NSW Art of Tax Reform Summit

[The Art of Tax Reform: Unlocking opportunities to improve taxation for Australian creative industries – Discussion paper and submissions](https://www.haveyoursay.nsw.gov.au/cultural-tax-reform)

**Guidance for submissions**

* Submissions may be made public as part of the consultation process. Don’t include anything you do not want in the public domain. You can also request that your submission remains confidential.
* Shape your responses in context of the key topics and questions raised in the discussion paper (at link above).
* Keep in mind the general principles often used for assessing tax policy: fairness, neutrality and economic efficiency; simplicity; integrity. Your submission should also highlight broader public purpose and benefit; effectiveness; efficiency and sustainability.
* Use practical examples from your experience to highlight the importance of reform: the challenge of attracting investment; rising production and touring costs; impact on creative development process.
* Help policy-makers better understand the creative development process: the length of time and cost involved in developing a new production.
* Reaffirm support for LPA’s proposal for a production incentive.
* You may also wish to comment on other tax measures, including incentives for giving, staff retention and GST impacts.

**Setting the scene**

More Australians attend a live performance than all of our major sporting codes combined. There were more than 30 million ticketed attendances across all live performance categories in 2023 earning more than $3 billion in ticket revenue.

There were over **10 million ticketed attendances** at theatre and orchestral events in 2023, including ballet and dance, children’s and family entertainment, dramatic and musical theatre, classical music, circus and physical theatre, and opera which generated around almost $1 billion in ticket revenue.

Our industry is diverse and made up of independent producers, small to medium size and national not for profit organisations as well fully commercial producers and companies that operate around Australia and internationally.

Australia’s creative capabilities are globally recognised. It is vital that we have policy settings in place that sustain and grow our creative industries and provide rewarding career opportunities for current and future generations of artists, creatives and production and technical workers.

**The discussion paper suggests a framework for submissions. Topics and our key messages are detailed below.**

* This is a transformational opportunity for our cultural and creative industries.
* Tax reform proposals could have long term positive impact and be a game-changer for arts and cultural organisations.
* A **production incentive** can be delivered efficiently and quickly: we already have proven models in Australia and overseas for design and delivery of the incentive / tax offset.
	+ LPA’s proposal is universally accessible to not for profit and commercial producers, regardless of their size or location.

Look at other tax reform opportunities, including incentives for giving; staff attraction and retention through measures such as PBI status (which unlocks FBT concessions and exemptions); and GST impacts.

TOPIC: Principles for tax reform for creative industries

* The reform should be sustainable over the longer term, cost neutral or revenue positive for government.
* It should be accessible to all commercial and not for profit organisations, large and small, across all locations.
* The reform should complement and leverage existing funding streams as well as stimulating new investment.
* It should make Australia internationally competitive as an investment destination
* The reform should not add complexity or cost in its implementation or administration.

TOPIC: The opportunity for tax reform

We are calling for the introduction of a **live performance production incentive** to support investment in live theatre and orchestral productions across the commercial and not for profit sectors.

The LPA proposal is for a 40 per cent offset on qualifying production costs. It would be applied as a tax offset for taxpaying entities, or as a rebate for non-taxpayers. This provision is known as a **refundable tax offset** in the *Income Tax Assessment Act 1997.*

***Why do we need a live performance production incentive?***

To drive investment in homegrown talent and creativity, create more jobs and grow the economy.

* Productions can require years of development and millions of dollars in upfront investment before an audience take their seats on opening night.
* The costs of developing a new production are met upfront by the producer, drawing on their own resources or with the support of investors or donors. These can range from hundreds of thousands through to millions of dollars.
* Production costs have risen dramatically against a backdrop of limited revenue growth. It is increasingly difficult or simply not viable to develop and present new works.
* Tighter operating margins mean shortened development times, fewer productions, shorter seasons and less touring which in turn delivers fewer employment opportunities for artists and musicians, creatives, production and technical staff.
* Australia has lost investment to countries like the UK and the US which provide production incentives. It is more attractive for Australian investors to fund productions offshore. We must level the playing field to encourage more investment within Australia and also grow the pool of potential investors for Australian productions.
* Levelling the playing field will attract and retain investment here, employing more people, nurturing our homegrown talent, and strengthening our cultural exports.
* All theatre producers rely overwhelmingly on self-generated revenue, including those who receive funding through federal, state and territory governments. In any case, government funding has not kept pace with increased costs of production and touring.
* Australia presents unique challenges for producers, including significantly higher costs for production and touring between our major population centres and regions. Our smaller population is spread across a much larger geography than comparable markets overseas meaning much higher costs of touring between capital cities and regional and rural communities.

