

**§ 105-130.34A. (Effective for taxable years beginning on or after January 1, 2025, until January 1, 2027 – see note) Credit for certain real property donations.**

(a) Credit; Limitation. – Subject to the limitations in this section, a C Corporation that makes a qualified donation is allowed a credit against the tax imposed by this Part equal to twenty-five percent (25%) of the fair market value of the qualified donation. The amount of credit allowed under this subsection may not exceed five hundred thousand dollars (\$500,000), whether the corporation makes, directly or indirectly as an owner of a pass-through entity, one or more qualified donations during the calendar year. The credit may not be taken for the year in which the qualified donation is made but may be taken for the taxable year beginning in the calendar year in which the application for the credit becomes effective as provided in subsection (c) of this section.

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

- (1) Allocated credit. – A requested credit minus the reduction required under subsection (h) of this section.
- (2) Cap remainder. – The amount that is the difference between the maximum amount and the amount of prioritized credit requests allowed.
- (3) Maximum amount. – The amount set out in subsection (h) of this section that is the total aggregate amount of all credits allowed to taxpayers under this section and G.S. 105-153.11 for qualified donations made in a calendar year.
- (4) Nonprioritized credit request. – A credit request under this section or G.S. 105-153.11 that is for a qualified donation for a use other than forestland or farmland preservation.
- (5) Prioritized amount. – The amount set out in subsection (h) of this section that is for prioritized credit requests.
- (6) Prioritized credit request. – A credit requested under this section or G.S. 105-153.11 that is for a qualified donation for forestland or farmland preservation.
- (7) Qualified donation. – A qualified donation is a donation of a qualified real property interest located in North Carolina that meets all of the following conditions:
  - a. It is donated in perpetuity for one of the following uses and is accepted in perpetuity for the use for which the qualified real property interest is donated:
    1. Forestland or farmland preservation.
    2. Fish or wildlife conservation.
    3. A buffer to limit land use activities that would restrict, impede, or interfere with military training, testing, or operations on a military installation or training area or otherwise be incompatible with the mission of the installation.
    4. Floodplain protection in a county that, in the five years preceding the donation, was the subject of a Type II or Type III gubernatorial disaster declaration, as provided in G.S. 166A-19.21, as a result of a natural disaster.
    5. Historic landscape conservation.
    6. Public trails or access to public trails.
  - b. It is donated to the State, a local government, or a body that is both organized to receive and administer lands for conservation purposes and qualified to receive charitable contributions pursuant to G.S. 105-130.9. Lands required to be dedicated pursuant to local governmental regulation or ordinance and dedications made to

increase building density levels permitted under a regulation or ordinance are not eligible for this credit.

- (8) Qualified real property interest. – As defined in section 170(h)(2) of the Code.
- (9) Total allocated credits. – Total requested credits less any reduction required under subsection (h) of this section and G.S. 105-153.11(l).
- (10) Total requested credits. – The sum of nonprioritized credit requests and prioritized credit requests.

(c) Application. – A C Corporation must file an application with the Secretary to request the credit allowed under subsection (a) of this section. The application must be filed on or before April 15 of the year following the calendar year in which the donation was made. An application is effective for the year in which it is timely filed. The Secretary may not accept late applications. The application must be on a form prescribed by the Secretary and include any information required by the Secretary demonstrating that the donation has met the conditions to qualify for the credit, including the following items:

- (1) A copy of the certification by the Department of Natural and Cultural Resources identifying which of the valid public benefits listed in subdivision (7) of subsection (b) of this section for which the donated qualified real property interest is suitable.
- (2) A self-contained appraisal report or summary appraisal report as defined in Standards Rule 2-2 in the latest edition of the Uniform Standards of Professional Appraisal Practice as promulgated by the Appraisal Foundation for the donated qualified real property interest. For fee simple absolute donations of real property, a C Corporation may submit documentation of the county's appraised value of the donated qualified real property interest, as adjusted by the sales assessment ratio, in lieu of an appraisal report.

