

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2009

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SENATE DRS15085-MC-140 (3/6)

Short Title: Video Game Producer Tax Credit.

(Public)

Sponsors: Senator Boseman.

Referred to:

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



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1 carryforwards. Any unused portion of a credit allowed under this section may be carried  
2 forward for the next succeeding five years.

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

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

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

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

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

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

15 (f) Sunset. – This section is repealed for taxable years beginning on or after January 1,  
16 2013."

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

19 **"§ 105-151.33. Credit for producers of digital interactive media.**

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

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

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

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

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

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

36 a. Production property purchased or leased.

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

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

44 (b) Credit. – A taxpayer that produces digital interactive media is allowed a credit  
45 against the taxes imposed by this Part equal to fifteen percent (15%) of the taxpayer's  
46 qualifying expenses. The credit allowed by this section may not exceed the amount of tax  
47 imposed by this Part for the taxable year reduced by the sum of all credits allowable. This  
48 limitation applies to the cumulative amount of a credit allowed in any tax year, including  
49 carryforwards. Any unused portion of a credit allowed under this section may be carried  
50 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 3.** This act is effective for taxable years beginning on or after January 1,

16 2009.