

**GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2011**

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**SENATE DRS75021-RBxz-3B\* (12/01)**

Short Title: IRC Update.

(Public)

Sponsors: Senators Hartsell, Tillman, Newton, Jenkins, and Stein.

Referred to:

1 A BILL TO BE ENTITLED  
2 AN ACT TO UPDATE THE REFERENCE TO THE INTERNAL REVENUE CODE.  
3 The General Assembly of North Carolina enacts:

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

5 "(1b) Code. – The Internal Revenue Code as enacted as of ~~May 1, 2010~~, January 1,  
6 2011, including any provisions enacted as of that date that become effective  
7 either before or after that date."

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

9 read:

10 "(15b) For taxable years 2010 through 2012, eighty-five percent (85%) of the  
11 amount allowed as a special accelerated depreciation deduction under  
12 section 168(k) or 168(n) of the Code for property placed in service during  
13 the taxable year. In addition, for taxable year 2010, a taxpayer who placed  
14 property in service during the 2009 taxable year and whose North Carolina  
15 taxable income for the 2009 taxable year reflected a special accelerated  
16 depreciation deduction allowed for the property under section 168(k) of the  
17 Code must add eighty-five percent (85%) of the amount of the special  
18 accelerated depreciation deduction. These adjustments do not result in a  
19 difference in basis of the affected assets for State and federal income tax  
20 purposes."

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

22 read:

23 "(21b) An amount equal to twenty percent (20%) of the amount added to federal  
24 taxable income as accelerated depreciation under subdivision (a)(15b) of this  
25 section. For the amount added to taxable income in the 2010 taxable year,  
26 the deduction allowed by this subdivision applies to the first five taxable  
27 years beginning on or after January 1, 2011. For the amount added to taxable  
28 income in the 2011 taxable year, the deduction allowed by this subdivision  
29 applies to the first five taxable years beginning on or after January 1, 2012.  
30 For the amount added to taxable income in the 2012 taxable year, the  
31 deduction allowed by this subdivision applies to the first five taxable years  
32 beginning on or after January 1, 2013."

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

34 read:



1            "(8b) For taxable years 2010 through 2012, eighty-five percent (85%) of the  
2            amount allowed as a special accelerated depreciation deduction under  
3            section 168(k) or 168(n) of the Code for property placed in service during  
4            the taxable year. In addition, for taxable year 2010, a taxpayer who placed  
5            property in service during the 2009 taxable year and whose North Carolina  
6            taxable income for the 2009 taxable year reflected a special accelerated  
7            depreciation deduction allowed for the property under section 168(k) of the  
8            Code must add eighty-five percent (85%) of the amount of the special  
9            accelerated depreciation deduction. These adjustments do not result in a  
10           difference in basis of the affected assets for State and federal income tax  
11           purposes."

12           **SECTION 2.(d)** G.S. 105-134.6(b) is amended by adding a new subdivision to

13 read:

14            "(17b) An amount equal to twenty percent (20%) of the amount added to federal  
15            taxable income as accelerated depreciation under subdivision (c)(8b) of this  
16            section. For the amount added to taxable income in the 2010 taxable year,  
17            the deduction allowed by this subdivision applies to the first five taxable  
18            years beginning on or after January 1, 2011. For the amount added to taxable  
19            income in the 2011 taxable year, the deduction allowed by this subdivision  
20            applies to the first five taxable years beginning on or after January 1, 2012.  
21            For the amount added to taxable income in the 2012 taxable year, the  
22            deduction allowed by this subdivision applies to the first five taxable years  
23            beginning on or after January 1, 2013."

24           **SECTION 3.(a)** G.S. 105-130.5(a) is amended by adding a new subdivision to

25 read:

26            "(23) For taxable years 2010 and 2011, eighty-five percent (85%) of the amount  
27            by which the taxpayer's expense deduction under section 179 of the Code for  
28            property placed in service in taxable year 2010 or 2011 exceeds the amount  
29            that would have been allowed for the respective taxable year under section  
30            179 of the Code as of May 1, 2010. These adjustments do not result in a  
31            difference in basis of the affected assets for State and federal income tax  
32            purposes."

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

34 read:

35            "(26) An amount equal to twenty percent (20%) of the amount added to federal  
36            taxable income under subdivision (a)(23) of this section. For the amount  
37            added to taxable income in the 2010 taxable year, the deduction allowed by  
38            this subdivision applies to the first five taxable years beginning on or after  
39            January 1, 2011. For the amount added to taxable income in the 2011 taxable  
40            year, the deduction allowed by this subdivision applies to the first five  
41            taxable years beginning on or after January 1, 2012."

42           **SECTION 3.(c)** G.S. 105-134.6(c) is amended by adding a new subdivision to

43 read:

44            "(15) For taxable years 2010 and 2011, eighty-five percent (85%) of the amount  
45            by which the taxpayer's expense deduction under section 179 of the Code for  
46            property placed in service in taxable year 2010 or 2011 exceeds the amount  
47            that would have been allowed for the respective taxable year under section  
48            179 of the Code as of May 1, 2010. These adjustments do not result in a  
49            difference in basis of the affected assets for State and federal income tax  
50            purposes."

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

3           "(21) An amount equal to twenty percent (20%) of the amount added to federal  
4 taxable income under subdivision (c)(15) of this section. For the amount  
5 added to taxable income in the 2010 taxable year, the deduction allowed by  
6 this subdivision applies to the first five taxable years beginning on or after  
7 January 1, 2011. For the amount added to taxable income in the 2011 taxable  
8 year, the deduction allowed by this subdivision applies to the first five  
9 taxable years beginning on or after January 1, 2012."

10           **SECTION 4.** Article 1A of Chapter 105 of the General Statutes is amended by  
11 adding a new section to read:

12 **"§ 105-32.2A. Election to receive stepped-up basis for 2010.**

13           A personal representative of an estate of a decedent dying in calendar year 2010 for which  
14 the federal estate tax is paid may elect to conform the North Carolina basis of the property in  
15 the estate to that of the federal stepped-up basis obtained by payment of the federal estate tax  
16 by filing an election with the Secretary and paying the amount of tax that would have been  
17 payable under this Article had the federal estate tax that was paid been in effect when the  
18 decedent died. In the absence of this election and payment, the North Carolina basis of the  
19 property differs from the federal basis. To make the election, an executor must file a return with  
20 the Secretary within the time allowed for filing the federal estate tax return."

21           **SECTION 5.** This act is effective when it becomes law. Notwithstanding Section 1  
22 of this act, any amendments to the Internal Revenue Code enacted after May 1, 2010, that  
23 increase North Carolina taxable income for the 2010 taxable year become effective for taxable  
24 years beginning on or after January 1, 2011.