

GENERAL ASSEMBLY OF NORTH CAROLINA  
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SENATE BILL DRS15293-SVxz-22A\* (03/01)

Short Title: IRC Update.

(Public)

Sponsors: Senators Rucho, Rabon, and Tillman (Primary Sponsors).

Referred to:

A BILL TO BE ENTITLED

AN ACT TO UPDATE THE REFERENCE TO THE INTERNAL REVENUE CODE AND TO DECOUPLE FROM CERTAIN PROVISIONS OF THE FEDERAL PROTECTING AMERICANS FROM TAX HIKES ACT OF 2015.

The General Assembly of North Carolina enacts:

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

"(1b) Code. – The Internal Revenue Code as enacted as of ~~January 1, 2015,~~ January 1, 2016, including any provisions enacted as of that date that become effective either before or after that date."

**SECTION 2.(a)** G.S. 105-130.5B(c) reads as rewritten:

"(c) Section 179 Expense. – For purposes of this subdivision, the definition of section 179 property has the same meaning as under section 179 of the ~~Code as of January 1, 2015.~~ Code. A taxpayer who places section 179 property in service during a taxable year ~~listed in the table below~~ must add to the taxpayer's federal taxable income eighty-five percent (85%) of the amount by which the taxpayer's expense deduction under section 179 of the Code exceeds the dollar and investment limitation ~~listed in the table below~~ for the taxable year. For taxable years 2010, 2011, and 2012, the dollar limitation is two hundred and fifty thousand dollars (\$250,000) and the investment limitation is eight hundred thousand dollars (\$800,000). For taxable years beginning on or after 2013, the dollar limitation is twenty-five thousand dollars (\$25,000) and the investment limitation is two hundred thousand dollars (\$200,000).

A taxpayer is allowed to deduct twenty percent (20%) of the add-back in each of the first five taxable years following the year the taxpayer is required to include the add-back in income.

<del>Taxable Year of</del> <b>85% Add-Back</b>	<del>Dollar Limitation</del>	<del>Investment Limitation</del>
2010	\$250,000	\$800,000
2011	\$250,000	\$800,000
2012	\$250,000	\$800,000
2013	\$25,000	\$200,000
2014	\$25,000	\$200,000"

**SECTION 2.(b)** G.S. 105-153.6(c) reads as rewritten:

"(c) Section 179 Expense. – For purposes of this subdivision, the definition of section 179 property has the same meaning as under section 179 of the ~~Code as of January 1, 2015.~~ Code. A taxpayer who places section 179 property in service during a taxable year ~~listed in the table below~~ must add to the taxpayer's federal taxable income or adjusted gross income, as appropriate, eighty-five percent (85%) of the amount by which the taxpayer's expense deduction under section 179 of the Code exceeds the dollar and investment limitation ~~listed in the table below~~ for that



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1 taxable year. For taxable years before 2012, the taxpayer must add the amount to the taxpayer's  
 2 federal taxable income. For taxable year 2012 and after, the taxpayer must add the amount to the  
 3 taxpayer's adjusted gross income. For taxable years 2010, 2011, and 2012, the dollar limitation is  
 4 two hundred and fifty thousand dollars (\$250,000) and the investment limitation is eight hundred  
 5 thousand dollars (\$800,000). For taxable years beginning on or after 2013, the dollar limitation is  
 6 twenty-five thousand dollars (\$25,000) and the investment limitation is two hundred thousand  
 7 dollars (\$200,000).

8 A taxpayer is allowed to deduct twenty percent (20%) of the add-back in each of the first five  
 9 taxable years following the year the taxpayer is required to include the add-back in income.

<del>Taxable Year of</del>	<del>Dollar Limitation</del>	<del>Investment Limitation</del>
<del>85% Add-Back</del>		
<del>2010</del>	<del>\$250,000</del>	<del>\$800,000</del>
<del>2011</del>	<del>\$250,000</del>	<del>\$800,000</del>
<del>2012</del>	<del>\$250,000</del>	<del>\$800,000</del>
<del>2013</del>	<del>\$25,000</del>	<del>\$200,000</del>
<del>2014</del>	<del>\$25,000</del>	<del>\$200,000"</del>

17 **SECTION 3.** G.S. 105-153.5(a)(2) reads as rewritten:

18 "(2) Itemized deduction amount. – An amount equal to the sum of the items listed in  
 19 this subdivision. The amounts allowed under this subdivision are not subject to  
 20 the overall limitation on itemized deductions under section 68 of the Code:

21 a. Charitable Contribution. – The amount allowed as a deduction for  
 22 charitable contributions under section 170 of the Code for that taxable  
 23 year. ~~For taxable year 2014, years beginning on or after 2014, a~~  
 24 taxpayer who elected to take the income exclusion under section  
 25 408(d)(8) of the Code for a qualified charitable distribution from an  
 26 individual retirement plan by a person who has attained the age of 70  
 27 1/2 may deduct the amount that would have been allowed as a charitable  
 28 deduction under section 170 of the Code had the taxpayer not elected to  
 29 take the income exclusion.

