

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2013

FILED SENATE  
Apr 2, 2013  
S.B. 677  
PRINCIPAL CLERK

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SENATE DRS35286-RBx-26C (03/01)

Short Title: Corporate Income Tax Reduction & Reform. (Public)

Sponsors: Senators Rucho and Rabon (Primary Sponsors).

Referred to:

A BILL TO BE ENTITLED

AN ACT TO REFORM THE CORPORATE INCOME TAX AND REDUCE THE CORPORATE INCOME TAX RATE BY MOVING TO SINGLE SALES FACTOR APPORTIONMENT AND ELIMINATING CORPORATE TAX EXPENDITURES.

The General Assembly of North Carolina enacts:

**SECTION 1.** Effective for taxable years beginning on or after January 1, 2014, G.S. 105-130.3 reads as rewritten:

"§ 105-130.3. Corporations.

A tax is imposed on the State net income of every C Corporation doing business in this State. An S Corporation is not subject to the tax levied in this section. The tax is a percentage of the taxpayer's State net income computed as follows:

Income Years Beginning	Tax
<del>In 1997</del>	7.5%
<del>In 1998</del>	7.25%
<del>In 1999</del>	7%
<del>After 1999</del>	6.9%.
<u>In 2013</u>	<u>6.9%</u>
<u>In 2014</u>	<u>6.5%</u>
<u>In 2015</u>	<u>6.25%</u>
<u>After 2015</u>	<u>6%."</u>

**SECTION 2.(a)** Effective for taxable years beginning on or after January 1, 2014, 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-three times~~ the sales factor, and the denominator of which is ~~four-five~~. 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-two~~."

**SECTION 2.(b)** Effective for taxable years beginning on or after January 1, 2015, G.S. 105-130.4(i), as amended by subsection (a) of this section, 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 ~~three-five times~~ the sales factor, and the denominator of which is ~~five-seven~~. If the sales factor does not exist, the denominator of the fraction is the number of existing



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1 factors and if the sales factor exists but the payroll factor or the property factor does not exist,  
2 the denominator of the fraction is the number of existing factors plus ~~two~~four."

3 **SECTION 2.(c)** Effective for taxable years beginning on or after January 1, 2016,  
4 G.S. 105-130.4(i), as amended by subsection (b) of this section reads as rewritten:

5 "(i) All apportionable income of corporations other than public ~~utilities, excluded~~  
6 ~~corporations, and qualified capital-intensive corporations~~ utilities shall be apportioned to this  
7 State by multiplying the income by ~~a fraction, the numerator of which is the property factor~~  
8 ~~plus the payroll factor plus five times the sales factor, and the denominator of which is seven.~~  
9 the sales factor as determined under subsection (l) of this section.~~If the sales factor does not~~  
10 ~~exist, the denominator of the fraction is the number of existing factors and if the sales factor~~  
11 ~~exists but the payroll factor or the property factor does not exist, the denominator of the~~  
12 ~~fraction is the number of existing factors plus four."~~

13 **SECTION 2.(d)** Effective for taxable years beginning on or after January 1, 2016,  
14 G.S. 105-130.4(a)(4), (r), and (s1) are repealed.

15 **SECTION 3.** Effective for taxable years beginning on or after January 1, 2014,  
16 G.S. 105-130.5, as amended by S.L. 2013-10, reads as rewritten:

17 "**§ 105-130.5. Adjustments to federal taxable income in determining State net income.**

18 (a) The following additions to federal taxable income shall be made in determining  
19 State net income:

