

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001

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HOUSE BILL 1694

Short Title: Close Corporate Tax Loopholes.

(Public)

Sponsors: Representative Miller.

Referred to: Finance.

June 13, 2002

A BILL TO BE ENTITLED

AN ACT TO RAISE THE SALES TAX RATE AND REMOVE THE CAP ON SALES OF CERTAIN MACHINERY AND EQUIPMENT; TO REPEAL THE TAX CREDIT FOR INVESTING IN MACHINERY AND EQUIPMENT; TO CONFORM STATE INCOME TAX ON BANKS TO FEDERAL INCOME TAX ON BANKS; TO PROVIDE THAT NEXUS MAY BE BASED ON A SUBSTANTIAL CUSTOMER BASE; AND TO REPEAL THE GUARANTY FUND TAX CREDIT.

The General Assembly of North Carolina enacts:

SECTION 1.(a) G.S. 105-164.4(a)(1d) reads as rewritten:

"(a) A privilege tax is imposed on a retailer at the following percentage rates of the retailer's net taxable sales or gross receipts, as appropriate. The general rate of tax is four and one-half percent (4 1/2%).

...

(1d) The rate of ~~one percent (1%)~~two percent (2%) applies to the sales price of the articles listed in G.S. 105-164.4A. ~~The maximum tax is eighty dollars (\$80.00) per article.~~ As used in G.S. 105-164.4A and G.S. 105-187.51, the term "accessories" does not include electricity.

a. through k. Recodified as § 105-164.4A by Session Laws 1999-360, s. 3(a), effective August 4, 1999."

SECTION 1.(b) The catch line of G.S. 105-164.4A reads as rewritten:

"§ 105-164.4A. Articles taxed at ~~one percent (1%), eighty dollars (\$80.00).~~two percent (2%)."

SECTION 1.(c) This section becomes effective July 1, 2002, and applies to sales made on or after that date.

SECTION 2.(a) G.S. 105-129.9 is repealed.

SECTION 2.(b) This section is effective for business activities occurring on or after January 1, 2003.

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

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

5 ...

6 (2a) That portion of a financial institution's interest expense that is
7 allocable to interest income exempt from taxation under this Part. The
8 allocable portion of the interest expense is the portion for which
9 deduction would be disallowed pursuant to section 265(b) of the Code
10 if the interest were earned on a tax-exempt obligation as defined in
11 section 265(b) of the Code."

12 **SECTION 3.(b)** This section is effective for taxable years beginning on or
13 after January 1, 2002.

14 **SECTION 4.(a)** G.S. 105-228.5A is repealed.

15 **SECTION 4.(b)** This section is effective for taxable years beginning on or
16 after January 1, 2003.

17 **SECTION 5.(a)** G.S. 105-228.90(b) is amended by adding a new
18 subdivision to read:

19 "(b) Definitions. – The following definitions apply in this Article:

20 ...

21 (4) Financial institution. – Any of the following:

22 a. A holding company.

23 b. A regulated financial corporation.

24 c. A person engaged in the business of a financial institution."

25 **SECTION 5.(b)** G.S. 105-250 reads as rewritten:

26 "**§ 105-250. Law applicable to foreign corporations.**

27 (a) All foreign corporations, and the officers and agents thereof, doing business
28 in this State, shall be subject to all the liabilities and restrictions that are or may be
29 imposed upon corporations of like character, organized under the laws of this State, and
30 shall have no other or greater powers.

31 (b) A financial institution is doing business in this State if it meets one or more of
32 the following conditions:

33 (1) It maintains an office in this State.

34 (2) It has an employee, representative, or independent contractor
35 conducting business in this State.

36 (3) It regularly sells products or services of any kind to customers in this
37 State who receive the product or service in this State.

38 (4) It regularly solicits business from potential customers in this State.

39 (5) It regularly performs services outside this State that are consumed in
40 this State.

41 (6) It regularly engages in transactions with customers in this State that
42 involve intangible property, including loans, and result in receipts
43 flowing to the financial institution from within this State.

44 (7) It owns or leases property located in this State.

1 (8) It regularly solicits and receives deposits from customers in this State.

2 (c) There is a rebuttable presumption that a financial institution is doing business
3 in this State if the sum of its assets and the absolute value of its deposits attributable to
4 sources within this State equals or exceeds five million dollars (\$5,000,000)."

5 **SECTION 6.** Except as otherwise provided, this act is effective when it
6 becomes law.