

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011

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HOUSE BILL 881

Short Title: Stimulate Economy & Manufacturing. (Public)

Sponsors: Representatives Horn, R. Brown, Brubaker, and Guice (Primary Sponsors).
For a complete list of Sponsors, see Bill Information on the NCGA Web Site.

Referred to: Finance.

May 4, 2011

A BILL TO BE ENTITLED

AN ACT TO STIMULATE THE ECONOMY BY EXEMPTING FROM INCOME TAX
INCOME DERIVED FROM MANUFACTURING AND BY EXEMPTING
MANUFACTURING CORPORATIONS FROM THE FRANCHISE TAX.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 105-228.90(b) is amended by adding a new subdivision to read:

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

...

(4b) Manufacturing. – An industry in manufacturing sectors 31 through 33, as defined by NAICS, but not including quick printing or retail bakeries."

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

"(23) Income, net of expenses, directly attributable to manufacturing activities. This deduction is optional at the election of the taxpayer."

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

"(21) Income, net of expenses, directly attributable to manufacturing activities. This deduction is optional at the election of the taxpayer."

SECTION 4. G.S. 105-129.2(16) reads as rewritten:

~~"(16) Manufacturing. – An industry in manufacturing sectors 31 through 33, as defined by NAICS, but not including quick printing or retail bakeries. Defined in G.S. 105-228.90."~~

SECTION 5. G.S. 105-129.81(15) reads as rewritten:

~~"(15) Manufacturing. – An industry in manufacturing sectors 31 through 33, as defined by NAICS, but not including quick printing or retail bakeries. Defined in G.S. 105-228.90."~~

SECTION 6. G.S. 105-130.4(i) reads as rewritten:

"(i) All apportionable income of corporations other than public utilities, excluded corporations, and qualified capital intensive corporations shall be apportioned to this State by multiplying the income by a fraction, the numerator of which is the property factor plus the payroll factor plus twice the sales factor, and the denominator of which is four. If the sales factor does not exist, the denominator of the fraction is the number of existing factors and if the sales factor exists but the payroll factor or the property factor does not exist, the denominator of the fraction is the number of existing factors plus one.

For taxpayers that elect to deduct manufacturing income pursuant to G.S. 105-130.5(b)(22), in calculating the property factor, the payroll factor, and the sales factor under this section, the following shall be excluded from both the numerator and the denominator: property used



1 directly and primarily for manufacturing, compensation paid directly and primarily for
2 manufacturing, and receipts derived directly and primarily from manufacturing."

3 **SECTION 7.** The General Assembly finds the following:

- 4 (1) For corporations that are taxable in North Carolina and not taxable in any
5 other states, the calculation under Section 2 of this act is the only calculation
6 that applies. Section 5 of this act does not apply to those corporations.
- 7 (2) For a corporation that is taxable in more than one state, if the corporation is
8 currently allocating and apportioning its income to North Carolina by using
9 the fraction provided in G.S. 105-130.4(i), the provisions of Section 5 of this
10 act govern how that fraction is calculated. Section 5 of this act does not itself
11 require a corporation to use the fraction method.
- 12 (3) Alternatively, G.S. 105-130.4(t) sets out the circumstances under which a
13 corporation taxable in more than one state may determine the portion of its
14 income taxable to North Carolina based on its books of account, in
15 accordance with generally accepted accounting procedures as established by
16 the Financial Accounting Standards Board.
- 17 (4) Section 5 of this act would not, therefore, apply to corporations currently
18 using the separate accounting method under G.S. 105-130.4(t).

19 **SECTION 8.** G.S. 105-125(a) is amended by adding a new subdivision to read:

20 "(a) Exemptions. – The following corporations are exempt from the taxes levied by this
21 Article. Upon request of the Secretary, an exempt corporation must establish its claim for
22 exemption in writing:

23 ...

- 24 (10) A corporation that derives at least eighty percent (80%) of its annual revenue
25 directly from manufacturing activities."

26 **SECTION 9.** This act is effective for taxable years beginning on or after January 1,
27 2012.