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Georgia Department of Audits and Accounts
Performance Audit Division
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Why we did this review

The film tax credit is Georgia's largest tax credit. More than $3 billion in credits were generated from 2013-2017, with the amount increasing each year. In 2016, more than $667 million in film tax credits were generated, with the amount growing to more than $915 million in 2017.

This audit evaluated the extent to which production companies that received the credit met statutory and regulatory eligibility requirements. It also evaluated the extent to which companies were entitled to the credit amount received.

About the Film Tax Credit

First passed in 2005, Georgia's film tax credit provides an income tax credit to production companies that spend at least $500,000 on qualified productions. The base credit rate was raised to 20% in 2008, with an additional 10% for a qualified promotion of the state (e.g., Georgia logo). The credit is transferable, and most credits are sold by production companies to other taxpayers.

GDEcD is responsible for determining project eligibility and verifying companies fulfill requirements for the additional 10% credit.

DOR is responsible for implementing and administering the credit, including credit amounts, carryforward periods, and transfers/sales to other taxpayers. DOR also conducts audits to verify production expenditures.

Administration of the Georgia Film Tax Credit

Generous tax credit and insufficient controls incentivize misuse

What we found

As Georgia's largest and arguably most generous credit, the film tax credit must be accompanied by sufficient controls to ensure that production companies are entitled to the credits granted. Due to control weaknesses, companies have received credits for which they are not eligible and credits that are higher than earned.[1]

Production companies receive a tax credit up to 30% of reported in-state expenditures if they spend at least $500,000 on qualified productions. While not unusual for a state film tax credit, Georgia's rate is higher than the income tax rate and rates for many other Georgia tax credits. Additionally, the credit is uncapped for film production companies and can be sold to other taxpayers, providing taxpayers with an even greater incentive to misstate financial information to their benefit.

While the state has granted billions in credits, it does not have an adequate system of controls to prevent the improper granting of credits. We found issues with the credit's administration by the Departments of Revenue (DOR) and Economic Development (GDEcD). The issues can be attributed to limited requirements and clarity in state law, inadequately designed procedures, insufficient resources, and/or agency interpretations of law that differ from our own.

Statute does not require audits, and current audits do not identify and disallow all ineligible expenditures.

Despite granting more credits than any other state, Georgia requires companies to provide less documentation than any of the

[1] The report focuses on the credits received by companies, not the amount included on a tax return against a taxpayer's tax liability. A credit can be applied against a tax liability up to five years after the year in which it is granted.

31 other states with a film tax incentive. Georgia is one of only three states that does not require an audit by the state or a third party, and the other two states (Arkansas and Maine) require more expenditure documentation than Georgia.

DOR has audited approximately 12% of tax year 2016 projects, representing nearly 50% of credits generated that year. The difference in coverage is largely attributed to production companies with larger projects—not DOR—initiating most audits. For a fee set to cover its costs, DOR conducts audits at the request of production companies. These audits ensure that DOR will not challenge a credit amount at a later date, allowing the production companies to sell the credits for a higher premium. (Many production companies have little Georgia income tax liability, resulting in at least 80% of 2016 credits being transferred/sold to other taxpayers.) Companies that do not choose to be audited are unlikely to be audited.

When audits are conducted, the procedures do not detect all ineligible expenditures. Our review of eight previously audited projects identified approximately $4 million in ineligible expenditures that had not been disallowed. These included payments to employees or contractors for work not performed in Georgia and to vendors outside the state. We also found expenditures outside the eligibility period, for items unrelated to production, and for wages above the employee salary cap.

When DOR auditors identify ineligible expenditures, the only action taken is a disallowance of the individual transactions. There is no projection of ineligible expenditures to the entire project. With this approach, companies have an incentive to include ineligible costs, knowing auditors may detect only a portion. As a result, the state lacks an important deterrent to companies reporting ineligible expenditures.

DOR requires limited documentation to receive the credit, and the many production companies that fail to provide the documentation still receive the credit.

Once a project is certified by GDEcD, a production company need only submit an *estimate* of its qualified, in-state expenditures to receive the credit from DOR. (The company can then sell the credit.) When filing a tax return, a production company must file a form IT-FC with the final, actual expenditures and resulting credit amount. A breakdown of expenditures and listing of employees must also be submitted. While we found most, but not all, companies file form IT-FC, significantly fewer submit the other required documents. The credits are not rescinded when companies fail to provide the required documents.

It should be noted that DOR does not require any specific level of detail in the expenditure breakdown. The broad categories that some companies have reported (e.g., payroll, vendor spend) would provide little assurance that expenditures are eligible.

GDEcD conducts limited verification of credit eligibility and has certified projects with questionable eligibility, depending on the interpretation of state law.

GDEcD certifies that a project is eligible for the credit and then verifies that the company met the promotion uplift requirement (typically a Georgia logo placement and website link), if applicable. However, some projects that were never distributed to the public received the promotional uplift for an additional 10%, and many others did not include the required Georgia website link on the project's website. We also noted various projects with questionable benefit to the state or eligibility for the credit. The projects were in the categories of local interest, news coverage, untelevised commercials, and projects not intended for multimarket distribution.

What we recommend

The General Assembly should require an audit of each project that receives a film tax credit, which would mitigate some of the risk associated with the identified issues. This could be accomplished with additional DOR personnel or through the use of independent, third-party certified public accountants, selected by DOR and following audit procedures designed by the state.

The report contains dozens of other recommendations to the General Assembly, DOR, and GDEcD to improve credit administration. Some recommendations may require additional financial resources (e.g., DOR information technology controls; additional GDEcD verification).

See Appendix A for a detailed listing of recommendations.

DOR Response: *DOR agreed there is a need for stronger controls and agreed with most of the recommendations in the report related to these controls. As noted in specific findings, there are areas where DOR did not agree. DOR did not believe the amounts discussed in the report as unearned credits or ineligible expenditures were material considering the $667 million in film tax credits generated in 2016. DOR noted that it administers over 50 tax credits and 38% of the tax credit processing group's work is devoted to the film tax credit. DOR is working on its credit processes and procedures, but noted that, "to obtain the most efficient result it is focusing on the mandatory electronic filing of the IT-FC."*

DOR noted that by auditing 12% of projects, its audit rate is much higher than the IRS for many types of returns. Regarding the additional amount that the Department of Audits and Accounts (DOAA) reported as ineligible, DOR disagreed with DOAA's classification of some of the expenditures and also considered the total identified by DOAA to be immaterial.

> ***Auditor's Response:*** *Regarding audit coverage, the comparison to the IRS audit coverage for returns is not the most appropriate. Twenty-nine of 31 other states with a film tax credit or rebate require an audit of all projects.*

***GDEcD Response**:* *"GDEcD agrees that the administration of the Film Tax Credit should and can be strengthened by requiring among other measures, mandatory audits." GDEcD pointed to "limited resources and the inability to access confidential taxpayer information" as limiting their ability to administer the credit. GDEcD generally disagreed with the finding regarding projects with questionable eligibility. It noted that it had consulted relevant parties, such as members of the General Assembly, when developing rules and promulgated rules under its statutory authority in accordance with the Administrative Procedures Act.*

> ***Auditor's Response:*** *While GDEcD has the authority to issue rules related to the film tax credit, these rules do not and cannot address all nuances of project eligibility.*

Additional comments from the relevant agency are included at the end of each finding in the body of the report.

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Appendices

Glossary

Business Credit Manager (BCM)
A module in the Department of Revenue's information system that tracks business tax credits, including the film tax credit. The BCM maintains the credit record with the credit amount the production company has reported.

Credit Amount
The amount of the film tax credit reported by the production company to the Department of Revenue. The amount may be changed if the project is audited by the department.

Credit Certification
The approval of a project to receive the film tax credit and the initial step in the credit process. The Department of Economic Development determines whether a project is eligible for the credit and provides a certification letter to the production company.

Credit Record
The data in the BCM related to a project's credit. A credit record allows the production company to use or sell the credit.

Disallowance
During an audit, the Department of Revenue may determine that certain expenditures by the production company are not eligible for the credit. The ineligible expenditures are disallowed, resulting in a lower credit amount.

Form IT-FC
A Department of Revenue form that production companies must submit when filing their tax return in the year in which the company earns the film tax credit. The form is used to report a company's qualified expenditures and its final (not estimated) credit amount. The credit amount may be changed if the project is audited by the Department of Revenue.

Qualified Expenditures
Expenditures incurred in Georgia that are directly used in a qualified production activity. To be eligible, the expenditures must occur during a project's preproduction, production, or postproduction, not during development or distribution.

Qualified Interactive Entertainment Companies (QIEPCs)
Companies with gross income under $100 million that are primarily engaged in interactive entertainment activities, such as the development of video games.

Qualified Production Activities
The production of new film, video, or digital projects in Georgia for multimarket commercial distribution. Eligible projects include feature films, series, pilots, movies for television, televised commercial advertisements, music videos, and interactive entertainment.

Tax Credit

A reduction in tax liability that does not involve a direct payment to the taxpayer, unless it is refundable. Georgia's film tax credit is not refundable but may be sold to another Georgia taxpayer to offset an income tax liability.

Uplift

An additional 10% credit for qualified expenditures, which brings the total film tax credit rate to 30%. To qualify for the uplift, production companies agree to include a Georgia logo in the finished product and a link to Georgia's film office on the project's web page, or to provide alternative marketing opportunities.

Purpose of the Audit

This report examines the administration of the Georgia Entertainment Industry Investment Act tax credit. Specifically, the audit determined:

- the extent to which the Georgia Department of Economic Development (GDEcD) and the Georgia Department of Revenue (DOR) enforced statutory and regulatory eligibility requirements for production companies receiving the tax credit. This included ensuring that individual projects were eligible and that statutory caps on qualified interactive entertainment production companies were not exceeded.
- the extent to which DOR ensured that production companies were entitled to the credit amount received. This included proper processing of the tax forms and required documentation, ensuring that credits are granted for the proper timeframe, and sufficient auditing of production companies receiving the credit.

A description of the objectives, scope, and methodology used in this review is included in Appendix B. A draft of the report was provided to GDEcD and DOR for their review, and pertinent responses were incorporated into the report.

A report addressing the effectiveness of the credit is expected to be released later this month.

Background

Legislative History

In 2005, the General Assembly passed the "Georgia Entertainment Industry Investment Act" (O.C.G.A. §48-7-40.26), which created a transferable income tax credit (the "film tax credit")[2] to incentivize the production of film, television, and digital projects in the state. The original credit equaled 9% of a production company's base investment of $500,000 or more in Georgia. Supplemental credits, in addition to the 9%, were allowed for the following items: 3% for spending in less developed counties, 3% of payroll for Georgia residents, and 2% if the base investment was over $20 million for multiple television projects.

In 2008, HB 1100 simplified the film tax credit rate and raised it to its current level. The legislation increased the base credit from 9% to 20%, with an additional 10% credit allowed for a qualified promotion. Additionally, the 2005 supplemental credits were eliminated. A summary of significant legislative changes is shown in **Exhibit 1**.

[2] We use the term "film tax credit" for all project types under the Georgia Entertainment Industry Investment Act, including film, television, and digital, such as animation and interactive entertainment (i.e., video games).

Exhibit 1
Timeline of Legislative Changes

Year	Bill	Changes
2001	HB 160	• Created sales and use tax exemption for production equipment and services used in qualified production activities
2005	HB 539	• Created income tax credit of 9% for production companies on a $500K base investment • Allowed supplemental amounts for spending in less developed counties, Georgia payroll, and spending over $20M for multiple TV shows
2008	HB 1100	• Increased income tax credit to 20%, with an additional 10% for promotion • Removed supplemental credits from 2005
2012	HB 386	• Eliminated sales and use tax exemption
2012	HB 1027	• Added definitions and differing requirements for qualified interactive entertainment production companies (QIEPCs) • Added lifetime aggregate and company credit caps of $25M and $5M for QIEPCs • Added alternative marketing opportunities as option to receive the 10% promotion credit
2014	HB 958	• Changed company and aggregate credit caps for QIEPCs to $1.5M and $12.5M per taxable year • Sunset QIEPC credits in 2016
2015	HB 339	• Set up credit pre-approval process for QIEPCs • Delayed QIEPC credit sunset to 2019
2017	HB 199	• For QIEPCs, eliminated credit sunset, lowered minimum spending, and altered payroll requirements (O.C.G.A. §48-7-40.26) • Added separate post-production credit (O.C.G.A. §48-7-40.26A)

Source: Official Code of Georgia Annotated

In 2012, the General Assembly added lifetime aggregate and company credit caps for qualified interactive entertainment production companies (QIEPCs).[3] Credits for QIEPCs would sunset after these caps were reached. In 2014, annual caps replaced the lifetime caps, with a sunset date of 2016. The sunset provision was delayed the following year and eliminated in 2017.

Current Provisions

Production companies that spend at least $500,000[4] on one or more qualified productions are eligible for a tax credit of 20% of their qualified in-state spending. Companies can increase their credit rate to 30% by including a Georgia promotional logo in the finished product and a link to Georgia's film office on the project's web page, or by offering alternative marketing opportunities. The additional 10% credit is also known as the "uplift."

Exhibit 2 shows eligible and ineligible production types, as defined by statute. Eligible projects include various types of filmed, live-action productions, as well as animated projects and interactive projects such as video games. Companies may use multiple projects to meet the spending requirement. While commercials are eligible for the base 20% credit, they are not eligible for the uplift.

[3] A QIEPC is defined in statute and regulation as a company with gross income under $100 million that is primarily engaged in interactive entertainment activities, such as video game or virtual reality production. This definition was expanded in 2017 (HB 199).

[4] Starting in 2018, the minimum spending requirement was lowered to $250,000 for QIEPCs.

Exhibit 2
Production Types

Eligible	Ineligible
Feature films	Athletic event coverage
Television movies	News coverage
TV series and pilots	Local interest programming
Commercial advertisements	Projects not shot or recorded in Georgia
Music videos	Corporate or instructional videos
Interactive entertainment, including prereleased games	Projects not intended for multimarket commercial distribution
Sound recording for feature films, series, pilots, or TV movies	

Source: Official Code of Georgia Annotated §48-7-40.26

The original 2005 legislation included a provision reducing the credit amount for companies that already had a significant presence in the state; this provision remains in place. If a company's average annual in-state expenditures from 2002 to 2004 exceeded $30 million, only its excess base investment is eligible for the credit. Excess base investment is current year production expenditures minus the average annual expenditures from 2002 to 2004.

A new postproduction credit took effect in 2018 (O.C.G.A. §48-7-40.26A) that makes footage not shot in Georgia eligible for the postproduction credit. Companies cannot receive both credits for the same work. Due to its recent implementation, this postproduction credit was not included in this audit.

QIEPCs

QIEPCs are companies with gross income under $100 million that are primarily engaged in interactive entertainment activities, such as the development of video games.

QIEPCs are subject to additional requirements and restrictions. To be eligible for the credit, a QIEPC must maintain an in-state business location and have Georgia payroll of at least $250,000 ($500,000 prior to 2018). Credits for QIEPCs are also subject to annual caps.

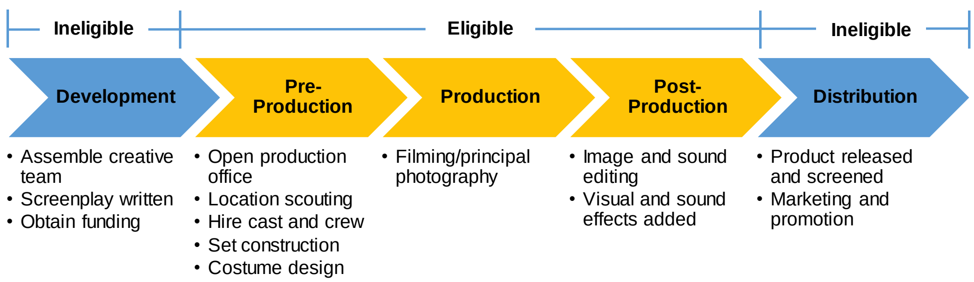
- **Company cap** – Statute limits a QIEPC's credits to $1.5 million annually, or its aggregate in-state payroll for the year, whichever is lower. This cap is applied to the total credits received by a QIEPC and its QIEPC affiliates.

- **Aggregate cap** – Statute limits the credits received by all QIEPCs to $12.5 million annually. As a result, QIEPCs must request preapproval of the credit amount from the DOR, and credits are granted in the order the applications are received. The aggregate cap was first reached in 2017. If a company does not take the full amount that was preapproved, the unused amount is not reallocated to other companies.

Qualifying Expenditures

Under statute, expenditures are eligible for the credit if they are incurred in-state during the preproduction, production, and postproduction phases (see **Exhibit 3**) and are directly used in the qualified production activity.

Exhibit 3
Film and Television Project Phases[1]



[1]Interactive entertainment generally follows these phases, but the production process does not align exactly with that of other project types.

Source: Official Code of Georgia Annotated §48-7-40.26 and industry literature

Examples of eligible expenditures are shown in **Exhibit 4**. Employee payroll is an eligible expenditure, but qualifying compensation is $500,000 or less per employee. Payments to contract workers and loan-out companies[5] are also eligible but are not capped. Production companies must withhold Georgia income tax at a rate of 6% for payments to loan-out companies.

Exhibit 4
Examples of Eligible Expenditures

Set construction and operation	Vehicle leasing
Wardrobes	Food and lodging
Make-up	Computer graphics and special effects
Photography	Animation
Sound and music expenses	Payroll
Lighting	Airfare purchased through a Georgia agency
Editing	Insurance purchased through a Georgia agency
Facility and equipment rentals	Other direct costs of production

Source: Official Code of Georgia Annotated §48-7-40.26

Credit Use

A production company may expend its credits in multiple ways. A company may

- use the credit to offset its own income tax liability;
- use the credit to satisfy its employee withholding;[6]
- sell the credit to another taxpayer;
- assign the credit to an affiliated entity; or
- pass the credit through to its owners.

If a credit is sold or assigned to an affiliate, the receiving entity may only use it to offset its income tax liability. It may not be resold or used for employee withholding. Unused

[5] A loan-out company is a personal service company that provides individual personnel, such as actors and directors, to production companies.

[6] Employee withholding is the amount withheld from an employee's wages and paid directly to the state by the employer as payment of the employee's income tax. Use of this benefit requires approval by DOR.

credits may be carried forward for up to five years. Selling a credit or assigning it to an affiliate does not extend the carryforward period.

Credit Administration

GDEcD is responsible for determining project eligibility, while DOR is responsible for implementing and administering the credit (see **Exhibit 5**). GDEcD certifies that a project qualifies for the tax credit and verifies the company fulfilled the uplift requirements. The Film Office certifies live-action projects, while the Interactive Entertainment and Digital Entertainment Office certifies digital media, such as interactive entertainment and animation. At DOR, the Taxpayer Services Division oversees credit record generation, credit use, and QIEPC cap enforcement, while the Audits Division conducts voluntary and involuntary audits to verify production expenditures.

Exhibit 5
Agency Roles

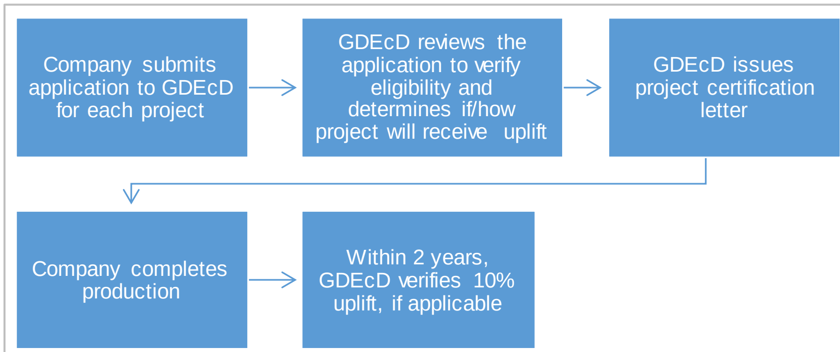
GDEcD	DOR
Reviews credit applications	Generates credits and monitors use
Certifies project eligibility	Enforces QIEPC caps
Verifies uplift requirements	Conducts voluntary and involuntary audits of production spending

Source: Agency documents and interviews with agency staff

GDEcD Certification

For a company to receive the film tax credit, GDEcD must certify that its project is eligible under statute and regulation. As shown in **Exhibit 6**, a production company submits an application no more than 90 days before principal photography. GDEcD may request additional supporting documentation, such as a script or storyboards, production schedule, and proof of funding. Staff review the application and submitted documentation to determine if the project is eligible for the credit. If a project meets all criteria, GDEcD issues a certification letter, showing the approved credit percentage (20% or 30%) and a unique GDEcD certification number.

Exhibit 6
GDEcD Certification and Verification



Source: GDEcD staff interviews

Uplift

If the company is seeking the additional 10% credit, known as the uplift, it submits a supplemental application to GDEcD that indicates how it will fulfill the uplift requirements. A company may include the Georgia logo in its project and a Georgia link on the project's website, or it may use alternative marketing opportunities.

