



## ENTERTAINMENT/MEDIA COMMUNICATIONS

### MORE THAN MOVIES: VIDEO GAMES ARE ALSO ELIGIBLE FOR MICHIGAN'S GENEROUS "FILM" TAX CREDIT

April 2010

The State of Michigan has made a splash in the media and entertainment industry by establishing a generous state tax credit that operates as a refundable credit against certain Michigan taxes. The tax credit provides an attractive tax incentive to video game companies that develop projects within the State. This credit, combined with the talented base of "creative and techie" personnel already residing in Michigan, presents a golden opportunity to video game production companies. With the rising costs associated with video game development, utilizing such a credit can significantly impact a project's bottom line.

To qualify, a video game developer must spend at least \$50,000 in Michigan on development, preproduction, production, or postproduction related costs. The company may then claim a tax credit equal to 42% of "direct production expenses" incurred in any of the 135 designated "core communities" within Michigan and 40% for "direct production expenses" incurred outside a "core community." Such expenditures include payments for facilities, production equipment, special effects, video effects, software, salaries for so-called "below the line" employees who are Michigan residents, insurance coverage or bonding, distribution costs, legal costs, and other expenses associated with preproduction, production, and postproduction of a project. Salaries paid to "above the line" employees, such as voice actors, producers, or directors are also eligible expenses, subject to a statutory salary limit of \$2 million per employee. Direct production expenses also include some payments made for intellectual property; however, royalty payments made to license characters for use in video games are not eligible expenditures.

Additionally, there is a 30% tax credit available for payments to non-Michigan residents in "below the line" positions, such as programmers and sound engineers. In certain instances, there is also a 50% credit available for job training expenditures made in connection with employees in below the line positions.

Companies interested in taking advantage of the credit must apply to the Michigan Film Office before beginning preproduction. Once the application is approved, preproduction on the project must commence within 90 days. After production is finished, the company must request a postproduction

certificate of completion. At that time, the Michigan Film Office along with The Michigan Department of Treasury will review the eligible expenditures and determine the applicable credit available to the video game company for the submitted project. The Michigan "Film" Production Credit is attracting attention in the media and entertainment industry because it offers a generous percentage and is also refundable. In other words, in the event that a video game developer is entitled to a credit that exceeds its Michigan tax liability, the State will issue a refund check to the developer for the balance of the credit amount. An eligible company may also freely strip the credits by assigning all or part of its tax credit to a third party once it receives a postproduction certificate of completion, or it could "monetize" a portion of the tax credit in advance through a private financing source.

Our attorneys can help you determine which tax credits your project might qualify for and guide you through the application and approval process.

#### FOR MORE INFORMATION, CONTACT:



**Peter J. Kulick** is a Member in the Lansing office. He practice includes Taxation, including federal New Market Tax Credits, state and federal historic Rehabilitation Tax Credits, Michigan Brownfield Tax Credits, and various state and federal alternative energy credits. He can be reached at (517) 487-4729 or [pkulick@dickinsonwright.com](mailto:pkulick@dickinsonwright.com).