

## **Section 100.2185 Film Production Services Credit (IITA Section 213)**

- a) For taxable years beginning on or after January 1, 2004, a person awarded a credit under the Film Production Services Tax Act [35 ILCS 15] *is entitled to a credit against the taxes imposed under IITA Section 201(a) and (b) in an amount determined by the Department of Commerce and Economic Opportunity (IITA Section 213). The amount of the credit shall be the amount shown on the Tax Credit Certificate issued by the Department of Commerce and Economic Opportunity under 14 Ill. Adm. Code 528.70 or the Certificate of Transfer issued by the Department of Commerce and Economic Opportunity under 14 Ill. Adm. Code 528.85. Under Section 42 of the Film Production Services Tax Act, as amended by PA 97-3, the credit may not be claimed in taxable years beginning on or after May 6, 2021, the 10<sup>th</sup> anniversary of the effective date of PA 97-3.*
- b) Year in which Credit is Taken. The credit allowed under this Section shall be taken in the taxable year that includes the date of the Tax Credit Certificate issued by the Department of Commerce and Economic Opportunity under 14 Ill. Adm. Code 528.70.
- c) In the case of a credit earned by a partnership or Subchapter S corporation, the credit passes through to the owners as provided in the partnership agreement under IRC section 704(a) or in proportion to their ownership of the stock of the Subchapter S corporation under IRC section 1366(a). The credit earned by a partnership or Subchapter S corporation will be treated as earned by its owners as of the last day of the taxable year of the partnership or Subchapter S corporation in which the Tax Credit Certificate is issued by the Department of Commerce and Economic Opportunity under 14 Ill. Adm. Code 528.70 and shall be allowed to each owner in the taxable year of the owner in which the taxable year of the partnership or Subchapter S corporation ends.
- d) For tax years ending prior to July 11, 2005 (the effective date of PA 94-171), *the credit may not be carried forward or back. For tax years ending on or after July 11, 2005, 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.* (IITA Section 213)
- e) Transfer of Credit. *A transfer of this credit may be made by the person earning the credit within one year after the credit is awarded in accordance with rules adopted by the Department of Commerce and Economic Opportunity.* (IITA Section 213, as amended by PA 94-171)
  - 1) Transfers shall be made pursuant to 14 Ill. Adm. Code 528.85.

- 2) A credit may be transferred to a partnership or Subchapter S corporation, in which case the partners or shareholders of the transferee shall be entitled to the transferred credit in the amounts determined under subsection (c).
  - 3) A credit may be transferred after the end of the taxable year of the transferee in which the credit is to be taken under subsection (b). If the transferee has already filed its return for that taxable year, it will need to file a corrected or amended return, for that taxable year, claiming the credit.
- f) Documentation of the Credit. A person claiming the credit allowed under this Section shall attach to its Illinois income tax return a copy of the Tax Credit Certificate or the Certificate of Transfer issued by the Department of Commerce and Economic Opportunity and, in the case of a partner in a partnership or a shareholder of a Subchapter S corporation that earned the credit, a Schedule K-1-P or other written statement from the partnership or Subchapter S corporation stating the portion of the total credit shown on the Tax Credit Certificate or Certificate of Transfer that is allowed to that partner or shareholder and the taxable year of the partnership or Subchapter S corporation in which the Tax Credit Certificate was issued.

(Source: Amended at 38 Ill. Reg. 38 Ill. Reg. 9550, effective April 21, 2014)