

United States Tax Incentives for Video Game Production

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Introduction

For many years various states have competed for motion picture and television projects by providing favorable business incentives to production and related companies. For the companies, the decision of where to shoot was often equally based on the business incentives and the required aesthetics of the story. Within the last decade many of these same states have extended these business incentives to the production or development of video games as well. While the nature and applicability requirements of these video game incentives differ, some can be quite significant (e.g., 25% transferable tax credit or a cash rebate for qualified expenditures). As the international market witnesses the continued paradigm shift of consumer spending habits from movies to video games, more locales are instituting or increasing the available incentives for development.

While considerable attention has been focused on incentives offered in places like Texas and Louisiana, these are only two of a number of locations that offer incentives to spur the development of video games and interactive entertainment. In the United States 20 such state programs currently exist in various forms.

Understanding the nature and requirements of these potentially substantial financial benefits is valuable to both established game companies and new development teams. Whether a decision involves where to locate a new video game production start-up, where an established company should base a new development team, it may be of paramount importance to know if there are incentive programs your project may be able to take advantage of, whether in the proposed locale or elsewhere.

With that in mind, the guide to state incentives below intends to give readers an overview of the current terms and requirements of the programs for video games offered in various jurisdictions throughout the United States.

Whether you are a video game start-up or an established company, these potentially substantial financial benefits from a state incentive may be the difference between your game being made or not. If additional investment in your project is needed, the incentives can make an investment in your project more attractive. For example, an investor may be able to invest less funds in the project, thereby reducing his or her risk and potentially increasing the rate of return. If additional investment is not needed, the extra funds from these incentives can increase the profitability of your project.

We have extensive experience in applying these state incentives in the film industry - from working with production companies to determine their eligibility and covered expenditures under the state incentives, to working on investments where there is a state incentive available, to transferring state incentives in the form of a transferable tax credit. We would be happy to speak with you about the application of these incentives to your video game project.

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Alabama

Alabama enacted the Entertainment Industry Incentive Act of 2009 (“Alabama Rebate”). The Alabama Rebate, which was amended in 2012, specifically includes interactive games and video games among other entertainment media covered, offers companies up to 25% of qualifying expenditures, excluding payroll expenses. Additionally, the Alabama Rebate will offer up to 35% of all payroll paid to state residents. In order for a video game production to qualify for the Alabama Rebate, expenditures must be more than \$500,000 but not more than \$20 million. The rebate will be first applied to any income tax liability the company incurs and any excess amounts will be paid directly to the company. The rebate is fairly inclusive: Almost all video game production expenses paid in the state of Alabama qualify, including most preproduction, production and postproduction costs, payroll expenses, music, equipment and facilities costs. However, postproduction marketing costs are not included in the definition of covered expenses. Additionally, a qualifying company intending to spend more than \$150,000 in a year may apply to be exempted from state sales, use and lodging taxes for funds expended in Alabama.

To take advantage of the Alabama Rebate the video game company is not required to be an Alabama corporation, only a corporation, partnership, Limited Liability Company or other business entity that is a qualified production company under the act. The Alabama Rebate is administered by the Alabama Film Office, and as is often the case with state-sponsored programs, any video game which includes content that is sexually explicit, or involves gambling or wagering, does not qualify for this benefit. Obtaining the Alabama Rebate involves applying to the Alabama Film Office to be considered a qualified production at least 30 days prior to the commencement of the production activities on the project.

Contact information for the Alabama Film Office:

Alabama Film Office
Alabama Center for Commerce
401 Adams Avenue
Suite 170
Montgomery, AL 36104
Phone: (334) 242-4195
Fax: (334) 242-2077
Brenda Hobbie, Incentives Coordinator
Email: brenda.hobbie@tourism.alabama.gov

Further information on the Entertainment Industry Incentive Act of 2009:
<http://www.alabamafilm.org/2010/index2.shtml>

Current legislation for the Entertainment Industry Incentive Act of 2009:
http://www.alabamafilm.org/downloads/New_Rules_And_Regulations.pdf

Arkansas

Arkansas replaced its Motion Picture Incentive Act of 1997 by enacting the Digital Product and Motion Picture Industry Development Act of 2009 (“Arkansas Rebate”). The Arkansas Rebate, which specifically includes interactive games and video games among the entertainment media it is intended to support, offers development companies a non-transferable rebate against qualified production costs of up to 20%, so long as these expenditures add up to more than \$200,000 within a six-month period. The Arkansas Rebate also offers an additional 10% of payroll paid to certain types of employees who are full-time state residents. Almost all expenses incurred in Arkansas that are directly related to the preproduction, production or postproduction of a video game qualify, including developer compensation (for salaries under \$500,000). Even the purchase or optioning of intellectual property relating to the development of the game will generally qualify. However, most marketing, media and public relations costs are not considered qualified production costs.

To take advantage of the Arkansas Rebate the video game company must be a corporation, partnership, LLC or other entity principally engaged in a qualifying production that is registered with the Arkansas Secretary of State to engage in business within the state. The Arkansas Film Office, which is part of the Arkansas Economic Development Commission, administers the tax credit. To obtain the rebate development companies must first apply to the Arkansas Film Office for approval prior to incurring any production expense, and then certify the total costs of the production within 180 days after the last production expense is incurred in the state. The commission will then review the supporting documentation and prepare and send a recommendation for rebate to the Arkansas Revenue Division of the Department of Finance and Administration. Within 120 days the Revenue Division will certify the amount of rebate due to the production company and issue the rebate (within an additional 10-day period).

