

**Section 100.7380 Economic Development for a Growing Economy (EDGE) and Small Business Job Creation Credit (IITA Section 704A(g) and (h))**

a) EDGE Credit. An eligible taxpayer who makes an election under this subsection (a) shall be allowed a credit against payments required under IITA Section 704A equal to the *credits not previously claimed and allowed to be carried forward under IITA Section 211(4) as provided in Section 5-15(f) of the Economic Development for a Growing Economy Tax Credit Act* (EDGETCA). (IITA Section 704A(g)) A taxpayer may make an election under this subsection (a) for taxable years ending on and after December 31, 2009. Only an eligible taxpayer, as defined in subsection (a)(2), may make the election.

1) Effect of Election. When an election under this subsection (a) is made, the amount of the credit awarded to the taxpayer under EDGETCA Section 5-15 for the taxable year of the election shall be allowed as a credit against payments due under IITA Section 704A for the first calendar year beginning after the end of the taxable year in respect of which the election is made. (See EDGETCA Section 5-15(f)(2).) No credit awarded in a taxable year for which the election is made shall be allowed under IITA Section 211.

EXAMPLE: Taxpayer is an eligible taxpayer and makes the election under this subsection (a)(1) for its taxable year ending June 30, 2010. For its taxable year ending June 30, 2010, Taxpayer is awarded a credit under IITA Section 211 of \$10,000. In addition, Taxpayer has credit carryovers under Section 211(4) of \$5000 from 2008, and \$7000 from 2009. Under Section 704A(g) and this subsection (a)(1), Taxpayer is allowed a credit of \$10,000 against withholding payments due under IITA 704A(c) in calendar year 2011. Taxpayer may not claim a credit against the tax imposed under IITA Section 201(a) and (b) for its taxable year ending June 30, 2010, for the \$10,000 credit awarded in that taxable year, but may claim a credit for the amounts carried forward from 2008 and 2009.

2) Eligible Taxpayer Defined. The term eligible taxpayer means, with respect to the taxable year for which the election under this subsection (a) is otherwise available:

A) A taxpayer who is primarily engaged (more than 50%) in one of the following business activities: *water purification and treatment, motor vehicle metal stamping, automobile manufacturing, automobile and light duty motor vehicle manufacturing, motor vehicle manufacturing, light truck and utility vehicle manufacturing, heavy duty truck manufacturing, motor vehicle body manufacturing, cable television infrastructure design or manufacturing, or wireless telecommunication or computing*

*terminal device design or manufacturing for use on public networks (EDGETCA Section 5-15(f)(1)) and the taxpayer meets one of the following requirements:*

- i) *the taxpayer has an Illinois net loss or net loss deduction under IITA Section 207 for the taxable year, employed no less than 1,000 full-time employees (as defined in 35 ILCS 10/5-5) in Illinois on each day of the taxable year, has an "Agreement" (as defined in 35 ILCS 10/5-5) in effect as of December 14, 2009, and is in compliance with all provisions of that Agreement (see EDGETCA Section 5-15(f)(1)(A));*
- ii) *the taxpayer has an Illinois net loss or net loss deduction under IITA Section 207 for the taxable year, employed no less than 1,000 full time employees (as defined in 35 ILCS 10/5-5) in Illinois on each day of the taxable year, applied for the "Agreement" (as defined in 35 ILCS 10/5-5) resulting in the credit with respect to which the election is made within 365 days after December 14, 2009 (EDGETCA Section 5-15(f)(1)(B));*
- iii) *the taxpayer had an Illinois net operating loss carryforward under IITA Section 207 in a taxable year ending during calendar year 2008, has applied for an "Agreement" (as defined in 35 ILCS 10/5-5) by November 1, 2010 (150 days after the June 4, 2010 effective date of Public Act 96-905), creates at least 400 new jobs in Illinois, retains at least 2,000 jobs in Illinois that would have been at risk of relocation out of Illinois over a 10-year period, and makes a capital investment of at least \$75,000,000 (EDGETCA Section 5-15(f)(1)(C));*
- iv) *the taxpayer has an Illinois net operating loss carryforward under IITA Section 207 in a taxable year ending during calendar year 2009, has applied for an "Agreement" (as defined in 35 ILCS 10/5-5) by August 1, 2011 (150 days after the March 4, 2011 effective date of Public Act 96-1534), creates at least 150 new jobs, retains at least 1,000 jobs in Illinois that would have been at risk of relocation out of Illinois over a 10-year period, and makes a capital investment of at least \$57,000,000 (EDGETCA Section 5-15(f)(1)(D)); or*
- v) *the taxpayer employed at least 2,500 full-time employees in the State during the year in which the credit is awarded,*

*commits to make at least \$500,000,000 in combined capital improvements and project costs under the Agreement, applies for an Agreement between January 1, 2011 and June 30, 2011, executes an "Agreement" (as defined in 35 ILCS 10/5-5) for the credit during calendar year 2011, and was incorporated no more than 5 years before the filing of an application for the Agreement. (EDGETCA Section 5-15(f)(1)(E)); or*

