

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

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SENATE BILL 1394

Short Title: Interactive Digital Media Credits. (Public)

Sponsors: Senator McKissick.

Referred to: Finance.

May 26, 2010

1 A BILL TO BE ENTITLED
2 AN ACT TO ENACT TAX INCENTIVES FOR GAMING COMPANIES.
3 The General Assembly of North Carolina enacts:

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

6 "Article 3L.
7 "Interactive Digital Media.

8 **"§ 105-129.105. Definitions.**

9 The following definitions apply in this Article:

- 10 (1) Company headquarters. – Defined in G.S. 105-129.81.
11 (2) Full-time job. – A position that requires at least 1,600 hours of work per year
12 and is intended to be held by one employee during the entire year. A
13 full-time employee is an employee who holds a full-time job.
14 (3) Gold master. – The version of interactive digital media released to a
15 manufacturer.
16 (4) Interactive digital media. – Electronic communication technologies that
17 enable or facilitate user-to-user or user and information interactivity,
18 designed to be sold through regular marketing channels or to be used
19 through virtual worlds and online games with long-term producer
20 involvement, which provide content consisting of electronic text, graphics,
21 animation, video, and audio integrated into a structured digital, computerized
22 environment that responds to user interaction with the data. This term
23 includes, without limitation, video or interactive games and game engines,
24 simulation software, interactive educational or training products, software
25 applications that provide connectivity and communications between mobile
26 devices and interactive digital media Web platforms, and immersive Internet
27 environments.
28 (5) Qualifying expenses. – The sum of the total amount spent in this State for
29 the following by a producer of interactive digital media in connection with
30 the production of interactive digital media:
31 a. Production property purchased or leased.
32 b. Compensation and wages on which withholding payments are
33 remitted to the Department of Revenue under Article 4A of this
34 Chapter.
35 (6) Production. – A project to create interactive digital media from the time of
36 preproduction to the creation of a gold master or the completion of the
37 interactive digital media.



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

5 **"§ 105-129.106. Administration; notification; sunset.**

6 (a) Minimum Standards. – A taxpayer is eligible for the credit allowed in this Article if
7 it satisfies the requirements of G.S. 105-129.83(c), (d), (e), (f), and (g) relating to wage
8 standard, health insurance, environmental impact, safety and health programs, and overdue tax
9 debts, respectively.

10 (b) Notification. – To claim a credit under this Article, a taxpayer must notify the
11 Department of Commerce of the taxpayer's intent to claim the credit and pay to the Department
12 of Commerce a fee of five hundred dollars (\$500.00), which shall be credited to the
13 Department of Commerce as a departmental receipt to cover the costs of program
14 administration. The notification must include a reasonable description and identification of the
15 production, a financial contact for the production company, the estimated time and investment
16 required for the production, and any other information required by the Department. For
17 productions for which a credit is taken under this Article, the taxpayer claiming the credit must
18 acknowledge in the production credits the Department of Commerce. No credit shall be
19 allowed under this Article for a taxable year until all outstanding fees have been paid.

20 (c) Sunset. – This Article is repealed for taxable years beginning on or after January 1,
21 2014.

22 **"§ 105-129.107. Allocation; cap.**

23 (a) Allocation. – A credit allowed under this Article may be taken against the franchise
24 tax levied in Article 3 of this Chapter and the income taxes levied in Article 4 of this Chapter.
25 When the taxpayer claims a credit under this Article, the taxpayer must elect the percentage of
26 the credit to be applied against the taxes levied under Article 3 of this Chapter with any
27 remaining percentage to be applied against the taxes levied under Article 4 of this Chapter. This
28 election is not binding for the year in which it is made or for any carryforwards of that credit. A
29 taxpayer may elect a different allocation for each year in which the taxpayer qualifies for a
30 credit.

