

AN ACT concerning revenue.

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

Section 5. The Illinois Income Tax Act is amended by changing Section 213 as follows:

(35 ILCS 5/213)

Sec. 213. Film production services credit. For tax years beginning on or after January 1, 2004, a taxpayer who has been awarded a tax credit under the Film Production Services Tax Credit Act is entitled to a credit against the taxes imposed under subsections (a) and (b) of Section 201 of this Act in an amount determined by the Department of Commerce and Economic Opportunity Community Affairs under the Film Production Services Tax Credit Act. If the taxpayer is a partnership or Subchapter S corporation, the credit is allowed to the partners or shareholders in accordance with the determination of income and distributive share of income under Sections 702 and 704 and Subchapter S of the Internal Revenue Code.

A transfer of this credit may be made by the taxpayer earning the credit within one year after the credit is awarded in accordance with rules adopted by the Department of Commerce and Economic Opportunity.

The Department, in cooperation with the Department of Commerce and Economic Opportunity Community Affairs, must prescribe rules to enforce and administer the provisions of this Section. This Section is exempt from the provisions of Section 250 of this Act.

The credit may not be carried forward or back. If the amount of the credit exceeds the tax liability for the year, the excess may be carried forward and applied to the tax liability of the 5 taxable years following the excess credit year. The credit shall be applied to the earliest year for

which there is a tax liability. If there are credits from more than one tax year that are available to offset a liability, the earlier credit shall be applied first. In no event shall a credit under this Section reduce the taxpayer's liability to less than zero.

(Source: P.A. 93-543, eff. 1-1-04; revised 12-6-03.)

Section 10. The Film Production Services Tax Credit Act is amended by changing Sections 10, 15, 20, 30, 45, and 90 and by adding Section 43 as follows:

(35 ILCS 15/10)

(Section scheduled to be repealed on January 1, 2006)

Sec. 10. Definitions. As used in this Act:

"Accredited production" means a film, video, or television production that has been certified by the Department in which the aggregate Illinois labor expenditures included in the cost of the production, in the period that ends 12 months after the time principal filming or taping of the production began, exceed \$100,000 for productions of 30 minutes or longer, or \$50,000 for productions of less than 30 minutes; but does not include a production that:

- (1) is news, current events, or public programming, or a program that includes weather or market reports;
- (2) is a talk show;
- (3) is a production in respect of a game, questionnaire, or contest;
- (4) is a sports event or activity;
- (5) is a gala presentation or awards show;
- (6) is a finished production that solicits funds;
- (7) is a production produced by a film production company if records, as required by 18 U.S.C. 2257, are to be maintained by that film production company with respect to any performer portrayed in that single media or multimedia program; or
- (8) is a production produced primarily for industrial,

corporate, or institutional purposes.

"Accredited production certificate" means a certificate issued by the Department certifying that the production is an accredited production that meets the guidelines of this Act.

"Applicant" means a taxpayer that is a film production company that is operating or has operated an accredited production located within the State of Illinois and that (i) owns the copyright in the accredited production throughout the Illinois production period or (ii) has contracted directly with the owner of the copyright in the accredited production or a person acting on behalf of the owner to provide services for the production, where the owner of the copyright is not an eligible production corporation.

"Credit" means the amount equal to 25% of the Illinois labor expenditure approved by the Department. The applicant is deemed to have paid, on its balance due day for the year, an amount equal to 25% of its qualified Illinois labor expenditure for the tax year. For Illinois labor expenditures generated by the employment of residents of geographic areas of high poverty or high unemployment, as determined by the Department, in an accredited production approved by the Department after January 1, 2005, the applicant shall receive an enhanced credit of 10% in addition to the 25% credit.

"Department" means the Department of Commerce and Economic Opportunity Community Affairs.

"Director" means the Director of Commerce and Economic Opportunity Community Affairs.