B) *A taxpayer whose "Agreement" (as defined in 35 ILCS 10/5-5) was executed between January 1, 2011 and June 30, 2011 and who is primarily engaged in the manufacture of inner tubes or tires, or both, from natural and synthetic rubber, employs a minimum of 2,400 full-time employees in Illinois at the time of application, creates at least 350 full-time jobs and retains at least 250 full-time jobs in Illinois that would have been at risk of being created or retained outside of Illinois, and makes a capital investment of at least \$200,000,000 at the project location (EDGETCA Section 5-15(f)(1.5));*

C) *A taxpayer whose "Agreement" (as defined in 35 ILCS 10/5-5) was executed by May 14, 2012 (150 days after the December 16, 2011 effective date of Public Act 97-636), and who is primarily engaged in the operation of a discount department store, maintains its corporate headquarters in Illinois, employs a minimum of 4,250 full-time employees at its corporate headquarters in Illinois at the time of application, retains at least 4,250 full-time jobs in Illinois that would have been at risk of being relocated outside of Illinois, had a minimum of \$40,000,000 in total revenue in 2010, and makes a capital investment of at least \$300,000,000 at the project location (EDGETCA Section 5-15(f)(1.6)); or*

D) *A taxpayer whose "Agreement" (as defined in 35 ILCS 10/5-5) was executed or applied for on or after July 1, 2011 and on or before March 31, 2012, and who is primarily engaged in the manufacture of original and aftermarket filtration parts and products for automobiles, motor vehicles, light duty motor vehicles, light trucks and utility vehicles, and heavy duty trucks, employs a minimum of 1,000 full-time employees in Illinois at the time of application, creates at least 250 full-time jobs in Illinois, relocates its corporate headquarters to Illinois from another state, and makes a capital investment of at least \$4,000,000 at the project location (EDGETCA Section 5-15(f)(1.7)).*

3) **Manner of Making Election.** *The election shall be made in the form and manner required by the Department and, once made, shall be irrevocable*

(EDGETCA Section 5-15(f)(3)). The election shall be made by claiming the credit on the withholding return due under IITA Section 704A for the first quarter of the calendar year beginning after the taxable year in which the credit was awarded. The election applies to the entire credit awarded for the taxable year under IITA Section 211.

- 4) Partnerships and S Corporations. A partnership or Subchapter S corporation may be an eligible taxpayer and make an election under this subsection (a). When a partnership or S corporation makes an election under this subsection (a), no credit shall pass through to the partners or shareholders for the taxable year under IITA Section 211.
- 5) *The credit or credits may not reduce the taxpayer's obligation for any payment due under IITA Section 704A to less than zero. If the amount of the credit or credits exceeds the total payments due under Section 704A with respect to amounts withheld during the calendar year, the excess may be carried forward and applied against the taxpayer's liability under Section 704A in the 5 succeeding calendar years as allowed to be carried forward under IITA Section 211(4). The credit or credits shall be applied to the earliest year for which there is a tax liability. If there are credits from more than one taxable year that are available to offset a liability, the earlier credit shall be applied first.* (IITA Section 704A(g))

EXAMPLE: Taxpayer is an eligible taxpayer and makes an election under this subsection (a) for its taxable year ending June 30, 2010. For its taxable year ending June 30, 2010, Taxpayer is awarded a credit under IITA Section 211 of \$10,000. Under Section 704A(g) and this subsection (a)(5), Taxpayer is allowed a credit of \$10,000 against withholding payments due under IITA 704A(c) in calendar year 2011. Taxpayer withheld tax during calendar year 2011 of \$4,000. Under Section 704(A)(g) and this subsection (a)(5), Taxpayer's credit may not exceed \$4,000. Taxpayer is allowed to carry forward the \$6,000 excess credit to the 5 succeeding calendar years.

- 6) No credit shall be allowed under IITA Section 704A(g) and this subsection with respect to any amount that would be disallowed as a credit under IITA Section 211(5) due to a Noncompliance Date. (See Section 100.2198(d).)
- b) *Small Business Job Creation Credit. A taxpayer may claim a credit against payments due under IITA Section 704A for the first calendar year ending after the date on which a tax credit certificate was issued under Section 35 of the Small Business Job Creation Tax Credit Act (SBJCTCA). The credit shall be equal to the amount shown on the certificate, but may not reduce the taxpayer's obligation for any payment due under Section 704A to less than zero.* (IITA Section 704A(h))

- 1) *If the amount of the credit exceeds the total payments due under Section 704A with respect to amounts withheld during the calendar year, the excess may be carried forward and applied against the taxpayer's liability under Section 704A in the 5 succeeding calendar 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 calendar year that are available to offset a liability, the earlier credit shall be applied first.* (IITA Section 704A(h))
- 2) No credit shall be allowed under IITA Section 704A(h) and this subsection (b) with respect to any payment due under IITA Section 704A after the date a notice of noncompliance is issued to the Department under Section 45 of the Small Business Job Creation Tax Credit Act, as stated in the notification. If any credit has been allowed for a payment due after the date of notice of noncompliance, any refund paid to the taxpayer for that taxable year shall, to the extent of the credit allowed, be an erroneous refund within the meaning of IITA Section 912.
- c) For purposes of this Section, *the term "taxpayer" shall include members of the taxpayer's unitary business group.* (IITA Section 704A(g) and SBJCTCA Section 10)
- d) The credits allowed under *this Section are exempt from the sunset provisions of IITA Section 250.* (IITA Section 704A(g) and (h))

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