31 (b) Cap. – A credit allowed under this Article may not exceed fifty percent (50%) of the
32 amount of tax against which it is claimed for the taxable year, reduced by the sum of all other
33 credits allowed against that tax, except tax payments made by or on behalf of the taxpayer. This
34 limitation applies to the cumulative amount of credit, including carryforwards, claimed by the
35 taxpayer under this Article against each tax for the taxable year. Any unused portion of a credit
36 allowed in this Article may be carried forward for the succeeding eight years.

37 **"§ 105-129.108. Substantiation.**

38 To claim a credit allowed by this Article, the taxpayer must provide any information
39 required by the Secretary. Every taxpayer claiming a credit under this Article must maintain
40 and make available for inspection by the Secretary any records the Secretary considers
41 necessary to determine and verify the amount of the credit to which the taxpayer is entitled.
42 The burden of proving eligibility for a credit and the amount of the credit rests upon the
43 taxpayer, and no credit may be allowed to a taxpayer that fails to maintain adequate records or
44 to make them available for inspection.

45 **"§ 105-129.109. Reports.**

46 The Department must publish by May 1 of each year the following information, itemized
47 by taxpayer, for the 12-month period ending the preceding December 31:

- 48 (1) The qualifying expenses for which a credit was claimed, classified by
49 whether the expenses were production property or compensation or wages.
50 (2) The number of people employed in the State with respect to credits claimed.
51 (3) The total cost to the General Fund of the credits claimed.

"§ 105-129.110. Production credit.

(a) Credit. – A taxpayer that has qualifying expenses of at least one hundred thousand dollars (\$100,000) with respect to a interactive digital media production is allowed a credit against the taxes imposed by this Part equal to fifteen percent (15%) of all qualifying expenses of the taxpayer for which the taxpayer has not already claimed a credit under this Article.

(b) Limitations. – The amount of credit allowed under this section with respect to a production may not exceed seven million five hundred thousand dollars (\$7,500,000). No credit is allowed under this section for any production that satisfies one of the following conditions:

(1) It is gambling or casino games.

(2) It is a project done for academic credit.

(3) It is a production that is developed internally by the taxpayer for internal use.

(4) It is political advertising.

(5) It contains material that is obscene, as defined in G.S. 14-190.1.

(6) It is an Internet site that is primarily static and primarily designed to provide information about one or more persons, businesses, companies, or firms.

(c) No Double Credit. – A taxpayer that claims a credit under this section may not also claim a credit under Article 3J of this Chapter with respect to jobs whose compensation or wages are included in the calculation of the credit under this section or with respect to business property the cost of which is included in the calculation of the credit under this section.

"§ 105-129.111. Headquarters credit.

(a) Eligibility. – A taxpayer that is primarily engaged in the production of interactive digital media is eligible for a credit under this section with respect to a company headquarters if the taxpayer creates at least 20 new full-time jobs at the company headquarters within a 24-month period. A taxpayer that meets this job creation requirement is eligible for credits under this section with respect to the company headquarters for three taxable years beginning with the year in which the job creation requirement is satisfied. A taxpayer that creates an additional 20 new full-time jobs at the company headquarters in a 24-month period during a three-year eligibility period does not qualify for any extended eligibility period. However, a taxpayer that creates an additional 20 new full-time jobs at the company headquarters in a 24-month period after the completion of a three-year eligibility period is eligible for credits with respect to the company headquarters for an additional three taxable years beginning in the year in which the additional job creation requirement is satisfied. A job that is a transferred job, as defined in G.S. 105-129.87(e), is not a new job for purposes of this Article.

(b) Credit. – A taxpayer that satisfies the eligibility requirement of subsection (a) of this section and that produces interactive digital media in this State during the taxable year is eligible for a credit for each new full-time job created at the company headquarters. The credit is equal to five thousand dollars (\$5,000) for each new full-time job.

(c) Limitation. – The maximum cumulative credit that may be claimed by a taxpayer under this section is five hundred thousand dollars (\$500,000).

(d) No Double Credit. – A taxpayer that claims a credit under this section may not also claim a job creation credit under Article 3J of this Chapter with respect to the same job."

SECTION 2. This act is effective for taxable years beginning on or after January 1, 2011.