RESOLVE DISPUTES?

GDEcD handles the certification of the production project and awards the GEP Uplift. GDOR manages the calculation, utilization of, and compliance with the tax credit.