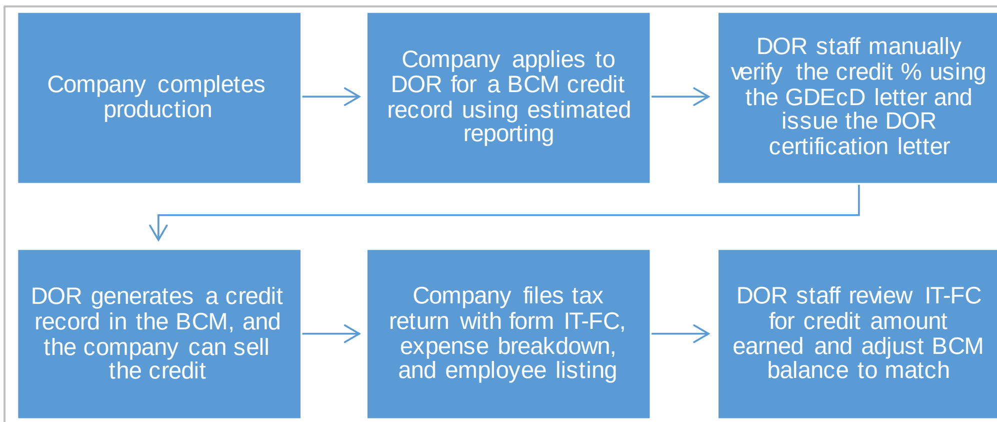
GDEcD is responsible for approving the alternative marketing opportunities used for the uplift. Statute specifies only that the alternative marketing opportunities must be of equal or greater value than the logo, as determined by GDEcD. GDEcD has created a menu of options with assigned point values, and the selected options must total five points. Examples of alternatives include behind the scenes videos, signed memorabilia, and filming in underutilized counties.

GDEcD is also responsible for verifying fulfillment of the uplift requirements. Production companies must submit evidence of fulfillment to GDEcD within two years of principal photography wrap. For logo usage, the company must provide a copy of the finished product showing the logo placement, as well as a link or screenshot of the Georgia link on the project's website. For alternatives, the company must submit the required items or other evidence, as needed, to GDEcD. If the company does not fulfill the uplift requirements, the uplift is retracted.

DOR Credit Record Generation

After the project is completed, the production company submits estimated reporting through DOR's online Georgia Tax Center to obtain a film tax credit record (see **Exhibit 7**). The company reports the project's estimated expenditures, the credit percentage (20% or 30%), and applicable tax year. The company also submits the project's GDEcD certification letter. When the estimated reporting is submitted, staff from DOR's Taxpayer Services Division verify the credit percentage requested matches the percentage shown on the GDEcD certification letter. DOR then issues its own certification letter with a unique DOR certificate number that is used to sell or claim the credit. The credit record is then generated in DOR's Business Credit Manager (BCM), with a balance based on the estimated expenditures and credit percentage. At this point, the company may begin selling its credit.

Exhibit 7
DOR Credit Generation



Source: DOR staff interviews

DOR's Business Credit Manager

In 2015, DOR implemented the BCM, which helps administer the film tax credit, as well as other business tax credits. The BCM is a module in DOR's tax data management system that automated many credit administration tasks, such as managing credit balances and carryforward periods. The BCM allows DOR to track credits from reporting through sale, use, and expiration by their DOR certificate number. When a company sells a credit, the BCM automatically deducts the transfer amount from the credit balance and creates a new DOR certificate number for each purchaser with the applicable balance.

Statute requires companies to specify the film tax credit amount earned when filing their income tax returns. To fulfill this requirement, a production company files DOR's form IT-FC (see **Exhibit 7**), with its base investment amount (i.e., total expenditures eligible for the credit) and the corresponding credit amount earned for that year. If different, the credit amount on form IT-FC supersedes the credit amount approved during estimated reporting. Companies are also required to submit supporting documents, including the GDEcD certification letter(s), a spreadsheet breakdown of the base investment, and an employee listing for wages included in the base investment.

QIEPC Certification

QIEPCs generally follow the same process as other production companies. However, before submitting the application to GDEcD, QIEPCs must first attest to DOR that they have an in-state business location and a Georgia payroll of at least $250,000 ($500,000 prior to 2018). DOR then provides an approval letter that the QIEPC submits to GDEcD along with its application for certification.

The BCM manages QIEPC credit caps by preapproving credits up to the company and aggregate cap amounts, on a first-come, first-served basis. QIEPCs request preapproval of their anticipated credit amount, based on estimated spending, and the BCM creates the credit record at that time. As a result, QIEPCs do not submit estimated reporting after project completion. They are still required to submit form IT-FC and supporting documents with their tax returns. If the credit amount shown on form IT-FC is less than the preapproved amount, DOR staff adjust the credit in the BCM accordingly. QIEPCs cannot exceed the preapproved credit amount.

DOR Film Tax Credit Audits

DOR has a group of nine auditors in California dedicated to conducting audits of qualifying production expenditures by film production companies. Film tax credit audits are limited in scope to only the credit. They include a review of documentation supporting the project's qualifying expenditures, but they do not involve other components of the tax return. As shown in **Exhibit 8**, film tax credit audits may be requested by the production company (voluntary) or initiated by DOR (involuntary). Most audits are voluntary. Under statute, the production company is responsible for the cost of any audit initiated by DOR due to the film tax credit.

Exhibit 8
Types of Film Tax Credit Audits

Voluntary Audit	Involuntary Audit
Requested by the company	Selected by DOR
Paid for by the company	Paid for by the company unless part of a corporate audit
Occurs after production but may occur before filing return and form IT-FC	Occurs after filing return and form IT-FC
Not offered for interactive entertainment projects	Interactive entertainment projects could be selected

Source: DOR staff interviews

- **Voluntary audits** – Voluntary film tax credit audits are requested and paid for by the production company. The voluntary audit occurs after production is complete but may occur prior to the tax return and form IT-FC being filed. Used primarily by large companies, the audits are typically requested to facilitate the sale of credits by eliminating any uncertainty regarding the credit amount the purchaser will receive.[7] Upon conclusion of the audit, DOR issues a letter specifying the audited credit amount. Voluntary audits are not offered for interactive entertainment projects.

- **Involuntary audits** – Involuntary film tax credit audits may be initiated by DOR specifically to review the credit or may be included as part of a larger corporate audit.
    - Involuntary film tax credit audits are selected by DOR after the production company submits its tax return and IT-FC. They began in fiscal year 2018, looking at credits from as early as tax year 2013. Audit division management selects companies for these audits based on an informal risk assessment of the projects receiving the credit. Statute indicates the selected companies should be responsible for the cost of the audit; however, DOR has not yet determined whether it will charge them.
    - Corporate audits are comprehensive examinations of all aspects of a company's tax return, including any credits earned. If the company earned a film tax credit, the film tax credit auditors conduct that portion of the corporate audit. Companies undergoing a film tax credit audit as part of a broader corporate audit are not responsible for the cost.

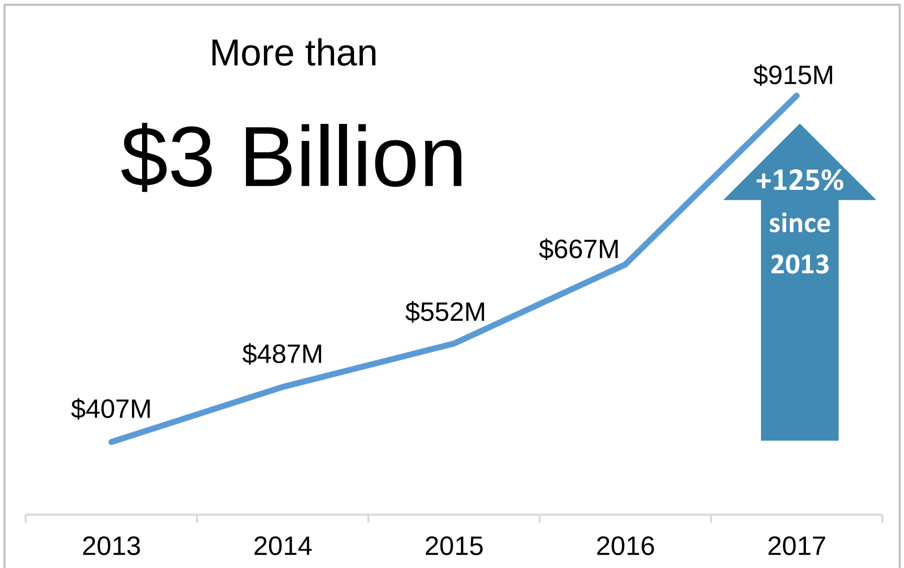
Both voluntary and involuntary audits follow the same review procedures. The auditors verify that the production company submitted withholding for all loan-out companies and may review labor contracts, particularly for highly paid individuals. They also look for expenditures with out-of-state vendors and sample transactions for which they request invoices or other supporting documents.

[7] If the credit is sold and all or part of the credit is later disallowed, the state's recourse is to take back the credit from the purchaser. However, when a project is audited, DOR agrees that the audited and approved credit amount is accurate, and in the absence of fraud, no additional amounts will be disallowed.

Program Activity

The film tax credit has grown significantly in recent years. As shown in **Exhibit 9**, the amount generated grew from approximately $407 million in 2013 to $915 million in 2017, an increase of $508 million (125%). This five-year period was the only reliable data available. DOR could not provide information on annual credits generated before 2015; therefore, we relied on GDEcD estimates for 2013 and 2014. In addition, companies can submit amended tax returns up to three years after their due date, meaning recent years are subject to change and 2018 credits were not yet complete.

Exhibit 9
Film Tax Credits Increased Significantly in Recent Years, 2013-2017



Source: Due to data limitations, the source varied by year: GDEcD application data, 2013-2014; DOR reporting, 2015; DOR BCM data supplemented with DOR audits data, 2016-2017

As shown in **Exhibit 10**, production companies reported qualifying expenditures of approximately $2.2 billion to earn film tax credits of $667 million in 2016.[8] The resulting credit rate across all projects was 29.8%, close to the maximum of 30% due to movies and TV shows receiving the uplift representing such a large portion of the expenditure and credit amounts. In 2016, 88% of movies and TV shows received the uplift.

Movies and television shows comprised more than 97% of credits earned. Despite having the fewest number of projects, movies had the largest expenditures and received the most credits of any project type. Television shows were the largest project type by number of projects and the second largest type by credit amount.

[8] Currently, the most complete year for detailed credit data is 2016. Our analysis is based on BCM data provided in September 2018, though DOR reporting indicated the 2016 credit had reached $677 million by March 2019.

Exhibit 10
Projects Received $667 Million in Film Tax Credits, Tax Year 2016

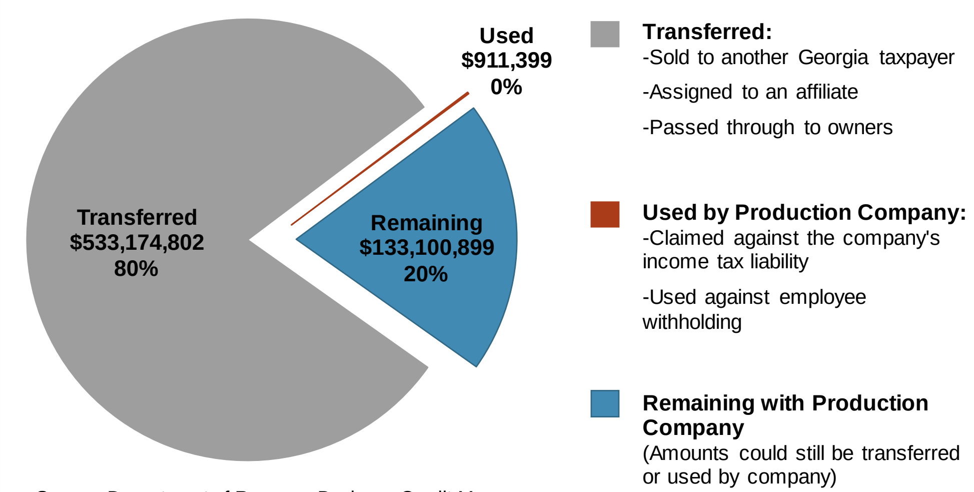
Project Type	# of Projects	Expenditures	Credit Amount[1]
Movie	69	$ 1,152,857,137	$ 345,735,799
TV Show	182	$ 1,006,806,460	$ 299,947,295
Other[2]	97	$ 39,432,713	$ 11,006,693
Interactive	102	$ 38,895,651	$ 10,497,313
Total	**450**	**$ 2,237,991,961**	**$ 667,187,100**

[1]Amounts are as of September 2018.
[2]The "Other" category is primarily commercials and online video content.
Source: Department of Revenue Business Credit Manager

Most credits are sold because the production companies typically have little to no Georgia income tax liability.

After film tax credits are generated by the production company, most are transferred to other Georgia taxpayers. As shown in **Exhibit 11,** approximately 80% of credits generated in 2016 have been transferred by the production company to another Georgia taxpayer. DOR data does not differentiate between sales, transfers to affiliates, and pass-throughs to company owners. However, the consensus is that most credits are sold because the production companies typically have little to no Georgia income tax liability.

Exhibit 11
Production Companies Transferred Most Credits, Tax Year 2016

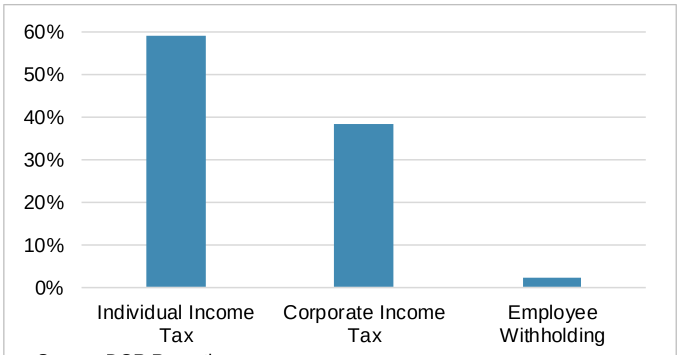


Source: Department of Revenue Business Credit Manager

While most credits have been transferred, the credit's growth and five-year carryforward period have resulted in a significant amount of credits not yet claimed. DOR reported $1.1 billion in credits generated through tax year 2016 not claimed as of March 2019. DOR was unable to provide information regarding the percentage of credits that expire without being claimed. However, the percentage is likely insignificant, given the ability to sell the credit.

Exhibit 12 shows credit claims against tax liability for tax years 2012-2016. The claimant could be the production company that originally earned the credit or the recipient of the credit via sale or other transfer. Credits were primarily used to offset individual income tax liability (59%), followed by corporate income tax (38%). The credit was infrequently claimed against employee withholding liability (2%).[9]

Exhibit 12
Credits Were Primarily Claimed Against Individual Income Taxes, 2012-2016



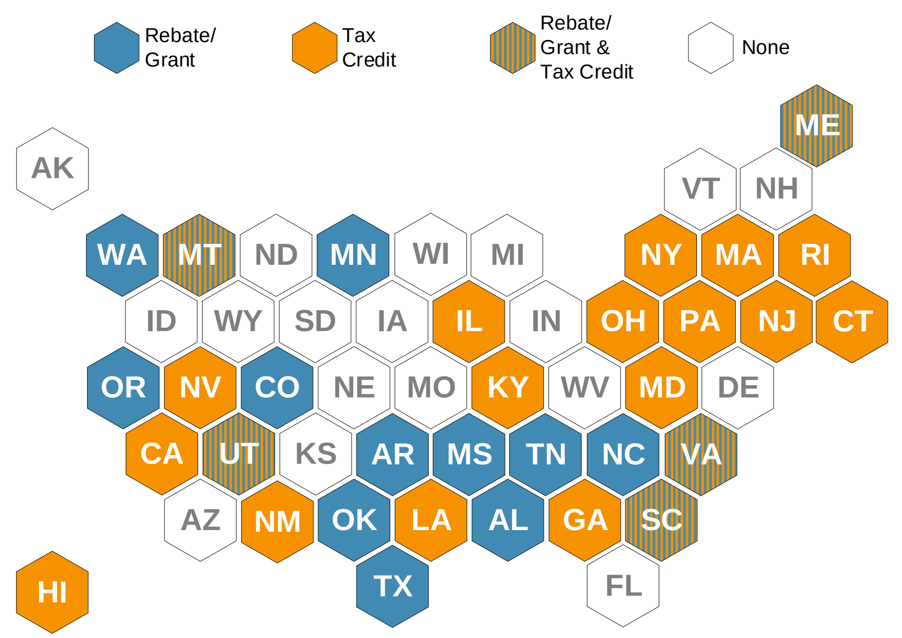
Source: DOR Reporting

Other States

> ***Tax Credits***
> *Offset of tax liability that does not involve a direct payment to the taxpayer, unless it is refundable*
>
> ***Rebates and grants***
> *Direct reimbursement of expenditures not tied to a tax*

Thirty-two states, including Georgia, currently provide some form of film incentive. As shown in **Exhibit 13**, the incentives are offered as tax credits, rebates, grants, or some combination. Specific provisions vary by state and frequently change. A comparison of state film incentives is provided in Appendix C.

Exhibit 13
Incentive Type by State[1]



[1] Idaho has a rebate program, but it has never been funded.
Source: State film offices and DOAA analysis

[9] Percentages do not total to 100% due to rounding.

Georgia has the largest film incentive of any state by the amount generated. Georgia provided $667 million in film tax credits in 2016. The state with the next largest incentive was New York, which was capped at $420 million in 2016.

Georgia appears to have relatively generous film tax credit provisions, but variation in incentive structures prevents a direct comparison among states. We identified four primary factors that cause this variation.

- **Qualifying expenditures** – The type of expenditures eligible for the credit vary by state and affect the incentive's generosity. Georgia allows companies to receive the credit for a broad array of expenditures, but other states may target a narrower set of expenditures. For example, nonresident labor compensation is eligible in Georgia, while only resident compensation is eligible in Texas.

- **Caps** – Caps may limit the incentive amount a company can receive or prevent an incentive from being granted altogether. Georgia currently has no cap for its film incentive (unless the company is a QIEPC), but 27 other states have project and/or aggregate caps. For example, North Carolina offers a 25% rebate on qualified expenditures but limits the rebate to $7 million per feature film and $31 million in aggregate.

- **Incentive type** – The incentive type and how it is monetized affects the production company's financial gain from the incentive. A rebate or fully refundable credit provides a direct payment to the production company for the full incentive amount. However, when unused credits can be sold (as in Georgia), the credits are typically sold at a discount in secondary markets. In other words, the taxpayer purchasing the credit pays an amount less than the credit's face value to obtain a tax savings. Other states vary in how excess credits are monetized. Louisiana buys back the credits at a discount (currently 88%), while New York fully refunds the credits.

- **Supplemental credits** – Supplemental credits result in varying effective credit rates depending on a project's expenditures. Eighteen states currently offer increases to their base incentives for specific expenditure types or production locations. For example, California allows an additional 5% for filming outside of Los Angeles or for expenditures in music scoring, track recording, or visual effects. Louisiana offers supplemental credits (with the total credit capped at 40%) for productions based on a screenplay created by a state resident (+10%), filming outside of New Orleans (+5%), resident payroll (+15%), and visual effects spending (+5%).

Findings and Recommendations

Finding 1: Administration of the film tax credit must be strengthened to ensure that companies only receive the credits to which they are entitled.

Key statistics from report findings can be found in ***Appendix D***.

Weaknesses in the administration of the film tax credit expose the state to significant risk that companies are receiving credits that have not been earned. The credit's generous provisions result in financial losses to the state when production companies' expenditures are overstated,[10] and the provisions provide a financial incentive for companies willing to take advantage of weaknesses in the credit's administration. In blue text boxes throughout the report, we have included instances of questionable practices, as well as examples of film tax credit fraud identified in other states.

The administration weaknesses are numerous and include processes of both GDEcD and DOR. Using broad interpretations of state law, GDEcD has certified projects with questionable eligibility. In addition, project certifications are based on review of an application, frequently submitted prior to production, with minimal verification that production occurred. When companies report credits earned, DOR relies primarily on voluntary compliance by production companies without the necessary environment to encourage compliance. Companies that fail to submit even the small amount of required documentation still obtain the credit. The vast majority of audits are voluntary; if a company does not choose to be audited, it likely will not be audited. Audits that are conducted do not identify all ineligible expenditures. Finally, DOR has not conducted a criminal fraud investigation related to the film tax credit despite granting significantly more tax credits than other states and fraud being uncovered in other states providing film incentives.

Strengthening the credit's administration would require additional resources. GDEcD would need to devote additional resources to verify production activities and uplift requirements. DOR would need additional resources to address all identified issues, including system changes to the BCM. DOR would also need additional auditors to address audit coverage and improve procedures, or state law would need to require that production companies obtain and submit audits to DOR. Specific recommendations are included in subsequent findings.

Risks Posed by Credit Characteristics

Production companies receive a monetary benefit from any overstatement of their expenditures. Most state credits are limited to an individual's or a company's tax liability, capping the risk the state faces from inaccurate reporting. However, the film tax credit can be sold to other taxpayers, allowing the production company to monetize the credit – and any inflated expenditures. For example, if a production company purchases an item in another state for $250,000 but improperly adds it to its Georgia expenditures, it receives a credit of $75,000. The production company sells the credit for 90% of its value and receives $67,500 cash for the ineligible expenditure. Even small unearned credits become significant if repeated over hundreds of projects and millions of dollars in credits.

