



98TH GENERAL ASSEMBLY

State of Illinois

2013 and 2014

HB5888

by Rep. Fred Crespo

SYNOPSIS AS INTRODUCED:

New Act
35 ILCS 5/224 new

Creates the Interactive Digital Media Tax Credit Act. Entitles interactive digital media companies that meet certain requirements to an income tax credit based on the amount of the Illinois labor expenditure and Illinois production spending approved by the Department of Commerce and Economic Opportunity for the production. Authorizes taxpayers to take the credit beginning in the taxable year in which the company has met the investment requirement. Provides for the transfer of credits. Requires the Department to submit a report concerning the program to the General Assembly no later than July 1, 2019. Provides that the Act is repealed on July 1, 2020. Amends the Illinois Income Tax Act to make conforming changes. Effective immediately.

LRB098 18569 HLH 53708 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning revenue.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 1. Short title. This Act may be cited as the
5 Interactive Digital Media Tax Credit Act.

6 Section 5. Definitions; rules.

7 (a) As used in this Act:

8 "Base Illinois production spending" is the average amount
9 of expenses incurred by the applicant for all productions in
10 calendar years 2011, 2012, and 2013, including, without
11 limitation, all of the following:

12 (1) expenses to purchase, from vendors within
13 Illinois, tangible personal property that is used in the
14 accredited production;

15 (2) expenses to acquire services from vendors in
16 Illinois for an accredited production, including services
17 for editing and processing; and

18 (3) compensation paid to vendors for contractual or
19 salaried employees of the vendor who are Illinois residents
20 and who perform services with respect to the accredited
21 production, not to exceed \$100,000 for any one employee.

22 "Base number of employees" is the average of all full-time
23 employees who were employed by an applicant in calendar years

1 2011, 2012, and 2013.

2 "Interactive digital media project" means: (1) a
3 production of interactive entertainment which is produced for
4 distribution in commercial or educational markets, including
5 computer games, video games, and simulation or animation; or
6 (2) a production intended for Internet or wireless
7 distribution.

8 "Accredited production" means the production of an
9 interactive digital media project that has been certified by
10 the Department in which the Illinois production spending
11 included in the cost of the production exceeds \$100,000 per
12 year.

13 "Accredited production certificate" means a certificate
14 issued by the Department certifying that the interactive
15 digital media production is an accredited production that meets
16 the guidelines of this Act.

17 "Applicant" means a taxpayer that is an interactive digital
18 media company that is operating or has operated an accredited
19 production located within the State of Illinois and that (i)
20 owns the copyright in the accredited production throughout the
21 Illinois production period or (ii) has contracted directly with
22 the owner of the copyright in the accredited production or a
23 person acting on behalf of the owner to provide services for
24 the production if the owner of the copyright is not an eligible
25 production corporation.

26 "Credit" means, for an interactive digital media

1 accredited production commencing on or after January 1, 2015:

2 (1) an amount equal to 30% of the (i) Illinois
3 production spending and (ii) Illinois labor expenditure
4 for the taxable year; and

5 (2) an additional amount equal to 5% of the Illinois
6 production spending if the accredited production company
7 is located in a geographic area of high poverty or high
8 unemployment, as determined by the Department.

9 "Department" means the Department of Commerce and Economic
10 Opportunity.

11 "Director" means the Director of Commerce and Economic
12 Opportunity.

13 "Illinois labor expenditure" means salary or wages paid to
14 employees of the applicant for services on the accredited
15 production. To qualify as an Illinois labor expenditure, the
16 expenditure must be all of the following:

17 (1) reasonable in the circumstances;

18 (2) included in the applicant's federal income tax
19 basis;

20 (3) incurred by the applicant for services performed on
21 or after January 1, 2015;

22 (4) incurred during the production stages of the
23 accredited production;

24 (5) limited to the first \$100,000 of wages paid to or
25 incurred with respect to each new employee of a production
26 commencing on or after January 1, 2015;

1 (6) directly attributable to the accredited
2 production;

3 (7) paid in the tax year for which the applicant is
4 claiming the credit or no later than 60 days after the end
5 of the tax year;

6 (8) paid to persons residing in Illinois at the time
7 the payments were made; and

8 (9) paid for services rendered in Illinois.

9 "Illinois production spending" means the expenses incurred
10 by the applicant for an accredited production above the base
11 Illinois production spending, including, without limitation,
12 all of the following:

13 (1) expenses to purchase, from vendors located in
14 Illinois, tangible personal property that is used in the
15 accredited production;

16 (2) expenses to acquire services from vendors located
17 in Illinois for an accredited production, including
18 services related to editing or processing; and

19 (3) the compensation paid by a vendor, not to exceed
20 \$100,000 for any one employee, for contractual or salaried
21 employees of the vendor who are Illinois residents
22 performing services with respect to the accredited
23 production.

24 "New employee" means a full-time employee who (i) is first
25 employed by an applicant on or after January 1, 2015 and (ii)
26 is in excess of, or in addition to, the applicant's base number

1 of employees. The term "new employee" does not include:

2 (1) an employee of the eligible employer who performs a
3 job that (i) existed for at least 6 months before the
4 employee was hired and (ii) was previously performed by
5 another employee; and

6 (2) an employee of the eligible employer who was
7 previously employed in Illinois by a related member of the
8 eligible employer and whose employment was shifted to the
9 eligible employer after the eligible employer entered into
10 the agreement; or

11 (3) a child, grandchild, parent, or spouse, other than
12 a spouse who is legally separated from the individual, of
13 any individual who has a direct or indirect ownership
14 interest of at least 5% in the profits, capital, or value
15 of the eligible employer.

