

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2005

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SENATE BILL 1157  
Agriculture/Environment/Natural Resources Committee Substitute Adopted  
4/19/05  
Finance Committee Substitute Adopted 6/21/06

Short Title: Oyster Shells/Tax Credit.

(Public)

Sponsors:

Referred to:

March 24, 2005

A BILL TO BE ENTITLED

AN ACT TO PROVIDE AN INCOME TAX CREDIT FOR DONATIONS OF  
OYSTER SHELLS TO THE DEPARTMENT OF ENVIRONMENT AND  
NATURAL RESOURCES FOR PLACEMENT IN OYSTER SANCTUARIES TO  
RESTORE OYSTER POPULATIONS.

The General Assembly of North Carolina enacts:

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

**§ 105-130.48. Credit for recycling oyster shells.**

(a) Credit. – A taxpayer who donates oyster shells to the Division of Marine Fisheries of the Department of Environment and Natural Resources is eligible for a credit against the tax imposed by this Part. The amount of the credit is equal to one dollar (\$1.00) per bushel of oyster shells donated.

(b) Limitation. – The credit allowed under this section may not exceed the amount of tax imposed by this Part for the taxable year reduced by the sum of all credits allowable, except tax payment made by or on behalf of the taxpayer.

(c) Carryforward. – Any unused portion of a credit allowed in this section may be carried forward for the succeeding five years. A successor in business may take the carryforwards of a predecessor corporation as if they were carryforwards of a credit allowed to the successor in business.

(d) No Double Benefit. – No deduction is allowed under G.S. 105-130.5(b)(5) or G.S. 105-130.9 for the donation of oyster shells for which a credit is claimed under this section.

(e) Documentation of Credit. – To support the credit allowed by this section, the taxpayer must file with its income tax return, for the taxable year in which the credit is claimed, a certification by the Department of Environment and Natural Resources stating the number of bushels of oyster shells donated by the taxpayer.

1 (f) Sunset. – This section is repealed effective for taxable years beginning on or  
2 after January 1, 2011."

3 **SECTION 2.** G.S. 105-130.9(4) reads as rewritten:

4 "(4) The amount of a contribution for which the taxpayer claimed a tax  
5 credit pursuant to G.S. 105-130.34 or G.S. 105-130.48 shall not be  
6 eligible for a deduction under this section. The amount of the credit  
7 claimed with respect to the contribution is not, however, required to be  
8 added to income under G.S. 105-130.5(a)(10)."

9 **SECTION 3.** Part 2 of Article 4 of Chapter 105 of the General Statutes is  
10 amended by adding a new section to read:

11 "**§ 105-151.30. Credit for recycling oyster shells.**

12 (a) Credit. – A taxpayer who donates oyster shells to the Division of Marine  
13 Fisheries of the Department of Environment and Natural Resources is eligible for a  
14 credit against the tax imposed by this Part. The amount of the credit is equal to one  
15 dollar (\$1.00) per bushel of oyster shells donated.

16 (b) Limitation. – The credit allowed under this section may not exceed the  
17 amount of tax imposed by this Part for the taxable year reduced by the sum of all credits  
18 allowable, except tax payment made by or on behalf of the taxpayer.

19 (c) Carryforward. – Any unused portion of a credit allowed in this section may  
20 be carried forward for the succeeding five years.

21 (d) Documentation of Credit. – To support the credit allowed by this section, the  
22 taxpayer must file with its income tax return, for the taxable year in which the credit is  
23 claimed, a certification by the Department of Environment and Natural Resources  
24 stating the number of bushels of oyster shells donated by the taxpayer.

25 (e) No Double Benefit. – A taxpayer who claims a credit under this section must  
26 add back to taxable income any amount deducted under the Code for the donation of the  
27 oyster shells.

28 (f) Sunset. – This section is repealed effective for taxable years beginning on or  
29 after January 1, 2011."

30 **SECTION 4.** G.S. 105-151.26 reads as rewritten:

31 "**§ 105-151.26. Credit for charitable contributions by nonitemizers.**

32 A taxpayer who elects the standard deduction under section 63 of the Code for  
33 federal tax purposes is allowed as a credit against the tax imposed by this Part an  
34 amount equal to seven percent (7%) of the taxpayer's excess charitable contributions.  
35 The taxpayer's excess charitable contributions are the amount by which the taxpayer's  
36 charitable contributions for the taxable year that would have been deductible under  
37 section 170 of the Code if the taxpayer had not elected the standard deduction exceed  
38 two percent (2%) of the taxpayer's adjusted gross income as calculated under the Code.

39 No credit shall be allowed under this section for amounts deducted from gross  
40 income in calculating taxable income under the Code or for contributions for which a  
41 credit was claimed under ~~G.S. 105-151.12 or G.S. 105-151.14.~~ G.S. 105-151.12,  
42 105-151.14, or 151.30. A nonresident or part-year resident who claims the credit  
43 allowed by this section shall reduce the amount of the credit by multiplying it by the  
44 fraction calculated under G.S. 105-134.5(b) or (c), as appropriate. The credit allowed

1 under this section may not exceed the amount of tax imposed by this Part for the taxable  
2 year reduced by the sum of all credits allowed, except payments of tax made by or on  
3 behalf of the taxpayer."

4         **SECTION 5.** G.S. 105-134.6(c) is amended by adding a new subdivision to  
5 read:

6             "(5a) The market price of the oyster shells for which the taxpayer claims a  
7             credit for the taxable year under G.S. 105-151.30."

8         **SECTION 6.** G.S. 105-160.3(b) reads as rewritten:

9         "(b) The following credits are not allowed to an estate or trust:

10             ...

11             (8) G.S. 105-151.30. Credit for recycling oyster shells."

12         **SECTION 7.** This act is effective for taxable years beginning on or after  
13 January 1, 2006, and expires for taxable years beginning on or after January 1, 2011.