

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007

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HOUSE DRH70729-MC-208 (3/20)

Short Title: Film & Video Game Tax Credits.

(Public)

Sponsors: Representative Gibson.

Referred to:

A BILL TO BE ENTITLED

AN ACT TO INCREASE THE INCOME TAX CREDIT FOR PRODUCTION COMPANIES AND TO CREATE AN INCOME TAX CREDIT FOR PRODUCERS OF DIGITAL INTERACTIVE MEDIA.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 105-130.47(b) reads as rewritten:

"(b) Credit. – A taxpayer that is a production company and has qualifying expenses of at least two hundred fifty thousand dollars (\$250,000) with respect to a production is allowed a credit against the taxes imposed by this Part equal to ~~fifteen percent (15%)~~ twenty percent (20%) of the production company's qualifying expenses. For the purposes of this section, in the case of an episodic television series, an entire season of episodes is one production. The credit is computed based on all of the taxpayer's qualifying expenses incurred with respect to the production, not just the qualifying expenses incurred during the taxable year."

SECTION 2. G.S. 105-151.29(b) reads as rewritten:

"(b) Credit. – A taxpayer that is a production company and has qualifying expenses of at least two hundred fifty thousand dollars (\$250,000) with respect to a production is allowed a credit against the taxes imposed by this Part equal to ~~fifteen percent (15%)~~ twenty percent (20%) of the production company's qualifying expenses. For the purposes of this section, in the case of an episodic television series, an entire season of episodes is one production. The credit is computed based on all of the taxpayer's qualifying expenses incurred with respect to the production, not just the qualifying expenses incurred during the taxable year."

SECTION 3. Part 1 of Article 4 of Chapter 105 of the General Statutes is amended by adding a new section to read:

"§ 105-130.47A. Credit for producers of digital interactive media.

(a) Definitions. – The following definitions apply in this section:

- 1 (1) Digital interactive media. – Products, other than interpersonal
2 communications services such as videoconferencing, wireless
3 communications, text-based channels, or chat rooms, that are intended
4 for commercial use or distribution and that satisfy each of the
5 following conditions:
6 a. The product is produced for distribution on electronic media,
7 including file downloads over the Internet.
8 b. The product contains a computer-controlled virtual universe
9 with which users may interact in order to achieve a goal.
10 c. The product contains an appreciable amount of at least three of
11 the five following types of data: text, sound, fixed images,
12 animated images, or 3D geometry.
13 (2) Qualifying expenses. – The sum of the total amount spent in this State
14 by a producer of digital interactive media in connection with the
15 production of digital interactive media for the following:
16 a. Production property purchased or leased.
17 b. Compensation and wages on which withholding payments are
18 remitted to the Department of Revenue under Article 4A of this
19 Chapter.
20 (3) Production property. – Tangible personal property and intangible
21 property that is directly used in the production of digital interactive
22 media. The term includes such items as software, computer code,
23 image files, music files, scripts and plays, concept mock-ups, software
24 tools, and testing procedures.
25 (b) Credit. – A taxpayer that produces digital interactive media is allowed a
26 credit against the taxes imposed by this Part equal to twenty percent (20%) of the
27 taxpayer's qualifying expenses. The credit allowed by this section may not exceed the
28 amount of tax imposed by this Part for the taxable year reduced by the sum of all credits
29 allowable. This limitation applies to the cumulative amount of a credit allowed in any
30 tax year, including carryforwards. Any unused portion of a credit allowed under this
31 section may be carried forward for the next succeeding five years.
32 (c) Limitation. – No credit is allowed under this section for qualifying expenses
33 with respect to digital interactive media that contain material that is obscene, as defined
34 in G.S. 14-190.1.
35 (d) Substantiation. – A taxpayer allowed a credit under this section must maintain
36 and make available for inspection any information or records required by the Secretary
37 of Revenue. The taxpayer has the burden of proving eligibility for a credit and the
38 amount of the credit.
39 (e) Report. – The Department of Revenue must publish by May 1 of each year
40 the following information, itemized by taxpayer for the 12-month period ending the
41 preceding December 31:
42 (1) The qualifying expenses for which a credit was claimed, classified by
43 whether the expenses were production property or compensation or
44 wages.

- 1 (2) The number of people employed in the State with respect to credits
2 claimed.
3 (3) The total cost to the General Fund of the credits claimed.
4 (f) Sunset. – This section is repealed for taxable years beginning on or after
5 January 1, 2011."

6 **SECTION 4.** Part 2 of Article 4 of Chapter 105 of the General Statutes is
7 amended by adding a new section to read:

8 "§ 105-151.29A. Credit for producers of digital interactive media.

9 (a) Definitions. – The following definitions apply in this section:

10 (1) Digital interactive media. – Products, other than interpersonal
11 communications services such as videoconferencing, wireless
12 communications, text-based channels, or chat rooms, that are intended
13 for commercial use or distribution and that satisfy each of the
14 following conditions:

- 15 a. The product is produced for distribution on electronic media,
16 including file downloads over the Internet.
17 b. The product contains a computer-controlled virtual universe
18 with which users may interact in order to achieve a goal.
19 c. The product contains an appreciable amount of at least three of
20 the five following types of data: text, sound, fixed images,
21 animated images, or 3D geometry.

22 (2) Qualifying expenses. – The sum of the total amount spent in this State
23 by a producer of digital interactive media in connection with the
24 production of digital interactive media for the following:

- 25 a. Production property purchased or leased.
26 b. Compensation and wages on which withholding payments are
27 remitted to the Department of Revenue under Article 4A of this
28 Chapter.

29 (3) Production property. – Tangible personal property and intangible
30 property that is directly used in the production of digital interactive
31 media. The term includes such items as software, computer code,
32 image files, music files, scripts and plays, concept mock-ups, software
33 tools, and testing procedures.

34 (b) Credit. – A taxpayer that produces digital interactive media is allowed a
35 credit against the taxes imposed by this Part equal to twenty percent (20%) of the
36 taxpayer's qualifying expenses. The credit allowed by this section may not exceed the
37 amount of tax imposed by this Part for the taxable year reduced by the sum of all credits
38 allowable. This limitation applies to the cumulative amount of a credit allowed in any
39 tax year, including carryforwards. Any unused portion of a credit allowed under this
40 section may be carried forward for the next succeeding five years.

41 (c) Limitation. – No credit is allowed under this section for qualifying expenses
42 with respect to digital interactive media that contain material that is obscene, as defined
43 in G.S. 14-190.1.

1 (d) Substantiation. – A taxpayer allowed a credit under this section must maintain
2 and make available for inspection any information or records required by the Secretary
3 of Revenue. The taxpayer has the burden of proving eligibility for a credit and the
4 amount of the credit.

5 (e) Report. – The Department of Revenue must publish by May 1 of each year
6 the following information, itemized by taxpayer for the 12-month period ending the
7 preceding December 31:

8 (1) The qualifying expenses for which a credit was claimed, classified by
9 whether the expenses were production property or compensation or
10 wages.

11 (2) The number of people employed in the State with respect to credits
12 claimed.

13 (3) The total cost to the General Fund of the credits claimed.

14 (f) Sunset. – This section is repealed for taxable years beginning on or after
15 January 1, 2011."

16 **SECTION 5.** This act is effective for taxable years beginning on or after
17 January 1, 2008.