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[10] Our review considered whether credits had been granted and were therefore available to be claimed by taxpayers. Financial losses occur when a credit is claimed on a return, and some of the credit amounts discussed in the report may not have been claimed yet. For some of these, DOR still has an opportunity to disallow unearned credit amounts.

The film tax credit is generous and imposes few requirements on the recipients in comparison to other economic development credits. Production companies that spend $500,000 receive up to 30% reimbursement for a wide variety of expenditures. As a result, a company would receive a $6,000 credit for a single, short-term contract job that paid $20,000 or a $600,000 credit for a short-term $2 million contract job if the actor is paid through a loan-out company. By comparison, the quality jobs tax credit provides annual credits of $2,500 to $5,000 per job for the creation and 24-month maintenance of at least 50 new jobs that pay at least 110% of the average county wage.

The credit's size also increases the financial risks to the state. At $667 million generated in 2016, the film tax credit is the state's largest credit. The average 2016 project received a credit of $1.5 million, a figure which does not include credit amounts projects may have earned in previous or subsequent years. Movies averaged $5 million in credits, and TV shows averaged $1.6 million in credits.

Certifying Projects and Ensuring Eligibility

GDEcD plays a dual role in relation to the film industry – marketing the state to production companies and ensuring that productions are eligible for the tax credit. Relatively few employees are responsible for compliance activities. We found that GDEcD conducts limited verification of credit eligibility, an issue intensified by a trusting relationship with certain companies and limited access to tax information.

- **Agency processes** – Eligibility review frequently occurs prior to production and is largely based on the written application. Eligibility decisions are based on what the production company says it will do, with little or no verification that production activities occurred. If the company does not receive the uplift, GDEcD conducts no review after initial certification. As discussed on page 46, companies have received the credit without filming. One project received a $1.9 million credit despite never beginning preproduction, the first production phase eligible for the credit. Due to the financial benefit of the credit, companies have little incentive to notify GDEcD that they are no longer eligible.

  GDEcD performs some verification if a project receives the uplift. However, as discussed on page 47, the agency does not consistently verify all uplift requirements, and incomplete, undistributed projects have received the uplift. Companies also have little incentive to notify GDEcD that they have not met the uplift requirements.

- **Relationships** – GDEcD staff described trusting relationships with certain companies that lead to acceptance of the company's assertions without verification. Given limited resources, staff request more documentation from independent filmmakers and new production companies than large studios when making certification decisions. While smaller projects and companies present a higher risk of losing financing or simply not being legitimate, large companies benefit significantly from the credit and have little incentive to disclose information that could reduce this benefit. For example, upon our request, GDEcD questioned one larger company and was told it had canceled

Questionable Action

Upon our request, GDEcD contacted a company and was told that a certified project had been canceled and the tax credit not taken.

DOR information shows that the company had, in fact, already used the $45,000 credit.

the project in question and not taken the credit. Despite this statement, GDEcD did not retract the credit's certification. DOR information showed that the company had obtained and used a $45,000 credit for the project. Without supporting evidence, GDEcD also accepted the company's statement that it had briefly placed several unaired pilots on its website to meet uplift distribution requirements for those projects.

- **Access to tax information** – Tax confidentiality laws do not allow DOR to share tax information with GDEcD. As a result, GDEcD staff who reviewed the initial application cannot review the final expenditure amount reported to assess whether it is reasonable. For example, one application reported to GDEcD an anticipated $20 million spend. The qualified spend reported to DOR was nearly twice that. GDEcD's industry knowledge and familiarity with the project could help DOR determine whether the increase was legitimate.

Environment Doesn't Encourage Tax Compliance

The tax system is dependent on willing compliance by taxpayers; however, DOR has not created an environment that encourages or compels production companies to comply with the film tax credit requirements. Given its size and characteristics, the film tax credit represents a higher risk than many tax credits, justifying more robust compliance reviews and verification through audits.

While the relative simplicity of the film tax credit assists production companies who want to comply, the threat of detection, enforcement, and sanction is necessary to serve as a deterrent to those that may not. All companies have a financial incentive to report the highest possible eligible expenditures. For that reason, it is necessary for companies, like all taxpayers, to believe that noncompliance will be identified and that consequences will be incurred, especially if the noncompliance is intentional.

We identified a number of weaknesses in the environment that could encourage noncompliance with the film tax credit laws and regulations.

To obtain a credit, companies are required to submit only a single estimate of total qualified expenditures

- **Limited documentation** – To obtain a credit, companies are required to submit only a single estimate of total qualified expenditures. With their tax return, they should file a form IT-FC, a breakdown of expenditures, and a listing of employees. However, the expenditure breakdown that should support the credit amount frequently has little detail and may provide only broad categories such as "payroll" and "vendor spend."

- **Companies that fail to provide documentation receive credit** – As discussed on page 32, companies often fail to submit the form IT-FC, which contains their official expenditure and credit amounts, and even more frequently, companies fail to submit an expenditure breakdown and a list of employees and wages. All documents are required by state law or regulation.

- **Few projects audited and most chosen by companies** – Even if companies submit all required documents, a sufficient audit of each project is the only method to provide reasonable assurance that the reported expenditures and credit earned are correct. Unlike most other states with a film incentive, Georgia law does not require a project be audited to receive the credit. DOR has audited 12% of 2016 projects, though the amount represents approximately half of the credits issued that year. As discussed on page 18, Georgia is one of only two states with a film tax credit or rebate that does not require a project to be audited or to submit detailed expenditure information.

Most Georgia film tax credit audits are voluntary, requested to help companies sell the credit. Projects that do not request an audit are unlikely to be audited. Due to the cost of voluntary audits, smaller companies and projects are less likely to be audited.

- **Audits do not identify all ineligible expenditures** – Even audited projects received credits higher than earned because audit procedures did not identify all ineligible expenditures. We identified numerous ineligible expenditures that were not disallowed in previously audited projects. Auditors are expected to review all costs listed in a project's general ledger, but the ledger may include thousands of individual transactions, making a thorough review impractical. Additionally, auditors request supporting documentation for a limited number of transactions. If documentation is requested, a company could submit an altered or fraudulent invoice, and it is unlikely the auditor would detect it. Companies are not required to submit actual proof of payment.

- **Limited consequences for unsupported expenditures** – Companies have faced no significant consequences for submitting ineligible or invalid costs towards the credit. If an audit identifies ineligible costs, only those transactions are disallowed. There is no projection of ineligible costs to the entire project. As a result, companies have an incentive to include ineligible costs with the expectation that auditors may detect only a portion.

- **No criminal fraud investigations** – Deficiencies in the credit's administrative controls and the significant financial benefit provided by the credit create an environment ideal for fraud. While other states providing significantly lower levels of film incentives have experienced fraud and opened investigations, DOR has not opened a criminal fraud investigation into any film tax credit recipient. Based on the money and opportunities available in Georgia's program, there is no reason to believe that it is free of fraud.

DOR Response: *DOR agreed that controls should be strengthened, although it did not believe the amounts discussed in the report as unearned or ineligible were material. DOR also indicated it had not found any criminal fraud to date, although it had vetted two credit-related referrals and determined they did not merit a criminal investigation. Additionally, DOR noted that its audit rate for the credit was high in comparison to the normal audit rate of the IRS, which is 0.5% of returns filed.*

> ***Auditor's Response:*** *DOR was unable to provide the audit team with any documentation of their review of these referrals, so we were unable to assess the agency's review process. Additionally, the overall audit rate for federal tax returns is not the most appropriate comparison for a high-risk state incentive such as the film tax credit. As noted above and in the following finding, Georgia is one of the few states with a film incentive that does not require 100% of projects be audited.*

GDEcD Response: *GDEcD stated "staffing limitations and the inability to access confidential taxpayer information drive the amount of verification that GDEcD is able to perform while certifying productions. It also noted that its "certification takes place on the front end, at or near the time of pre-production. GDEcD has to rely on what an applicant indicates it intends to do after certification." GDEcD agreed "that it is more inclined to trust experienced applicants who have demonstrated a history of successful projects in Georgia over applicants who have never applied for the credit or filmed in Georgia. This approach is necessary in light of the fact that GDEcD has limited staff to perform verification." Additionally, "GDEcD believes that mandating audits will resolve the vast majority of issues identified in this report."*

DOR Audits

Finding 2: Current audit coverage does not ensure only eligible expenses earn the credit.

Statute does not require an audit for a project to receive the film tax credit, and DOR does not enforce requirements that companies submit expenditure documentation to support the requested credit amount in its tax return. DOR does review documentation during film tax credit audits, but these are typically voluntary audits requested by the company. Unlike Georgia, most other states – with much smaller programs – require productions be audited prior to receiving the state film incentive.

Audit Coverage

Audits are critical to ensuring that the film tax credit amounts taken are limited to the amounts actually earned. Only through an audit does DOR attempt to verify expenditure eligibility. While companies are required to submit "sufficient detail of all qualifying expenditures used to…calculate the film tax credit" with their tax return, many fail to do so. Even if a company does submit a breakdown, DOR does not review it and disallow ineligible expenditures, and the breakdowns are generally not detailed enough for a reliable assessment (e.g., a single amount for payroll expenditures without detail if the work was performed in Georgia). To identify ineligible expenditures, a transaction-level review is necessary, which occurs only through an audit. For audits completed in 2018, DOR's nine auditors disallowed $22 million in expenditures, a reduction in credits of $6.6 million.

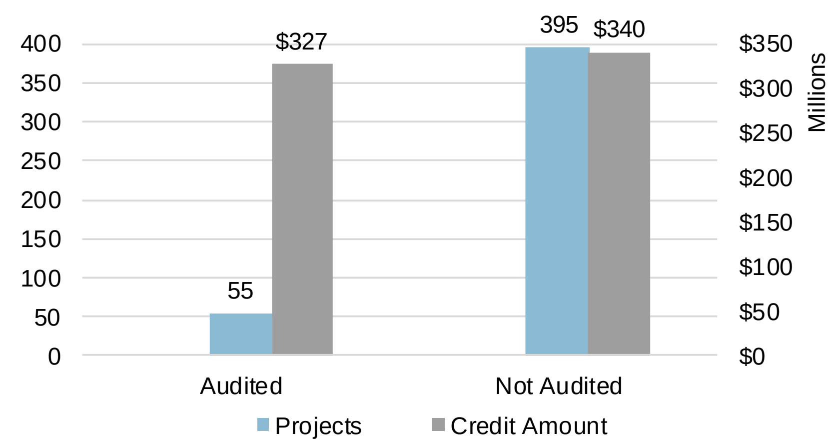
Because audits are the primary enforcement mechanism used to ensure that only valid, eligible expenditures are used toward the film tax credit, audit coverage—the percent of the projects and credit amount that are audited—is critical.

DOR has audited nearly half of the credits issued in 2016 but only 12% of projects,[11] as shown in **Exhibit 14**. All 55 projects audited so far underwent a requested, voluntary audit. The number of audits will increase when DOR begins involuntary audits for the 2016 tax year. However, given current resources, it is unlikely that DOR can significantly increase the number of audits through involuntary audits. As a result,

[11] DOR has not set a target for film tax credit audit coverage; however, we did not identify any best practices in audit literature that indicated DOR should have done so.

most projects will not be audited, and a project is unlikely to be audited if the company does not request a voluntary audit.

Exhibit 14
Nearly Half of the Credit, but Only 12% of Projects, Have Been Audited[1]
Tax Year 2016



[1]DOR has not yet begun involuntary audits for tax year 2016.
Source: DOAA analysis of DOR Audits activity data

Primarily due to the reliance on voluntary audits, current audit coverage is skewed toward large companies and large projects. DOR staff indicated that voluntary audits are typically requested by larger production companies. Given the audit fee ($5,000-$25,000, depending on production costs), smaller companies with lesser credit amounts may not want to pay for an audit. However, small- and medium-sized companies generally have a higher risk of tax noncompliance. The same audit fee issue exists for lower-budget projects that earn lesser credit amounts. The average credit for audited projects was approximately seven times higher than for unaudited projects.

DOR could not provide sufficient data to estimate final audit coverage. While voluntary audits are mostly complete for the 2016 tax year, involuntary audits for that tax year have not yet started.[12] DOR began conducting involuntary film tax credit audits in fiscal year 2018. Additionally, DOR did not previously track information on corporate audits that included film tax credits. Furthermore, 2016 was the first tax year for which DOR could provide a complete list of projects receiving the credit, so we could not calculate audit coverage for any earlier years.

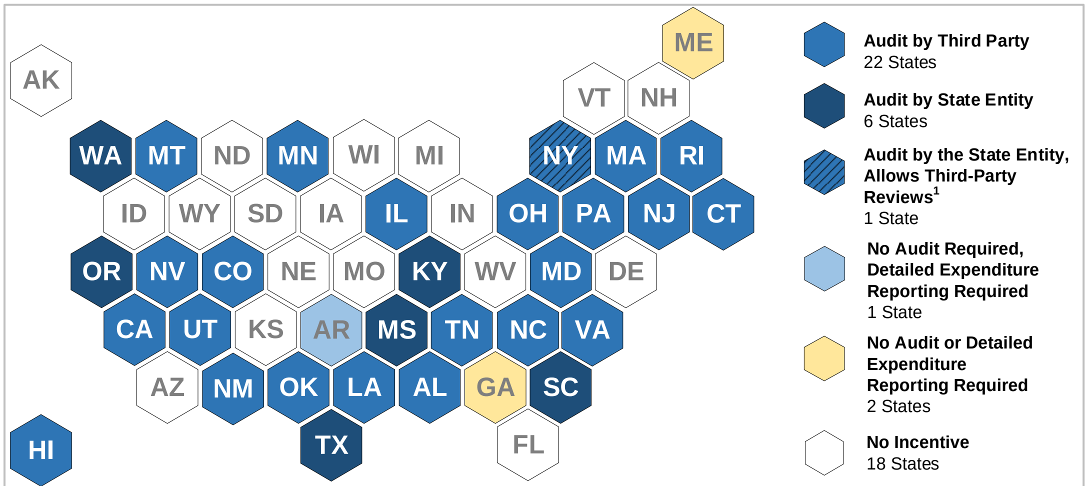
Other States

Georgia has the largest film incentive of any state but requires the least documentation. As discussed on page 33, production companies in Georgia regularly do not provide any documentation to substantiate their qualifying expenditure amount, and Georgia is one of the few states that does not require an audit of each project.

[12] DOR is currently conducting involuntary audits for tax years prior to 2016. The agency has a three-year statute of limitations after the return is filed.

Of the 31 other states with a film tax credit or rebate, 29 (94%) require that a project's expenditures be audited by agency staff or a third party in order to receive the incentive (see **Exhibit 15**). Arkansas does not require an audit, but it does require detailed expenditure records be submitted to the film office. Only Georgia and Maine do not require an audit or submission of expenditure records, but Maine does require a list of employees and social security numbers to receive a wage rebate of 10-12%. Georgia's film tax credit was $667 million in 2016; Maine's incentive was approximately $250,000.

Exhibit 15
29 of 31 Other States with a Film Incentive Require an Audit



[1] The state conducts the production audit unless the company uses a third-party to conduct the audit.
Source: State film offices and DOAA analysis

Other states with large incentives require audits. For example, California requires an audit by a licensed certified public accountant (CPA), and New York requires an audit by its economic development office or a licensed CPA. Both states require CPAs to follow agreed-upon procedures when auditing a production, and the states review the CPA's results for accuracy and sufficiency. The need for state oversight of third-party auditors is discussed on page 20.

RECOMMENDATION

1. The General Assembly should require audits for all projects receiving the film tax credit. It could

    a. require DOR to audit all projects, allowing the agency to hire the necessary number of auditors to do so. Production companies are required to pay fees for film tax credit audits already performed by DOR, and the fees are set at amounts intended to offset the costs to the state.

    Or

    b. require audits by independent, third-party CPAs. If third-party audits are required to receive the credit, DOR should oversee this process.

DOR should regulate auditor selection and independence, specify procedures auditors must follow, and review the completed audit. Additionally, DOR may need to perform certain audit procedures and should continue to select some projects for involuntary audit.

DOR Response: *"DOR is currently looking into the feasibility of expanding voluntary audits to include audits conducted by CPAs that are guided and reviewed by DOR." DOR also noted its auditors had disallowed over $90 million in expenses (over $27 million in credits) since it began the film tax credit audit program in 2012.*

GDEcD Response: *"GDEcD concurs with the recommendation…[and] further agrees that the mandatory audits should be conducted by GDOR (resources permitting), or alternatively, by third-party CPAs who have undergone significant GDOR training and are subject to GDOR oversight."*

State Oversight of Third-Party Auditors

DOR oversight is critical if third-party auditors were to review qualifying expenditures in Georgia. Due to the financial incentive of a 30% credit that can be sold, third-party audits need regulatory oversight that considers the following issues:

- ***Auditor selection*** *– Production companies that can freely select and remove the audit firm can pressure auditors to allow ineligible or unsupported expenditures. A Louisiana investigation uncovered fraudulent expenditures submitted by a production company that switched audit firms. The first firm disallowed certain expenditures as ineligible, but the second firm allowed them. Only the second audit was submitted to the regulatory agency.*

- ***Independence*** *– Auditors must be independent from the production company, with no conflicts of interest that could impair their judgement. The American Institute of CPAs sets standards for CPA independence.*

- ***Design of audit procedures*** *– DOR has developed expertise related to the film tax credit and applicable audit methods. Third-party auditors should follow written "agreed-upon procedures" designed by DOR to identify ineligible or unsupported expenditures. The procedures would detail each aspect of the review, such as requesting documentation for a specific percentage of transactions.*

- ***Performance of some audit procedures*** *– DOR may need to continue to perform certain aspects of the audit, such as verifying withholding was paid for loan-out companies. Due to confidentiality laws, DOR cannot provide this type of tax information to third-party auditors.*

- ***Audit review*** *– To ensure the adequacy of audit work and compliance with agreed-upon procedures, DOR auditors should review the work performed by third-party auditors. This review would be similar to current internal supervisory review of DOR's audit work.*

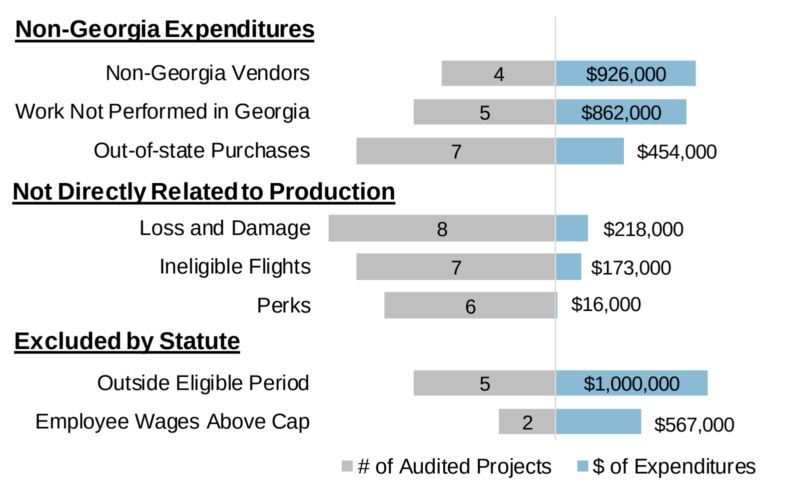
- ***Involuntary audits*** *– Requiring third-party audits does not eliminate the need for DOR audits. Continuing to perform a limited number of audits would allow DOR to better verify the work of the audit firm and to ensure DOR staff maintain expertise in this area.*

Finding 3: DOR's current audit procedures do not provide assurance that ineligible expenditures will be identified and disallowed.

While DOR film tax credit auditors review submitted costs for ineligible expenditures, we identified approximately $4.0 million in expenditures that appeared ineligible but were not disallowed in eight audited projects from tax years 2015-2017.[13] DOR's audit procedures did not require sufficient, systematic reviews for certain ineligible costs, and auditors may not have the resources necessary to review all of a project's expenditures. As noted in the previous finding, audits are the primary enforcement mechanism used to ensure that only valid, eligible expenditures are used toward the film tax credit.

Statute allows the credit for "preproduction, production, and postproduction expenditures incurred in this state that are directly used in a qualified production activity." The ineligible expenditures we identified should have been disallowed because they were not incurred in Georgia, were not directly related to production, or fell under specific statutory exclusions. In some instances, DOR may have interpreted the statute to permit the expenditure. A summary of these expenditures is shown in **Exhibit 16**. The actual amount of ineligible costs not disallowed may be higher because we were only able to review the projects' financial transactions and the invoices requested by the auditors. We did not request any additional supporting documentation for the audited projects.

Exhibit 16
Audited Projects Received Credits for Ineligible Expenditures,[1]
Tax Years 2015-2017



[1]The sum of each category does not match the total discussed in the text because there is approximately $200,000 in expenditures for work not performed in Georgia that also fell outside the eligible period.

Source: DOAA analysis of DOR audit documentation

Non-Georgia Expenditures

We identified $2.2 million in expenditures where there was no indication they were made in Georgia. DOR's audit procedures are insufficient to adequately identify the

[13] The $4.0 million in ineligible expenditures represent 1.4% of the $283 million in submitted costs for the eight audits. DOR auditors had already disallowed $4.7 million in expenditures, or 1.7%.

location where the expenditure took place. When out-of-state expenditures are used toward the credit, the state incurs a loss of income tax revenue without receiving an economic benefit.