Contact information for, the Arkansas Film Commission:

Arkansas Economic Development Commission
Arkansas Film Office
900 West Capitol Avenue
Little Rock, Arkansas 72201
Phone: (501) 682-7326
Fax: (501) 682-7394
Email: INFO@arkansasedc.com

Further information on the Digital Product and Motion Picture Industry Development Act of 2009:

<http://www.arkansasedc.com/sites/default/files/Digital%20Product%20Rules%20and%20Regs%20Rev%20FINAL%209-13-13.pdf>

Enacting legislation for the Digital Product and Motion Picture Industry Development Act of 2009: <http://www.arkleg.state.ar.us/assembly/2009/R/Acts/Act816.pdf>

Colorado

In 2012, the 2009 Colorado Film Incentives program was amended (“Colorado Rebate”). The Colorado Rebate, which specifically includes video games, offers development companies a non-transferable rebate against up to 20% of qualifying expenditures in Colorado, so long as these expenditures add up to more than \$100,000 for a Colorado company or \$250,000 for an out-of-state company. In addition, Colorado residents must comprise at least 50% of the workforce on the project. Essentially all expenses paid in Colorado that directly related to the production of a video game will qualify- including developer compensation (up to \$1 million per employee), and the purchase or licensing of intellectual property.

To take advantage of the Colorado Rebate the video game company is not required to be a Colorado corporation; any corporation, partnership, LLC or other entity principally engaged in a qualifying production may apply. However, an out-of-state company must register with the Secretary of State as a “foreign entity.” The Colorado Office of Film, Television and Media administers the rebate. To obtain the Colorado Rebate, the development company must submit a “Statement of Intent” to the Office of Film, Television and Media for approval prior to commencement of the project. Once a “Notice of Conditional Approval” has been received by the developer, the State will thereafter enter into a formal contract. When the development company has finished the project it must submit “Proof of Performance” and have all financial documents audited by a CPA. Upon approval by the Office of Film, Television and Media, a rebate check will be issued to the company.

Contact information for the Colorado Office of Film, Television and Media:

Colorado Office of Film, Television and Media
1625 Broadway
Ste. 2700
Denver, CO 80202
Phone: (303) 892-3840
Fax: (303) 892-3848

Further information on the Colorado Film Incentives program:

<http://www.coloradofilm.org/incentives/index.html>

Current legislation for the Colorado Film Incentives program:

http://www.leg.state.co.us/CLICS/CLICS2012A/csl.nsf/fsbillcont3/C7612C556131464D8725798500062B10?Open&file=1286_ren.pdf

Connecticut

To promote the production of video games and other digital media within its borders, Connecticut enacted the Connecticut Digital Media and Motion Picture Tax Credit in 2006 (“Connecticut Tax Credit”). The Connecticut Tax Credit, which specifically includes video games among the entertainment media it is intended to support, offers development companies a transferable nonrefundable tax credit against business taxes of up to 30% of qualifying expenditures made over the course of producing a game, so long as these expenditures add up to more than \$100,000. The legislation is permissive: Essentially all expenses paid in Connecticut that the developer can demonstrate were directly related to the production of a video game will qualify- including developer compensation, design and preproduction costs, development equipment and software, and certain postproduction and marketing costs. Even the purchase or optioning of intellectual property on which to base one’s game qualifies under certain circumstances.

To take advantage of the Connecticut Tax Credit the video game company is not required to be a Connecticut corporation; any corporation, partnership, LLC or other entity principally engaged in a qualifying production may apply. To qualify, the development company must also register with the Connecticut Secretary of State. The Digital Media and Motion Picture Division of the Connecticut Commission on Culture and Tourism administers the tax credit. And as is often the case with state-sponsored programs, any video game which includes content that is obscene, as defined in the applicable state statute, does not qualify for this benefit. To obtain the Connecticut Tax Credit, the development company must apply to the Digital Media and Motion Picture Division of the Connecticut Commission on Culture and Tourism for an eligibility certificate (within 90 days after the first qualified production expense or cost is incurred). Next, the development company must apply for a tax credit certificate (within 90 days after the last production expense is incurred in the state). No credits may be claimed before the production tax credit certificate is issued.

Contact information for the Office of Film, Television & Digital Media of the Department of Economic and Community Development:

Department of Economic and Community Development
505 Hudson Street
Hartford, CT 06106
Phone: (860) 270-8000
Ruggiero, Ed
Film Tax Credit Administrator
860.270.8211
Email: ed.ruggiero@ct.gov

Further information on the Connecticut Digital Media and Motion Picture Tax Credit:
<http://www.ct.gov/ecd/cwp/view.asp?a=3880&q=454828>

Enacting legislation for the Connecticut Digital Media and Motion Picture Tax Credit:
<http://www.cultureandtourism.org/cct/lib/cct/TaxCreditLegislation.pdf>

Florida

In order “to develop and sustain the [in-state] workforce and infrastructure for film and entertainment production,” including video games and interactive media, the Florida legislature has earmarked millions of dollars in tax credits to be dispersed to Florida producers of video games and interactive entertainment. Under Florida’s plan at least 75% of the employees on the project must be in-state residents. Moreover, video game development companies that demonstrate expenditures of at least \$625,000 in expenses, wages and salaries on a single video game project within a year qualify to be reimbursed by the State for 20% of those expenditures in the form of a tax credit. Smaller productions may qualify for tax credits under the “Independent and Emerging Media” definition if they have expenditures of at least \$100,000.

