

Section 100.2198 Economic Development for a Growing Economy Credit (IITA 211)

- a) *For tax years beginning on or after January 1, 1999, a taxpayer who has entered an Agreement under the Economic Development for a Growing Economy Tax Credit Act [35 ILCS 10] (EDGETCA), shall be allowed a credit against the tax imposed by IITA Section 201(a) and (b) in an amount to be determined in the Agreement. (IITA Section 211)*
- b) The credit shall be computed as follows:
 - 1) *The credit allowed shall not exceed the Incremental Income Tax with respect to the project. (IITA Section 211(1)) EDGETCA Section 5-5 defines Incremental Income Tax as the total amount withheld during the taxable year from the compensation of new employees under Article 7 of the IITA arising from employment at a project that is the subject of an Agreement.*
 - 2) *The amount of the credit allowed during the tax year plus the sum of all amounts allowed in prior years shall not exceed 100% of the aggregate amount expended by the taxpayer during all prior tax years on approved costs defined by Agreement. (IITA Section 211(2))*
 - 3) Pursuant to IITA Section 211(3), *the amount of credit shall be determined on an annual basis; provided, however, that:*
 - A) *except in the case of a taxpayer described in subsection (b)(3)(B), the credit against any State tax liability may not extend beyond 10 taxable years after the project is first approved and may not extend beyond the expiration of the Agreement;*
 - B) *in the case of a taxpayer certified by the Department of Commerce and Economic Opportunity under the Corporate Headquarters Relocation Act, the credit may not extend beyond 15 taxable years and may not extend beyond the expiration of the Agreement; provided, that the taxpayer may not claim for any tax year during that period more than 60% of the credit otherwise allowed for that tax year under the EDGETCA (see EDGETCA Section 5-45);*
 - C) *a credit earned within the applicable period specified in subsection (b)(3)(A) or (B) may be carried forward beyond that period pursuant to IITA Section 211(4).*
 - 4) *The credit may not exceed the amount of taxes imposed pursuant to IITA 201(a) and (b). (IITA Section 211(4))*

- 5) In the case of an election under Section 100.7380(a), no credit shall be allowed under IITA Section 211 or this Section for the taxable year of the election.
- c) *Any credit in excess of the tax liability for the taxable year may be carried forward to offset the income tax liability of the taxpayer for the next 5 years or until it has been fully utilized, whichever occurs first. 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.* (IITA Section 211(4)) In the case of an election under Section 100.7380(a), no credit to which the election applies may be carried forward under IITA Section 211(4) and this Section.
- d) *No credit shall be allowed with respect to any Agreement for any taxable year ending after the Noncompliance Date. Upon receiving notification by the Department of Commerce and Economic Opportunity of the noncompliance of a taxpayer with an Agreement, the Department shall notify the taxpayer that no credit is allowed with respect to that Agreement for any taxable year ending after the Noncompliance Date, as stated in such notification. If any credit has been allowed with respect to an Agreement for a taxable year ending after the Noncompliance Date for that Agreement, any refund paid to the taxpayer for that taxable year shall, to the extent of that credit allowed, be an erroneous refund within the meaning of IITA Section 912.* (IITA Section 211(5))
- e) In the case of a credit earned by a partnership or Subchapter S corporation, the credit passes through to the owners for use against their regular income tax liabilities in the same proportion as other items of the taxpayer are passed through to the taxpayer's owners for federal income tax purposes. (See IITA Section 211.)
- f) *For purposes of this credit, the terms "Agreement", "Incremental Income Tax", and "Noncompliance Date" shall have the same meaning as when used in EDGETCA Section 5-5.* (IITA Section 211(6))
- g) *This credit is exempt from the sunset provisions of IITA Section 250.* (IITA Section 211)

(Source: Amended at 38 Ill. Reg. 13941, effective June 29, 2014)