

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

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SENATE BILL 525

Short Title: Video Game Producer Tax Credit.

(Public)

Sponsors: Senator Boseman.

Referred to: Finance.

March 11, 2009

1 A BILL TO BE ENTITLED
2 AN ACT TO ALLOW A TAX CREDIT FOR VIDEO GAME PRODUCERS.
3 The General Assembly of North Carolina enacts:

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

6 "**§ 105-130.49. Credit for producers of digital interactive media.**

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

8 (1) Digital interactive media. – Products that are intended for commercial use or
9 distribution and that satisfy each of the conditions listed in this subsection.

10 The term does not include products that are interpersonal communications
11 services such as videoconferencing, wireless communications, text-based
12 channels, or chat rooms.

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 with
16 which users may interact in order to achieve a goal.

17 c. The product contains an appreciable amount of at least three of the
18 five following types of data: text, sound, fixed images, animated
19 images, and 3-D geometry.

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

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 property
28 that is directly used in the production of digital interactive media. The term
29 includes such items as software, computer code, image files, music files,
30 scripts and plays, concept mockups, software tools, and testing procedures.

31 (b) Credit. – A taxpayer that produces digital interactive media is allowed a credit
32 against the taxes imposed by this Part equal to fifteen percent (15%) of the taxpayer's
33 qualifying expenses. The credit allowed by this section may not exceed the amount of tax
34 imposed by this Part for the taxable year reduced by the sum of all credits allowable. This
35 limitation applies to the cumulative amount of a credit allowed in any tax year, including
36 carryforwards. Any unused portion of a credit allowed under this section may be carried
37 forward for the next succeeding five years.



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

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

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

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

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

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

13 (f) Sunset. – This section is repealed for taxable years beginning on or after January 1,
14 2013."

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

17 **"§ 105-151.33. Credit for producers of digital interactive media.**

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

19 (1) Digital interactive media. – Products that are intended for commercial use or
20 distribution and that satisfy each of the conditions listed in this subsection.
21 The term does not include products that are interpersonal communications
22 services such as videoconferencing, wireless communications, text-based
23 channels, or chat rooms.

24 a. The product is produced for distribution on electronic media,
25 including file downloads over the Internet.

26 b. The product contains a computer-controlled virtual universe with
27 which users may interact in order to achieve a goal.

28 c. The product contains an appreciable amount of at least three of the
29 five following types of data: text, sound, fixed images, animated
30 images, and 3-D geometry.

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

34 a. Production property purchased or leased.

35 b. Compensation and wages on which withholding payments are
36 remitted to the Department of Revenue under Article 4A of this
37 Chapter.

38 (3) Production property. – Tangible personal property and intangible property
39 that is directly used in the production of digital interactive media. The term
40 includes such items as software, computer code, image files, music files,
41 scripts and plays, concept mockups, software tools, and testing procedures.

42 (b) Credit. – A taxpayer that produces digital interactive media is allowed a credit
43 against the taxes imposed by this Part equal to fifteen percent (15%) of the taxpayer's
44 qualifying expenses. The credit allowed by this section may not exceed the amount of tax
45 imposed by this Part for the taxable year reduced by the sum of all credits allowable. This
46 limitation applies to the cumulative amount of a credit allowed in any tax year, including
47 carryforwards. Any unused portion of a credit allowed under this section may be carried
48 forward for the next succeeding five years.

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

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

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

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

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

10 (f) Sunset. – This section is repealed for taxable years beginning on or after January 1,
11 2013."

12 **SECTION 3.** This act is effective for taxable years beginning on or after January 1,

13 2009.