The Florida Entertainment Industry Financial Incentive Program (“Florida Program”) excludes from eligibility video games that contain obscene content as defined by state law (in general, content of a sexual nature). At the same time, the Florida Program includes a content-based bonus for productions with less objectionable content: an otherwise eligible project that is determined by the Florida Commissioner of Film and Entertainment (with advice of the Florida Film and Entertainment Advisory Council) to be “family friendly,” based on several subjective criteria, is eligible for an additional 5% cash reimbursement, raising the available cash rebate to a possible 25% of qualifying expenditures. A project may also be eligible for an additional 5% Under-Utilized Region Bonus or an additional 5% Qualified Digital Media Facility Bonus.

To take advantage of the Florida tax credit the video game company must submit a program application to the Florida Commissioner of Film and Entertainment for an eligibility certificate (within 180 days prior to the first qualified production expense or cost is incurred). The office will grant or deny the certification within 20 days. At the end of the production, the applicant must submit an audited version of the amount of actual qualified expenditures. Thereafter, the Florida Commissioner of Film and Entertainment will notify the applicant of the final tax credit award.

Contact information for the Florida Governor’s Office of Film & Entertainment:

Florida Office of Film and Entertainment
107 East Madison Street, MSC 80
Tallahassee, FL 32399
Phone: (850) 717-8990
Toll Free: (877) FLA-FILM
Fax: (850) 410-4770
Herb Miller, Incentives Administrator
Email: Herb.Miller@deo.myflorida.com

Further information for the Florida Entertainment Industry Financial Incentive Program for Digital Media Projects is available using the links in the blue box of the webpage at the following address: <http://www.filminflorida.com/ifi/incentives.asp>

The statute authorizing the Florida Entertainment Industry Financial Incentive Program for Digital Media Projects is here:

http://www.leg.state.fl.us/statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=0200-0299/0288/Sections/0288.1254.html

Georgia

Georgia has sought to position itself as a fertile ground for game development over the last few years. To demonstrate its support of game development within its borders Georgia passed the Entertainment Industry Investment Act in the spring of 2008 (“Georgia Act”)- offering producers of qualifying video games a transferable nonrefundable tax credit of 20% of in-state expenditures against Georgia tax liability. Game production companies can increase the tax credit by an additional 10% (to 30%) by including a Georgia promotional logo in a prominent position within the game or credit roll. To be eligible for tax credits, production companies must first be certified by the Georgia Film, Music & Digital Entertainment Office. The certification process generally takes only a few days. Additionally, companies may also qualify to obtain a Georgia sales tax exemption.

To qualify for the tax credit, game developers do not have to be incorporated in Georgia, they only have to spend a minimum of \$500,000 within the state on one project or across several projects in the course of a single year. For purposes of calculating the \$500,000 spend, game developers can include all expenses paid within the state for materials, services and labor “directly used” in the video game production. Under the Georgia Act, “directly used” is expansive, including rental of facilities and equipment, leasing of vehicles, food and lodging costs, and even airfare expenses if purchased through a Georgia-based travel agency or travel company. In calculating labor expenditures, game developers can include payments made to both resident and out-of-state employees working in Georgia. However, marketing and distribution costs will not be included as qualifying expenditures.

For further information, administrators of the incentives offered under Georgia’s Entertainment Industry Investment Act can be contacted here:

Director of Innovation & Technology
Georgia Department of Economic Development
75 Fifth St., N.W.
Suite 1200
Atlanta, GA 30308
Phone: (404) 962-4000
Fax: (404) 962-4021
Email: film@georgia.org

Further information on incentives offered under Georgia’s Entertainment Industry Investment Act:

<http://www.georgia.org/industries/entertainment/production-incentives/>

Current legislation for Georgia’s Entertainment Industry Investment Act (2008):

https://gov.georgia.gov/sites/gov.georgia.gov/files/related_files/document/143729.pdf

Hawaii

In 2013, the Hawaii legislature expanded Hawaii's film production tax credit program by enacting Act 88/89 ("Hawaii Tax Credit"). Administered by the Hawaii Film Office and the Hawaii Department of Taxation, the Hawaii Tax Credit offers video game developers with a minimum of \$200,000 in qualified production expenditures a refundable tax credit for 20% of those costs. (The amount may be raised to 25% for productions located in certain less-populated counties.) Unlike the nonrefundable tax credits already discussed in connection with other jurisdictions, Hawaii applies a refundable tax credit to reduce tax payments due, but if the incentive is greater than any tax liability, the Hawaii Department of Taxation will make a direct cash payment to the development company. Qualified expenditures under the Hawaii Tax Credit include both resident and non-resident compensation for the time that the employee is physically working in Hawaii and subject to Hawaii income tax. Other qualifying expenditures must be subject to Hawaii's general excise or income tax and can include travel and shipping costs both between islands and from Hawaii to the mainland.

In addition to including Hawaii among the production credits of the final product, game development companies that wish to take advantage of the Hawaii tax credit must make reasonable efforts to hire Hawaiian employees and also make a financial or in-kind contribution to education or the interactive media workforce in Hawaii. Contributions have specific requirements but may generally include hardware or software donations to Hawaii public schools, offering on-site internships to public school students, or planning or participating in seminars or educational programs that benefit local unions and industry members.

