

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

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SENATE BILL 943
House Committee Substitute Favorable 8/6/09

Short Title: Expand Film Credit.

(Public)

Sponsors:

Referred to:

March 26, 2009

1 A BILL TO BE ENTITLED
2 AN ACT TO PROVIDE FOR AN ALTERNATIVE CREDIT FOR QUALIFYING
3 EXPENSES OF A PRODUCTION COMPANY.

4 The General Assembly of North Carolina enacts:

5 SECTION 1. G.S. 105-130.47 reads as rewritten:
6 "§ 105-130.47. Credit for qualifying expenses of a production company.

7 ...
8 (b1) Alternative Credit. – In lieu of the credit allowed under subsection (b) of this
9 section, a taxpayer that is a production company and has qualifying expenses of at least two
10 hundred fifty thousand dollars (\$250,000) with respect to a production may elect to take a
11 credit against the taxes imposed by this Part equal to twenty-five percent (25%) of the
12 production company's qualifying expenses less the difference between the amount of tax paid
13 on purchases subject to the tax under G.S. 105-187.51 and the amount of sales or use tax that
14 would have been due had the purchases been subject to the sales or use tax at the combined
15 general rate, as defined in G.S. 105-164.3. The credit is computed based on all of the taxpayer's
16 qualifying expenses incurred with respect to the production, not just the qualifying expenses
17 incurred during the taxable year. The taxpayer shall elect whether to claim the credit allowed
18 under this subsection or the one allowed under subsection (b) of this section at the time the
19 taxpayer files the return on which the credit is claimed. This election is binding.

20 (c) Pass-Through Entity. – Notwithstanding the provisions of G.S. 105-131.8 and
21 G.S. 105-269.15, a pass-through entity that qualifies for ~~the a~~ credit provided in this section
22 does not distribute the credit among any of its owners. The pass-through entity is considered
23 the taxpayer for purposes of claiming ~~the a~~ credit allowed by this section. If a return filed by a
24 pass-through entity indicates that the entity is paying tax on behalf of the owners of the entity,
25 ~~the a~~ credit allowed under this section does not affect the entity's payment of tax on behalf of its
26 owners.

27 (d) Return. – A taxpayer may claim ~~the a~~ credit allowed by this section on a return filed
28 for the taxable year in which the production activities are completed. The return must state the
29 name of the production, a description of the production, and a detailed accounting of the
30 qualifying expenses with respect to which a credit is claimed.

31 (e) Credit Refundable. – If ~~the a~~ credit allowed by this section exceeds the amount of
32 tax imposed by this Part for the taxable year reduced by the sum of all credits allowable, the
33 Secretary must refund the excess to the taxpayer. The refundable excess is governed by the
34 provisions governing a refund of an overpayment by the taxpayer of the tax imposed in this
35 Part. In computing the amount of tax against which multiple credits are allowed, nonrefundable
36 credits are subtracted before refundable credits.

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1 **SECTION 2.** G.S. 105-151.29 reads as rewritten:

2 "**§ 105-151.29. Credit for qualifying expenses of a production company.**

3 ...

4 **(b1) Alternative Credit.** – In lieu of the credit allowed under subsection (b) of this
5 section, a taxpayer that is a production company and has qualifying expenses of at least two
6 hundred fifty thousand dollars (\$250,000) with respect to a production may elect to take a
7 credit against the taxes imposed by this Part equal to twenty-five percent (25%) of the
8 production company's qualifying expenses less the difference between the amount of tax paid
9 on purchases subject to the tax under G.S. 105-187.51 and the amount of sales or use tax that
10 would have been due had the purchases been subject to the sales or use tax at the combined
11 general rate, as defined in G.S. 105-164.3. The credit is computed based on all of the taxpayer's
12 qualifying expenses incurred with respect to the production, not just the qualifying expenses
13 incurred during the taxable year. The taxpayer shall elect whether to claim the credit allowed
14 under this subsection or the one allowed under subsection (b) of this section at the time the
15 taxpayer files the return on which the credit is claimed. This election is binding.

16 **(c) Pass-Through Entity.** – Notwithstanding the provisions of G.S. 105-131.8 and
17 G.S. 105-269.15, a pass-through entity that qualifies for ~~the a~~ credit provided in this section
18 does not distribute the credit among any of its owners. The pass-through entity is considered
19 the taxpayer for purposes of claiming ~~the a~~ credit allowed by this section. If a return filed by a
20 pass-through entity indicates that the entity is paying tax on behalf of the owners of the entity,
21 ~~the a~~ credit allowed under this section does not affect the entity's payment of tax on behalf of its
22 owners.

23 **(d) Return.** – A taxpayer may claim ~~the a~~ credit allowed by this section on a return filed
24 for the taxable year in which the production activities are completed. The return must state the
25 name of the production, a description of the production, and a detailed accounting of the
26 qualifying expenses with respect to which a credit is claimed.

27 **(e) Credit Refundable.** – If ~~the a~~ credit allowed by this section exceeds the amount of
28 tax imposed by this Part for the taxable year reduced by the sum of all credits allowable, the
29 Secretary must refund the excess to the taxpayer. The refundable excess is governed by the
30 provisions governing a refund of an overpayment by the taxpayer of the tax imposed in this
31 Part. In computing the amount of tax against which multiple credits are allowed, nonrefundable
32 credits are subtracted before refundable credits.

33 "

34 **SECTION 3.** This act is effective for taxable years beginning on or after January 1,
35 2010, and applies to qualifying expenses occurring on or after that date.