When out-of-state expenditures are used toward the credit, the state incurs a loss of income tax revenue without receiving an economic benefit.

- **Non-Georgia vendors** – For a purchase or rental to be eligible for the credit, DOR rules require the vendor have "a physical location in Georgia with at least one individual working at such location on a regular basis." Invoices showed six vendors using an address at a residence or a UPS Store. Expenses associated with these vendors totaled $926,000 for four projects. Actual amounts in this category may be higher because we were only able to review the addresses on invoices requested by the auditor. Auditors typically check DOR's database to determine if the vendor has registered for a sales tax account (an indicator of physical presence), and auditors may request a federal form W-9 or an invoice to determine the vendor's reported address.

Questionable Action

Three projects reported Georgia wages for out-of-state workers that do not appear to have traveled to Georgia. One producer was paid $125,000 with no evidence of travel to the state.

- **Work not performed in Georgia** – Statute specifies that wages are an eligible expense when the work is performed in Georgia. However, we identified $862,000 in wages, in five projects, that was paid for work performed elsewhere. Four of the projects included wages for out-of-state workers prior to their first airfare or other travel expense, and three projects had out-of-state workers with no travel expenses at all. For example, one producer was paid $125,000 for work in Georgia despite having no airfare, car, lodging, or per diem expenses, all of which were required by his contract for work outside his home state of California. Auditors use the "work state" field in a project's payroll report to determine where work was performed; however, production companies may intentionally or inadvertently select the incorrect work state. As such, the field does not reliably establish work location.

- **Out-of-state expenditures** – DOR allows expenditures for items obtained outside of Georgia if the vendor has an in-state location. We identified $454,000 in expenditures, in seven projects, that were not disallowed even though the purchase or rental came from a location in another state. DOR regulations allow expenditures for multi-state vendors with a Georgia location despite evidence the items came from company locations out-of-state. For example, DOR allowed $266,000 for the rental of a set piece because the invoice was issued by the vendor's Georgia location, even though the general ledger included shipping costs for the item to and from the vendor's New York location. While these items may have technically come from a Georgia vendor, the out-of-state origin for the transaction provides limited economic benefit to the state.

  We identified other vendor shipping charges[14] that demonstrate out-of-state purchase locations, but we could not tie these to specific purchases and therefore did not include them in our estimate of ineligible expenditures.

Not Directly Related to Production

We identified $412,000 in expenditures that were ineligible according to DOR guidelines but were not disallowed by DOR auditors. Statute allows the credit for expenditures directly used in a qualified production activity. DOR has evaluated

[14] These charges were not from shipping vendors, such as FedEx and UPS, which are eligible for the credit.

expenditures for direct usage and published guidelines indicating which costs are eligible for the credit. However, auditors cannot identify all ineligible expenditures due to the time required to adequately review each transaction.

- **Loss and damage** – Loss and damage are ineligible expenditures but were not always disallowed. Auditors allowed loss and damage, totaling $218,000, in each of the eight audits we reviewed. One project included a $2,500 expenditure described as "lost petty cash." Another project included $1,900 for damage to rental vehicles, although similar transactions were disallowed for other projects.

- **Ineligible flights** – One round-trip flight is allowed for each out-of-state cast and crew member, but the audits did not show evidence of a thorough review for additional flights. Seven projects included additional flights for one or more workers, totaling $119,000 in expenditures. Additionally, one project included $54,000 for studio executive airfare, which is not an eligible expense.

- **Perks** – Gifts and other perks for cast and crew were allowed in five of the audits reviewed, totaling $16,000 in expenditures. Similar perks were sometimes disallowed, indicating the auditors may not have reviewed those particular transactions.

- **Other** – Other ineligible expenses were not always disallowed, such as $4,800 for legal fees, $100 for publicity, and $80 for a parking ticket.

Auditors are unable to thoroughly examine each transaction given the volume of transactions and necessity of supporting documentation. While audit procedures direct auditors to "[r]eview all costs to determine if they qualify," a large budget project has tens of thousands of transactions. Additionally, auditors need supporting documentation to verify that a transaction is a valid, eligible expenditure, but they request documentation for a selection of transactions. In the eight audits we reviewed, supporting documentation was requested for transactions representing 0.4% to 32% of non-labor costs. Audit procedures do not specify a sample size, so auditors currently select transactions based on their professional judgement.

Excluded by Statute

We identified $1.6 million in expenditures that fell under specific statutory exclusions, making them ineligible for the credit. Audit procedures do not require auditors to look for these items specifically, but they may do so.

- **Expenditures outside the eligible period** – Statute specifies that only pre-production, production, and postproduction activity is eligible for the credit. Five of the projects we reviewed included a total of $1.0 million in expenditures that occurred prior to the pre-production period (marked by the opening of the production office).[15] Actual ineligible amounts may be higher because not all transactions included dates. Audit procedures do not require auditors to verify expenditures occurred during an eligible period. We also

[15] Regulations allow scouting expenditures to qualify for the credit in the two weeks prior to opening the production office. We assumed that all expenditures in that two-week period were related to scouting and were therefore eligible.

noted expenditures, such as storage fees, that occurred months after shooting ended and were likely ineligible. However, no regulation currently specifies a milestone date (such as the production office closing) marking the end of the eligible period.

- **Employee wages above the salary cap** – Statute limits eligible employee wages to $500,000 per employee (excluding payments to loan-out companies). Two companies in our audit sample received the credit for employee wages above the $500,000 cap, with a total of $567,000 in wages above the cap. Current audit procedures do not require auditors to look for employee wages above the cap.

High-Risk Transactions

While not necessarily ineligible, certain transactions present a higher risk of ineligible or fraudulent expenses. Current audit procedures do not adequately address these risks.

- **Petty cash transactions** – Seven of eight audited projects included petty cash transactions in an employee's name, but three audits had no requests for supporting documents from petty cash. These transactions present a higher risk of out-of-state purchases because the general ledger does not show the actual vendor where the item was purchased. Instead, the transaction record has the employee's name in the vendor field and the name of the item (e.g., set decorations) in the description field. For example, one of the three audits included $154,000 in petty cash reimbursements to a single employee, and the transaction descriptions had no details about the purchase locations. Petty cash is mentioned in audit procedures, but a review was not included in every audit.

Questionable Action in Another State

Circular transactions between the production company and its parent company were used to inflate expenditures in a film tax credit fraud case in Louisiana. Investigators found the fraud by reviewing bank statements.

- **Related-party transactions** – Related-party transactions can be used by production companies to inflate expenditures and earn additional credits. For example, a parent company may charge higher-than-market studio rent to a subsidiary production company to generate higher credits. Due to the higher risk of fraud, related parties should be subject to additional verification. Three of the projects reviewed included related-party costs totaling $1.0 million that did not face significant scrutiny. For two projects, the auditor did not request any documentation of the related-party transactions. For the third, the auditor did request documents but accepted invoices from the related party without requesting additional information, such as bank statements to verify the transaction occurred or a list of market rates to determine the cost was reasonable. Audit procedures for film tax credits do not specify a higher level of review for related-party transactions.

Fundamental Issues

As noted throughout the finding, DOR procedures are not sufficient to identify and disallow various ineligible expenditures. In addition to the causes noted for specific types of transactions, we identified two broader concerns that affect DOR's ability to identify ineligible expenditures.

- **Not projecting disallowances** – The current audit approach incentivizes companies to submit ineligible or invalid expenditures for the credit. DOR auditors identify ineligible expenditures by reviewing the general ledger and requesting documentation for selected transactions. However, if the auditor does not identify an ineligible expenditure, the company receives a credit for up to 30% of the ineligible costs. If the auditor identifies an ineligible expenditure or if the company cannot provide supporting documentation, the cost is disallowed with no penalty. Disallowances are not projected to the full population of submitted expenditures.

We identified audit procedures in other states that involve projecting disallowances to the larger population. For example, Maryland reviews all costs above a certain dollar value and samples costs below that value. The percentage of disallowed costs in the sample is then projected to the larger population. When ineligible transactions are disallowed, there is a broader reduction to the project's credit, which provides a disincentive to include ineligible or unsupported transactions. Using a statistically valid, random sample would eliminate the need for auditors to review every transaction.

- **Supporting documentation sufficiency** – DOR currently relies on documentation that is unlikely to identify invalid or fraudulent transactions. While audits cannot provide complete assurance of expenditure amounts, DOR could require more reliable support for transactions deemed high value or high risk. This requirement would include obtaining the same types of documents from third parties, as well as reviewing credit card and bank statements. DOR indicated it has reviewed bank statements in instances where the expenditure seemed suspicious.

  When currently requested, supporting documentation typically includes an invoice and possibly a check copy or internal purchase order. However, these documents provide limited assurance that the payment occurred for the item and amount specified. Additionally, companies willing to commit fraud are likely to provide inaccurate or fictitious records. A production company can submit a fake or altered invoice and print a check that is later voided. A credit card or bank statement provides more assurance that the transaction occurred.

- **Interpretation of state law** – DOR has the authority to interpret state law to administer the film tax credit. While interpretations may be consistent with other aspects of tax administration (e.g., collection of Georgia sales tax), these interpretations may not be consistent with the economic development function of the film tax credit and the creation of jobs in Georgia. For example, a company that opens a Georgia office with single employee is considered by DOR to be a Georgia vendor and would be required to collect Georgia sales tax. However, if the employee is simply arranging for the shipment of items into and out of the state for productions, the state supplying the inventory is likely receiving a more significant benefit.

RECOMMENDATIONS

1. DOR should improve film tax credit audit procedures to address the specific issues discussed throughout the finding. For example, DOR should consider whether transactions occurred during eligible production phases.

2. DOR should work with GDEcD to identify a final eligible date for expenditures and incorporate this into regulation.

3. DOR should request supporting documentation for a statistically significant sample of transactions. Auditors should project disallowances to the larger population of transactions.

4. DOR should request supporting documentation that provides stronger evidence of actual payment, such as credit card or bank statements, for transactions deemed high value or high risk.

***DOR Response**: DOR stated that the amount identified by the Department of Audits and Accounts was not significant in relation to the $283 million in expenditures examined, noting it only resulted in $1.7million in credits. DOR also indicated it "strives to review every transaction" and "review[s] 100% of non-labor costs to determine if the vendor is a qualified vendor." DOR stated that it "does do some sampling in extremely large projects where it believes sampling is justified."*

> ***Auditor's Response**: Our primary concerns related to audit procedures were that ineligible expenditures were not identified and that the process for selecting transactions for review prevents disallowances from being projected. While DOR may intend to review every transaction, it was clear auditors did not do so. This approach does not appear feasible, given the volume of transactions. Additionally, the audits we reviewed did not show evidence that auditors verified that all vendors were, in fact, Georgia vendors. Regarding sampling, DOR's procedures indicate auditors should select a sample of transactions and request supporting documentation for these. However, the manner in which the sample is selected (i.e., auditor judgement, not random sampling) does not allow the results to be projected to the broader population.*

***DOR Response**: DOR indicated some of the identified expenditures were eligible for the credit.*

- *Work not performed in Georgia – DOR disagreed that the identified work was necessarily performed outside of Georgia. It noted crews may transition between productions and workers may have already been in Georgia. It also indicated productions may provide monthly expense allowances, which would be included in payroll, rather than pay for individual travel expenses.*
- *Out-of-state expenditures – DOR noted that the items were purchased from a Georgia vendor as provided in DOR regulations, which are subject to General Assembly review. As such, the "income will be subject to Georgia sales tax and included in the apportioned Georgia sales factor for Georgia corporate income tax purposes. DOR also, where appropriate, investigates companies with multiple shipments from outside Georgia to ensure the companies regularly maintain inventory within Georgia."*
- *Not directly related to production – DOR stated that its guidelines for these expenditures were not published until December 2017.*

> ***Auditor's Response**:*
> - *Work not performed in Georgia – We reviewed audit documentation for any type of travel expense, including airfare, lodging, transportation, and meals. We believe that it is unlikely a nonresident worker would have none of these expenses, even if already present in Georgia, because labor contracts typically require the production company pay for*

these items for nonresident workers. Additionally, there was no evidence in the payroll reports that these individuals were paid monthly expense allowances in lieu of payment for individual travel expenses.

- *Out-of-state expenditures – While these items may have technically come from a Georgia vendor, allowing expenditures when the item is known to have been provided by the vendor's location in another state minimizes the impact on Georgia's economy. In fact, we subsidize the shipping of company's inventory both to Georgia and out of the state. Additionally, in some instances, the vendor did not charge sales tax, but the expenditure was still allowed. In the audits we reviewed, we did not see evidence that DOR investigates companies with out-of-state shipments, so we were unable to validate the extent to which this occurs.*
- *Not directly related to production – We found inconsistent disallowances of these expenditures both before and after the guidelines were published. For example, two projects audited before December 2017 had similar expenditures for damage to rental vans; one auditor allowed the damage and the other did not. If the disallowance was justified in one instance, the same criteria should be applied uniformly. Additionally, while DOR did not publish the guidelines on its website until 2017, this provision has been included in the statute since it was passed in 2005.*

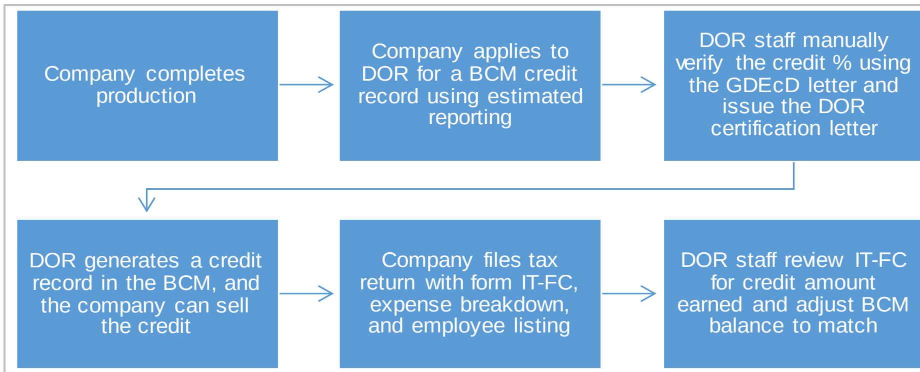
DOR Taxpayer Services Division

Finding 4: Due to weaknesses in DOR's controls, companies could receive credits they are not eligible for or credits higher than earned.

Our review of DOR's film tax credit records found that a significant portion of companies' credit amounts did not match tax forms, some projects had duplicate credit amounts, and one company did not meet the spending threshold. These issues resulted in companies being provided credit amounts that had not been earned.

As shown in **Exhibit 17**, companies obtain a credit record by entering estimated spending directly into the BCM after film production is completed. After the credit percentage is verified and the record is approved, the company is then able to sell its credit. The company reports its final spending and credit amounts on form IT-FC, an attachment to the tax return. If necessary, DOR adjusts the credit record. By law, the IT-FC credit amount is the amount the company is reporting that it has earned.

Exhibit 17
Companies Report Official Credit Amounts on Form IT-FC[1]



[1] An audit could occur at any point in this process. However, it does not impact the steps in this process.

Source: DOR staff interviews

Inaccurate Amounts

Inaccurate credit amounts in the BCM provide companies with access to higher credit (and sometimes lower) amounts than they have earned. DOR does not ensure that the credit amount in a project's BCM record matches the amount the company submitted with its tax return; nearly half of the records we reviewed had an inaccurate credit amount. Additionally, we identified unsupported credit increases by DOR staff and a risk for unaddressed discrepancies between credit forms and supporting documentation.

- **Discrepancies with IT-FC forms** – We estimate that credit amounts in the BCM did not match the amount submitted on the IT-FC for nearly half of the 2016 projects that submitted the form. Our review of a statistically significant random sample of 2016 projects in the BCM found that 47% had credit amounts that did not match the submitted IT-FC.[16] When projected to the

[16] The analysis included records in the BCM that had an associated IT-FC form. We estimated that IT-FC forms were only submitted for 359 of 450 projects. This issue is discussed further on page 32.

full population, we estimate that 168 of 359 projects had incorrect amounts, with a net difference of $15.5 million more in credits than the companies reported they had earned.

The credit inaccuracies typically occurred because the estimated credit amount submitted by the company during initial reporting was not updated when the company submitted its IT-FC. The company submitted a higher or lower earned amount on the IT-FC, but the BCM credit record was not updated accordingly by DOR. We identified two issues contributing to the problem but were unable to determine the primary cause.

  - Tax returns were processed electronically without being reviewed by DOR personnel. If the appropriate tax return schedule was not completed by the production company, DOR's tax processing system did not flag the return for manual review. As a result, no tax examiner reviewed the IT-FC to determine whether to adjust the credit record.
  - The tax examiner reviewing the return did not adjust the BCM credit amount to match the IT-FC. DOR has no written procedures for tax examiners processing the IT-FC.

- **Unsupported increases** – In addition to systemic inaccuracies, we identified two credit records for which a tax examiner increased the credit amount, but the increase did not appear to be supported by any documentation from the company, such as a higher amount on the IT-FC. The unsupported increases totaled $96,000.

  While DOR's system logs changes to the credit amount, there is no process for a supervisor to review changes to the BCM credit record. The only portion of the credit process with supervisory review is the initial creation of the BCM credit record during estimated reporting.

- **Discrepancies with expense breakdown** – DOR's current processes allow for unaddressed discrepancies between the IT-FC and an accompanying expense breakdown. We did not identify any specific discrepancies in the projects we reviewed. However, Taxpayer Services staff stated they do not take any action if the IT-FC amount does not match the expense breakdown. This practice creates an unnecessary risk for an incorrect credit amount.

DOR indicated that it plans to implement electronic filing of the IT-FC, which should reduce the need for manual review and adjustment of the BCM record by allowing companies to enter the corrected credit amount directly. Currently, companies cannot make changes to the credit record once it is submitted. Changes must be made by submitting an IT-FC with the corrected credit amount.

While unrelated to discrepancies with tax forms, GDEcD's inability to review final credit amounts could also result in companies receiving higher credits than earned. GDEcD certifies each project for the film tax credit, but state law does not permit the agency to know whether a credit was claimed or the final credit amount. As part of the certification process, GDEcD staff review each project's budget and assess whether the amount is reasonable. However, they are not permitted to see the final expenditure amounts reported to DOR, despite the potential for significant variation from the budgeted amounts. For example, one project reported to GDEcD an anticipated $20 million spend but reported to DOR an amount nearly twice that. Whether or not the increase was legitimate, GDEcD's industry knowledge and familiarity with the project could help DOR make that determination.

Duplicate Records

Our review of 2015-2017 records in the BCM identified 19 projects that had duplicate entries not invalidated by DOR. The duplicate records resulted in excess credits of approximately $20 million being available to the companies. While the companies may not have used or sold these credits, the amounts are available to them to do so.

Duplicate entries result from a company submitting multiple records for the same project and DOR staff not identifying and invalidating the duplicates. During initial reporting, the BCM requires the company provide a certification number from GDEcD; however, the system does not prevent a project number from being re-used. Duplicate entries may be identified and invalidated by the tax examiner during the initial approval of the credit or during the IT-FC review process. However, DOR does not have any written guidance for tax examiners regarding duplicates.

Duplicates are made more likely because companies cannot change existing BCM credit records directly but can submit a new credit record. It appeared that several companies were attempting to change an existing record by submitting a new record with slightly different information, such as a corrected year or company name or a different credit amount. DOR allows companies to submit an additional record for the same project only to increase its credit amount. Additional records should not be submitted for another purpose unless the initial record has been invalidated by a DOR tax examiner. However, a tax examiner that encounters multiple records may not know whether the new record is an additional amount or a true duplicate.

Below Minimum Spend

To qualify for the credit, statute requires each production company to spend at least $500,000 on eligible expenses on one or across multiple projects. However, we identified one company that received the credit in 2016 despite spending less than $100,000. While the credit amount is small (less than $30,000), the instance identifies a control weakness in DOR's processes.

The improper award apparently resulted from the credit being taken by a parent company with multiple projects through various entities and DOR being unable to track the spending to the original production company. Parent companies frequently create disregarded entities[17] for individual movies or television shows. The disregarded entity functions as the production company, but the parent company ultimately takes the credit in the BCM. By law, the production company—not the parent company—is the entity subject to the minimum spend requirement. If the parent company has multiple disregarded entities that receive the credit, it is difficult for DOR to identify those entities that do not meet the spend requirement because the parent company's total spend may be greater than the $500,000 threshold. However, the BCM does not identify the production company if its parent company takes the credit.

[17] A disregarded entity has no income tax liability of its own but instead is included on its owner's or parent company's income tax return.

RECOMMENDATIONS

To address inaccurate credit amounts:

1. DOR should continue with plans for electronic IT-FC filing that would allow companies to adjust individual credit records and reduce the need for manual adjustments by DOR staff.

2. DOR should implement written procedures for reviewing and processing IT-FC forms to ensure tax examiners correctly understand their responsibilities.

3. DOR should implement supervisory review for changes to the credit amount. If DOR does not have the resources to review each change, it could select a sample of credit changes, chosen randomly or based on risk criteria (e.g., amount).

