

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007

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HOUSE BILL 2510

Short Title: Film & Video Game Tax Credits.

(Public)

Sponsors: Representatives Gibson; and Wray.

Referred to: Finance.

May 26, 2008

A BILL TO BE ENTITLED

1 AN ACT TO INCREASE THE INCOME TAX CREDIT FOR PRODUCTION
2 COMPANIES AND TO CREATE AN INCOME TAX CREDIT FOR
3 PRODUCERS OF DIGITAL INTERACTIVE MEDIA.
4

5 The General Assembly of North Carolina enacts:

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

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

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

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

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

26 "**§ 105-130.47A. Credit for producers of digital interactive media.**

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

28 (1) Digital interactive media. – Products, other than interpersonal
29 communications services such as videoconferencing, wireless

1 communications, text-based channels, or chat rooms, that are intended
2 for commercial use or distribution and that satisfy each of the
3 following conditions:

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

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

- 14 a. Production property purchased or leased.
15 b. Compensation and wages on which withholding payments are
16 remitted to the Department of Revenue under Article 4A of this
17 Chapter.

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

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

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

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

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

- 40 (1) The qualifying expenses for which a credit was claimed, classified by
41 whether the expenses were production property or compensation or
42 wages.
43 (2) The number of people employed in the State with respect to credits
44 claimed.

1 (3) The total cost to the General Fund of the credits claimed.
2 (f) Sunset. – This section is repealed for taxable years beginning on or after
3 January 1, 2011."

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

6 **"§ 105-151.29A. Credit for producers of digital interactive media.**

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

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

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

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

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

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

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

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

42 (d) Substantiation. – A taxpayer allowed a credit under this section must maintain
43 and make available for inspection any information or records required by the Secretary

1 of Revenue. The taxpayer has the burden of proving eligibility for a credit and the
2 amount of the credit.

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

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

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

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

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

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