

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

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HOUSE BILL 998

Short Title: Simplify Adjustment to Federal Taxable Income. (Public)

Sponsors: Representatives Lewis, Setzer, Moffitt, and Szoka (Primary Sponsors).

For a complete list of Sponsors, refer to the North Carolina General Assembly Web Site.

Referred to: Finance.

April 18, 2013

1 A BILL TO BE ENTITLED
2 AN ACT TO SIMPLIFY THE READABILITY OF ADJUSTMENTS TO FEDERAL
3 TAXABLE INCOME WHEN THE STATE DECOUPLES FROM FEDERAL
4 ACCELERATED DEPRECIATION AND EXPENSING.

5 The General Assembly of North Carolina enacts:

6 **SECTION 1.(a)** G.S. 105-130.5(a)(15), (15a), (15b), (23), and (23a) are repealed.

7 **SECTION 1.(b)** G.S. 105-130.5(b)(21), (21a), (21b), (26), and (26a) are repealed.

8 **SECTION 1.(c)** G.S. 105-130.5(a) is amended by adding a new subdivision to

9 read:

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

12 ...

13 (24) The amount required to be added under G.S. 105-130.5B when the State
14 decouples from federal accelerated depreciation and expensing."

15 **SECTION 1.(d)** G.S. 105-130.5(b) is amended by adding a new subdivision to

16 read:

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

19 ...

20 (27) The amount allowed as a deduction under G.S. 105-130.5B as a result of an
21 add-back for federal accelerated depreciation and expensing."

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

24 **"§ 105-130.5B. Adjustments when State decouples from federal accelerated depreciation**
25 **and expensing.**

26 (a) Special Accelerated Depreciation. – A taxpayer who places property in service
27 during a taxable year listed in the table below and who takes a special accelerated depreciation
28 deduction for that property under section 168(k) or 168(n) of the Code must add to the
29 taxpayer's federal taxable income eighty-five percent (85%) of the amount taken for that year
30 under those Code provisions.

31 A taxpayer is allowed to deduct twenty percent (20%) of the add-back in each of the first
32 five taxable years following the year the taxpayer is required to include the add-back in income.
33 The table below indicates the applicable five-year period.

34 **Taxable Year of**
35 **85% Add-Back**

Five Taxable Years of
20% Deduction



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1	<u>2010</u>	<u>2011 through 2015</u>
2	<u>2011</u>	<u>2012 through 2016</u>
3	<u>2012</u>	<u>2013 through 2017</u>
4	<u>2013</u>	<u>2014 through 2018</u>

5 (b) 2009 Depreciation Exception. – A taxpayer who placed property in service during
6 the 2009 taxable year and whose North Carolina taxable income for the 2009 taxable year
7 reflected a special accelerated depreciation deduction allowed for the property under section
8 168(k) of the Code must add eighty-five percent (85%) of the amount of the special accelerated
9 depreciation deduction to its federal taxable income for the 2010 taxable year. A taxpayer is
10 allowed to deduct this add-back under subsection (a) of this section as if it were for property
11 placed in service in 2010.

12 (c) Section 179 Expense. – For purposes of this subdivision, the definition of section
13 179 property has the same meaning as under section 179 of the Code as of January 1, 2011. A
14 taxpayer who places section 179 property in service during a taxable year in subsection (a) of
15 this section must add to the taxpayer's federal taxable income eighty-five percent (85%) of the
16 amount by which the taxpayer's expense deduction under section 179 of the Code exceeds the
17 amount that would have been allowed for that taxable year under section 179 of the Code as of
18 May 1, 2010.

19 A taxpayer is allowed to deduct twenty percent (20%) of the add-back in each of the first
20 five taxable years following the year the taxpayer is required to include the add-back in income.
21 The table in subsection (a) of this section indicates the applicable five-year period.

22 (d) Asset Basis. – The adjustments made in this section do not result in a difference in
23 basis of the affected assets for State and federal income tax purposes."

24 **SECTION 2.(a)** G.S. 105-134.6(b)(17), (17a), (17b), (21), and (21a) are repealed.