- 20 (1) Taxes based on or measured by net income by whatever name called and  
21 excess profits taxes.
- 22 (2) Interest paid in connection with income exempt from taxation under this  
23 Part.
- 24 (3) The contributions deduction allowed by the Code.
- 25 (4) Interest income earned on bonds and other obligations of other states or their  
26 political subdivisions, less allowable amortization on any bond acquired on  
27 or after January 1, 1963.
- 28 (5) The amount by which gains have been offset by the capital loss carryover  
29 allowed under the Code. All gains recognized on the sale or other disposition  
30 of assets must be included in determining State net income or loss in the year  
31 of disposition.
- 32 ~~(6) Any amount allowed as a net operating loss deduction under the Code.~~
- 33 (7) Repealed by Session Laws 2001-327, s. 3(a), effective for taxable years  
34 beginning on or after January 1, 2001.
- 35 (8) Repealed by Session Laws 1987, c. 778, s. 2.
- 36 (9) Payments to or charges by a parent, subsidiary or affiliated corporation in  
37 excess of fair compensation in all intercompany transactions of any kind  
38 whatsoever pursuant to the Revenue Laws of this State.
- 39 (10) The total amounts allowed under this Chapter during the taxable year as a  
40 credit against the taxpayer's income tax. This subdivision does not apply to a  
41 credit allowed under G.S. 105-130.47. A corporation that apportions part of  
42 its income to this State shall make the addition required by this subdivision  
43 after it determines the amount of its income that is apportioned and allocated  
44 to this State and shall not apply to a credit taken under this Chapter the  
45 apportionment factor used by it in determining the amount of its apportioned  
46 income.
- 47 (11) The amount by which the percentage depletion allowance allowed by  
48 sections 613 and 613A of the Code for mines, oil and gas wells, and other  
49 natural deposits exceeds the cost depletion allowance for these items under  
50 the Code, except as otherwise provided herein. This subdivision does not  
51 apply to depletion deductions for clay, gravel, phosphate rock, lime, shells,

stone, sand, feldspar, gemstones, mica, talc, lithium compounds, tungsten, coal, peat, olivine, pyrophyllite, and other solid minerals or rare earths extracted from the soil or waters of this State. Corporations required to apportion income to North Carolina shall first add to federal taxable income the amount of all percentage depletion in excess of cost depletion that was subtracted from the corporation's gross income in computing its federal income taxes and shall then subtract from the taxable income apportioned to North Carolina the amount by which the percentage depletion allowance allowed by sections 613 and 613A of the Code for solid minerals or rare earths extracted from the soil or waters of this State exceeds the cost depletion allowance for these items.

(12) The amount allowed under the Code for depreciation or as an expense in lieu of depreciation for a utility plant acquired by a natural gas local distribution company, to the extent the plant is included in the company's rate base at zero cost in accordance with G.S. 62-158.

(13) Repealed by Session Laws 2001-427, s. 4(b), effective for taxable years beginning on or after January 1, 2002.

(14) Royalty payments and interest expenses required to be added by G.S. 105-130.7A, to the extent deducted in calculating federal taxable income.

~~(15) For taxable years 2002-2005, the applicable percentage of the amount allowed as a special accelerated depreciation deduction under section 168(k) or section 1400L of the Code, as set out in the table below. In addition, a taxpayer who was allowed a special accelerated depreciation deduction under section 168(k) or section 1400L of the Code in a taxable year beginning before January 1, 2002, and whose North Carolina taxable income in that earlier year reflected that accelerated depreciation deduction must add to federal taxable income in the taxpayer's first taxable year beginning on or after January 1, 2002, an amount equal to the amount of the deduction allowed in the earlier taxable year. These adjustments do not result in a difference in basis of the affected assets for State and federal income tax purposes. The applicable percentage is as follows:~~

<b>Taxable Year</b>	<b>Percentage</b>
2002	100%
2003	70%
2004	70%
2005	0%

~~(15a) The applicable percentage of the amount allowed as a special accelerated depreciation deduction under section 168(k) or 168(n) of the Code for property placed in service after December 31, 2007, but before January 1, 2010. The applicable percentage under this subdivision is eighty five percent (85%).~~

~~In addition, a taxpayer who was allowed a special accelerated depreciation deduction in taxable year 2007 or 2008 for property placed in service during that year, and whose North Carolina taxable income for that year reflected that accelerated depreciation deduction must make the adjustments set out below. These adjustments do not result in a difference in basis of the affected assets for State and federal income tax purposes.~~