30 b. Mortgage Expense and Property Tax. – The amount allowed as a  
 31 deduction for interest paid or accrued during the taxable year under  
 32 section 163(h) of the Code with respect to any qualified residence plus  
 33 the amount allowed as a deduction for property taxes paid or accrued on  
 34 real estate under section 164 of the Code for that taxable year. ~~For~~  
 35 ~~taxable year 2014, years 2014, 2015, and 2016,~~ the amount allowed as a  
 36 deduction for interest paid or accrued during the taxable year under  
 37 section 163(h) of the Code with respect to any qualified residence shall  
 38 not include the amount for mortgage insurance premiums treated as  
 39 qualified residence interest. The amount allowed under this  
 40 sub-subdivision may not exceed twenty thousand dollars (\$20,000). For  
 41 spouses filing as married filing separately or married filing jointly, the  
 42 total mortgage interest and real estate taxes claimed by both spouses  
 43 combined may not exceed twenty thousand dollars (\$20,000). For  
 44 spouses filing as married filing separately with a joint obligation for  
 45 mortgage interest and real estate taxes, the deduction for these items is  
 46 allowable to the spouse who actually paid them. If the amount of the  
 47 mortgage interest and real estate taxes paid by both spouses exceeds  
 48 twenty thousand dollars (\$20,000), these deductions must be prorated  
 49 based on the percentage paid by each spouse. For joint obligations paid  
 50 from joint accounts, the proration is based on the income reported by  
 51 each spouse for that taxable year.

- 1 c. Medical and Dental Expense. – The amount allowed as a deduction for  
2 medical and dental expenses under section 213 of the Code for that  
3 taxable year."

4 **SECTION 4.** G.S. 105-153.5(c2) reads as rewritten:

5 "(c2) Decoupling Adjustments. – In calculating North Carolina taxable income, a taxpayer  
6 must add to the taxpayer's adjusted gross income any of the following items that are not included  
7 in the taxpayer's adjusted gross income:

- 8 (1) For taxable ~~year 2014,~~ years 2014, 2015, and 2016, the amount excluded from  
9 the taxpayer's gross income for the discharge of qualified principal residence  
10 indebtedness under section 108 of the Code. The purpose of this subdivision is  
11 to decouple from the ~~extension of the income exclusion under section 102 of~~  
12 ~~the Tax Increase Prevention Act of 2014,~~ available under federal tax law.
- 13 (2) For taxable year 2014, the amount of the taxpayer's deduction for qualified  
14 tuition and related expenses under section 222 of the Code. The purpose of this  
15 subdivision is to decouple from the ~~extension of the federal above-the-line~~  
16 ~~deduction under section 107 of the Tax Increase Prevention Act of~~  
17 ~~2014,~~ available under federal tax law.
- 18 (3) For taxable ~~year 2014,~~ years beginning on or after 2014, the amount excluded  
19 from the taxpayer's gross income for a qualified charitable distribution from an  
20 individual retirement plan by a person who has attained age 70 1/2 under  
21 section 408(d)(8) of the Code. The purpose of this subdivision is to decouple  
22 from the ~~extension of the income exclusion under section 108 of the Tax~~  
23 ~~Increase Prevention Act of 2014,~~ available under federal tax law.
- 24 (4) For taxable years prior to 2014, the amount excluded from the taxpayer's gross  
25 income for amounts received by a wrongfully incarcerated individual under  
26 section 139F of the Code for which the taxpayer took a deduction under former  
27 G.S. 105-134.6(b)(14). The purpose of this subdivision is to prevent a double  
28 benefit where federal tax law provides an income exclusion for income for  
29 which the State previously provided a deduction."

30 **SECTION 5.(a)** G.S. 105-241.6(b) is amended by adding a new subdivision to read:

31 "(6) Wrongfully Incarcerated Individuals. – If a request for a refund of an  
32 overpayment of tax under Section 139F of the Code for a taxable year prior to  
33 2016 is barred by the operation of any law or rule of law, the refund may  
34 nevertheless be allowed if the claim for the refund is filed by December 18,  
35 2016."

36 **SECTION 5.(b)** This section expires December 19, 2016.

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

38 Notwithstanding Section 1 of this act, any amendments to the Internal Revenue Code enacted after  
39 January 1, 2015, that increase North Carolina taxable income for the 2015 taxable year are  
40 effective for taxable years beginning on or after January 1, 2016.