

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001**

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HOUSE BILL 1603

Short Title: IRC Update.

(Public)

Sponsors: Representatives Luebke, Allen, Wainwright (Primary Sponsors); and Barefoot.

Referred to: Finance.

June 11, 2002

A BILL TO BE ENTITLED

1 AN ACT TO UPDATE THE REFERENCE TO THE INTERNAL REVENUE CODE
2 USED IN DEFINING AND DETERMINING CERTAIN STATE TAX
3 PROVISIONS.
4

5 The General Assembly of North Carolina enacts:

6 **SECTION 1.** G.S. 105-228.90(b)(1b) reads as rewritten:

7 "(1b) Code. – The Internal Revenue Code as enacted as of ~~January 1,~~
8 ~~2001,~~ May 1, 2002, including any provisions enacted as of that date
9 which become effective either before or after that date."

10 **SECTION 2.(a)** G.S. 105-130.5(a) is amended by adding a new subdivision

11 to read:

12 "(a) The following additions to federal taxable income shall be made in
13 determining State net income:

14 ...

15 (15) The amount allowed as a thirty-percent (30%) accelerated depreciation
16 deduction under section 168(k) or 1400L of the Code. In addition, a
17 taxpayer who was allowed a thirty-percent (30%) accelerated
18 depreciation deduction under section 168(k) or 1400L of the Code in a
19 taxable year beginning before October 1, 2001, and whose North
20 Carolina taxable income in that earlier year reflected that accelerated
21 depreciation deduction must add to federal taxable income in the
22 taxpayer's first taxable year beginning on or after October 1, 2001, an
23 amount equal to the amount of the deduction allowed in the earlier
24 taxable year. This adjustment does not result in a difference in basis of
25 the affected assets for State and federal income tax purposes."

26 **SECTION 2.(b)** G.S. 105-134.6(c) is amended by adding a new subdivision

27 to read:

1 "(c) Additions. – The following additions to taxable income shall be made in
2 calculating North Carolina taxable income, to the extent each item is not included in
3 taxable income:

4 ...

5 (8) The amount allowed as a thirty-percent (30%) accelerated depreciation
6 deduction under section 168(k) or 1400L of the Code. In addition, a
7 taxpayer who was allowed a thirty-percent (30%) accelerated
8 depreciation deduction under section 168(k) or 1400L of the Code in a
9 taxable year beginning before October 1, 2001, and whose North
10 Carolina taxable income in that earlier year reflected that accelerated
11 depreciation deduction must add to federal taxable income in the
12 taxpayer's first taxable year beginning on or after October 1, 2001, an
13 amount equal to the amount of the deduction allowed in the earlier
14 taxable year. This adjustment does not result in a difference in basis of
15 the affected assets for State and federal income tax purposes."

16 **SECTION 2.(c).** This section is effective for taxable years beginning on or
17 after January 1, 2002.

18 **SECTION 3.(a)** G.S. 105-130.5(b) is amended by adding a new subdivision
19 to read:

20 "(b) The following deductions from federal taxable income shall be made in
21 determining State net income:

22 ...

23 (21) In each of the taxpayer's first five taxable years beginning on or after
24 January 1, 2005, an amount equal to twenty percent (20%) of the
25 amount added to taxable income in a previous year as accelerated
26 depreciation under subdivision (a)(15) of this section."

27 **SECTION 3.(b)** G.S. 105-134.6(b) is amended by adding a new subdivision
28 to read:

29 "(b) Deductions. – The following deductions from taxable income shall be made
30 in calculating North Carolina taxable income, to the extent each item is included in
31 taxable income:

32 ...

33 (17) In each of the taxpayer's first five taxable years beginning on or after
34 January 1, 2005, an amount equal to twenty percent (20%) of the
35 amount added to taxable income in a previous year as accelerated
36 depreciation under subdivision (c)(8) of this section."

37 **SECTION 3.(c)** This section is effective for taxable years beginning on or
38 after January 1, 2002.

39 **SECTION 4.(a)** G.S. 105-32.2(b) reads as rewritten:

40 "(b) Amount. – The amount of the estate tax imposed by this section is the
41 maximum credit for state death taxes allowed under section 2011 of the ~~Code~~, Code
42 without regard to the phaseout of that credit under subdivision (b)(2) of that section. If
43 any property in the estate is located in a state other than North Carolina, the amount of
44 tax payable is the North Carolina percentage of the credit.

1 If the decedent was a resident of this State at death, the North Carolina percentage is
2 the net value of the estate that does not have a tax situs in another state, divided by the
3 net value of all property in the estate. If the decedent was not a resident of this State at
4 death, the North Carolina percentage is the net value of real property that is located in
5 North Carolina plus the net value of any personal property that has a tax situs in North
6 Carolina, divided by the net value of all property in the estate, unless the decedent's
7 state of residence uses a different formula to determine that state's percentage. In that
8 circumstance, the North Carolina percentage is the amount determined by the formula
9 used by the decedent's state of residence.

10 The net value of property that is located in or has a tax situs in this State is its gross
11 value reduced by any debt secured by that property. The net value of all the property in
12 the estate is its gross value reduced by any debts and deductions of the estate."

13 **SECTION 4.(b)** This section is effective on and after January 1, 2002, and
14 applies to the estates of decedents dying on or after that date. This act is repealed
15 effective for the estates of decedents dying on or after January 1, 2004.

16 **SECTION 5.** Effective for taxable years beginning on or after January 1,
17 2002, G.S. 105-134.6(b)(13) is repealed.

18 **SECTION 6.** Notwithstanding Section 1 of this act, any amendments to the
19 Internal Revenue Code enacted in 2001 that increase North Carolina taxable income for
20 the 2001 taxable year become effective for taxable years beginning on or after January
21 1, 2002.

22 **SECTION 7.** Except as otherwise provided in this act, this act is effective
23 when it becomes law.