4. DOR should require tax examiners to obtain corrected documents or written clarification from the taxpayer if the IT-FC form and submitted documentation do not match.

5. The General Assembly should consider allowing DOR to provide GDEcD with certain tax information relevant to the film tax credit.

To prevent duplicate records:

6. DOR should prohibit the re-use of a GDEcD certification number, limiting each project to a single credit record.

7. DOR should provide written guidance to tax examiners on how to identify and address duplicate credits for the same project.

To prevent companies from receiving the credit without meeting the minimum spend threshold:

8. DOR should add a field in the BCM for the original production company certified by GDEcD. This field would allow DOR to query and identify production companies that did not meet the minimum spend.

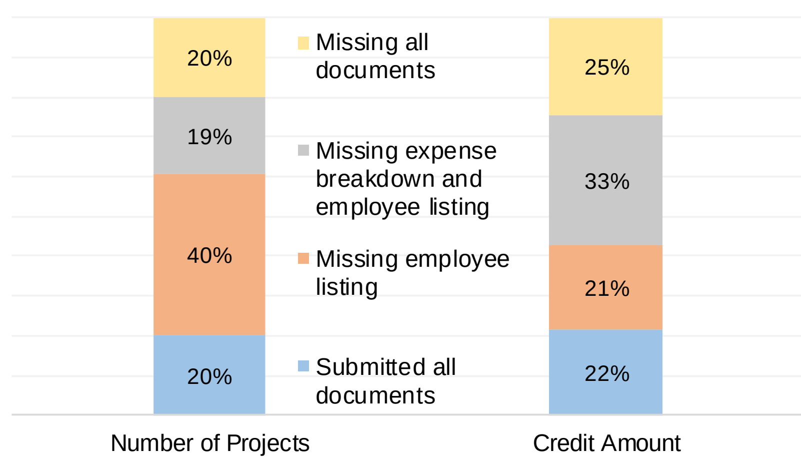
DOR Response: *"Taxpayer Services Division has strengthened training material for the Film Tax Credit and updated internal procedures, to ensure taxpayers do not receive the credit if they are not eligible. This training documentation includes process-flows and step by step instructions to support consistency. The division is also working to realign resources allowing for a more focused approach to meet the credit guidelines." DOR also reiterated its positions that the unearned amounts were not material considering the $667 million of film tax credits generated in 2016 and that improperly granted credits (i.e., duplicate records, below minimum spend) can be invalidated because they have not yet been used.*

Finding 5: DOR allows companies to receive the credit without submitting required documentation.

Companies have received the credit without submitting all documentation required to support the credit amount taken. Statute and regulation require companies to submit tax form IT-FC, as well as an accompanying expenditure breakdown and listing of employees whose wages are included in the reported spend. Without an IT-FC, the credit amount is based on a company estimate of expenditures and has not yet been supported.

As shown in **Exhibit 18**, our review of a sample of tax year 2016 projects found that companies submitted all required documents for only 20% of projects and 22% of the credit amount. Approximately 20% of the projects had no IT-FC, while 39% lacked an expenditure breakdown, and 80% had no employee listing. When these percentages are applied to the full 2016 population, 359 of 450 projects are missing one or more required documents. These projects represent $523 million of the $667 million in credits granted.

Exhibit 18
Most 2016 Projects Receiving the Credit Did Not Have Required Documentation



[1] Due to rounding, percentages do not total to 100 and vary slightly from the sums noted in the report text.

Source: DOAA review of randomly sampled DOR records

Missing IT-FC

O.C.G.A. 48-7-40.26(h) requires production companies to attach a schedule to their Georgia income tax return that contains the amount of the tax credit claimed. DOR's form IT-FC serves as documentation of the actual tax credit amount and must be submitted for a credit to be earned.

Approximately 20% of projects in our sample had no form IT-FC. In these instances, the company had submitted an estimated expenditure amount in DOR's BCM system and received a DOR certificate number that could be used to sell the credit. However, the company had failed to submit final expenditure and credit amounts on form IT-FC, which should be filed with the company's tax return.

We estimate that approximately 91 projects worth $165 million in credits did not submit the required final expenditure and credit amounts on an IT-FC. Based on the frequency of DOR's credit adjustments for projects that did submit an IT-FC, we estimate that 67 of these 91 records had incorrect credit amounts in the BCM, with total excess credits of more than $6 million available to the companies as a result.

At the time of our review, approximately 80% of 2016 credits had been sold or transferred to other Georgia taxpayers. Applying this rate to the $165 million in credits for this group results in an estimated $132 million in 2016 credits having been sold or transferred without an IT-FC. Once the credit has been sold, the state's recourse to reclaim unearned credit amounts is against the purchaser attempting to use the credit, not against the production company that failed to submit the IT-FC and sold the credit.

Companies are instructed to file the IT-FC with their returns, but there are no processes to address noncompliance. DOR does not identify BCM certificates with no corresponding IT-FC and remove or reject them, nor does it recapture amounts used without a valid IT-FC. DOR has indicated that it plans to implement electronic IT-FC submission to replace the form attached to the tax return. This should allow DOR to more easily check for projects without a corresponding IT-FC form.

For six projects[18] we reviewed, the company submitted an IT-FC for some—but not all—of its BCM certificates. If a company submits an IT-FC without projects in the BCM, it may indicate that the project was not ultimately made. In one instance, the tax examiner took appropriate action – contacting the company to verify the credit would not be taken and canceling the unsupported credit. However, in five other instances, the examiner did not address the discrepancy. As a result, the unsupported credits were still available, despite the companies not reporting that they had actually earned these credits.

DOR did begin to address this issue after our review. Specifically, DOR altered the IT-FC form to require companies to list each DOR certificate number and the corresponding final credit amount. This change should help tax examiners more easily identify those projects that already have DOR credit certificates but do not have a submitted IT-FC. (Companies can submit a separate IT-FC for each project or aggregate all projects into a single IT-FC.) However, DOR still has no written procedures for tax examiners processing the IT-FC. Without standard procedures to follow, DOR is likely to continue to have variation in how the credits are processed.

Missing Supporting Documents

When the IT-FC is submitted, companies are also required to submit documentation to support their qualifying expenditures. Specifically, DOR rules (560-7-8-.45[11]) require production companies to provide "sufficient detail of all qualifying expenditures used to meet the base investment and calculate the film tax credit." O.C.G.A. 48-7-40.26(h) requires production companies to attach a "detailed listing of employee names, social security numbers, and Georgia wages when salaries are included in the base investment" that determines the credit amount.

[18] These six projects were in both the random sample and a targeted sample used to identify specific issues. Therefore, the results cannot be projected to the full population.

We found that the documents are frequently not submitted as required.

- Approximately 24% of projects with an IT-FC (39% of all projects) did not have a required documentation of expenditures.
- Approximately 75% of projects with an IT-FC (80% of all projects) did not have the listing of employees and wages.

The documentation is intended to serve as support for the credit amount claimed by the company. The expenditure documentation can be compared to the amount on the IT-FC, and any wages claimed in the expenditure documentation should be supported by the employee listing containing wages. Both documents could serve as a source for DOR auditors. As noted on page 17, if a company does submit a breakdown, it is generally not detailed enough for a reliable assessment (e.g., a single amount for payroll expenditures without detail showing if the work was performed in Georgia).

DOR has not implemented a process to address noncompliance. Staff noted that a tax examiner can process the IT-FC without the expense documentation, despite the IT-FC stating that the documentation is required. DOR tax examiners do not reconcile the IT-FC with supporting documentation even when submitted.

RECOMMENDATIONS

1. DOR should implement processes to identify projects without a corresponding IT-FC and recoup credit amounts already used. If the production company does not submit the required documentation by the tax return deadline, DOR should suspend the credit certificate from further sale or use and notify the company, providing a specific amount of time for correction. If the company fails to comply, DOR should recapture amounts already utilized.

2. DOR should implement written procedures for tax examiners processing the IT-FC. These procedures should include:
    a. reviewing all of the company's BCM certificates and ensuring that each certificate is supported by the IT-FC.
    b. contacting the company if it does not submit required documentation with the IT-FC. If the company does not provide the documentation when requested, DOR should reject the IT-FC form and suspend the credit certificate.

3. DOR should implement processes to ensure that all required documentation is submitted with the IT-FC and that the documentation is detailed enough to be useful.

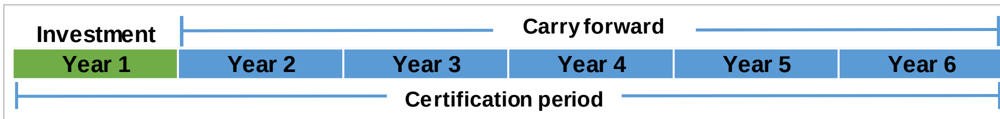
DOR Response: *"While DOR agrees it needs to strengthen its controls as it relates to the Taxpayer Services Division, to obtain the most efficient result it is focusing on the mandatory electronic filing of the IT-FC." Additionally, "Taxpayer Services Division has strengthened training material for the Film Tax Credit and updated internal procedures to ensure taxpayers do not receive the credit without the required documentation."*

Finding 6: Due to weaknesses in DOR's controls, companies could claim credits outside of the eligible carryforward period.

Some projects have incorrect certification periods in the BCM that would allow a taxpayer to use the credit during an ineligible tax period, either prior to the year in which the credit was earned or after the carryforward period has ended. However, we did not identify any certification periods that exceeded six years, the maximum allowable period.

Statute allows the credit to be taken against tax liability for the year in which the company's investment was made. As shown in **Exhibit 19**, any unused amounts can be carried forward for up to five years, for a total allowable period of six years. DOR's BCM generates this six-year certification period based on dates entered by the company taking the credit. However, information system issues and data changes made by DOR staff led to incorrect certification periods, which would allow a taxpayer to use the credit outside of the allowable period.

Exhibit 19
Certification Period is Six Years



Source: Official Code of Georgia Annotated §48-7-40.26

Questionable Action

A company was able to use a 2015 GDEcD certification letter to obtain a 2018 credit with DOR.

Of the 978 BCM records submitted and approved for the credit for tax years 2015-2018, we identified 31 records with incorrect certification periods. These records totaled $159 million in credits, but the data we received does not indicate whether any were actually used during an ineligible period. Twenty-eight records had certification periods starting before or after the correct certification period, allowing taxpayers to apply the credit to tax years prior to the credit being earned or after the credit's carryforward period should have ended. In one instance, a project certified by GDEcD in 2015 had a credit that began in 2018. This would allow the credit to be used three years after it should. The remaining three records had five-year certification periods.

There were a number of factors contributing to the incorrect certification periods.

- DOR's BCM system allows companies to enter conflicting information in the multiple required date fields (i.e., company tax year, credit fund year). It was evident companies do not always understand what information to enter.

- DOR tax examiners did not always address incorrect certification periods that were identified, and in some cases tax examiners adjusted the date fields incorrectly. Tax examiners also incorrectly interpreted the years listed in the GDEcD certification letter. DOR has no written procedures for adjusting date fields. Additionally, supervisors do not review the changes tax examiners make to the credit records.

- The BCM generated incorrect certification periods for projects with a non-calendar year tax year. While DOR had identified this system issue, it had not yet addressed it or corrected all affected records.

RECOMMENDATIONS

To improve the quality of data entered into the BCM:

1. DOR should provide additional instructions to companies on data entry screens.

2. DOR should automate fund year selection based on the company's tax year to prevent conflicting date information.

To improve DOR oversight of certification periods:

3. DOR should implement written procedures regarding when and how staff should adjust certification date fields.

4. DOR should work with GDEcD to ensure tax examiners understand the fields used in GDEcD's certification letters.

5. DOR should consider limiting date changes to managers or adding supervisory review.

To address system issues:

6. DOR should ensure that the BCM is generating the correct certification period based on applicable fields.

7. DOR should correct the records where a systems issue led to an incorrect certification period.

DOR Response: *"Taxpayer Services Division has strengthened training material for the Film Tax Credit and updated internal procedures to ensure taxpayers do not receive the credit for ineligible periods….The division will also pursue system enhancements that will verify the credit is not used outside of eligible periods."*

Finding 7: Weaknesses in DOR's overall processes allow QIEPCs to exceed statutory caps.

While DOR has implemented IT controls in its BCM that generally prevent QIEPCs from exceeding individual and aggregate statutory caps, we identified two ways that companies have circumvented these controls. One QIEPC has taken both the capped credit and the uncapped credit for non-QIEPCs. QIEPCs have also failed to disclose affiliates, resulting in credits being granted to multiple affiliated companies in excess of the individual cap.

Statute limits the credits that QIEPCs may receive each year. Starting in 2014, individual QIEPCs and their affiliates may not receive a film tax credit of more than $1.5 million in a year. The total credit given to all QIEPCs may not exceed $12.5 million each year. The caps are managed by DOR, and QIEPCs must apply to DOR for credit pre-approval. The pre-approvals started in 2016.

While credits for both QIEPCs and non-QIEPC production companies fall under the same section of the law, DOR classifies them separately in the BCM to facilitate administration, including enforcement of the statutory caps. QIEPCs use code 133 to take the credit, and non-QIEPCs use code 122. DOR's BCM automatically manages the caps under 133 and stops granting credits when the caps are reached.

Taking Both Credit Types

QIEPCs can circumvent DOR's controls and exceed the cap by taking both the 122 and 133 credits. Although it did not exceed the cap, we identified one company that took the credit as both a QIEPC (133) and a non-QIEPC production company (122). If a QIEPC takes the uncapped 122 credit, it could exceed individual and/or aggregate statutory caps.

Companies can circumvent the statutory caps because the BCM does not prevent them from using both credit codes. Currently, companies claiming both can only be identified by a DOR tax examiner reviewing the IT-FC form submitted with the tax return. However, there was some confusion among DOR staff regarding the applicability of the caps, which contributed to the issue.[19] Additionally, DOR has no written procedures specific to QIEPCs or IT-FC review.

Questionable Action

Two QIEPCs failed to disclose their affiliation and exceeded company caps in 2016 and 2018. Excess credits totaled more than $1 million over the two years.

Undisclosed Affiliates

QIEPCs can exceed the cap by failing to disclose affiliated companies. We identified two QIEPCs that did not disclose their affiliation; therefore, DOR's system did not total these companies' credits. Together, these QIEPCs exceeded the $1.5 million individual statutory cap by approximately $217,000 in 2016 and $790,000 in 2018.

DOR relies on QIEPCs to voluntarily report affiliates and has no processes in place to identify undisclosed QIEPC affiliates. However, there were only 13 QIEPCs that took the credit in 2016 and similar numbers in other years. Through a manual review, we were able to identify that these two QIEPCs were affiliated due to similar names and addresses.

RECOMMENDATIONS

1. DOR should implement an IT control to prevent QIEPCs from taking the 122 credit. Until this control can be implemented, DOR should note this restriction in its written procedures so tax examiners better understand the cap.

2. DOR should implement basic processes to identify undisclosed affiliates. Staff could review the QIEPCs receiving the credit and look for similar company names and addresses that could indicate affiliated companies. Alternatively, the tax examiner reviewing a QIEPC's IT-FC could check the tax return for potential undisclosed affiliates. If matches are identified, DOR can then conduct additional research to verify affiliations and enforce the caps.

DOR Response: *"The Taxpayer Services Division will pursue system enhancements that will verify the credit is not allowed above the statutory cap and will also look at other ways to address this."*

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[19] While QIEPCs primarily produce interactive projects, they may also produce non-interactive projects, such as commercials. DOR staff indicated to the audit team that 122 would be used for non-interactive projects. However, statute specifies that the caps apply to QIEPCs (the companies) regardless of the type of project undertaken.

Finding 8: DOR's processes allow QIEPCs to receive credits without ever submitting the required GDEcD certification.

DOR requires the majority of projects to have a GDEcD certification to receive the credit. However, an identified control weakness allows QIEPCs to take the credit without receiving a GDEcD certification.

Statute requires a project to be certified by GDEcD to receive the credit. Non-QIEPCs are required to provide a GDEcD certification letter to DOR before obtaining the credit. However, the QIEPC credit cap results in a different process for those companies. DOR provides the credit to QIEPCs on a first-come, first-serve basis, without waiting for GDEcD's review and approval. The QIEPCs must then submit the GDEcD certification letter along with the IT-FC form when submitting their tax return.

While all non-QIEPC projects we reviewed at DOR had a GDEcD certification letter, the agency's processes do not ensure that all QIEPCs are properly certified. As discussed on page 32, DOR does not have a process in place to identify and invalidate credits that do not have a corresponding IT-FC form. For a QIEPC, the failure to identify a missing IT-FC form results in no DOR review of the GDEcD certification letter. Therefore, a QIEPC can receive the credit through the first-come, first-serve process, fail to obtain GDEcD certification for the project, fail to submit an IT-FC form to DOR, and still transfer or sell the credit to another taxpayer. That taxpayer can successfully apply what DOR's system would recognize as a valid credit to its tax liability.

It should be noted that we did not identify any QIEPCs that submitted an IT-FC without the required GDEcD certification. However, two companies received pre-approval in the BCM for projects that ultimately were not certified by GDEcD. These companies had not submitted their tax returns (and IT-FC) at the time of our review.

RECOMMENDATION

1. DOR should implement a system change to prevent the use or sale of the credit prior to the company providing a GDEcD certification letter.

DOR Response: *"Taxpayer Services Division has strengthened training material…and updated internal procedures to ensure taxpayers do not receive the credit without the required documentation."*

Finding 9: Companies in default on state taxes or loans are not eligible for the credit, but neither GDEcD nor DOR verifies compliance.

Statute specifies that a company shall not receive the credit if it is in default on any state taxes or on a loan made or guaranteed by the state, but there is currently no mechanism in place to enforce this provision. Due to the complexity of identifying all applicable parties, full enforcement may not be feasible.

A company is not eligible for the credit if it is "owned, affiliated, or controlled, in whole or in part, by any company or person which is in default on any tax obligation of the state, or a loan made by the state or a loan guaranteed by the state." While the statute does not define affiliated or controlled, one example would be a company with a partner that has failed to repay a student loan administered by the Georgia Student Finance Authority.

While neither GDEcD nor DOR verifies that companies and associated individuals in default do not take the credit, the benefits of fully verifying compliance with all provisions may not justify the cost. Neither agency has the information necessary to ensure that all companies applying for the credit meet these requirements.

- **GDEcD** – While GDEcD is responsible for certifying companies and projects, it does not have sufficient information to enforce this provision. GDEcD does not identify all individuals that control, in whole or in part, each company receiving the credit. It also does not have these companies' or individuals' tax obligations and loans. In addition, state law does not permit DOR to share tax information with GDEcD, making it impossible for the agency to ensure that there are no outstanding tax obligations.

- **DOR** – Full verification would require DOR to collect information it does not currently collect. Like GDEcD, DOR would need to identify all individuals that control, in whole or in part, each company receiving the credit. It would also need to collect information on all loan defaults from other state agencies administering the loans. To collect this information and fully enforce the statute, DOR would require additional resources.

  DOR does have information for partial enforcement of the statute. For the purpose of offsetting tax refunds, DOR has information on companies and individuals in default on state taxes and individuals in default on student loans. However, the agency currently does not compare these lists to those receiving the credit.

While DOR has information needed to assess compliance with certain aspects of the statute, it is not clear that there would be credit savings to offset the administrative cost of ensuring full compliance.

RECOMMENDATION

1. DOR should use the information it currently has to verify that companies in default on taxes and individuals in default on student loans are not receiving the film tax credit.

DOR Response: *"Neither agency has the information necessary to ensure that all companies applying for the credit meet these requirements."*

GDEcD Response: *GDEcD agrees with the recommendation and noted that requiring "an applicant to identify every owner or affiliate as part of the application would prove onerous and burdensome." It also noted that without access to tax information, additional information collected would not enable GDEcD to ensure compliance with the statute.*

GDEcD Certification of Projects and Uplift

Finding 10: GDEcD has approved productions with questionable eligibility, though the General Assembly should clarify the statute for certain types of productions.

GDEcD has interpreted statutory exclusions in a manner resulting in the certification of projects whose eligibility and economic benefit are questionable. We identified numerous projects certified between 2014 and 2019 with questionable eligibility, as well as projects likely eligible but providing limited benefits to the state.[20] In some cases, the General Assembly should clarify definitions of project types to clarify its intent. In other instances, GDEcD should implement processes to ensure that its review of projects conforms with state law.

Statutory exclusions are intended to prevent projects that may not achieve the incentive's goals from receiving the credit. Although not articulated in the law, the primary goal of the credit is likely the creation of new jobs. Therefore, one purpose of exclusions is to limit the credit to those projects attracted to the state by the tax credit versus those that would have occurred even without the credit's existence. Other exclusions help to ensure that only legitimate projects receive the credit (i.e., reduce the risk of fraud).

The questionable certification decisions are related to GDEcD's definition of the types of projects excluded from the credit, the characteristics of interactive entertainment and digital media projects, and the distribution of productions. These categories are discussed in more detail below; however, we are unable to provide details of individual projects due to the confidentiality of tax records.

Defining Excluded Project Types

Statute specifically excludes certain types of projects but does not provide a complete definition of each, nor does it make the intent of the exclusions clear. In this absence, GDEcD has defined these project types through regulations and practice.

