

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

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HOUSE BILL 1645

Short Title: Expand Film Credit. (Public)

Sponsors: Representative Harrell.

Referred to: Commerce, Small Business, and Entrepreneurship, if favorable, Finance.

May 7, 2009

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



- 1 b. Compensation and wages on which withholding payments are
2 remitted to the Department of Revenue under Article 4A of this
3 Chapter.
4 c. The cost of production-related insurance coverage obtained on the
5 production. Expenses for insurance coverage purchased from a
6 related member are not qualifying expenses.
7 (5) Related member. – Defined in G.S. 105-130.7A.

8 ...

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

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 – This section is repealed for qualifying expenses occurring on or after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

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

22 **"§ 105-151.29. Credit for qualifying expenses of a production company.**

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

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

28 (1a) Highly compensated individual. – An individual who directly or indirectly
29 receives compensation in excess of one million dollars (\$1,000,000) for
30 personal services with respect to a single production. An individual receives
31 compensation indirectly when a production company pays a personal service
32 company or an employee leasing company that pays the individual.

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

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

44 (3a) Production company. – Defined in G.S. 105-164.3.

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

- 49 a. Goods and services leased or purchased. For goods with a purchase
50 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 3.** G.S. 105-164.3(30) reads as rewritten:

24 "**§ 105-164.3. Definitions.**

25 The following definitions apply in this Article:

26 ...

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

31"

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