"Illinois labor expenditure" means salary or wages paid to employees of the applicant for services on the accredited production;

To qualify as an Illinois labor expenditure, the expenditure must be:

(1) Reasonable in the circumstances.

(2) Included in the federal income tax basis of the property.

(3) Incurred by the applicant for services on or after

January 1, 2004.

(4) Incurred for the production stages of the accredited production, from the final script stage to the end of the post-production stage.

(5) Limited to the first \$25,000 of wages paid or incurred to each employee of the production.

(6) Exclusive of the salary or wages paid to or incurred for the 2 highest paid employees of the production.

(7) Directly attributable to the accredited production.

(8) Paid in the tax year for which the applicant is claiming the credit or no later than 60 days after the end of the tax year.

(9) Paid to persons resident in Illinois at the time the payments were made.

(10) Paid for services rendered in Illinois.

(Source: P.A. 93-543, eff. 1-1-04; revised 11-3-04.)

(35 ILCS 15/15)

(Section scheduled to be repealed on January 1, 2006)

Sec. 15. Powers of the Department. The Department, in addition to those powers granted under the Civil Administrative Code of Illinois, is granted and has all the powers necessary or convenient to carry out and effectuate the purposes and provisions of this Act, including, but not limited to, power and authority to:

(a) Adopt rules deemed necessary and appropriate for the administration of the tax credit program; establish forms for applications, notifications, contracts, or any other agreements; and accept applications at any time during the year.

(b) Assist applicants pursuant to the provisions of this Act to promote, foster, and support film production and its related job creation or retention within the State.

(c) Gather information and conduct inquiries, in the manner

and by the methods as it deems desirable, including any information required for the Department to comply with Section 45 and, without limitation, gathering information with respect to applicants for the purpose of making any designations or certifications necessary or desirable or to gather information to assist the Department with any recommendation or guidance in the furtherance of the purposes of this Act, including, but not limited to, information as to whether the applicant participated in training, education, and recruitment programs that are organized in cooperation with Illinois colleges and universities, labor organizations, and the motion picture industry, and are designed to promote and encourage the training and hiring of Illinois residents who represent the diversity of the Illinois population.

(d) Provide for sufficient personnel to permit administration, staffing, operation, and related support required to adequately discharge its duties and responsibilities described in this Act from funds as may be appropriated by the General Assembly for the administration of this Act.

(e) Require applicants, upon written request, to issue any necessary authorization to the appropriate federal, state, or local authority for the release of information concerning a project being considered under the provisions of this Act, with the information requested to include, but not be limited to, financial reports, returns, or records relating to the applicant or the accredited production.

(f) Require that an applicant must at all times keep proper books of record and account in accordance with generally accepted accounting principles consistently applied, with the books, records, or papers related to the accredited production in the custody or control of the taxpayer open for reasonable Department inspection and audits, and including, without limitation, the making of copies of the books, records, or papers, and the inspection or appraisal of any of the assets of the applicant or the accredited production.

(g) Take whatever actions are necessary or appropriate to protect the State's interest in the event of bankruptcy, default, foreclosure, or noncompliance with the terms and conditions of financial assistance or participation required under this Act, including the power to sell, dispose, lease, or rent, upon terms and conditions determined by the Director to be appropriate, real or personal property that the Department may receive as a result of these actions.

(Source: P.A. 93-543, eff. 1-1-04.)

(35 ILCS 15/20)

(Section scheduled to be repealed on January 1, 2006)

Sec. 20. Tax credit awards. Subject to the conditions set forth in this Act, an applicant is entitled to a credit as eff ~~25% of the Illinois labor expenditure~~ approved by the Department under Section 40 of this Act.

(Source: P.A. 93-543, eff. 1-1-04.)

(35 ILCS 15/30)

(Section scheduled to be repealed on January 1, 2006)

Sec. 30. Review of application for accredited production certificate.

(a) In determining whether to issue an accredited production certificate, the Department must determine that a preponderance of the following conditions exist:

(1) The applicant's production intends to make the expenditure in the State required for certification.

