

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

SESSION LAW 2009-529
SENATE BILL 943

AN ACT TO PROVIDE FOR AN ALTERNATIVE CREDIT FOR QUALIFYING
EXPENSES OF A PRODUCTION COMPANY.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 105-130.47 reads as rewritten:

"§ 105-130.47. Credit for qualifying expenses of a production company.

...

(b1) Alternative Credit. – In lieu of the credit allowed under subsection (b) of this section, a taxpayer that is a production company and has qualifying expenses of at least two hundred fifty thousand dollars (\$250,000) with respect to a production may elect to take a credit against the taxes imposed by this Part equal to twenty-five percent (25%) of the production company's qualifying expenses less the difference between the amount of tax paid on purchases subject to the tax under G.S. 105-187.51 and the amount of sales or use tax that would have been due had the purchases been subject to the sales or use tax at the combined general rate, as defined in G.S. 105-164.3. The credit is computed based on all of the taxpayer's qualifying expenses incurred with respect to the production, not just the qualifying expenses incurred during the taxable year. The taxpayer shall elect whether to claim the credit allowed under this subsection or the one allowed under subsection (b) of this section at the time the taxpayer files the return on which the credit is claimed. This election is binding.

(c) Pass-Through Entity. – Notwithstanding the provisions of G.S. 105-131.8 and G.S. 105-269.15, a pass-through entity that qualifies for ~~the a~~ credit provided in this section does not distribute the credit among any of its owners. The pass-through entity is considered the taxpayer for purposes of claiming ~~the a~~ credit allowed by this section. If a return filed by a pass-through entity indicates that the entity is paying tax on behalf of the owners of the entity, ~~the a~~ credit allowed under this section does not affect the entity's payment of tax on behalf of its owners.

(d) Return. – A taxpayer may claim ~~the a~~ credit allowed by this section on a return filed for the taxable year in which the production activities are completed. The return must state the name of the production, a description of the production, and a detailed accounting of the qualifying expenses with respect to which a credit is claimed.

(e) Credit Refundable. – If ~~the a~~ credit allowed by this section exceeds the amount of tax imposed by this Part for the taxable year reduced by the sum of all credits allowable, the Secretary must refund the excess to the taxpayer. The refundable excess is governed by the provisions governing a refund of an overpayment by the taxpayer of the tax imposed in this Part. In computing the amount of tax against which multiple credits are allowed, nonrefundable credits are subtracted before refundable credits.

...."

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

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

...

(b1) Alternative Credit. – In lieu of the credit allowed under subsection (b) of this section, a taxpayer that is a production company and has qualifying expenses of at least two hundred fifty thousand dollars (\$250,000) with respect to a production may elect to take a credit against the taxes imposed by this Part equal to twenty-five percent (25%) of the production company's qualifying expenses less the difference between the amount of tax paid on purchases subject to the tax under G.S. 105-187.51 and the amount of sales or use tax that would have been due had the purchases been subject to the sales or use tax at the combined general rate, as defined in G.S. 105-164.3. The credit is computed based on all of the taxpayer's



qualifying expenses incurred with respect to the production, not just the qualifying expenses incurred during the taxable year. The taxpayer shall elect whether to claim the credit allowed under this subsection or the one allowed under subsection (b) of this section at the time the taxpayer files the return on which the credit is claimed. This election is binding.

(c) Pass-Through Entity. – Notwithstanding the provisions of G.S. 105-131.8 and G.S. 105-269.15, a pass-through entity that qualifies for ~~the a~~ credit provided in this section does not distribute the credit among any of its owners. The pass-through entity is considered the taxpayer for purposes of claiming ~~the a~~ credit allowed by this section. If a return filed by a pass-through entity indicates that the entity is paying tax on behalf of the owners of the entity, ~~the a~~ credit allowed under this section does not affect the entity's payment of tax on behalf of its owners.

(d) Return. – A taxpayer may claim ~~the a~~ credit allowed by this section on a return filed for the taxable year in which the production activities are completed. The return must state the name of the production, a description of the production, and a detailed accounting of the qualifying expenses with respect to which a credit is claimed.

(e) Credit Refundable. – If ~~the a~~ credit allowed by this section exceeds the amount of tax imposed by this Part for the taxable year reduced by the sum of all credits allowable, the Secretary must refund the excess to the taxpayer. The refundable excess is governed by the provisions governing a refund of an overpayment by the taxpayer of the tax imposed in this Part. In computing the amount of tax against which multiple credits are allowed, nonrefundable credits are subtracted before refundable credits.

...."

SECTION 3. This act is effective for taxable years beginning on or after January 1, 2010, and applies to qualifying expenses occurring on or after that date.

In the General Assembly read three times and ratified this the 11th day of August, 2009.

s/ Walter H. Dalton
President of the Senate

s/ Joe Hackney
Speaker of the House of Representatives

s/ Beverly E. Perdue
Governor

Approved 9:45 a.m. this 27th day of August, 2009