Contact information for the Hawaii Film Office:

Hawaii Film Office
State of Hawaii, Department of Business, Economic Development and
Tourism 250 South Hotel St., 5th Floor
Honolulu, Hawaii 96813
Mailing Address:
P.O. Box 2359
Honolulu, Hawaii 96804
Phone: (808) 586-2570
Fax: (808) 586-2572
Email: info@hawaiifilmoffice.com

Further information on the Hawaii Tax Credit:

<http://filmoffice.hawaii.gov/incentives-tax-credits/>

Enacting legislation for Act 88/89:

http://www.capitol.hawaii.gov/session2013/bills/GM1189_.pdf

Kentucky

In order to promote increased production activity in Kentucky, the Kentucky Film Office Tax Credit (“Kentucky Tax Credit”) was enacted. The Kentucky Tax Credit offers development companies a refundable tax credit against business taxes of up to 20% of qualifying expenditures, so long as these expenditures add up to more than \$500,000. While the enacting legislation does not mention video game productions, the application for the Kentucky Film Office Tax Credit lists video games as a covered production category. The Kentucky Tax Credit is somewhat more limited than other jurisdictions in identifying which expenses paid in the state of Kentucky will qualify. Specifically, compensation (not to exceed \$100,000 per employee), rental of space or equipment, and certain other costs are defined as qualified expenses. In addition to the Kentucky Tax Credit, companies may also qualify to obtain a Kentucky sales tax rebate.

The Kentucky Film Office administers the tax credit, and as in other states, any video game that includes obscene content, as defined in the applicable state statute, does not qualify for this benefit. To obtain the Kentucky Tax Credit, the development company must apply to the Kentucky Film Office at least 30 days before the first qualified production expense or cost is incurred. The Kentucky Film Office will notify the applicant of its status (within 30 days thereafter) and, if the application is approved, will enter into a formal tax incentive agreement. Upon completion of the video game production (or within 180 days thereafter) the qualified company must submit a detailed cost report. After full review of the cost report the applicant will be notified of the total amount of refundable credit awarded to the production.

Contact information for the Kentucky Film Office:

Mike Mangeot
Kentucky Film Office
500 Mero Street
Frankfort, KY 40601
Phone: (502) 564-8110 ext. 142
Fax: (502) 564-5695
Email: Michael.Mangeot@ky.gov

Further information on the Kentucky Film Office Tax Credit: <http://filmoffice.ky.gov/incentives/>

Enacting legislation for the Kentucky Film Office Tax Credit:
<http://www.lrc.ky.gov/record/09SS/HB3.htm>

Louisiana

With the stated objective of encouraging “development in Louisiana of a strong capital base for the production of digital interactive media,” Louisiana passed The Louisiana Digital Media and Software Act in 2005 and amended it in 2009 and 2011 (“Louisiana Act”). The Louisiana Act offers the developer a tax credit for labor performed in the state of Louisiana and for production equipment purchased through Louisiana businesses. The tax credit is refundable, but does not contain any transferability or carryover provisions. The enacting legislation contemplates both video games designed to be sold through regular marketing channels and projects involving virtual worlds and online games with long-term producer involvement. The tax credit offered by the Louisiana Act is equal to 25% of the investments made in those years, with no minimum spending requirements. Additionally, an additional 10% may be awarded based on labor costs paid to Louisiana residents. The tax credit may be claimed for 100% of its value at the end of each year, or for 85% of the value at any other time during the year.

To receive the benefits offered under the Louisiana Act a video game or other digital interactive media production must first submit an application to the Louisiana Office of Entertainment Industry Development. This application must contain details about the production, including the budget, anticipated employment, schedule, and the intended distribution plan for the finished product. The Louisiana Office of Entertainment Industry Development reviews the application and provides an initial certification if applicable. Prior to final certification the developer must submit a cost report of production expenditures, performed by a CPA. The Louisiana Department of Economic Development makes a final tax credit certification decision based on this report.

Contact information for the Louisiana Department of Economic Development:

Louisiana Economic Development
1051 North Third Street
Baton Rouge, Louisiana 70802-5239
Phone: (225) 342-3000
Fax: (225) 342-9095
Heath Williams, Director Digital Interactive Media
Phone: (225) 342-3571
Email: heath.williams@la.gov

Further information on incentives offered under The Louisiana Digital Media Act:
<http://opportunitylouisiana.com/page/digital-interactive-media-and-software-development-incentive>

Full text of The Louisiana Digital Media and Software Act:
<http://www.legis.state.la.us/lss/lss.asp?doc=321886>

Maine

Adopted in 2006, the Maine Attraction Film Incentive program (“Maine Incentive”) includes two incentives available to qualified companies that develop video games intended for a national audience: the Certified Media Production Credit and the Certified Media Wage Reimbursement. To qualify for the dual benefits of the Maine Incentive, a video game developer must spend a minimum of \$75,000 in Maine over the course of one year on one or more video game productions that have been certified by the Maine Film Office, a division of Maine’s Department of Economic and Community Development (the “Film Office”). To certify a video game production, the game developer must apply for and receive a media production certificate from the Film Office prior to beginning work on a video game production. After completion of each certified video game production the development company must then request from the Film Office a Tax Reimbursement and Credit Certificate.