Since 2014, there have been 83 certifications (approximately $60 million in credits) of projects in the excluded categories listed below. Another 14 projects were certified for project types not specifically excluded in statute but whose benefit is questionable. In some cases, these projects include the filming of activities that would occur in Georgia without the film tax credit (e.g., sermons) or that can only be filmed in the state (e.g., shows about Atlanta-area businesses). No economic benefit is gained from providing a film tax credit to the filming of activities that would occur in Georgia anyway.

- **News coverage (42 projects)** – Statute excludes "the coverage of the news" from eligible projects, but GDEcD certified 31 projects in 2014-2019 that appear to be news shows. These shows totaled an estimated $27 million in credits. GDEcD also certified 11 talk shows in 2014-2019, worth $9 million in credits, that discuss recent entertainment- or sports-related events. GDEcD staff believe the statutory exclusion is specific to local news, and the shows

[20] From 2014-2018, GDEcD certified more than 2,000 projects. For the counts listed in this section, we considered each season of a television show and each year of an interactive entertainment project to be a separate project.

primarily appear to cover national or international stories. However, news shows in general are likely to include significant out-of-state footage, an ineligible expense discussed on page 45. We reviewed eligible project types in other states and identified more specific definitions for excluded news, such as market reports, weather, and current events.

- **Local interest (12 projects)** – Statute excludes "local interest programming" from eligible projects, but GDEcD certified 12 projects in 2014-2018 that appear to be local interest. These projects totaled an estimated $2.3 million in credits. The productions involved filming local public events and businesses, and we concluded that they likely would have filmed in Georgia without the credit. GDEcD utilizes a narrow definition of local interest, which focuses on programming such as local government and local talk shows.

- **Athletic event coverage (29 projects)** – Statute excludes "the coverage of ... athletic events" from eligible projects. We did not find the certification of major sporting events, but GDEcD approved 29 projects in 2014-2018 that involved coverage of athletic events via pre-, post-, and half-time shows. These projects totaled an estimated $21 million in credits. GDEcD has also approved sports-related projects that it categorized as reality television. These included sports talk shows, coverage of Esports events, and reality TV-type athletic competitions. GDEcD has interpreted the athletic event exclusion to apply only to the broadcast of the actual event and to be focused on local sports teams.

Questionable Action

At least one of the live events appears to have used event expenses (ineligible) toward the credit in addition to production expenses (eligible).

- **Live events (14 projects)** – Statute does not specifically exclude live events, such as concerts, sermons, and conferences; however, the benefit of providing a tax credit to events already occurring in the state is questionable. From 2014-2019, GDEcD certified 14 live-event projects, with estimated credits of $8 million, that likely would have occurred and been filmed in the state without the credit. Some recurring events had taken place in the state for years before the production company applied for the credit. GDEcD staff stated that the projects were certified because filming was not merely incidental to the events. If the filming had been incidental, the projects would have been ineligible under GDEcD rules.

Digital Media and Interactive Entertainment

Digital media and interactive entertainment projects may have content or other characteristics that would make the project ineligible if they were live-action film productions. For example, statute prohibits postproduction for out-of-state footage and corporate training videos, but GDEcD has certified projects with this type of content if classified as a digital media or interactive projects. In addition, single interactive entertainment projects have received credits for multiple years.

We identified 13 digital media and interactive entertainment projects certified ($3.1 million) in recent years that could be questionable. Additionally, 42 interactive entertainment projects have been certified for three to eight consecutive years.

- **Postproduction for out-of-state footage (10 projects)** – Statute excludes "projects not shot, recorded, or originally created in Georgia" and "postproduction expenditures for footage shot" out-of-state.[21] However, GDEcD certified 10 projects in 2015-2017 that consisted of adding animation or graphics to footage shot out-of-state. These projects totaled an estimated $100,000 in credits. GDEcD staff stated that these projects were digital media, with combined production and postproduction phases.

- **Corporate training (3 projects)** – Statute excludes instructional and corporate videos from eligible projects. However, GDEcD certified three interactive projects that provide corporate training from 2016-2018, totaling an estimated $3 million in credits. While statute and regulation clearly prohibit corporate training videos from receiving the credit, it is not clear whether this exclusion also applies to interactive entertainment.

- **Multi-year interactive entertainment (42 projects)** – The credit incentivizes production of "new film, video, or digital projects," but there is no limit to how long certain projects may receive the credit. From 2009-2018, we identified 42 interactive projects that received the credit between three and eight years. Because the QIEPC credit is capped, allowing these projects to receive the credit for many years could prevent newly developed interactive projects from receiving the credit. In its 2018 rules, GDEcD limited film and television projects to no more than two years[22] but exempted interactive and animation projects. Additionally, a 2017 law limited pre-released games to a three-year period prior to release but did not cap the total number of years that a game can receive the credit. No other statutory provision imposes a limit on the length of time a project can receive the credit.

Distribution of Production

Statute has requirements related to the multimarket distribution of productions. The requirements reduce the likelihood of fraudulent projects and ensure that the credit is not utilized for local content that was being produced prior to the creation of the credit. We identified 10 projects certified ($660,000) in recent years that were not intended for distribution or not televised as required.

- **Not intended for distribution (3 projects)** – While statute indicates eligible projects must be "intended for multimarket commercial distribution," GDEcD certified three projects in 2018 and 2019 not intended for distribution, making them ineligible for the credit. These projects totaled an estimated $560,000 in credits. Staff reasoned that having the productions in-state justifies the certification, even without intent to distribute. However, allowing projects not intended for multimarket commercial distribution appears to be in conflict with state law and increases the risk that the state will indirectly finance an illegitimate project.

- **Untelevised commercials (9 projects)** – Statute indicates only "televised commercial advertisements" are eligible for the credit. Commercials must be "intended for multimarket commercial distribution" with media buys outside the state. GDEcD certified seven commercials in 2015-2017 that were never

[21] HB 199 took effect in 2018, allowing a 20% credit for postproduction expenditures for footage shot outside of Georgia. The new credit is subject to separate minimum spending and cap requirements.

[22] Each season of a TV show is considered a new project.

televised and two other commercials that were only televised in Georgia. These projects totaled an estimated $100,000 in credits. GDEcD staff could not provide an explanation for the discrepancy.

New Project Distribution Methods

Statute indicates distribution channels for eligible projects may include "advertiser supported sites." GDEcD has approved projects using technology, such as YouTube and Spotify, which may not have been fully considered when the credit was originally adopted. As national, advertiser-supported sites, these distribution channels likely meet the multimarket commercial criteria. However, the ability for the general public to utilize distribution such as YouTube could expand the projects eligible for the credit and increase the likelihood of fraud.

RECOMMENDATIONS

1. The General Assembly should clarify the definitions of athletic events, local interest, and news to ensure that the intent of the legislation is fulfilled.

2. The General Assembly should clarify whether the filming of live events, such as concerts, sermons, and conferences held in Georgia, qualify for the credit.

3. The General Assembly should clarify whether the exclusion of instructional videos and corporate videos from the credit would apply to similar content delivered via interactive entertainment, such as an app.

4. The General Assembly should consider if interactive projects should receive a tax credit for a limited number of years to ensure that the limited amount of annual credits are available for new projects.

5. GDEcD should ensure that it does not certify projects' postproduction activities related to out-of-state footage for the film tax credit.

6. GDEcD should ensure that all projects are distributed or intended for distribution, as required by state law, prior to certifying the project.

***GDEcD Response**: GDEcD generally disagreed with this finding and most of the recommendations. It noted that it had promulgated rules in accordance with the Administrative Procedures Act, which requires agencies to provide proposed rules to legislative counsel and certain leadership in the General Assembly. GDEcD noted that relevant standing committees can file an objection or potentially override the rule. GDEcD did not receive any objections regarding its proposed rules. Prior to modifying rules, GDEcD stated that it solicits feedback from members of the General Assembly, the Governor's Office, and the industry. As a result, GDEcD believes "it is not DOAA's place to make a determination" that GDEcD has approved productions that may not be eligible under statute.*

> ***Auditor's Response**: While GDEcD has the authority to issue rules related to the film tax credit, these rules do not and cannot address all nuances of project eligibility. For example, GDEcD rules exclude "live or prerecorded broadcast of athletic events." The rules do not clearly specify that pre-, post-, and half-time shows are eligible for the credit and that they do not fall under the statutory exclusion for athletic event coverage. Additionally, part of DOAA's role in any performance audit is to assess compliance with statute. In this role, DOAA interprets state law and notes instances where our interpretation differs from the agency's. As noted in the finding,*

some issues are related to interpretation of statute and economic benefit to the state, while some projects (e.g., not intended for distribution) were clearly ineligible.

***GDEcD Response**: Regarding specific project types, GDEcD provided the following comments:*

- *News coverage – GDEcD disagreed that the projects in question were coverage of the news but instead were "edutainment." They also stated that out-of-state footage should not be a consideration, since it is not specified in statute, and some applicants had developed programs to track in-state and out-of-state footage.*
- *Local interest – GDEcD disagreed that the projects in question were local interest, stating that its rule "specifically exclude(s) local interview or talk shows or other local interest programming that is not intended for commercial multimarket distribution…GDEcD's position is that productions are not 'local interest' pieces if they are distributed to multiple markets outside of the state." GDEcD also noted that the report concludes that "these productions would have likely filmed in Georgia without the credit" and that this "is not a factor in determining whether a production is eligible to claim the credit."*
- *Athletic events – "GDEcD has interpreted this exclusion to only apply to live or prerecorded broadcasts of the athletic event itself, and not to exclude produced and edited programs covering pre, post and half-time recaps of athletic events, or sports talk shows."*
- *Live events – "As there is no statutory basis to exclude live events, in early 2018, GDEcD revised its rules to exclude productions where 'filming is merely incidental or ancillary to the primary purpose of the project.'" GDEcD stated it was in agreement with DOR that only "expenditures that pertain directly to the cost of filming" are eligible for the credit, "not the cost of the underlying live event itself." GDEcD also noted that mandatory audits would help ensure ineligible costs are not claimed for these projects.*
- *Postproduction for out-of-state footage – GDEcD stated that "the creation and development of the animations and graphic" were eligible costs under statute; only the "costs of overlaying the animation and graphics onto film footage would be excluded" when the footage is shot out-of-state.*
- *Corporate training – GDEcD indicated the projects in question did not fall under the statutory exclusion because they were "edutainment" and could be used by the general public. GDEcD added that "these productions also satisfied enough elements of the interactive matrix used to qualify interactive entertainment projects."*
- *Multi-year interactive entertainment – "GDEcD has intentionally avoided limiting the number of years a [QIEPC] can claim the credit for a single project…[T]hese projects frequently take many years to complete and GDEcD does not believe that there is any risk with allowing a company to claim the credit for multiple years for the same project."*
- *Not intended for distribution – GDEcD agrees with the recommendation and "indicates that its processes require confirmation that all projects be distributed or at least have an intent to distribute." It must "rely on the applicant's intent as represented in the application."*
- *Untelevised commercials – GDEcD noted the projects in question were certified in error due to its Global Commerce Division's use of the digital media application, which did not verify the commercials were aired on television. The Film Office uses a different application that*

requests this distribution information. GDEcD will review and revise the digital media application in the near future to address this requirement.

***Auditor's Response*:**

- *News coverage – For the projects in question, we reviewed both the applications submitted to GDEcD and online descriptions published by the actual production companies. Based on this review, we concluded the projects involved "news or current affairs programming" as described in GDEcD's regulations. Regarding out-of-state footage, DOAA's concern with these projects arose because they appear to be news coverage, a category excluded by statute, not due to the use of out-of-state footage. As discussed in the following finding, the use of out-of-state footage increases the likelihood a company will receive the credit for expenses not incurred in Georgia, which may have been a factor in the decision to exclude news coverage from eligible productions.*

- *Local interest – In statute, the local interest exclusion is a distinct provision discussed separately from multimarket distribution. While distribution beyond the local market may appear like a reasonable gauge regarding local interest, the internet is now considered a valid distribution method. If multimarket distribution is the primary factor, any project could be posted online and no longer be considered local interest, regardless of subject matter.*

- *Postproduction for out-of-state footage – Statute specifies that graphics and animation services are only eligible when "used in a qualified production activity." Statute then states "qualified production activities" do not include projects shot outside the state.*

- *Corporate training – According to their own descriptions, the projects in question are specifically designed for companies to provide employee training.*

- *Not intended for distribution –The applications submitted for the projects in question clearly indicated they were not intended for multimarket commercial distribution, making them ineligible for the credit.*

Finding 11: Distinct risks exist for productions with significant out-of-state filming and those that are not completed.

Certain productions receiving the credit have a higher risk of ineligible or invalid expenses, and there are limited controls in place to address these risks. Many projects have footage shot outside of Georgia, and very high levels of out-of-state filming increase the likelihood that a company will receive the credit for expenses not incurred in Georgia. Not having a completed project, or not filming at all, increases the likelihood that a company could receive the credit for invalid expenses.

As discussed on page 13, the credit's characteristics provide companies with an incentive to overstate qualified expenditures, and the limited controls reduce the likelihood that improper expenditures will be detected. While all production companies have these incentives and opportunities, certain productions involve special risk to the state. Productions with significant out-of-state filming and productions that are not completed are discussed below.

Questionable Action

GDEcD approved a 2016 project that would include videos filmed both in-state and out-of-state. The proportion of videos produced out-of-state was unknown. The project received more than $9 million in credits.

- **Out-of-state filming** – Georgia statute allows the tax credit for projects filmed "in whole or in part" within the state, and regulations only exclude projects produced entirely out-of-state. By contrast, many states require a specified portion of filming to occur in the state. Of the 31 other states with a film incentive, 14 require a minimum number/percentage of filming days to occur in-state.[23]

  Out-of-state expenses may be submitted for the credit without detection. As noted on page 15, the expense amount submitted by the production company is accepted without any review of the expenses unless a project is audited. Even if a project is selected for audit, DOR may have difficulty identifying out-of-state ineligible costs. For example, DOR auditors use a payroll field "work state" to determine whether the wages were incurred in Georgia. However, an employee could film in other states or edit out-of-state footage within Georgia, and the company could select Georgia as the work state. While neither of these wage expenses would be eligible for the credit, it is unlikely that DOR auditors would have sufficient information to make that determination.

  Many projects produced in Georgia will also use footage produced out-of-state. For tax years 2015-2017, we identified 16 projects, totaling $25.8 million in credits, that appear to have significant out-of-state footage. These figures do not include movies or the news and athletic event shows discussed on pages 40-41, which use out-of-state footage as well.

- **Incomplete projects** – Statute allows the credit for expenses during the preproduction, production, and postproduction phases if the company meets the $500,000 spend requirement. It does not state that filming must occur or a final product be created.

  While legitimate projects may not result in a finished production, fraudulent projects are also unlikely to end with a finished product. Currently, GDEcD does not verify project completion, requiring companies to submit the final product for review only if a project receives the uplift (as discussed on page 47, this verification does not always occur). Without a finished product or substantial documentation showing that eligible expenditures occurred, a company can submit minimal documentation to obtain a GDEcD certification and subsequent credit from DOR. As discussed on pages 15-16, there is currently little chance that an audit initiated by DOR could identify fraudulent activity.

  We identified 15 television pilots and independent films from 2015-2018 totaling $13.1 million in credits where there was no evidence the project was ever completed. Three of the projects, totaling $3.7 million in credits, never began filming.

Questionable Action

GDEcD certified a project that ultimately never began preproduction, making it ineligible for the credit. Despite the fact that reporting occurs after production has ended, the project requested and was approved for a $1.9 million credit in DOR's BCM. After our review, GDEcD retracted the project's certification.

[23] Four of these states only require a minimum for certain supplemental incentives.

RECOMMENDATIONS

1. GDEcD should establish a minimum percentage of the production that must occur in-state. For example, GDEcD should consider California's incentive requirement that at least 75% of principal photography occur in-state.

2. GDEcD should verify production by requiring the final product or sufficient documentation to show production occurred. For example, GDEcD could request contracts for shooting locations. If the requested information is not provided, GDEcD should retract the certification.

***GDEcD Response**: GDEcD believes that the concerns raised in this finding can be addressed by mandating audits. Regarding the specific findings:*

- *GDEcD disagreed that productions with "substantial footage shot out-of-state may submit out-of-state expenditures under the credit." The agency "believes that requiring that a certain percentage of the production be shot in-state would prevent a substantial number of valuable productions from occurring in Georgia."*

- *Regarding incomplete productions, GDEcD agreed with the finding and noted that it currently requires documentation such as crew, vendor, and location lists. It again noted that mandatory audits would help verify that expenditures are appropriate but added that it "will work to identify additional measures it may be able to take to further verify production" in the next six months.*

***Auditor's Response**: Mandatory audits would mitigate many of the identified risks, but greater risks would still be present for productions with substantial footage shot outside of the state. As noted in the finding, auditors cannot easily determine the work location of personnel.*

Finding 12: GDEcD does not ensure that all projects receiving the uplift complete all requirements for eligibility.

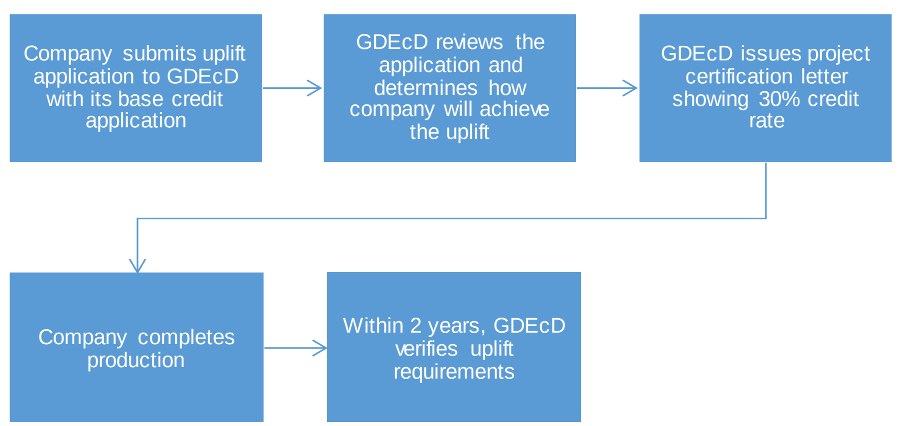
GDEcD did not verify that all projects receiving the uplift completed all statutory requirements. More than half of the pilots and independent films we reviewed were not distributed to the general public, and a similar portion of sampled projects failed to include the required website link to the state. As a result, projects received uplift credits they did not earn, and the state did not receive the anticipated promotional value for uplift credits granted.

***Uplift** – additional 10% credit for placing a Georgia logo in the production (e.g., in the credits) and a link on the project's website or for an alternative marketing opportunity approved by GDEcD*

Statute allows an additional 10% credit for projects that provide certain promotional value to the state. In 2016, more than 300 projects received the uplift. Approximately 75% earned the uplift using a "Georgia promotion," which involves placing a Georgia logo in the project and a Georgia link on the project's web page. Both the logo and link must remain for the life of the project, which begins when the project is distributed to the general public. Projects that are not distributed to the general public cannot earn the uplift using the Georgia promotion. As discussed on page 50, companies may also earn the uplift by using alternative marketing opportunities of equal or greater value than the logo, as determined by GDEcD.

GDEcD is responsible for certifying projects for the uplift and verifying compliance with uplift requirements. As shown in **Exhibit 20**, GDEcD staff certify a project for the uplift at the same time as the base credit. After the project is completed, GDEcD staff should ensure that the project has met all uplift requirements. When a Georgia promotion is used to earn the uplift, GDEcD must verify that the project includes the logo placement, the project was distributed to the general public, and the project's website includes the Georgia link. If the project does not fulfill the requirements, GDEcD retracts the uplift and notifies the company and DOR that the project is only eligible for the 20% base credit.

Exhibit 20
GDEcD is Responsible for Verifying Uplift Compliance



Source: GDEcD procedures and staff interviews

Georgia Logo

Due to the resources necessary to obtain and view applicable projects, we did not attempt to verify logo placement. GDEcD typically receives a copy of the final product from the production company to verify logo placement but does not always keep it. Additionally, file notes regarding logo verification were frequently incomplete. As a result, we could not determine whether GDEcD consistently verified logo placement.

Questionable Action

One project sent GDEcD its end credits, showing the logo, as evidence of meeting uplift requirements. However, the project was never completed or distributed. After our review, GDEcD required the project to use alternative marketing to keep the uplift.

Distribution

Projects received the uplift without being distributed, resulting in no promotional value to the state. We reviewed 20 television pilots and independent films that received the uplift in 2015-2017. Of these, 10 projects had no evidence of distribution to the general public. These 10 projects received $2.1 million in uplift credits.

GDEcD staff do not consistently verify distribution, increasing the likelihood that ineligible projects may receive the uplift. The Film Office, which certifies live action projects, attributed the problem to limited resources. Global Commerce, which certifies interactive entertainment and digital media projects, did not have a procedure in place to verify distribution.

Additionally, GDEcD accepted film festival screenings as meeting the requirement that films be distributed to the general public. However, due to their limited audiences, it is not clear that film festivals qualify as release to the general public. The state may not receive significant promotional value from such limited releases. We identified two projects that received the uplift for film festival screening, totaling $600,000 in uplift credits.