**How would a live performance production incentive work?**

* Live Performance Australia’s proposal is for a 40 per cent production incentive which would be available to commercial and not for profit producers.
* The incentive would be delivered through the tax system as a **refundable tax offset**. For a non-taxpaying organization, the incentive would be delivered as a rebate on production expenses.
* There is clear precedent for such a production incentive. The Australian Screen Production Incentive has been in place since 2007. The Digital Games Tax Offset was introduced in 2023. Both schemes are delivered through the *Income Tax Assesment Act 1997* (Division 376 for screen; Division 378 for digital games).
* State and territory governments also provide incentives for screen and games production.
* There is a wide range of incentives and tax concessions provided across the Australian economy to stimulate investment and offset production costs in key sectors identified as priority areas by government.
* The incentive would be applied to qualifying production expenses. Government and industry would consult on the detail of their scope.
* The UK’s Theatre Tax Relief (TTR) and Orchestra Tax Relief (OTR) are excellent examples of how a production incentive can work for both commercial and not for profit organisations. The UK TTR also includes a higher incentive rate for touring productions.

TOPIC: Impact of tax reform

* A production incentive enables producers to mount productions, support touring, and develop the next generation of creative talent including our independent and small to medium companies.
* It works across the commercial and not for profit sectors and would help to drive greater collaboration between them.
* It would underwrite the creation of new original works leading to licensing and export opportunities which returns royalties back to Australian creators and rights holders.
* It levels the playing field to attract investment for Australian productions which is currently being lost to overseas markets where investment incentives are available. It will help to grow the pool of prospective local investors as well as attract investment from overseas.
* It supports not for profit companies to recoup their production expenses which can be reinvested in new works and improves their financial sustainability.
* It provides equitable treatment for theatre and orchestras alongside the screen and digital games industries. Expenditure on screen and games production incentives in 2025/26 is forecast to reach almost $150 million, while there is no support provided for live performance through a similar incentive.
* It creates jobs and supports more stable career pathways for Australian artists, musicians, composers, creatives, and production and technical workers.
* It earns revenue for government. **Modelling undertaken by EY for Live Performance Australia** shows a 40 per cent incentive for live theatre would be **revenue positive** through increased economic activity, returning $1.26 in tax revenue for every dollar in tax foregone through the incentive. It would support 4,151 additional jobs and contribute and additional $1.5 billion in total output.
* It is activity-driven. The incentive is paid on actual expenditure on new productions.
* It makes touring of productions across Australia more financially viable, including for regional cities and rural communities. Without a production incentive, touring pathways will continue to shrink due to increased cost pressures, including for major cities such as Adelaide, Canberra, Hobart and Perth.
* A thriving live performance sector bolsters tourism, hospitality, and local businesses, enriching our communities and enhancing Australia’s position on the world stage. All of this economic benefit is in addition to the revenue-positive return on the tax itself.
* The incentive can be readily and efficiently implemented, given similar structures are already established for screen and digital games. Following industry consultation on its key elements, the live theatre production incentive could be added to the *Income Tax Assessment Act 1997 and* administered through the Australian Taxation Office.

The UK increased the rate of its **Theatre Tax Relief** to support recovery from the impact of the COVID pandemic. It has retained that higher rate permanently at 40/45%, with bipartisan support. As a leading theatre industry figure said, the scheme allows theatre producers to create work that is ‘*more interesting, bigger, bolder, riskier*.’

The extension of **Orchestra Tax Relief** in the UK was welcomed as it *‘enables our sector to remain artistically ambitious, building new audiences, creating positive social impact for local communities, commissioning new music, developing future composers and performers, generating employment for the UK’s world-class musicians, and planning international tours which enhance the UK’s cultural influence worldwide – all in the face of continued economic pressures*.’

TOPIC: Managing risks and unintended consequences

* LPA’s economic modelling shows the proposed production incentive would be of overall positive benefit: delivering more tax revenue for government, creating more jobs and stimulating economic activity.
* Compliance would be managed by the Australian Taxation Office, in line with the current arrangements for screen and digital games incentives as set out in the *Income Tax Assessment Act 1997*.
* The greatest risk comes from the absence of a production incentive which will see less investment, fewer productions, reduced touring, and lost income and career opportunities for Australia’s creative workforce.

TOPIC: What’s the alternative to tax reform?

* The only meaningful alternative to the proposed production incentive would be a significant and sustained increase in funding by federal, state and territory governments through core operating and project grants.
* Current levels of government funding have not kept pace with production and touring costs. There is already significant unmet demand for public investment. It is unlikely that Australian governments will support real increases in funding at the level required across the commercial and not for profit sectors.
* The production incentive is not an opportunity for governments to reduce or replace public investment in our cultural organisations. Rather, it is a mechanism to attract additional investment and to leverage existing revenue sources for longer term sustainability and growth. It is also essential for the ongoing viability of the commercial theatre industry which receives no ongoing government support.

TOPIC: Compliance

* The administration of the incentive could be delivered through the provisions of the *Income Tax Assessment Act 1997* administered by the Australian Taxation Office, similar to the arrangements already in place for screen and digital games incentives.
* These could be readily adapted for the live performance incentive following consultation with industry on the qualifying production expenses to be covered by the scheme.
* The administration of the incentive should not impose additional cost or complexity for producers and be aligned to existing financial and tax reporting requirements.