The Certified Media Production Credit is a non-refundable, non-transferrable credit equal to 5% of a developer’s visual media production expense related to the production of a certified video game. The Certified Media Wage Reimbursement portion of the Maine Program applies to compensation paid by qualified developers for work done within Maine on certified video game productions. Qualifying game developers are generally reimbursed in an amount equal to 12% of total wages and salaries paid to Maine residents and 10% for total wages and salaries paid to non-residents. The Certified Media Wage Reimbursement and the income tax credit are separate applications.

Contact information for the Maine Film Office of the Department of Economic and Community Development:

Maine Film Office
59 State House Station
Augusta, ME 04333
Phone: 207-624-9828
Karen Carberry Warhola, Director
Email: Karen.carberrywarhola@maine.gov

Further information on the Maine Attraction Film Incentive program:
<http://www.filminmaine.com/incentives/default.aspx>

Full text of the legislation creating the benefits available under the Maine Attraction Film Incentive program: <http://www.filminmaine.com/files/partgg.pdf>

Michigan

Effective December 2011, the Film and Digital Media Production Assistance Program (“Michigan Incentive”) offered by the Michigan Film Office specifically includes “interactive games such as video games or wireless games” within the definition of qualifying productions. . The Michigan Incentive provides partial reimbursement of a developer’s eligible expenditures to producers of video games and other interactive media that have a minimum of \$100,000 in qualified expenditures and that have entered into an agreement with the Michigan Film Office certifying the particular video game or interactive media production. Developers seeking to participate in the Michigan Incentive must submit an application to the Michigan Film Office with an application fee of 0.2% of the funding request (not to exceed \$5,000). Developers enter into an agreement with the Michigan Film Office after they have applied for the Michigan Incentive and the details of their production have been approved by the Michigan Film Office.

The Michigan Incentive consists of a rebate equal to a percentage of the developer’s eligible expenditures. The percentage that will be reimbursed will vary depending on the type of the expenditure. Developers receive a 32% rebate on compensation paid to Michigan residents, a 15-27% rebate on compensation paid to non-residents, and a 27% rebate on other eligible production expenditures. Compensation for any one employee is capped at \$2,000,000 and the rebate percentages currently in effect will decrease after December 31, 2014.

An interactive game, video game or interactive website cannot qualify for the Michigan Incentive if it contains “obscene matter or obscene performance” as described by the applicable Michigan statute.

Contact information for the Michigan Film Office:

Michigan Film Office
300 North Washington Square 3rd Floor
Lansing, MI 48913
Toll-Free: (800) 477-3456
Phone: (517) 373-3456
Fax: (517) 241-3689
Email: mfo@michigan.org

Further information on the production incentives offered by the Michigan Film Office:

<http://www.michiganfilmoffice.org/For-Producers/Incentives/Default.aspx>

Michigan legislation creating and altering the Film and Digital Media Production Assistance Program:

[http://www.legislature.mi.gov/\(S\(ikre50ylogrtyjyvehlmh555\)\)/mileg.aspx?page=getobject&objectname=mcl-125-2029h&query=on](http://www.legislature.mi.gov/(S(ikre50ylogrtyjyvehlmh555))/mileg.aspx?page=getobject&objectname=mcl-125-2029h&query=on)

Mississippi

The Mississippi Film Office offers two incentive programs to video game developers. The first is a rebate on eligible expenses and the second is a reduced sales tax on equipment that is used directly in the filming or editing of the video game.

The Mississippi Motion Picture Production Incentive Program (“Mississippi Incentive”) provides video game developers with a cash rebate on a portion of eligible expenses. To qualify for the Mississippi Incentive, a developer must spend in the state at least \$50,000 in their base investment or employee payroll expenses, or both. The base investment is defined broadly, and includes expenses such as housing, food, equipment rental, and *per diem*, as long as the expense is related to the production. Employee payroll expenses are defined as salary, wages, or other compensation including benefits. The rebate amount on the base investment is 25%. For employee payroll expenses, the rebate is 30% of the payroll for Mississippi residents and 25% of the payroll for non-residents. An additional 5% bonus rebate is available for payroll made to honorably discharged veterans. The rebate amount for a particular project is capped at \$10 million, and the Mississippi Incentive’s annual rebate amount cannot exceed \$20 million.

Projects seeking incentives must be approved by the Mississippi Development Authority before production begins. After production is completed, the developer submits a rebate request to the Mississippi Department of Revenue which may, upon review and approval, issue a rebate check. A video game will not be eligible for the Mississippi Incentive if it contains “any material or performance deemed obscene” under the applicable Mississippi statute.

Video game developers may also participate in the reduced tax rate program available to film producers. Under this program, certain production equipment that is used directly for the project is taxed at the reduced sales tax of 1.5%. Eligible equipment includes audio equipment and editing equipment.