Website Link

More than half of the projects we reviewed did not have the required Georgia link on their websites. We randomly sampled 47 projects receiving the uplift in 2017, and 27 (57%) projects did not display the link. GDEcD staff indicated they had prioritized verifying logo placement over link placement. Allowing projects to receive the uplift without fulfilling the link requirement reduces the promotional value the state receives from the uplift.

RECOMMENDATION

1. GDEcD should verify all projects receiving the uplift fulfill all statutory requirements.

GDEcD Response: *GDEcD agreed with this finding and noted that limited resources had made verification of all projects challenging. GDEcD stated it "is exploring reallocating existing resources to comply with this recommendation."*

GDEcD disagreed with the statement that film festivals do not clearly qualify as release to the general public. The agency argued that film screenings are a valid method of distribution that "can have massive audiences."

Regarding verification of the website link, GDEcD stated that it does not currently have the resources necessary to verify the presence of the link remains for the life of each project. "GDEcD also notes that there is not a lot of value in requiring" the link and "suggests that this requirement be reevaluated by the legislature."

Finding 13: The promotional value of the credit uplift is unknown, but certain issues reduce any value the state receives.

GDEcD has not determined the value of the logo placement or alternatives used for the uplift, but it is unlikely a reliable valuation could be determined. We identified three issues that lessen the promotional value the state receives from the use of the logo and alternatives. In 2016, companies received approximately $220 million in uplift credits.

Value of the Logo

Statute describes the uplift as providing promotional value to the state, and proponents of the credit note that the logo provides the state with brand exposure. The use of the logo is the primary method for obtaining the uplift, used by approximately 75% of the 2016 projects that received the uplift.

The uplift's value to the state is unknown. Statute requires that GDEcD report the logo's value annually, but the agency does not include the value in its annual uplift report to the General Assembly. GDEcD indicated that it commissioned a study around 2009 to estimate the logo's value, but the study was unable to determine a reliable estimate. We were unable to identify any studies conducted by other states that attempted to place a monetary value on this type of promotion.

Logically, the value of the logo will vary based on the project and the number of viewers that see the logo. For example, two movies with $20 million budgets could each receive uplift credits of $2 million for the logo placement. Despite receiving the same uplift credit, each movie could provide a very different promotional value to the state. One movie could be a box office success with millions of viewers, while the other could perform poorly and have only a few thousand viewers. Additionally, it is not clear how often the public actually views the logo, due to its typical placement in the end credits.

Value of Alternative Marketing Opportunities

GDEcD is also unable to comply with requirements for alternative marketing opportunities. Statute instructs GDEcD to allow alternative marketing opportunities for the uplift if they have greater promotional value than the logo. It also requires GDEcD to report on the value of these alternatives annually to the General Assembly. For reasons similar to those stated above, GDEcD cannot determine the value of the alternative marketing opportunities or make the comparison to the logo value. As a result, the value of the alternatives is not reported to the General Assembly.

Reduced Promotional Value

We identified three issues with the uplift's implementation that could result in reduced promotional value for the state.

- **Logo skipped in streaming content** – Streaming content vendors typically shrink and then skip the credits, minimizing any chance of viewing the Georgia logo. From 2015 to 2018, 20 projects were created specifically for streaming platforms. Sixteen of these projects (80%), representing $55 million in uplift credits, automatically skipped the logo. For the television shows, the streaming service auto-played the next episode, and for movies, the service auto-played a trailer for other content. In addition, we noted that none of the project websites included a link to the Georgia film website. As a result, the state received little to no promotional value in exchange for the uplift credit granted to those projects.

- **Large uplift value for inexpensive merchandise** – The alternative marketing opportunities can provide companies with a very large credit for a low value item. For example, one company provided promotional merchandise valued at approximately $40 per item as part of its uplift package. The uplift credit to the company was the equivalent of $850,000 per item. While the promotional value to the state could exceed the item's purchase price, GDEcD could have purchased similar merchandise for only $40.

- **Undistributed projects offer little promotional value** – GDEcD allows undistributed projects that cannot use a logo to instead use alternative marketing opportunities to earn the uplift. However, it is unclear whether the state receives significant promotional value from some of these alternatives. In one case, a show that was not picked up (or even announced publicly) received an uplift in part for providing autographed water bottles and t-shirts, which GDEcD can give away on the Explore Georgia website to increase website traffic. It seems unlikely that the public will have significant interest in merchandise for a project that was never publicized or seen. The uplift credit total for 16 undistributed projects was $3.9 million for years 2015-2018.

RECOMMENDATION

1. In light of the difficulty determining the promotional value generated by the uplift, the General Assembly should consider changes to the uplift provisions in statute. Possible changes include
    a. eliminating the use of alternative marketing opportunities to obtain the uplift (i.e., require use of the logo placement and website link)

    And/or

    b. eliminating the uplift for undistributed projects.

GDEcD Response: *GDEcD agreed it is not possible to determine the promotional value of the uplift or the alternative marketing opportunities. However, GDEcD believes "there is great (albeit admittedly unquantifiable) marketing value to the state through the logo's use." The agency disagreed with the possible elimination of alternative marketing, noting "that the alternative marketing opportunity is valuable for those projects where it isn't feasible or realistic to use the Georgia logo."*

GDEcD also had comments related to reduced promotional value. Regarding the logo being skipped in streaming content, GDEcD noted it was "an unforeseen technological issue" and is "working to develop strategies to address this issue." Regarding a large uplift value being allowed for inexpensive merchandise, GDEcD disagreed with this concern, stating "that it isn't the value of the good itself that should be measured, but rather the value of the intellectual property appearing on the good." Regarding undistributed projects receiving the uplift, GDEcD agreed and indicated it would no longer allow undistributed projects to use the alternative marketing opportunity.

Appendix A: Table of Recommendations

Finding 1: Administration of the film tax credit must be strengthened to ensure that companies only receive the credits to which they are entitled. (p. 13)
No recommendations
Finding 2: Current audit coverage does not ensure only eligible expenses earn the credit. (p. 17)
1. The General Assembly should require audits for all projects receiving the film tax credit. It could a. require DOR to audit all projects, allowing the agency to hire the necessary number of auditors to do so. Production companies are required to pay fees for film tax credit audits already performed by DOR, and the fees are set at amounts intended to offset the costs to the state. Or b. require audits by independent, third-party CPAs. If third-party audits are required to receive the credit, DOR should oversee this process. DOR should regulate auditor selection and independence, specify procedures auditors must follow, and review the completed audit. Additionally, DOR may need to perform certain audit procedures and should continue to select some projects for involuntary audit.
Finding 3: DOR's current audit procedures do not provide assurance that ineligible expenditures will be identified and disallowed. (p. 21)
2. DOR should improve film tax credit audit procedures to address the specific issues discussed throughout the finding. For example, DOR should consider whether transactions occurred during eligible production phases.
3. DOR should work with GDEcD to identify a final eligible date for expenditures and incorporate this into regulation.
4. DOR should request supporting documentation for a statistically significant sample of transactions. Auditors should project disallowances to the larger population of transactions.
5. DOR should request supporting documentation that provides stronger evidence of actual payment, such as credit card or bank statements, for transactions deemed high value or high risk.
Finding 4: Due to weaknesses in DOR's controls, companies could receive credits they are not eligible for or credits higher than earned. (p. 28)
To address inaccurate credit amounts:
6. DOR should continue with plans for electronic IT-FC filing that would allow companies to adjust individual credit records and reduce the need for manual adjustments by DOR staff.
7. DOR should implement written procedures for reviewing and processing IT-FC forms to ensure tax examiners correctly understand their responsibilities.
8. DOR should implement supervisory review for changes to the credit amount. If DOR does not have the resources to review each change, it could select a sample of credit changes, chosen randomly or based on risk criteria (e.g., amount).
9. DOR should require tax examiners to obtain corrected documents or written clarification from the taxpayer if the IT-FC form and submitted documentation do not match.
10. The General Assembly should consider allowing DOR to provide GDEcD with certain tax information relevant to the film tax credit.
To prevent duplicate records:
11. DOR should prohibit the re-use of a GDEcD certification number, limiting each project to a single credit record.
12. DOR should provide written guidance to tax examiners on how to identify and address duplicate credits for the same project.
To prevent companies from receiving the credit without meeting the minimum spend threshold:

13. DOR should add a field in the BCM for the original production company certified by GDEcD. This field would allow DOR to query and identify production companies that did not meet the minimum spend.
Finding 5: DOR allows companies to receive the credit without submitting required documentation. (p. 32)
14. DOR should implement processes to identify projects without a corresponding IT-FC and recoup credit amounts already used. If the production company does not submit the required documentation by the tax return deadline, DOR should suspend the credit certificate from further sale or use and notify the company, providing a specific amount of time for correction. If the company fails to comply, DOR should recapture amounts already utilized.
15. DOR should implement written procedures for tax examiners processing the IT-FC. These procedures should include: a. reviewing all of the company's BCM certificates and ensuring that each certificate is supported by the IT-FC. b. contacting the company if it does not submit required documentation with the IT-FC. If the company does not provide the documentation when requested, DOR should reject the IT-FC form and suspend the credit certificate.
16. DOR should implement processes to ensure that all required documentation is submitted with the IT-FC and that the documentation is detailed enough to be useful.
Finding 6: Due to weaknesses in DOR's controls, companies could claim credits outside of the eligible carryforward period. (p. 35)
To improve the quality of data entered into the BCM:
17. DOR should provide additional instructions to companies on data entry screens.
18. DOR should automate fund year selection based on the company's tax year to prevent conflicting date information.
To improve DOR oversight of certification periods:
19. DOR should implement written procedures regarding when and how staff should adjust certification date fields.
20. DOR should work with GDEcD to ensure tax examiners understand the fields used in GDEcD's certification letters.
21. DOR should consider limiting date changes to managers or adding supervisory review.
To address system issues:
22. DOR should ensure that the BCM is generating the correct certification period based on applicable fields.
23. DOR should correct the records where a systems issue led to an incorrect certification period.
Finding 7: Weaknesses in DOR's overall processes allow QIEPCs to exceed statutory caps. (p. 36)
24. DOR should implement an IT control to prevent QIEPCs from taking the 122 credit. Until this control can be implemented, DOR should note this restriction in its written procedures, so tax examiners better understand the cap.
25. DOR should implement basic processes to identify undisclosed affiliates. Staff could review the QIEPCs receiving the credit and look for similar company names and addresses that could indicate affiliated companies. Alternatively, the tax examiner reviewing a QIEPC's IT-FC could check the tax return for potential undisclosed affiliates. If matches are identified, DOR can then conduct additional research to verify affiliations and enforce the caps.
Finding 8: DOR's processes allow QIEPCs to receive credits without ever submitting the required GDEcD certification. (p. 38)
26. DOR should implement a system change to prevent the use or sale of the credit prior to the company providing a GDEcD certification letter.

Finding 9: Companies in default on state taxes or loans are not eligible for the credit, but neither GDEcD nor DOR verifies compliance. (p. 38)
27. DOR should use the information it currently has to verify that companies in default on taxes and individuals in default on student loans are not receiving the film tax credit.
Finding 10: GDEcD has approved productions with questionable eligibility, though the General Assembly should clarify the statute for certain types of productions. (p. 40)
28. The General Assembly should clarify the definitions of athletic events, local interest, and news to ensure that the intent of the legislation is fulfilled.
29. The General Assembly should clarify whether the filming of live events, such as concerts, sermons, and conferences held in Georgia, qualify for the credit.
30. The General Assembly should clarify whether the exclusion of instructional videos and corporate videos from the credit would apply to similar content delivered via interactive entertainment, such as an app.
31. The General Assembly should consider if interactive projects should receive a tax credit for a limited number of years to ensure that the limited amount of annual credits are available for new projects.
32. GDEcD should ensure that it does not certify projects' postproduction activities related to out-of-state footage for the film tax credit.
33. GDEcD should ensure that all projects are distributed or intended for distribution, as required by state law, prior to certifying the project.
Finding 11: Distinct risks exist for productions with significant out-of-state filming and those that are not completed. (p. 45)
34. GDEcD should establish a minimum percentage of the production that must occur in-state. For example, GDEcD should consider California's incentive requirement that at least 75% of principal photography occur in-state.
35. GDEcD should verify production by requiring the final product or sufficient documentation to show production occurred. For example, GDEcD could request contracts for shooting locations. If the requested information is not provided, GDEcD should retract the certification.
Finding 12: GDEcD does not ensure that all projects receiving the uplift complete all requirements for eligibility. (p. 47)
36. GDEcD should verify all projects receiving the uplift fulfill all statutory requirements.
Finding 13: The promotional value of the credit uplift is unknown, but certain issues reduce any value the state receives. (p. 49)
37. In light of the difficulty determining the promotional value generated by the uplift, the General Assembly should consider changes to the uplift provisions in statute. Possible changes include a. eliminating the use of alternative marketing opportunities to obtain the uplift (i.e., require use of the logo placement and website link) And/or b. eliminating the uplift for undistributed projects.

Appendix B: Objectives, Scope, and Methodology

Objectives

This report examines the administration of the film tax credit. Specifically, our audit set out to determine the following:

1. To what extent do GDEcD and DOR enforce statutory and regulatory eligibility requirements for production companies receiving the film tax credit?
2. To what extent does DOR ensure that taxpayers are entitled to the credit amounts claimed?

Later this month, we expect to release an additional report, which will address the effectiveness of the film tax credit as a tax incentive and economic development program.

Scope

This audit generally covered film tax credit-related activity that occurred during tax years 2015-2018, with a focus on tax year 2016 and consideration of earlier or later periods when relevant. Information used in this report was obtained by reviewing relevant laws, rules, and regulations; interviewing industry representatives and reading industry publications, including best practices for economic development incentives; interviewing agency officials and staff from GDEcD and DOR; reviewing procedural documents from GDEcD and DOR; analyzing certification data and reviewing files from GDEcD; analyzing credit data, reporting, tax documents, and audit documentation from DOR; and reviewing other states' film incentive websites, laws, rules, and regulations.

We obtained an export of film tax credit records from DOR's Business Credit Manager (BCM). The data spanned tax years 2014-2018; however, we determined that tax year 2016 was the only year sufficiently complete to use for extensive analysis. Even 2016 data is not considered final, as companies can submit an amended tax return for up to three years after the due date, and credits could be adjusted due to audit. As a result, additional credits could be taken, and amounts could be adjusted by the company or by DOR auditors. We included all BCM records for analyses that identified problematic credit records. These results were not projected to the larger population. Additionally, we identified some 2016 and 2017 projects that were not yet in the BCM; these were projects that had undergone voluntary audits by DOR, but the companies had not yet requested BCM credit records. We added these projects to the BCM data for 2016 and 2017 to obtain an estimate closer to the final credit numbers. The additional projects included three from 2016 ($3.4 million in credits) and 11 from 2017 ($182.6 million in credits).

We assessed the controls over data used for this audit and determined that the data used were sufficiently reliable for our analyses. Although the data were subject to various sources of error, we believe it represents a credible estimate given the limitations of the data.

Due to legal restrictions, information related to income tax data is prohibited from public disclosure. As a result, certain confidential or sensitive information has been omitted from the report. Our review identified companies that appeared to have taken unearned credits or credits higher than earned. While we are unable to include these in the report, we did share this information with DOR so it could take action to address these concerns.

Government auditing standards require that we also report the scope of our work on internal control that is significant within the context of the audit objectives. Both of our objectives address aspects of the internal control structure for the film tax credit's administration, and deficiencies in internal controls are discussed throughout the report. Specific information related to the scope of our internal control work is described by objective in the methodology section below.

Methodology

To determine the extent to which GDEcD and DOR enforce statutory and regulatory eligibility requirements for production companies receiving the film tax credit, we analyzed credit data and reviewed files from both GDEcD and DOR.

To determine whether GDEcD only approved eligible projects for the credit, we initially selected a targeted sample of 49 certified projects from 2016 to 2019 drawn from lists provided by the department. These projects appeared to fall into one or more exclusions listed in statute and regulation or had insufficient information to make such a determination. For these projects, we reviewed GDEcD's application files for additional eligibility documentation. We also interviewed staff regarding certification decisions. Based on the results of this file review, we identified additional projects in GDEcD's certification list that fell into the same categories. The additional projects were certifications from other years for the same project or other projects with similar content. Because we used a targeted sample and not a representative sample, these results were not projected to the full population.

To verify companies completed the distribution requirement for the additional 10% credit (uplift), we selected a targeted sample of 20 GDEcD-certified projects from 2016 to 2018 that received the uplift using the logo placement. Statute requires projects be distributed to the general public if they use the logo to receive the uplift. We reviewed GDEcD's certification list and conducted internet research to identify projects with indeterminate distribution. These were independent films and pilot television shows, which generally have less certain distribution. We then reviewed GDEcD's files and interviewed staff for additional information. Because we used a targeted sample and not a representative sample, these results were not projected to the full population.

To verify companies completed the web link requirement of the uplift, we selected a representative random sample of 47 projects from GDEcD's 2017 list of 142 projects that received the uplift in part by placing the Georgia link on their websites. We visited the websites of the sample projects and documented the use, or absence, of a link to Georgia. The sample size was calculated by using a sample formula for estimating a population proportion, with a confidence level of 90% and an error of 10 percentage points. This sample formula conformed to our research goal of determining the proportion of companies complying with the web link requirement. The sample makes up 33% of the population, and the sample proportions can be projected to the population.

To assess the promotional value the state receives for the uplift in video-streaming content, we reviewed GDEcD's certification list and conducted internet research to identify original streaming content certified for the uplift. We identified 20 streaming projects certified between 2015 and 2018 that used the logo placement and web link to obtain the uplift. All projects were exclusive to the applicable streaming provider; we did not consider projects also distributed via other methods (e.g., television shows that first aired on a network and then re-aired on a streaming provider). We viewed the content to determine whether the logo was shown prior to the streaming provider skipping to the next episode or other content. We also reviewed websites for these projects to determine whether they included the required link.

To determine whether DOR processes for granting the credit ensure that GDEcD has approved the project, as required by statute, we compared GDEcD project certification lists with DOR credit data to identify discrepancies. We then reviewed documentation these companies submitted to DOR to determine whether a valid GDEcD certification letter had been provided. Additionally, our Technology Risk and Assurance Division verified that DOR's BCM required companies to complete the field for the GDEcD certification number.

To determine whether DOR processes ensure that statutory caps on QIEPCs are properly enforced, we reviewed DOR's BCM records for tax years 2014 to 2018 to identify companies using both the 133 (QIEPC) and 122 (non-QIEPC) credit codes. To identify undisclosed QIEPC affiliates, we compared QIEPC names and addresses in DOR's BCM records. We then reviewed tax return documents to verify suspected affiliations. We also compared GDEcD-certified projects to DOR BCM credit records to identify non-QIEPC companies producing interactive content. Additionally, our Technology Risk and Assurance Division verified that DOR's BCM prevented new 133 credits from being granted once the QIEPC caps were reached.

To determine the extent to which DOR ensures that taxpayers are entitled to the credit amounts claimed, we analyzed credit data, reporting, tax return documents, and audit documentation from DOR.

To determine whether DOR processes ensure companies submit the documentation required by statute and regulation and ensure credit amounts match the submitted documents, we selected a representative random sample of 94 records from DOR's BCM population of 366[24] unduplicated credit records for tax year 2016. For each record in the sample, we reviewed BCM and tax return records and discussed identified issues with DOR staff. The sample size was determined by using a sample formula for estimating a population proportion with a confidence level of 95% and an error of less than 10 percentage points. The sample makes up 26% of the population, and the sample proportions can be projected to the population.

To identify companies receiving credits higher than earned, we manually reviewed all records in DOR's BCM, which included projects from 2014 to 2018. We looked for projects with duplicate credit records, companies that did not meet the statutorily required minimum spend, and discrepancies between DOR and GDEcD records related to credit percentage and company name. We identified 51 records with potential issues. For these records, we reviewed BCM and tax return records and discussed identified issues with DOR staff.

[24] The number of records here does not equal the number of 2016 projects because some records covered multiple projects. Additionally, some projects had multiple records.

To determine whether DOR's processes limit the credit's use to the period allowed by statute, we reviewed all records in DOR's BCM, which included projects from 2014 to 2018. We looked for certification periods greater or less than six years and for inconsistencies between dates. We identified 68 projects with potential issues. From this group, we selected 7 projects with a certification period less than six years and 7 projects with a certification period that did not match either the GDEcD certification year or the company-entered tax year in the BCM. For these records, we reviewed BCM and tax return records and discussed identified issues with DOR staff. Based on the results of this review, we were able to determine which of the 68 projects had incorrect certification periods.

To determine whether DOR has sufficient IT controls in place to ensure the credits used are limited to the credits earned, our Technology Risk and Assurance Division verified that DOR's BCM

- Ensured only the assigned owner (claimant or purchaser) can claim the credit;
- Ensured the credit amount is not overspent or oversold;
- Ensured that a purchaser/transferee does not resell the credit or use it for withholding; and
- Limited the credit's use to the system-generated carry forward period.