25 **SECTION 2.(b)** G.S. 105-134.6(c)(8), (8a), (8b), (15), and (15a) are repealed.

26 **SECTION 2.(c)** G.S. 105-134.6(b) is amended by adding the following new
27 subdivision to read:

28 "(b) Deductions. – The following deductions from taxable income shall be made in
29 calculating North Carolina taxable income, to the extent each item is included in taxable
30 income:

31 ...

32 (23) The amount allowed as a deduction under G.S. 105-134.6A as a result of an
33 add-back for federal accelerated depreciation and expensing."

34 **SECTION 2.(d)** G.S. 105-134.6(c) is amended by adding the following new
35 subdivision to read:

36 "(c) Additions. – The following additions to taxable income shall be made in calculating
37 North Carolina taxable income, to the extent each item is not included in taxable income:

38 ...

39 (16) The amount required to be added under G.S. 105-134.6A when the State
40 decouples from federal accelerated depreciation and expensing."

41 **SECTION 2.(e)** Part 2 of Article 4 of Chapter 105 of the General Statutes is
42 amended by adding a new section to read:

43 **"§ 105-134.6A. Adjustments when State decouples from federal accelerated depreciation**
44 **and expensing.**

45 (a) Special Accelerated Depreciation. – A taxpayer who places property in service
46 during a taxable year listed in the table below and who takes a special accelerated depreciation
47 deduction for that property under section 168(k) or 168(n) of the Code must add to the
48 taxpayer's federal taxable income or adjusted gross income, as appropriate, eighty-five percent
49 (85%) of the amount taken for that year under those Code provisions. For taxable years before
50 2013, the taxpayer must add the amount to the taxpayer's federal taxable income. For taxable
51 year 2013 and after, the taxpayer must add the amount to the taxpayer's adjusted gross income.

1 A taxpayer is allowed to deduct twenty percent (20%) of the add-back in each of the first
 2 five taxable years following the year the taxpayer is required to include the add-back in income.
 3 The table below indicates the applicable five-year period.

<u>Taxable Year of</u> <u>85% Add-Back</u>	<u>Five Taxable Years of</u> <u>20% Deduction</u>
2010	2011 through 2015
2011	2012 through 2016
2012	2013 through 2017
2013	2014 through 2018

10 (b) 2009 Depreciation Exception. – A taxpayer who placed property in service during
 11 the 2009 taxable year and whose North Carolina taxable income for the 2009 taxable year
 12 reflected a special accelerated depreciation deduction allowed for the property under section
 13 168(k) of the Code must add eighty-five percent (85%) of the amount of the special accelerated
 14 depreciation deduction to its federal taxable income for the 2010 taxable year. A taxpayer is
 15 allowed to deduct this add-back under subsection (a) of this section as if it were for property
 16 placed in service in 2010.

17 (c) Section 179 Expense. – For purposes of this subdivision, the definition of section
 18 179 property has the same meaning as under section 179 of the Code as of January 1, 2011. A
 19 taxpayer who places section 179 property in service during a taxable year listed in the table
 20 below must add to the taxpayer's federal taxable income or adjusted gross income as
 21 appropriate, eighty-five percent (85%) of the amount by which the taxpayer's expense
 22 deduction under section 179 of the Code exceeds the amount that would have been allowed for
 23 that taxable year under section 179 of the Code as of May 1, 2010. For taxable years before
 24 2013, the taxpayer must add the amount to the taxpayer's federal taxable income. For taxable
 25 year 2013 and after, the taxpayer must add the amount to the taxpayer's adjusted gross income.

26 A taxpayer is allowed to deduct twenty percent (20%) of the add-back in each of the first
 27 five taxable years following the year the taxpayer is required to include the add-back in income.
 28 The table in subsection (a) of this section indicates the applicable five-year period.

29 (d) Asset Basis. – The adjustments made in this section do not result in a difference in
 30 basis of the affected assets for State and federal income tax purposes."

31 **SECTION 3.** This act is effective when it becomes law.