Contact information for the Mississippi Film Office:

Mississippi Film Office
Woolfolk State Office Building
501 North West Street, 5th Floor
Jackson, MS 39201
Mailing Address:
P.O. Box 849
Jackson, MS 39205
Phone: (601) 359-3297
Fax: (601) 359-5048

Further information on the production incentives offered by the Mississippi Film Office:
<http://www.filmmississippi.org/incentive-rebate-program-home.php>

Mississippi legislation enacting the Mississippi Incentive:
<http://billstatus.ls.state.ms.us/documents/2013/pdf/SB/2400-2499/SB2462SG.pdf>

Nevada

Effective January 1, 2014, the Nevada Film Office offers video game developers a transferable tax credit on eligible expenses (“Nevada Tax Credit”). The amount of the tax credit on eligible production costs and on resident wages, salaries, and fringe benefits is 15%. The amount of the tax credit on wages, salaries, and fringe benefits to non-resident above-the-line and below-the-line personnel is 12% (the tax credit for below-the-line personnel will decrease in 2016). The developer can also receive a 2% bonus on the tax credit if more than 50% of the below-the-line personnel are Nevada residents. To be eligible for the Nevada Tax Credit, a developer must have incurred over \$500,000 in qualified production costs in Nevada, and over 60% of the total production costs must have been incurred in Nevada. The Nevada Tax Credit amount for a particular project is capped at \$6 million, and the annual rebate amount cannot exceed \$20 million. Additionally, unused Nevada Tax Credits can be carried over for up to 4 years.

To apply for the Nevada Tax Credit, a developer must send in an application within 90 days prior to the start of development. All accountings and other documents must be submitted within 30 days of completion of development. A CPA audit by a CPA licensed in Nevada is required to claim the Tax Credit.

Contact information for the Nevada Film Office:

Nevada Film Office
Eric Preiss, Director
6655 West Sahara, Suite C106
Las Vegas, NV 89146
Phone: (702) 486-2711
Hotline: (702) 486-2727
Fax: (702) 486-2712
Email: lvnfo@nevadafilm.com

Further information on Nevada Tax Credit: <http://www.nevadafilm.com/incentives>

Nevada legislation authorizing the Nevada Tax Credit:
http://www.nevadafilm.com/userfiles/files/NRS_360_Transferable_Tax_Credit_2013-1206.pdf

New Jersey

New Jersey offers a transferable, nonrefundable Digital Media Tax Credit (“New Jersey Tax Credit”) to development companies, against business taxes of up to 20% of qualifying digital media expenditures made over the course of producing a game. At least \$2 million of the total digital media content production expenses of the developer must be incurred for services performed and goods used or consumed in New Jersey, with 50% of these expenses being associated with wages and salaries paid to one or more new full-time employees in New Jersey. In addition, a company is only eligible for the New Jersey Tax Credit if it creates and maintains at least 10 new full-time digital media jobs in the state. The vast majority of expenses paid in New Jersey that were directly related to the production, including wages, computer software and hardware, are considered qualified expenses. However, any project which includes content that is obscene, as defined in the applicable state statute, does not qualify for this benefit.

The New Jersey Tax Credit is administered by the Division of Taxation in the Department of the Treasury and the New Jersey Economic Development Authority. To obtain the New Jersey Tax Credit, developers must submit an application to the New Jersey Economic Development Authority prior to commencement of the project. If approved, the Division of Taxation in the Department of the Treasury and the New Jersey Economic Development Authority shall issue the developer notice of the full tax credits awarded.

Contact information for the Division of Taxation in the Department of the Treasury and the New Jersey Economic Development Authority:

New Jersey Division of Taxation
Business Assistance Clearance Section
50 Barrack Street – 9th Floor
PO Box 272
Trenton, NJ 08695-0272
Phone: (609) 292-6400

New Jersey Economic Development Authority
36 West State Street
Trenton, NJ 08625
Phone: (609) 858-6700
Email: CustomerCare@njeda.com

Further information on the New Jersey Tax Credit:

http://www.njeda.com/web/Aspx_pg/Templates/Npic_Text.aspx?Doc_Id=811&menuid=1559&to_pid=718&levelid=6&midid=1175

Enacting legislation for the New Jersey Tax Credit: <http://law.onecle.com/new-jersey/54-taxation/10a-5.39.html>

New Mexico

New Mexico's Refundable Film Production Tax Credit ("New Mexico Tax Credit") provides developers with a 25% refundable but non-transferable tax credit on all direct production expenditures. As an added benefit for small to mid-size video game productions -, unlike incentive programs in other states that require minimum in-state expenditures of tens and sometimes hundreds of thousands of dollars- the New Mexico Tax Credit has no minimum in-state spending requirement. The New Mexico Film Office and the New Mexico Taxation & Revenue Department jointly administer the New Mexico Tax Credit. To apply, a developer must submit a registration form and tax agreement prior to the start of production. After production is complete, the developer submits the tax application with backup documentation to the Film Office and the Tax and Revenue Department conducts a review and determines the tax credit amount.

The New Mexico Tax Credit does place a few limits on what expenditures are eligible to receive a 25% reimbursement. While most of the in-state expenditures contemplated by programs already discussed qualify for the New Mexico Tax Credit, a video game development company will not be reimbursed for any portion of compensation for employees who are not residents of New Mexico, nor will they receive a rebate on expenses for advertising, marketing, or distribution; or expenditures which were not subject to New Mexico taxation, which includes purchases made over the Internet from non-New Mexico companies, purchases made on tribal lands, and purchases of intellectual property from non-residents. Also, for a video game producer to be reimbursed for expenditures made on a video game, the game's script must not contain obscene material.