(2) The applicant's production is economically sound and will benefit the people of the State of Illinois by increasing opportunities for employment and strengthen the economy of Illinois.

(3) The applicant has filed a diversity plan with the Department outlining specific goals (i) for hiring minority persons and females, as defined in the Business Enterprise for Minorities, Females, and Persons with Disabilities Act, and (ii) for using vendors receiving

certification under the Business Enterprise for Minorities, Females, and Persons with Disabilities Act; the Department has approved the plan as meeting the requirements established by the Department; and the Department has verified that the applicant has met or made good-faith efforts in achieving those goals. The Department must adopt any rules that are necessary to ensure compliance with the provisions of this item (3) and that are necessary to require that the applicant's plan reflects the diversity of this State. ~~The applicant's production application includes a provision setting forth the percentage of minority workers that the production company plans to employ, subject to any applicable collective bargaining agreements with a labor organization to which the applicant is a signatory, to perform work on the production. This provision should stress the importance of hiring the percentage of minorities that is set out in the application.~~

(4) The applicant's production application indicates whether the applicant intends to participate in training, education, and recruitment programs that are organized in cooperation with Illinois colleges and universities, labor organizations, and the motion picture industry and are designed to promote and encourage the training and hiring of Illinois residents who represent the diversity of the Illinois population.

(5) That, if not for the credit, the applicant's production would not occur in Illinois, which may be demonstrated by any means including, but not limited to, evidence that the applicant has multi-state or international location options and could reasonably and efficiently locate outside of the State, or demonstration that at least one other state or nation is being considered for the production, or evidence that the receipt of the credit is a major factor in the applicant's decision and that without the credit the applicant likely would not

create or retain jobs in Illinois, or demonstration that receiving the credit is essential to the applicant's decision to create or retain new jobs in the State.

(6) Awarding the credit will result in an overall positive impact to the State, as determined by the Department using the best available data.

(b) If any of the provisions in this Section conflict with any existing collective bargaining agreements, the terms and conditions of those collective bargaining agreements shall control.

(Source: P.A. 93-543, eff. 1-1-04.)

(35 ILCS 15/43 new)

Sec. 43. Training programs for skills in critical demand.
To accomplish the purposes of this Act, the Department may use
the training programs provided for Illinois under Section
605-800 of the Department of Commerce and Economic Opportunity
Law of the Civil Administrative Code of Illinois.

(35 ILCS 15/45)

(Section scheduled to be repealed on January 1, 2006)

Sec. 45. Evaluation of tax credit program; reports to the General Assembly.

(a) The Department shall evaluate the tax credit program.
The evaluation must include an assessment of the effectiveness of the program in creating and retaining new jobs in Illinois and of the revenue impact of the program, and may include a review of the practices and experiences of other states or nations with similar programs. Upon completion of this evaluation, the Department shall determine the overall success of the program, and may make a recommendation to extend, modify, or not extend the program based on this evaluation.

(b) At the end of each fiscal quarter, the Department must submit to the General Assembly a report that includes, without limitation, the following information:

(1) the economic impact of the tax credit program,

including the number of jobs created and retained,
including whether the job positions are entry level,
management, talent-related, vendor-related, or
production-related;

(2) the amount of film production spending brought to
Illinois, including the amount of spending and type of
Illinois vendors hired in connection with an accredited
production; and

(3) an overall picture of whether the human
infrastructure of the motion picture industry in Illinois
reflects the geographical, racial and ethnic, gender, and
income-level diversity of the State of Illinois.

(Source: P.A. 93-543, eff. 1-1-04.)

(35 ILCS 15/90)

(Section scheduled to be repealed on January 1, 2006)

Sec. 90. Repeal. This Act is repealed on January 1, 2007 ~~2 years after its effective date.~~

(Source: P.A. 93-543, eff. 1-1-04; 93-840, eff. 7-30-04.)

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