

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 1999

SESSION LAW 2000-128  
HOUSE BILL 1473

AN ACT TO MODIFY THE INCOME TAX CREDIT FOR MANUFACTURERS OF CERTAIN RENEWABLE ENERGY EQUIPMENT AND TO FURTHER ADJUST THE SHARE CERTAIN CITIES RECEIVE FROM THE STATE GROSS RECEIPTS TAX.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-130.28 reads as rewritten:

"§ 105-130.28. **Credit against corporate income tax for construction of a photovoltaic-renewable energy equipment facility.**

(a) ~~Any Credit.~~ – A corporation that constructs in North Carolina a facility for the ~~production of photovoltaic-manufacture of renewable energy~~ equipment is allowed a credit against the tax imposed by this Part equal to twenty-five percent (25%) of the installation and equipment costs of construction paid during the taxable year. The entire credit may not be taken for the taxable year in which the costs are paid but must be taken in five equal installments beginning with the taxable year in which the costs are paid.

No credit is allowed, however, to the extent that any of the costs of the equipment were provided by federal, State, or local grants. To secure the credit allowed by this section, the taxpayer must own or control the facility at the time of construction. ~~The credit allowed by this section may not exceed the amount of the tax imposed by this Part for the taxable year reduced by the sum of all credits allowable, except payments of tax made by or on behalf of the taxpayer.~~

(b) ~~As used in this section, "photovoltaic equipment" means those products designed, manufactured, and produced to convert sunlight directly into electricity.~~

Definitions. – The following definitions apply in this section:

- (1) Biomass equipment. – Products designed to use renewable biomass resources for biofuel production of ethanol, methanol, and biodiesel; anaerobic biogas production of methane utilizing agricultural and animal waste or garbage; or commercial thermal or electrical generation from renewable energy crops or wood waste materials. The term also includes related devices for converting, conditioning, and storing the liquid fuels, gas, and electricity produced with biomass equipment.
- (2) Hydroelectric generator. – Defined in G.S. 105-129.15.
- (3) Renewable biomass resources. – Defined in G.S. 105-129.15.

- (4) Renewable energy equipment. – Biomass equipment, hydroelectric generators, solar electric or thermal equipment, and wind energy equipment.
- (5) Solar electric or thermal equipment. – Products designed to convert sunlight into electricity or heat.
- (6) Wind energy equipment. – Products designed to capture and convert wind energy into electricity or mechanical power.

(c) Cap. – The credit allowed by this section may not exceed fifty percent (50%) of the amount of the tax imposed by this Part for the taxable year reduced by the sum of all credits allowable, except payments of tax made by or on behalf of the taxpayer. This limitation applies to the cumulative amount of the credit, including carryforwards, claimed by the taxpayer under this section for the taxable year. Any unused portion of the credit may be carried forward for the succeeding 10 years. ~~The amount of credit allowed under this section may be carried over for the next succeeding five years.~~

(d) No Double Credit. – A taxpayer that claims any other credit allowed under this Chapter with respect to construction of a facility for the manufacture of renewable energy equipment may not take the credit allowed in this section with respect to the same facility."

Section 2. G.S. 105-116.1 reads as rewritten:

**"§ 105-116.1. Distribution of gross receipts taxes to cities.**

(a) Definitions. – The following definitions apply in this section:

- (1) Freeze deduction. – The amount by which the percentage distribution amount of a city was required to be reduced in fiscal year 1995-96 in determining the amount to distribute to the city.
- (2) Percentage distribution amount. – Three and nine hundredths percent (3.09%) of the gross receipts derived by an electric power company and a telephone company from sales within a city that are taxable under G.S. 105-116 or G.S. 105-120.

(b) Distribution. – The Secretary must distribute to the cities part of the taxes collected under this Article on electric power companies and telephone companies. Each city's share for a calendar quarter is the percentage distribution amount for that city for that quarter minus one-fourth of the city's hold-back amount and one-fourth of the city's proportionate share of the annual cost to the Department of administering the distribution. The Secretary must make the distribution within 75 days after the end of each calendar quarter.

