

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2007

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HOUSE DRH30058-LY-49 (1/29)

Short Title: Video Game Producer Tax Credit.

(Public)

Sponsors: Representative Gibson.

Referred to:

A BILL TO BE ENTITLED

AN ACT TO ALLOW A TAX CREDIT FOR VIDEO GAME PRODUCERS.

The General Assembly of North Carolina enacts:

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

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

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

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

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

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

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

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

a. Production property purchased or leased.

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

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

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

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

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

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

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

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

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

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

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

33           "**§ 105-151.31. Credit for producers of digital interactive media.**

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

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

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

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

- 1           c.     The product contains an appreciable amount of at least three of  
2           the five following types of data: text, sound, fixed images,  
3           animated images, and 3D geometry.
- 4           (2)   Qualifying expenses. – The sum of the total amount spent in this State  
5           for the following by a producer of digital interactive media in  
6           connection with the production of digital interactive media:
- 7           a.     Production property purchased or leased.  
8           b.     Compensation and wages on which withholding payments are  
9           remitted to the Department of Revenue under Article 4A of this  
10          Chapter.
- 11          (3)   Production property. – Tangible personal property and intangible  
12          property that is directly used in the production of digital interactive  
13          media. The term includes such items as software, computer code,  
14          image files, music files, scripts and plays, concept mock-ups, software  
15          tools, and testing procedures.
- 16          (b)   Credit. – A taxpayer that produces digital interactive media is allowed a  
17          credit against the taxes imposed by this Part equal to fifteen percent (15%) of the  
18          taxpayer's qualifying expenses. The credit allowed by this section may not exceed the  
19          amount of tax imposed by this Part for the taxable year reduced by the sum of all credits  
20          allowable. This limitation applies to the cumulative amount of a credit allowed in any  
21          tax year, including carryforwards. Any unused portion of a credit allowed under this  
22          section may be carried forward for the next succeeding five years.
- 23          (c)   Limitation. – No credit is allowed under this section for qualifying expenses  
24          with respect to digital interactive media that contain material that is obscene, as defined  
25          in G.S. 14-190.1.
- 26          (d)   Substantiation. – A taxpayer allowed a credit under this section must maintain  
27          and make available for inspection any information or records required by the Secretary.  
28          The taxpayer has the burden of proving eligibility for a credit and the amount of the  
29          credit.
- 30          (e)   Report. – The Department must publish by May 1 of each year the following  
31          information, itemized by taxpayer for the 12-month period ending the preceding  
32          December 31:
- 33               (1)   The qualifying expenses for which a credit was claimed, classified by  
34               whether the expenses were production property or compensation or  
35               wages.
- 36               (2)   The number of people employed in the State with respect to credits  
37               claimed.
- 38               (3)   The total cost to the General Fund of the credits claimed.
- 39          (f)   Sunset. – This section is repealed for taxable years beginning on or after  
40          January 1, 2011."
- 41          **SECTION 3.** This act is effective for taxable years beginning on or after  
42          January 1, 2007.