



## 98TH GENERAL ASSEMBLY

### State of Illinois

2013 and 2014

HB1451

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, 2018. Provides that the Act is repealed on July 1, 2019. Amends the Illinois Income Tax Act to make conforming changes. Effective immediately.

LRB098 07349 HLH 37412 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 2010, 2011, and 2012, 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 2010, 2011, and 2012.

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, 2014:

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, 2014;

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, 2014;

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, 2014 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, 2018, 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, 2019.

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, 2014, 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.