

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2019

H

1

HOUSE BILL 1211

Short Title: Tax Benefits for PPP Loan - IRC Update. (Public)

Sponsors: Representatives Saine, Ross, Sauls, and J. Johnson (Primary Sponsors).  
*For a complete list of sponsors, refer to the North Carolina General Assembly web site.*

Referred to: Finance, if favorable, Rules, Calendar, and Operations of the House

May 27, 2020

1 A BILL TO BE ENTITLED  
2 AN ACT TO UPDATE THE REFERENCE TO THE INTERNAL REVENUE CODE AND TO  
3 ENHANCE THE TAX BENEFITS OF A LOAN FORGIVEN UNDER THE PAYCHECK  
4 PROTECTION PROGRAM BY EXCLUDING THE AMOUNT FORGIVEN FROM  
5 GROSS INCOME AS WELL AS DEDUCTING THE BUSINESS EXPENSES THAT  
6 RESULTED IN THE FORGIVENESS OF THE LOAN AMOUNT.

7 The General Assembly of North Carolina enacts:

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

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

10 (#) CARES Act. – The Coronavirus Aid, Relief, and Economic Security Act, P.L.  
11 116-136, March 27, 2020, 134 Stat. 359.

12 ...

13 (1b) Code. – The Internal Revenue Code as enacted as of ~~January 1, 2019,~~ May 1,  
14 2020, including any provisions enacted as of that date that become effective  
15 either before or after that date.

16 ...."

17 **SECTION 2.** The Revisor of Statutes is authorized to renumber the subdivisions of  
18 G.S. 105-228.90(b) to ensure that the subdivisions are listed in alphabetical order and in a manner  
19 that reduces the current use of alphanumeric designations, to make conforming changes, and to  
20 reserve sufficient space to accommodate future additions to the statutory subsection.

21 **SECTION 3.(a)** G.S. 105-130.5(a) reads as rewritten:

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

24 ...

25 (31) For taxable years 2019 and 2020, a taxpayer must add an amount equal to the  
26 amount by which the taxpayer's interest expense deduction under section  
27 163(j) of the Code exceeds the interest expense deduction that would have  
28 been allowed under the Internal Revenue Code as enacted as of January 1,  
29 2020, as calculated on a separate entity basis. The purpose of this subdivision  
30 is to decouple from the modification of limitation on business interest allowed  
31 under section 2306 of the CARES Act."

32 **SECTION 3.(b)** G.S. 105-130.5(b) reads as rewritten:

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

35 ...



1           (31) The amount of any expense not deducted under the Code to the extent that  
2 payment of the expense results in forgiveness of a covered loan pursuant to  
3 section 1106(b) of the CARES Act and the income associated with the  
4 forgiveness is excluded from gross income pursuant to section 1106(i) of the  
5 CARES Act. The term "covered loan" has the same meaning as defined in  
6 section 1106 of the CARES Act."

7 **SECTION 4.(a)** G.S. 105-153.5(a)(2)a. reads as rewritten:

8           "a. Charitable Contribution. – The amount allowed as a deduction for  
9 charitable contributions under section 170 of the Code for that taxable  
10 year. For taxable years 2014 through 2018, a taxpayer who elected to  
11 take the income exclusion under section 408(d)(8) of the Code for a  
12 qualified charitable distribution from an individual retirement plan by  
13 a person who has attained the age of 70 1/2 may deduct the amount  
14 that would have been allowed as a charitable deduction under section  
15 170 of the Code had the taxpayer not elected to take the income  
16 exclusion. For taxable year 2020, notwithstanding  
17 G.S. 105-228.90(b)(1b), for purposes of this sub-subdivision the term  
18 "Code" means the Internal Revenue Code as enacted as of January 1,  
19 2020. For taxable years beginning on or after January 1, 2021, a  
20 taxpayer may only carry forward the charitable contributions from  
21 taxable year 2020 that exceed the applicable percentage limitation for  
22 the 2020 taxable year allowed under this sub-subdivision. The purpose  
23 for defining the Internal Revenue Code differently for the 2020 taxable  
24 year is to decouple from the modification of limitations on charitable  
25 contributions during 2020 allowed under section 2205 of the CARES  
26 Act."

