

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009**

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HOUSE DRH50656-MC-217A (04/22)

Short Title: Expand Film Credit.

(Public)

Sponsors: Representative Harrell.

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO EXPAND THE DEFINITION OF A PRODUCTION COMPANY FOR
3 PURPOSES OF THE SALES AND USE TAX AND INCOME TAX.

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

8 (1) Entertainment software. – Interactive games for computers, video game
9 consoles, mobile phones, or other gaming platforms. The term does not
10 include interpersonal communications services such as videoconferencing,
11 wireless communications, text-based channels, or chat rooms.

12 (1a) Highly compensated individual. – An individual who directly or indirectly
13 receives compensation in excess of one million dollars (\$1,000,000) for
14 personal services with respect to a single production. An individual receives
15 compensation indirectly when a production company pays a personal service
16 company or an employee leasing company that pays the individual.

17 (2) Live sporting event. – A scheduled sporting competition, game, or race that
18 is not originated by a production company, but originated solely by an
19 amateur, collegiate, or professional organization, institution, or association
20 for live or tape-delayed television or satellite broadcast. A live sporting
21 event does not include commercial advertising, an episodic television series,
22 a television pilot, a music video, a motion picture, or a documentary
23 production in which sporting events are presented through archived
24 historical footage or similar footage taken at least 30 days before it is used.

25 (3) Production. – Original motion picture, television, or radio images produced
26 for theatrical, commercial, advertising, or educational purposes or
27 entertainment software produced for commercial distribution.

28 (3a) Production company. – Defined in G.S. 105-164.3.

29 (4) Qualifying expenses. – The sum of the following amounts spent in this State
30 by a production company in connection with a production, less the amount
31 in excess of one million dollars (\$1,000,000) paid to a highly compensated
32 individual:

33 a. Goods and services leased or purchased. For goods with a purchase
34 price of twenty-five thousand dollars (\$25,000) or more, the amount



1 included in qualifying expenses is the purchase price less the fair
2 market value of the good at the time the production is completed.

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

6 c. The cost of production-related insurance coverage obtained on the
7 production. Expenses for insurance coverage purchased from a
8 related member are not qualifying expenses.

9 (5) Related member. – Defined in G.S. 105-130.7A.

10 ...

11 (j) NC Film Office. – To claim a credit under this ~~section~~, section for a production other
12 than entertainment software, a taxpayer must notify the Division of Tourism, Film, and Sports
13 Development in the Department of Commerce of the taxpayer's intent to claim the production
14 tax credit. The notification must include the title of the production, the name of the production
15 company, a financial contact for the production company, the proposed dates on which the
16 production company plans to begin filming the production, and any other information required
17 by the Division. For productions other than entertainment software that have production credits,
18 a taxpayer claiming a credit under this section must acknowledge in the production credits both
19 the North Carolina Film Office and the regional film office responsible for the geographic area
20 in which the filming of the production occurred.

21 (k) Sunset. – This section is repealed for qualifying expenses occurring on or after
22 January 1, 2014."

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

24 "**§ 105-151.29. Credit for qualifying expenses of a production company.**

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

26 (1) Entertainment software. – Interactive games for computers, video game
27 consoles, mobile phones, or other gaming platforms. The term does not
28 include interpersonal communications services such as videoconferencing,
29 wireless communications, text-based channels, or chat rooms.

30 (1a) Highly compensated individual. – An individual who directly or indirectly
31 receives compensation in excess of one million dollars (\$1,000,000) for
32 personal services with respect to a single production. An individual receives
33 compensation indirectly when a production company pays a personal service
34 company or an employee leasing company that pays the individual.

35 (2) Live sporting event. – A scheduled sporting competition, game, or race that
36 is not originated by a production company, but originated solely by an
37 amateur, collegiate, or professional organization, institution, or association
38 for live or tape-delayed television or satellite broadcast. A live sporting
39 event does not include commercial advertising, an episodic television series,
40 a television pilot, a music video, a motion picture, or a documentary
41 production in which sporting events are presented through archived
42 historical footage or similar footage taken at least 30 days before it is used.

43 (3) Production. – Original motion picture, television, or radio images, produced
44 for theatrical, commercial, advertising, or educational purposes or
45 entertainment software produced for commercial distribution.

46 (3a) Production company. – Defined in G.S. 105-164.3.

47 (4) Qualifying expenses. – The sum of the following amounts spent in this State
48 by a production company in connection with a production, less the amount
49 paid in excess of one million dollars (\$1,000,000) to a highly compensated
50 individual:

- 1 a. Goods and services leased or purchased. For goods with a purchase
2 price of twenty-five thousand dollars (\$25,000) or more, the amount
3 included in qualifying expenses is the purchase price less the fair
4 market value of the good at the time the production is completed.
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 c. The cost of production-related insurance coverage obtained on the
9 production. Expenses for insurance coverage purchased from a
10 related member are not qualifying expenses.

11 (5) Related member. – Defined in G.S. 105-130.7A.

12 ...

13 (j) ~~NC Film Office.~~ – To claim a credit under this ~~section,~~section for a production other
14 than entertainment software, a taxpayer must notify the Division of Tourism, Film, and Sports
15 Development in the Department of Commerce of the taxpayer's intent to claim the production
16 tax credit. The notification must include the title of the production, the name of the production
17 company, a financial contact for the production company, the proposed dates on which the
18 production company plans to begin filming the production, and any other information required
19 by the Division. For productions other than entertainment software that have production credits,
20 a taxpayer claiming a credit under this section must acknowledge in the production credits both
21 the North Carolina Film Office and the regional film office responsible for the geographic area
22 in which the filming of the production occurred.

23 (k) Sunset. – This section is repealed for qualifying expenses occurring on or after
24 January 1, 2014."

25 **SECTION 3.** G.S. 105-164.3(30) reads as rewritten:

26 "**§ 105-164.3. Definitions.**

27 The following definitions apply in this Article:

28 ...

29 (30) Production company. – A person engaged in the business of making original
30 motion picture, television, or radio images for theatrical, commercial,
31 advertising, or educational ~~purposes,~~purposes or making entertainment
32 software for commercial distribution.

33"

34 **SECTION 4.** Sections 1 and 2 of this act are effective for taxes imposed for
35 taxable years beginning on or after January 1, 2009. Section 3 of this act becomes effective
36 January 1, 2009, and applies to sales made on or after July 1, 2009. The remainder of this act is
37 effective when it becomes law.