(d) Substantiation. – A C Corporation must maintain and make available for inspection by the Secretary any records the Secretary considers necessary to determine and verify the amount of the credit allowed under subsection (a) of this section. The burden of proving eligibility for the credit and the amount of the credit rests upon the taxpayer, and no credit may be allowed to a taxpayer that fails to maintain adequate records or to make them available for inspection.

(e) Cap. – The allocated credit may not exceed the amount of the tax against which it is claimed for the taxable year reduced by the sum of all credits allowed, except payments of tax made by or on behalf of the C Corporation.

(f) Carryforward. – If the allocated credit exceeds the cap in subsection (e) of this section, any unused portion of the allocated credit may be carried forward for the next succeeding five years.

(g) Transferability. – An allocated credit allowed under subsection (a) of this section may not be transferred.

(h) Ceiling; Use; Allocation. – The amount of total allocated credits to taxpayers under this section and G.S. 105-153.11 for a taxable year may not exceed five million dollars (\$5,000,000), of which three million two hundred fifty thousand dollars (\$3,250,000) is a prioritized amount. If the total requested credits are equal to or less than the maximum amount, the Secretary shall allow the total requested credits. If the total requested credits are greater than the maximum amount, the Secretary shall allocate the total requested credits in accordance with this subsection.

(i) Reduction. – If the total requested credits exceed the maximum amount, the Secretary shall prorate the total requested credits in accordance with this subsection. If a requested credit is reduced as provided in this subsection, the Secretary shall notify the C Corporation of the amount of the reduction of the credit on or before December 31 of the year following the calendar year in

which the qualified donation was made. The Secretary's allocations based on applications filed under subsection (c) of this section are final and shall not be adjusted to account for credits requested but reduced under this subsection. The total requested credits shall be reduced as follows:

- (1) If the total requested credits are (i) all prioritized credit requests or (ii) all nonprioritized credit requests, then the Secretary shall prorate the total requested credits based on the proportion of each requested credit to the total requested credits.
- (2) If the total requested credits are (i) a combination of prioritized credit requests and nonprioritized credit requests and (ii) the amount of prioritized credit requests is equal to or less than the prioritized amount, the Secretary shall first allow the prioritized credit requests. The Secretary shall then prorate the cap remainder based on the proportion of each of the remaining requested credits to the total requested credits less the prioritized amount.
- (3) If the total amount of requested credits is (i) a combination of prioritized credit requests and nonprioritized credit requests and (ii) the amount of prioritized credit requests is greater than the prioritized amount, the Secretary shall first prorate the prioritized credit requests based on the proportion of each prioritized credit request to the prioritized amount. The Secretary shall then prorate the cap remainder, including the remainder of any prioritized credit requests, based on the proportion of each of the remaining requested credits to the total requested credits less the prioritized amount.

(j) Report. – The Department must include in the economic incentives report required by G.S. 105-256 the following information:

- (1) The number of C Corporations that requested the credit allowed under subsection (a) of this section.
- (2) The total amount of allocated credits identified by public benefit as listed in subdivision (7) of subsection (b) of this section.
- (3) The total amount of credits carried forward.
- (4) The total cost to the General Fund of the credits taken.
- (5) The total amount of qualified donations. (1983, c. 793, s. 1; 1989, c. 716, s. 1; c. 727, s. 218 (41); 1997-226, s. 1; 1997-443, s. 11A.119(a); 1998-98, s. 69; 1998-212, s. 29A.13(c); 2002-72, s. 15(a); 2007-309, s. 1; 2009-445, s. 9(c); 2010-167, s. 5(a); repealed by 2013-316, s. 2.1(b), effective for taxable years beginning on or after January 1, 2014; reenacted by 2024-32, s. 15(a); recodified from N.C. Gen. Stat. 105-130.34 by 2025-4, s. 9.1(a).)