27 **SECTION 4.(b)** G.S. 105-153.5(a)(2)b. reads as rewritten:

28           "b. Mortgage Expense and Property Tax. – The amount allowed as a  
29 deduction for interest paid or accrued during the taxable year under  
30 section 163(h) of the Code with respect to any qualified residence plus  
31 the amount allowed as a deduction for property taxes paid or accrued  
32 on real estate under section 164 of the Code for that taxable year. For  
33 taxable years ~~2014, 2015, 2016, and 2017,~~ 2014 through 2020,  
34 the amount allowed as a deduction for interest paid or accrued during the  
35 taxable year under section 163(h) of the Code with respect to any  
36 qualified residence shall not include the amount for mortgage  
37 insurance premiums treated as qualified residence interest. The  
38 amount allowed under this sub-subdivision may not exceed twenty  
39 thousand dollars (\$20,000). For spouses filing as married filing  
40 separately or married filing jointly, the total mortgage interest and real  
41 estate taxes claimed by both spouses combined may not exceed twenty  
42 thousand dollars (\$20,000). For spouses filing as married filing  
43 separately with a joint obligation for mortgage interest and real estate  
44 taxes, the deduction for these items is allowable to the spouse who  
45 actually paid them. If the amount of the mortgage interest and real  
46 estate taxes paid by both spouses exceeds twenty thousand dollars  
47 (\$20,000), these deductions must be prorated based on the percentage  
48 paid by each spouse. For joint obligations paid from joint accounts, the  
49 proration is based on the income reported by each spouse for that  
50 taxable year."

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

- 1       "(c2) Decoupling Adjustments. – In calculating North Carolina taxable income, a taxpayer  
2 must make the following adjustments to the taxpayer's adjusted gross income:
- 3       (1) For taxable years ~~2014, 2015, 2016, and 2017~~, 2014 through 2020, the  
4 taxpayer must add the amount excluded from the taxpayer's gross income for  
5 the discharge of qualified principal residence indebtedness under section 108  
6 of the Code. The purpose of this subdivision is to decouple from the income  
7 exclusion available under federal tax law. If the taxpayer is insolvent, as  
8 defined in section 108(d)(3) of the Code, then the addition required under this  
9 subdivision is limited to the amount of discharge of qualified principal  
10 residence indebtedness excluded from adjusted gross income under section  
11 108(a)(1)(E) of the Code that exceeds the amount of discharge of indebtedness  
12 that would have been excluded under section 108(a)(1)(B) of the Code.
- 13       (2) For taxable year ~~2014, 2015, 2016, and 2017~~, 2014 through 2020, the taxpayer  
14 must add the amount of the taxpayer's deduction for qualified tuition and  
15 related expenses under section 222 of the Code. The purpose of this  
16 subdivision is to decouple from the above-the-line deduction available under  
17 federal tax law.
- 18       ...
- 19       (8) For taxable years 2013, 2014, 2015, 2016, or 2017, the taxpayer must add the  
20 amount of any 2018 net operating loss deducted and absorbed on a federal  
21 return under section 172 of the Code. The purpose of the adjustments made  
22 under this subdivision is to decouple from the net operating loss carryback  
23 provisions of section 2303 of the CARES Act. The addition under this  
24 subsection is not required to the extent the 2018 net operating loss is carried  
25 back under the provisions of section 172(b)(1)(B) of the Code.
- 26       (9) For taxable years 2014, 2015, 2016, 2017, or 2018, the taxpayer must add the  
27 amount of any 2019 net operating loss deducted and absorbed on a federal  
28 return under section 172 of the Code. The purpose of the adjustments made  
29 under this subdivision is to decouple from the net operating loss carryback  
30 provisions of section 2303 of the CARES Act. The addition under this  
31 subsection is not required to the extent the 2019 net operating loss is carried  
32 back under the provisions of section 172(b)(1)(B) of the Code.
- 33       (10) For taxable years 2015, 2016, 2017, 2018, or 2019, the taxpayer must add the  
34 amount of any 2020 net operating loss deducted and absorbed on a federal  
35 return under section 172 of the Code. The purpose of the adjustments made  
36 under this subdivision is to decouple from the net operating loss carryback  
37 provisions of section 2303 of the CARES Act. The addition under this  
38 subdivision is not required to the extent the 2020 net operating loss is carried  
39 back under the provisions of section 172(b)(1)(B) of the Code.
- 40       (11) For taxable years 2013, 2014, 2015, 2016, 2017, 2018, or 2019, the taxpayer  
41 must add the amount of any 2018, 2019, or 2020 net operating loss carried  
42 back and deducted on a federal return pursuant to section 2303(b) of the  
43 CARES Act but not absorbed in that year and carried forward to a subsequent  
44 year. The addition under this subsection is not required to the extent an  
45 addition is required under G.S. 105-153.5(c)(6). The purpose of the  
46 adjustments made under this subdivision is to decouple from the net operating  
47 loss carryback provision of section 2303 of the CARES Act.
- 48       (12) For taxable years 2018, 2019, and 2020, the taxpayer must add an amount  
49 equal to the taxpayer's excess business loss, as defined under the provisions  
50 of section 461(J) of the Internal Revenue Code as enacted as of January 1,