Contact information for the New Mexico Film Office:

New Mexico Film Office
1100 Saint Francis Drive
First Floor, Suite 1213
Santa Fe, New Mexico 87505
Toll-free: (800) 545-9871
Phone: (505) 476-5600
Fax: (505) 476-5601
Email: info@nmfilm.com

Tobi Ives, Senior Manager of Production
Phone: (505) 476-5612
Email: tobi@nmfilm.com

More information on the New Mexico Refundable Film Production Tax Credit:
<http://nmfilm.com/Overview.aspx>

Enacting legislation for the New Mexico Tax Credit:
<http://nmfilm.com/uploads/files/HB0641.pdf>

Ohio

For the purpose of "encouraging and developing a strong film industry," in 2009 Ohio enacted its Motion Picture Tax Incentive ("Ohio Tax Credit"). The Ohio Tax Credit specifically includes interactive games and video games within the definition of a "motion picture." It offers development companies a nontransferable but refundable tax credit against business taxes of up to 25% of qualifying expenditures (not including in-state wages) made over the course of producing a game—so long as these expenditures add up to more than \$300,000. An additional 35% tax credit may be awarded against expenditures for Ohio resident wages. Eligible production expenditures include most goods and services purchased and consumed in Ohio, including wages, facilities and equipment. The Ohio Tax Credit will not cover any product which depicts digital images of actual sexually explicit conduct, as defined in the applicable federal statute.

To take advantage of the Ohio Tax Credit the video game company must first register and file an application to be considered a tax credit-eligible production. Once the development company has been certified, it may apply for a credit against its state tax. Within 90 days after certification as a tax credit-eligible production, and at any time thereafter at the Ohio Film Office's request, the development company must submit sufficient evidence of the progress of the project. The developer must, upon completion of the project, submit an audited report of the developer's expenses. Once the report is approved the Ohio Office of Film shall issue a tax credit certificate to the development company.

Contact information for the Ohio Film Office:

Ohio Development Services Agency
Ohio Film Office
77 South High Street, Floor 28
Columbus, Ohio 43215
Phone: (614) 644-5156
Email: askohiofilm@development.ohio.gov

Further information on the Ohio Motion Picture Tax Incentive:

<http://www.ohiofilmoffice.com/Incentives.html>

Enacting legislation for the Ohio Motion Picture Tax Credit:

http://www.legislature.state.oh.us/BillText129/129_HB_508_EN_N.html

Oregon

In 2013, the Oregon legislature expanded two state incentives to video game developers: the Oregon Production Investment Fund (“OPIF”) and the Indigenous Oregon Production Investment Fund (iOPIF). OPIF applies to any project that spends a minimum of \$1,000,000 in Oregon, while iOPIF applies only to local developers whose crew is composed of at least 80% Oregon residents and whose in-state spending is at least \$75,000. Both OPIF and iOPIF provide a 20% rebate on eligible production costs and a 10% rebate on any payroll that is subject to Oregon’s state withholding tax. The iOPIF rebate applies only to the first \$1,000,000 expended on a project.

In order to apply for the OPIF and iOPIF rebate programs, a developer must submit an application to the Oregon Film and Video Office prior to the commencement of production. If the project is approved, the developer and the Oregon Film and Video Office must enter into a contract within 30 days of the eligibility approval. When the project is complete, the developer must submit all required paperwork to the Oregon Film and Video Office, and a rebate check will be paid pursuant to the terms of the contract.

Contact information for the Oregon Governor’s Office of Film & Television:

Governor’s Office of Film & Television
123 NE 3rd Avenue, Suite 210
Portland, Oregon 97232
Phone: (971) 254-4020
Email: shoot@oregonfilm.org

Further information on the Oregon Rebate: <http://www.oregonfilm.org/incentives/>

Enacting legislation for the Oregon Rebate: <http://legiscan.com/OR/text/HB3367/id/870729>

Rhode Island

Rhode Island's Motion Picture Production Tax Credit, created in 2006 and administered by the Rhode Island Film and Television Office, was created for the express purpose of promoting and encouraging production of entertainment media within the state of Rhode Island, including video games ("Rhode Island Credit"). The Rhode Island Credit offers a transferable but non-refundable tax credit to qualifying production companies equal to 25% of expenditures directly attributable to certified video game productions within the state. Rhode Island expenditures which may be counted towards a production's tax credit are expansive, including wages and other compensation to both residents and non-residents (so long as the work is done in Rhode Island), rental of facilities and equipment, leasing of vehicles, and even airfare expenses if incurred to bring an employed person to Rhode Island. Notable expenditures for which the game developer cannot receive a tax credit include travel expenses for persons departing Rhode Island and any costs associated with the postproduction promotion or marketing of the video game. Moreover, the Rhode Island Credit will not cover any product containing actual sexually explicit conduct, as defined in the applicable federal statute.

To qualify for the Rhode Island Credit, a video game production must spend a minimum of \$100,000 in the state. In addition, 51% of the production budget must be spent in-state (including employing at least 5 individuals). The Rhode Island Credit amount for a particular project is capped at \$5 million, and the annual rebate amount cannot exceed \$15 million. To apply for the credit, a developer must submit an initial application to the Rhode Island Film and Television Office. The Film and Television Office will review the initial application and certify the project. When production is completed, the developer must submit a final application with supporting documents, which must be reviewed and approved before the Rhode Island Division of Taxation can issue the tax credit. The video game production company must also be incorporated or organized under the laws of Rhode Island to qualify for the Rhode Island Credit. Benefits received under the Rhode Island program can only be applied for in the year in which the production is completed, but can thereafter be transferred, sold or carried forward for up to three years.