16 "Qualified production facility" means a facility in the
17 State in which interactive digital media projects are or are
18 intended to be regularly produced.

19 (b) The Department may adopt rules necessary to implement
20 this Act.

21 Section 10. Tax credit awards. Subject to the conditions
22 set forth in this Act, an applicant is entitled to a credit
23 against the tax imposed under subsections (a) and (b) of
24 Section 201 of the Illinois Income Tax Act as approved by the
25 Department under Section 25 of this Act.

1 Section 15. Application for certification of accredited
2 production. Any applicant proposing an interactive digital
3 media production located or planned to be located in Illinois
4 may request an accredited production certificate by formal
5 application to the Department.

6 Section 20. Issuance of tax credit certificate.

7 (a) In order to qualify for a tax credit under this Act, an
8 applicant must file an application, on forms prescribed by the
9 Department, providing information necessary to calculate the
10 tax credit and any additional information as required by the
11 Department.

12 (b) Upon satisfactory review of the application, the
13 Department shall issue a tax credit certificate stating the
14 amount of the tax credit to which the applicant is entitled.
15 The tax credit certificate shall be effective for expenditures
16 made prior to the date of initial certification and shall be
17 valid until the production is completed.

18 Section 25. Amount and duration of the credit. The amount
19 of the credit awarded under this Act is based on the amount of
20 the Illinois labor expenditure and Illinois production
21 spending approved by the Department for the production as set
22 forth under Section 5. The credit may be taken beginning with
23 the taxable year in which the accredited production company has

1 met the investment requirement. For each year in which such
2 accredited production company either claims or transfers the
3 credit, the accredited production company shall attach a
4 schedule to the accredited production company's Illinois
5 income tax return.

6 Section 30. Transfer of tax credits.

7 (a) Upon application and granting of an accredited
8 production certificate by the Department, an accredited
9 production company, or a partner or member that has received a
10 distribution under that certificate, may elect to transfer, in
11 whole or in part, any unused credit amount granted under this
12 Act. An election to transfer any unused credit amount must be
13 made no later than 5 years after the date the credit is
14 awarded, after which period the credit expires and may not be
15 used. The Department shall notify the Department of Revenue of
16 the election and transfer.

17 (b) An accredited production company that elects to apply a
18 credit amount against taxes remitted is permitted a one-time
19 transfer of unused credits to one transferee. An accredited
20 production company that elects to apply a credit amount against
21 taxes due is permitted a one-time transfer of unused credits to
22 no more than 4 transferees, and such transfers must occur in
23 the same taxable year.

24 (c) The transferee is subject to the same rights and
25 limitations as the accredited production company awarded the

1 credit, except that the transferee may not sell or otherwise
2 transfer the credit.

3 (d) The Department of Revenue may adopt rules to administer
4 this Section.

5 Section 35. Interactive Digital Media Tax Credit Report.
6 The Department shall submit to the General Assembly, no later
7 than July 1, 2019, a report that includes, without limitation:

8 (1) an assessment of the economic impact of the tax
9 credit program created under this Act, including the number
10 of jobs created and retained, and whether the job positions
11 are entry level, management, vendor, or production
12 related;

13 (2) an assessment of the revenue impact of the program,
14 including, but not limited to, the amount of Illinois labor
15 expenditure and Illinois production expenditure brought to
16 Illinois, including the amount of spending and the type of
17 Illinois vendors hired in connection with an accredited
18 production company;

19 (3) in the discretion of the Department, a review of
20 the practices and experiences of other states or nations
21 with similar programs;

22 (4) a determination of whether those receiving
23 qualifying Illinois labor expenditure salaries or wages
24 reflect the geographical, racial, ethnic, gender, and
25 income level diversity of the State of Illinois; and

1 (5) an assessment of the overall success of the
2 program.

3 Section 60. Repealer. This Act is repealed July 1, 2020.

4 Section 90. The Illinois Income Tax Act is amended by
5 adding Section 224 as follows:

6 (35 ILCS 5/224 new)

7 Sec. 224. Interactive Digital Media Tax Credit. For tax
8 years beginning on or after January 1, 2015, taxpayers who have
9 been awarded a credit under the Interactive Digital Media Tax
10 Credit Act are entitled to a credit against the tax imposed
11 under subsections (a) and (b) of Section 201 of this Act as
12 provided in the Interactive Digital Media Tax Credit Act.

13 The credit may not be carried back. If the amount of the
14 credit exceeds the tax liability for the year, the excess may
15 be carried forward and applied to the tax liability of the 5
16 taxable years following the excess credit year. The credit
17 shall be applied to the earliest year for which there is a tax
18 liability. If there are credits from more than one tax year
19 that are available to offset a liability, the earlier credit
20 shall be applied first. In no event shall a credit under this
21 Section reduce the taxpayer's liability to less than zero.

22 Section 99. Effective date. This Act takes effect upon
23 becoming law.