1                    2019. The addition under this subdivision is not required to the extent the loss  
2                    is added under subdivision (8), (9), or (10) of this subsection.

3                    (13) The taxpayer must add the amount by which the taxpayer's net operating loss  
4                    carryforward deduction exceeds the amount allowed under the provisions of  
5                    section 172(a)(2)(B) of the Internal Revenue Code as enacted as of January 1,  
6                    2019. This add-back only applies to net operating losses arising during taxable  
7                    years 2018, 2019, and 2020.

8                    (14) For taxable years 2021 through 2025, a taxpayer who made an addition under  
9                    subdivision (8), (9), or (10) of this subsection may deduct twenty percent  
10                    (20%) per tax year of the sum of the amount added under subdivisions (8),  
11                    (9), and (10) of this subsection.

12                    (15) A taxpayer who made an addition under subdivision (12) of this subsection  
13                    may deduct twenty percent (20%) of the addition in each of the taxable years  
14                    2021 through 2025.

15                    (16) A taxpayer who made an addition under subdivision (13) of this subsection  
16                    may deduct twenty percent (20%) of the add-back in each of the taxable years  
17                    2021 through 2025.

18                    (17) For taxable years 2019 and 2020, a taxpayer must add an amount equal to the  
19                    amount by which the taxpayer's interest expense deduction under section  
20                    163(j) of the Code exceeds the interest expense deduction that would have  
21                    been allowed under the Internal Revenue Code as enacted as of January 1,  
22                    2020. The purpose of this subdivision is to decouple from the modification of  
23                    limitation on business interest allowed under section 2306 of the CARES Act.

24                    (18) For taxable year 2020, a taxpayer must add the amount excluded from the  
25                    taxpayer's gross income for payment by an employer, whether paid to the  
26                    taxpayer or to a lender, of principal or interest on any qualified education loan,  
27                    as defined in section 221(d)(1) of the Code, incurred by the taxpayer for  
28                    education of the taxpayer. The purpose of this subdivision is to decouple from  
29                    the exclusion for certain employer payments of student loans under section  
30                    2206 of the CARES Act.

31                    (19) For taxable year 2020, a taxpayer must add the amount excluded from the  
32                    taxpayer's gross income under section 62(a)(22) of the Code. The purpose of  
33                    this subdivision is to decouple from the allowance of a partial above-the-line  
34                    deduction of qualified charitable contributions under section 2204 of the  
35                    CARES Act.

36                    (20) A taxpayer may deduct the amount of any expense not deducted under the  
37                    Code to the extent that payment of the expense results in forgiveness of a  
38                    covered loan pursuant to section 1106(b) of the CARES Act and the income  
39                    associated with the forgiveness is excluded from gross income pursuant to  
40                    section 1106(i) of the CARES Act. The term "covered loan" has the same  
41                    meaning as defined in section 1106 of the CARES Act."

42                    **SECTION 5.** This act is effective when it becomes law.