(c) Limited Hold-Harmless Adjustment. – The hold-back amount for a city that, in the 1995-96 fiscal year, received from gross receipts taxes less than ninety-five percent (95%) of the amount it received in the 1990-91 fiscal year but at least sixty percent (60%) of the amount it received in the 1990-91 fiscal year is the amount determined by the following calculation:

- (1) Adjust the city's 1995-96 distribution by adding the city's freeze deduction to the amount distributed to the city for that year.
- (2) Compare the adjusted 1995-96 amount with the city's 1990-91 distribution.

- (3) If the adjusted 1995-96 amount is less than or equal to the city's 1990-91 distribution, the hold-back amount for the city is zero.
- (4) If the adjusted 1995-96 amount is more than the city's 1990-91 distribution, the hold-back amount for the city is the city's freeze deduction minus the difference between the city's 1990-91 distribution and the city's 1995-96 distribution.

(c1) Additional Limited Hold-Harmless Adjustment. – The hold-back amount for a city that, in the 1995-96 fiscal year, received from gross receipts taxes less than sixty percent (60%) of the amount it received in the 1990-91 fiscal year is the amount determined by the following calculation:

- (1) Adjust the city's 1999-2000 distribution by adding the city's freeze deduction to the amount distributed to the city for that year.
- (2) Compare the adjusted 1999-2000 amount with the city's 1990-91 distribution.
- (3) If the adjusted 1999-2000 amount is less than or equal to the city's 1990-91 distribution, the hold-back amount for the city is zero.
- (4) If the adjusted 1999-2000 amount is more than the city's 1990-91 distribution, the hold-back amount for the city is the city's freeze deduction minus the difference between the city's 1990-91 distribution and the city's 1999-2000 distribution.

(d) Allocation of Hold-Harmless Adjustment. – The hold-back amount for a city that, in the 1995-96 fiscal year, received from gross receipts taxes at least ninety-five percent (95%) of the amount it received in the 1990-91 fiscal year is the amount determined by the following calculation:

- (1) Determine the amount by which the freeze deduction is reduced for all cities whose hold-back amount is determined under ~~subsection (e)~~ subsections (c) and (c1) of this section. This amount is the total hold-harmless adjustment.
- (2) Determine the amount of gross receipts taxes that would be distributed for the quarter to cities whose hold-back amount is determined under this subsection if these cities received their percentage distribution amount minus one-fourth of their freeze deduction.
- (3) For each city included in the calculation in subdivision (2) of this subsection, determine that city's percentage share of the amount determined under that subdivision.
- (4) Add to the city's freeze deduction an amount equal to the city's percentage share under subdivision (3) of this subsection multiplied by the total hold-harmless adjustment.

(e) Disqualification. – No municipality may receive any funds under this section if it was incorporated with an effective date of on or after January 1, 2000, and is disqualified from receiving funds under G.S. 136-41.2. No municipality may receive any funds under this section, incorporated with an effective date on or after January 1, 2000, unless a majority of the mileage of its streets are open to the public. The previous

sentence becomes effective with respect to distribution of funds on or after July 1, 1999."

Section 3. G.S. 105-130.28, as amended by this act, is repealed effective for costs incurred during taxable years beginning on or after January 1, 2006.

Section 4. This act does not affect the rights or liabilities of the State, a taxpayer, or another person arising under the statute repealed by this act before the effective date of its repeal, nor does it affect the right to any refund or credit of a tax that accrued under the repealed statute before the effective date of its repeal.

Section 5. Sections 1 and 3 of this act are effective for taxable years beginning on or after January 1, 2000. Section 2 of this act becomes effective October 1, 2000, and applies to distributions made on or after that date. The remainder of this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 7th day of July, 2000.

s/ Marc Basnight  
President Pro Tempore of the Senate

s/ James B. Black  
Speaker of the House of Representatives

s/ James B. Hunt, Jr.  
Governor

Approved 8:49 a.m. this 14th day of July, 2000