

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2005

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HOUSE BILL 2157

Short Title: Video Game Producer Tax Credit.

(Public)

Sponsors: Representative Gibson.

Referred to: Finance.

May 18, 2006

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  
5 amended by adding a new section to read:

6 "**§ 105-130.48. 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  
9 use or distribution and that satisfy each of the conditions listed in this  
10 subsection. The term does not include products that are interpersonal  
11 communications services such as videoconferencing, wireless  
12 communications, text-based 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  
16 with which users may interact in order to achieve a goal.

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

20 (2) Qualifying expenses. – The sum of the total amount spent in this State  
21 for the following by a producer of digital interactive media in  
22 connection with 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  
28 property that is directly used in the production of digital interactive  
29 media. The term includes such items as software, computer code,

1 image files, music files, scripts and plays, concept mock-ups, software  
2 tools, and testing procedures.

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

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

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

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

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

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

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

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

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

30 **"§ 105-151.30. Credit for producers of digital interactive media.**

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

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

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

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

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

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

4           a. Production property purchased or leased.

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

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

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

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

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

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

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

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

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

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

38           **SECTION 3.** This act is effective for taxable years beginning on or after  
39 January 1, 2006.