To determine if DOR audits provide adequate assurance that tax credit amounts are justified, we compared DOR's BCM credit records to DOR's list of audited projects. We identified all 2016 projects that had been audited or were currently undergoing an audit by DOR. We used this information to calculate an audit coverage rate, describing the percentage of projects and credit amount audited. As noted on page 18, DOR had not yet started involuntary film tax credit audits for tax year 2016 and was unable to provide historical information on the involuntary audits. This limitation results in an audit coverage estimate below the final rate; however, this limitation does not appear to affect the overall finding. We considered auditor caseloads and the length of time required to conduct voluntary and involuntary audits and concluded that involuntary audits were unlikely to significantly increase audit coverage based on the number of projects.

To assess DOR's film tax credit audit procedures, we randomly selected eight audits for review. All eight audits included tax year 2016, but some audits also included production activity in 2015 or 2017. DOR provided us with the general ledger and other audit documentation for each audit. We reviewed these documents to identify expenditures that are ineligible according to statute or regulation but had not been disallowed. We also assessed the frequency of supporting documentation requests, adequacy of the provided documentation, and treatment of certain high-risk transactions. To inform our analysis, we interviewed subject matter experts, reviewed best practice literature for tax audits, and read news reports discussing fraud identified in other states. Because we did not use a representative sample, the results are not projected to the full population.

To support the objectives, we reviewed the film office websites of 31 other states with film incentives for information on their type, size, restrictions, and administration. The states with incentives were identified through industry publications and internet searches. When information was not available through a film office website, we reviewed the state laws, rules, and regulations. We also interviewed staff from 26 film offices and one state audit agency for information not located through available sources.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Appendix C: Other State Incentives

STATE	INCENTIVE TYPE	LEVEL (%)	MINIMUM SPEND	PROJECT CAP	AGGREGATE CAP	COMPENSATION CAP	MINIMUM FILMING DAYS
Alabama	Rebate/Grant	• 25% on production expenditures & 35% of payroll to residents	$50K-$500K: • Soundtracks: $50K • Music Videos: $50K • Other Productions: $500K	Qualifying spending is capped: • Soundtracks: $300K • Music Videos: $200K • All Other: $20M Cap levels depend on the expenditure mix	$20M	• BTL crew: $500K • ATL crew: $1M • Includes non-residents and loan-outs.	None
Arkansas	Rebate/Grant	• 20% on qualified expenses • +10% for full-time BTL residents	$200K	None	Based on fund amount	$500K	None
California	Tax Credit	20%-25%: • 20% on qualified expenses • +5% for filming outside L.A. zone for non-independent projects (excludes relocating TV series in their 1st season)	$500K-$1M: • $500K for miniseries and movie of the week • $1M for feature films, TV series, TV pilots, & indie films	• $100M • $105M with uplifts for non-independent projects • Independent proj. expense capped @ $10M	$330M/FY	None (Only BTL crew qualifies)	75% or spend a minimum of 75% budget in state
Colorado	Rebate/Grant	20% on qualified expenses	$100K-$1M: • In-state companies & residents: $100K • Out-of-state companies & nonresidents: $1M • Commercials & video games: $250K	None	• Currently $750K • Based on legislature allocation & amount previously encumbered by recipients	$1M/employee or contractor (as long as state income taxes withheld)	None
Connecticut	Tax Credit	10%-30% based on expenses	$100K-$1M+: • 10% ($100K) • 15% ($500K) • 30% ($1M+)	None	None	• $15M/individual or representing entity • $20M aggregate for star talent	50% unless other reqs are met
Georgia	Tax Credit	20%-30%: • 20% base • +10% for using state logo & website link or alternative marketing opportunities	• $500K films and television • $250K interactive entertainment (starting in 2018) • From single or multiple projects	None	None	• $500K for salaried employees • None for those paid by 1099, personal service contract, or loan-out	None
Hawaii	Tax Credit	20%-25%: • 20% for productions on Oahu • 25% for neighboring islands	$200K in-state	$15M	$50M/year	None	None
Illinois	Tax Credit	30%-45%: • 30% on qualified expenses • +15% for salaries paid to residents in economically disadvantaged areas	$50K-$100K: • Prod. < 30 minutes: $50K • Prod. > 30 minutes: $100K	None	None	$100K/resident	1 day
Kentucky	Tax Credit	30%-35%: • 30% of approved expenditures, 30% of nonresident labor, and 35% of resident labor • 35% for approved expenditures & all labor	$10K-$250K: • Feature film/TV show: $250K • Commercials: $100K • Documentary/Broadway: $20K • Documentary/Broadway by KY company: $10K	None	$100M/CY	$1M/ATL crew member	None

Note: ATL means above-the-line and refers to positions associated with the creative and/or financial control of a production. BTL is below-the-line and refers to technical production crew, postproduction teams, and non-starring cast.

STATE	INCENTIVE TYPE	LEVEL (%)	MINIMUM SPEND	PROJECT CAP	AGGREGATE CAP	COMPENSATION CAP	MINIMUM FILMING DAYS
Louisiana	Tax Credit	25%-40%: • 25% base (includes resident & non-resident labor) • +10% for state screenplay productions • +5% for filming outside of metro area • +15% resident payroll credit • +5% visual effects credit	$50K-$300K: • Screenplay: $50K • Other productions: $300K	• Qualified entertainment company: $1M • LA economic development: $20M • Scripted TV series: $25M/season	$150M/FY	• $3M/person (including loan-outs) • loan-outs do not qualify for the 15% resident payroll credit	None, unless seeking uplift 60% to get the 5% uplift for shooting outside metro area
Maine	Tax Credit	5% of nonwage spending	$75K	None	None	N/A	None
	Rebate/Grant	Wage rebates: • 10% for nonresidents • 12% for residents	$75K	None	None	$50K/employee	None
Maryland	Tax Credit	• Up to 25% for film productions or small films • 27% for TV series	• $25K for small films • $250K for film production direct costs, which are pro-rated for personnel/ materials in state	• Small Films: $125K • Film Productions: $10M	• Small Films: 10% of authorization/FY • Film Productions: $8M (FY 2019), $11M (FY 2020), $14M (FY 2021), $17M (FY2022), $20M (FY2023+)	• $500K for individuals and loan-outs • Not limited to time spent in-state	50%
Massachusetts	Tax Credit	• 25% production credit • +25% possible for payroll	$50K during a consecutive 12-month period	None	None	• $1M for payroll credit only • Loan-outs qualify for payroll credit if income tax withheld	Base credit: 50% filming days or 50% budget expended in state
Minnesota[1]	Rebate/Grant	20%-25% based on min spending & days shooting outside metro area	• 20%: $100K ≤ spend ≤ $1M • 25%: Spend > $1M or shoot outside metro area	None	Based on fund amount	$100K/ATL non-resident crew member	None, unless seeking 25% by filming outside metro area
Mississippi	Rebate/Grant	• 25% investment rebate • 30% resident payroll rebate • And/or 5% honorably discharged veteran payroll rebate	$50K local spending/project	$10M	$20M	• $5M for cast/crew with wages subject to state tax withholding + additional residency requirements • Loan-outs qualify	None
Montana	Tax Credit	20%-35%: • 20% for production • Max with additional credits is 35% of total base investment Additional credits: • 25% resident TV staff & crew compensation • 15% nonresident staff and crew compensation • 20% of first $7.5M for actors, directors, producers, and writers with income tax withholdings • 30% of MT student compensation • 10% of payments made to MT colleges/universities for stage/equipment rentals or location fees • 10% of all in-studio facility and equipment rentals for 20+ days • 5% for expenses in underserved areas[2] • 5% uplift for state screen credit	$50K-$350k: Dept. of Commerce may reduce from $350K to $50K for the following: • commercials • music videos • productions for website creation • video games • interactive entertainment • experimental/low-budget	None	$10M	• $500K/crew or staff member/production (excludes actors, directors, producers or writers) • $1.5 million/actor, director, producer or writer with withholding (20% x $7.5M) • $150K/person for 15% & 25% additional compensation credits • $50,000/student for 30% student credit	None
	Rebate/Grant	• None • Multiple types available, see project caps	$300K for film & TV grant	• Variable for film & TV grant • ≤$50K resident filmmaker grant • ≤$50K development grant • ≤$5K festival grant	None specified	None	50% principal photography

Note: ATL means above-the-line and refers to positions associated with the creative and/or financial control of a production. BTL is below-the-line and refers to technical production crew, postproduction teams, and non-starring cast.

[1] There are alternatives to Minnesota's spending minimum for the 25% credit, such as spending at least 60% filming days outside of the metropolitan area.

[2] A county in which 14% or more of people of all ages are in poverty according to the U.S. Census Bureau.

STATE	INCENTIVE TYPE	LEVEL (%)	MINIMUM SPEND	PROJECT CAP	AGGREGATE CAP	COMPENSATION CAP	MINIMUM FILMING DAYS
Nevada	Tax Credit	• 12% ATL nonresident payroll • 15% resident payroll (ATL & BTL) • 15% qualified expenses • +5% possible for using residents and/or rural locations	• $500K in-state and • total production & pre-production expenses at least 60% of total budget	$6M	• $10M/CY • Remaining credits may be carried forward for two consecutive years	• $750K/individual or loan-out • In-state resident producer comp. must be <10% of in-state expenses • Non-resident producer comp. must be <5%	None, unless seeking rural county bonus credit
New Jersey	Tax Credit	• 30% base • 35% for filming in Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, Mercer or Salem Counties	• $1M on qualified expenses or • 60% of total expenses occur in-state (excluding post-production)	None	$75M	$500K to individuals for story, script, or scenarios as well as writers and directors	None
New Mexico	Tax Credit	• 25% on qualified expenses (base) • +5% for standalone TV pilots with an order for 6 epsiodes in a single series & a NM budget of $50K/episode, productions filmed in qualified production facilities, or shooting in rural areas • 15% credit for nonresident BTL crew wages	None	None	$95M from 7/1/19-7/1/20. If FY 2019 general fund revenue exceeds forecasts by ≥ $30M, cap increases from $95M to $125M. $100 million prior to 7/1/19.	• $5M for credits on payments to nonresident performing artists <u>Nonresident BTL Wage Credit</u> • Nonresident wages ≤15% of total BTL crew wages, or 20% if no NM crew available • Production must make a financial or promotional contribution to educational or workforce development efforts	At least 1 day
New York	Tax Credit	• 30% for qualified expenses • +10% possible for productions with budgets exceeding $500K on qualified labor expenses in specific counties	None, but there are minimum activities to meet to qualify.	None	$420M with credit balance rolling over until 2022	None	10% for productions to be filmed in in-state qualified production facility (QPF) & at least 1 day of filming in QPF for independent projects
North Carolina	Rebate/Grant	25% on qualified expenses	• $3M for feature films • $1M/episode for TV series • $1M for made-for-TV movies • $250K for commercials	• Feature Films: $7 million • TV series: $12M/season • Commercials: $250K	$31M	• $1M/resident and nonresident • Loan-outs qualify if state tax withheld	• None • Duration in state is a dept. consideration when awarding grants
Ohio	Tax Credit	30% on qualified expenses & wages	$300K	None	$40M Unused credit rolls over to next FY	None	None
Oklahoma	Rebate/Grant	<u>35%-37%:</u> • 35% on qualified expenses • +2% for a minimum spend of $20K on music recorded in-state by a resident	$25K	None	$8M Does not apply to high impact productions	• ≤25% of total spend can be ATL compensation • Loan-outs qualify if registered with Secretary of State	None
Oregon	Rebate/Grant	<u>OPIF[3] & iOPIF[4]:</u> • 20% on goods and services • +10% for payroll for in-state work (OPIF) or resident wages on projects produced by residents and/or crew of at least 80% residents (iOPIF)	• $1M for OPIF • $75K to $1M for iOPIF	OPIF: ≤ half the total incentive fund (≈$7M/FY)	• OPIF: $14M/FY • iOPIF: 7.5% of OPIF ($1.05M)	$1M This applies to ATL, BTL, and loan-outs.	None
		<u>rOPIF[5]:</u> • 10% of OPIF or iOPIF if a Portland-based production films some portion outside of the metro area • Must be combined with OPIF or iOPIF	N/A, see OPIF & iOPIF	$10K/day & $50K/project	3% of OPIF ($420K)	$1M This applies to ATL, BTL, and loan-outs.	None
		<u>Greenlight:</u> • 6.2% for labor expenses • Can be combined with OPIF rebate	• $1M on qualified expenses or • 60% of total expenses occur in-state (excluding post-production)	None	None	$1M This applies to ATL, BTL, and loan-outs.	None

Note: ATL means above-the-line and refers to positions associated with the creative and/or financial control of a production. BTL is below-the-line and refers to technical production crew, postproduction teams, and non-starring cast.

[3] OPIF = Oregon Production Investment Fund, [4] iOPIF = Indigenous OPIF, [5] rOPIF = Regional OPIF

STATE	INCENTIVE TYPE	LEVEL (%)	MINIMUM SPEND	PROJECT CAP	AGGREGATE CAP	COMPENSATION CAP	MINIMUM FILMING DAYS
Pennsylvania	Tax Credit	• 25% for qualified expenses • +5% possible for feature films, TV films, or TV series that meet requirements at qualified production facilities	None, unless seeking 5% uplift For the additional 5%: • Expenses <$30M: $1.5M • Expenses ≥ $30M: $5M	• 20% of credit budget/FY ($13M) • Any remaining credit balance is distributed over the next fiscal years.	$65M	$15M for ATL	None, unless seeking additional 5% by using a qualified prod. facility, then 10-15 days at facility
Rhode Island	Tax Credit	30%	$100K	$7M This can be waived if the project is film or a TV series & the amount is < aggregate cap.	$15M	None	51% of principal photography or 51% budget expended in state
South Carolina	Tax Credit	10% (For production of commercials)	> $500K	None	$1M	None	None
	Rebate/Grant	• 20% employee wage rebate for nonresident crew • 25% employee wage rebate for resident crew • 30% in-state supplier rebate on qualifying goods & services	• $1M for productions • $10M total & $1M/episode for TV series	None	$15.5M	$1M/individual Loan-outs qualify if state tax withheld	None
Tennessee	Rebate/Grant	• 25% on qualified feature film & TV pilot expenses • 25% labor expenses • +5% for resident wages of scripted TV series	• Feature films & TV pilots: $200K • Scripted TV Series: $500K/episode	None	• Based on fund amount • Funding allocated by the General Assembly & varies year to year • Between $6M & $10M in 2016	• Feature films & TV pilots: $250K/resident • Scripted TV Series: $250K/resident & $2M total for nonresidents • Loan-outs qualify	None
Texas	Rebate/Grant	• 5%, 10%, or 20% of qualified expenses • % depends on spend amount	Film and TV: • 5%: $250K • 10%: $1M • 20%: $3.5M+ • TV series: $250K/season Commercials & Video Games: • 5%: $100K • 10%: $1M • 20%: $3.5M+	None	Based on fund amount $32M for 2-year period (2014-2015)	$1M/resident	60% of total production days
Utah	Tax Credit	Motion Picture: 20% or 25% on post-performance expenses % depends on spend amount	• 20%: $500K • 25%: $1M	None	$6.79M	$250K for in-state ATL	None
		Community Film: 20% on post-performance expenses	$20K Max is $500K	None	$6.79M	$250K for in-state ATL	None
	Rebate/Grant	20% or 25% on post-performance expenses Film Commission decides if a prod. gets the credit or rebate/grant	• 20%: $500K • 25%: $1M	None	$6.79M	$250K for in-state ATL	None

Note: ATL means above-the-line and refers to positions associated with the creative and/or financial control of a production. BTL is below-the-line and refers to technical production crew, postproduction teams, and non-starring cast.

STATE	INCENTIVE TYPE	LEVEL (%)	MINIMUM SPEND	PROJECT CAP	AGGREGATE CAP	COMPENSATION CAP	MINIMUM FILMING DAYS
Virginia	Tax Credit	• 15% base credit on qualifying expenses • +10%-20% for total resident payroll (20% if resident wages>$1M) • +10% for residents employed as first-time actors/members of production crew • 20% credit if filmed in economically distressed area	$250K	None	$6.5M	$1M/person	50%
	Rebate/Grant	• Variable • Made at the discretion of the Governor • Based on employment, investment, presence of local commitment, and industry/company growth potential	$250K	None	Depends on allocation and unused spending	Does not cover 100% of resident labor costs	50%
Washington	Rebate/Grant	• 30% for qualified expenses • 35% for episodic series of 6 or more episodes • 15% for commercials	• $500K for motion picture • $300K/episode for episodic series • $150K for commercials	None	$3.5M	$50K for nonresident wages	85%

Note: ATL means above-the-line and refers to positions associated with the creative and/or financial control of a production. BTL is below-the-line and refers to technical production crew, postproduction teams, and non-starring cast.
Source: State film offices and DOAA analysis

Appendix D: Key Statistics from Report Findings

Finding 2: Current audit coverage does not ensure only eligible expenses earn the credit. (p. 17)

- 12% of projects audited (2016 projects)
- 49% of credit amount audited (2016 projects)
- Of 32 states with a film tax credit or rebate, 29 require an audit of all projects

Finding 3: DOR's current audit procedures do not provide assurance that ineligible expenditures will be identified and disallowed. (p. 21)

- 8 projects audited by DOR were reviewed by DOAA
- $283 million in total expenditures submitted for the 8 projects
- $4.7 million in expenditures disallowed by DOR auditors
- $4.0 million in other expenditures identified by DOAA that should have been disallowed

Finding 4: Due to weaknesses in DOR's controls, companies could receive credits they are not eligible for or credits higher than earned. (p. 28)

- Based on discrepancies between form IT-FC and credits in BCM:
  - Estimated 168 of 359 projects with an IT-FC had incorrect amounts (2016 projects)
  - Estimated $15.5 million in excess credits (2016 projects)
- 19 projects with duplicate entries in BCM (2015-17 projects)
  - $20 million in excess credits based on duplicate entries (2015-17 projects)
- $27,000 in improperly granted credits because minimum spend not met (2016 projects)

Finding 5: DOR allows companies to receive the credit without submitting required documentation. (p. 32)

- 20% of sample had no form IT-FC (2016 projects)
  - Estimated 91 projects and $165 million in credits
  - Estimated 67 of 91 projects had incorrect amounts in BCM; excess credits of $6 million
- 39% of sample had no expenditure breakdown (2016 projects)
- 80% of sample had no employee listing (2016 projects)
- Estimated 359 of 450 projects missing one or more required documents (2016 projects)

Finding 6: Due to weaknesses in DOR's controls, companies could claim credits outside of the eligible carryforward period. (p. 35)

- 31 of 978 records in BCM had incorrect certification periods (2015-18 projects)
- $159 million in credits for the 31 projects. Unknown if any credits claimed during incorrect period.

Finding 7: Weaknesses in DOR's overall processes allow QIEPCs to exceed statutory caps. (p. 36)

- Total of $1.0 million in excess credits to one company (2016 and 2018)

Finding 8: DOR's processes allow QIEPCs to receive credits without ever submitting the required GDEcD certification. (p. 38)
• None
Finding 9: Companies in default on state taxes or loans are not eligible for the credit, but neither GDEcD nor DOR verifies compliance. (p. 38)
• None
Finding 10: GDEcD has approved productions with questionable eligibility, though the General Assembly should clarify the statute for certain types of productions. (p. 40)
• More than 2,000 certifications from 2014 to 2018 • 83 certifications, $60 million in credits for news coverage, local interest programming, and athletic event coverage (primarily 2014-18) • 14 certifications, $8 million in credits for live events like concerts, sermons, and conferences that would likely occur in Georgia without the credit (2014-19) • 13 certifications, $3.1 million in credits for digital media and interactive entertainment projects that are questionable (2015-18) • 42 certifications for interactive entertainment projects receiving the credit for three to eight years (2009-2018) • 10 certifications, $660,000 in credits for unaired commercials and projects not intended for distribution (2015-19)
Finding 11: Distinct risks exist for productions with significant out-of-state filming and those that are not completed. (p. 45)
• 16 projects, $25.8 million in credits with significant out-of-state footage, which does not include movies or news and athletic event shows (2015-17) • 15 projects, $13.1 million in credits for television pilots and independent films with no evidence of project completion (2015-18)
Finding 12: GDEcD does not ensure that all projects receiving the uplift complete all requirements for eligibility. (p. 47)
• More than 300 projects received the 10% credit uplift (2016) • 75% of uplift projects used the Georgia logo and website link (2016) • Review of 20 television pilots and independent films found that 10 ($2.1 million in uplift credits) had no evidence of distribution (2015-17) • Review of 47 projects in sample found that 27 (57%) had no website link (2017)
Finding 13: The promotional value of the credit uplift is unknown, but certain issues reduce any value the state receives. (p. 49)
• Value of the uplift cannot be quantified • Review of 20 projects created specifically for streaming platforms found that 16 ($55 million in uplift credits) automatically skipped the logo in the credits (2015-18) • 16 projects, $3.9 million in uplift credits were never distributed (2015-18)

The Performance Audit Division was established in 1971 to conduct in-depth reviews of state-funded programs. Our reviews determine if programs are meeting goals and objectives; measure program results and effectiveness; identify alternate methods to meet goals; evaluate efficiency of resource allocation; assess compliance with laws and regulations; and provide credible management information to decision makers. For more information, contact us at (404)656-2180 or visit our website at www.audits.ga.gov.