Contact information for the Rhode Island Film & Television Office:

Rhode Island Film and Television Office
One Capitol Hill
Providence, Rhode Island 02908
Steven Feinberg, Executive Director
Phone: (401) 222-3456
Fax: (401) 222-3018
Hotline: (401) 222-6666
Email: steven.feinberg@arts.ri.gov

Further information on Rhode Island's Motion Picture Production Company Tax Credit:
<http://www.film.ri.gov/taxinfo.html>

Current enabling legislation for Rhode Island's Motion Picture Production Company Tax Credit:
<http://www.film.ri.gov/MPPProdTaxCredi2012.pdf>

Texas

The Texas Film Commission offers two incentive programs that are specifically applicable to video game development: a rebate on eligible in-state spending under the Moving Image Industry Program, and a tax exemption for the purchase or lease of qualifying items and services used in the development and manufacture of a finished video game.

Under the Moving Image Industry Program, a video game production can qualify for a cash rebate up to 20% of all eligible in-state spending so long as a minimum of 60% of the production days are completed in Texas, and at least 70% of the development team are Texas residents. The rebate amount varies with the amount of eligible spending: a development company is eligible to receive a rebate of 5% if it spends between \$100,000 and \$1 million, 10% if it spends between \$1 million and \$3.5 million, and 20% if it spends a minimum of \$3.5 million. Video game productions can also receive an additional 2.5% rebate on all qualifying expenditures across the entire span of the production if at least 25% of the production days are spent in an underused area (generally defined as locations outside of Dallas or Austin). Expenditures which qualify for the rebate and may be counted towards the \$100,000 minimum in-state spending include wages and compensation to in-state residents (within limits), payments to Texas companies for goods and services directly attributable to the production of the video game, shipping within Texas, and air travel to or from Texas on a Texas-based airline (with exceptions). Some preproduction expenses may also qualify, but cannot exceed 30% of the project's combined Texas expenditures.

Expenditures which will not count towards the \$100,000 minimum in-state spending requirement, and on which the game developer will not receive a rebate, include all wages and compensation paid to non-Texas residents and any lease or mortgage payments on facilities that are part of an ongoing business. Notably, rebates are unavailable or will be denied for video games directly used for gambling or which "contain inappropriate content or content that portrays Texas or Texans in a negative fashion."

Developers of computer and video games also qualify as software manufacturers under Texas law and as such are eligible for a tax exemption on items or services the use or consumption of which are "necessary and essential" to production of the completed game. These items include software that will be used in game production and computers or other equipment used solely for game development. Services which would rise to the level of "necessary and essential" include repairs to qualifying items, sound recording, and motion capture. By claiming the tax exemption, the game developer is stating under risk of future tax penalties that the items or services will be used directly and exclusively in development of the video game. The Texas Enterprise Fund also includes a \$200 million "deal closing fund" from which the governor, lieutenant governor, and speaker together can offer grants to applicant companies that will bring new jobs to Texas.

Contact information for the Texas Film Commission:

Texas Film Commission
P.O. Box 13246
Austin, TX 78711
Phone: (512) 463-9200
Fax: (512) 463-4114
Email: film@gov.texas.gov

Texas Film Commission
1100 San Jacinto, Suite 3.410
Austin, TX 78701

Further information on the Texas Moving Image Industry Incentive Program:
<http://www.governor.state.tx.us/film/incentives/miip/>

Further information on the sales tax exemptions available to game developers in Texas:
http://governor.state.tx.us/film/incentives/sales_tax_exemptions/

Further information on the Texas Enterprise Fund:
http://governor.state.tx.us/ecodev/financial_resources/texas_enterprise_fund/

Virginia

Effective January 1, 2013, video game developers are eligible to participate in the Virginia Motion Picture Tax Credit Program (“Virginia Tax Credit”). The Virginia Tax Credit, administered by the Virginia Film Office, was created in part for the purpose of promoting and encouraging digital interactive media production. The Virginia Tax Credit offers a nontransferable but refundable tax credit to qualifying production companies equal to 15% of expenditures (20% if development occurs in economically distressed area) directly attributable to certified digital interactive media productions within the state during the specific tax year. Virginia expenditures that may be counted towards a production’s tax credit are expansive, including goods and services leased or purchased and compensation and wages (for employees earning less than \$1 million). A development company may be allowed an additional 10% tax credit of the total aggregate payroll for Virginia residents for projects costing between \$250,000 and \$1 million and 20% for projects over \$1 million. Developers may also be eligible for an exemption to Virginia’s state sales tax.

To qualify for the Virginia Tax Credit, a video game production must incur a minimum of \$250,000 of in-state expenditures directly attributable to the video game production. The Virginia Tax Credit will not cover any product containing obscene material. To apply for the Virginia Tax Credit, an eligible video game developer must submit an application to the Virginia Film Office prior to the start of production. The Virginia Film Office will decide whether to approve the project and notify the developer about the approval status within 30 business days.

Contact information for the Virginia Film Office:

Virginia Film Office
901 East Byrd Street
West Tower, 19th Floor
Richmond, Virginia 23219-4048
Phone: (804) 545-5530
Fax: (804) 545-5531
Email: vafilm@virginia.org

Virginia Film Office Interim Director Andy Edmunds
Phone: (800) 854-6233
Email: aedmunds@virginia.org

Further information on Virginia’s Digital Interactive Media Tax Credit:
<http://www.film.virginia.org/incentives/virginia-production-incentives-faqs/>

Legislation enacting Virginia’s Digital Interactive Media Tax Credit: <http://leg1.state.va.us/cgi-bin/legp504.exe?101+ful+SB257ER>

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