~~a. A taxpayer must add to federal taxable income in the taxpayer's 2008 taxable year an amount equal to the applicable percentage of the~~

- 1                   accelerated depreciation deduction reflected in the taxpayer's 2007  
2                   North Carolina taxable income.
- 3                   b.       A taxpayer must add to federal taxable income in the taxpayer's 2009  
4                   taxable year an amount equal to the applicable percentage of the  
5                   accelerated depreciation deduction reflected in the taxpayer's 2008  
6                   North Carolina taxable income.
- 7                   (15b) ~~For taxable years 2010 through 2013, eighty five percent (85%) of the~~  
8                   ~~amount allowed as a special accelerated depreciation deduction under~~  
9                   ~~section 168(k) or 168(n) of the Code for property placed in service during~~  
10                   ~~the taxable year. In addition, for taxable year 2010, a taxpayer who placed~~  
11                   ~~property in service during the 2009 taxable year and whose North Carolina~~  
12                   ~~taxable income for the 2009 taxable year reflected a special accelerated~~  
13                   ~~depreciation deduction allowed for the property under section 168(k) of the~~  
14                   ~~Code must add eighty five percent (85%) of the amount of the special~~  
15                   ~~accelerated depreciation deduction. These adjustments do not result in a~~  
16                   ~~difference in basis of the affected assets for State and federal income tax~~  
17                   ~~purposes.~~
- 18                   (16) The amount excluded from gross income under Subchapter R of Chapter 1  
19                   of the Code.
- 20                   (17) The amount excluded from gross income under section 199 of the Code.
- 21                   (18) Repealed by Session Laws 2006-220, s. 1, effective for taxable years  
22                   beginning on and after January 1, 2007.
- 23                   (19) The dividend paid deduction allowed under the Code to a captive REIT, as  
24                   defined in G.S. 105-130.12.
- 25                   (20) The amount of a donation made to a nonprofit organization or a unit of State  
26                   or local government for which a credit is claimed under G.S. 105-129.16H.
- 27                   (21) The amount of income deferred under section 108(i)(1) of the Code from the  
28                   discharge of indebtedness in connection with a reacquisition of an applicable  
29                   debt instrument.
- 30                   (22) The amount allowed as a deduction under section 163(e)(5)(F) of the Code  
31                   for an original issue discount on an applicable high yield discount obligation.
- 32                   (23) ~~For taxable years 2010 and 2011, eighty five percent (85%) of the amount~~  
33                   ~~by which the taxpayer's expense deduction under section 179 of the Code for~~  
34                   ~~property placed in service in taxable year 2010 or 2011 exceeds the amount~~  
35                   ~~that would have been allowed for the respective taxable year under section~~  
36                   ~~179 of the Code as of May 1, 2010. For purposes of this subdivision, the~~  
37                   ~~definition of section 179 property has the same meaning as under section~~  
38                   ~~179 of the Code as of January 1, 2011. These adjustments do not result in a~~  
39                   ~~difference in basis of the affected assets for State and federal income tax~~  
40                   ~~purposes.~~
- 41                   (23a) ~~For taxable years 2012 and 2013, eighty five percent (85%) of the amount~~  
42                   ~~by which the taxpayer's expense deduction under section 179 of the Code for~~  
43                   ~~property placed in service in taxable year 2012 or 2013 exceeds the amount~~  
44                   ~~that would have been allowed for the respective taxable year under section~~  
45                   ~~179 of the Code as of May 1, 2010. For purposes of this subdivision, the~~  
46                   ~~definition of section 179 property has the same meaning as under section~~  
47                   ~~179 of the Code as of January 2, 2013. These adjustments do not result in a~~  
48                   ~~difference in basis of the affected assets for State and federal income tax~~  
49                   ~~purposes.~~
- 50                   (24) The amount required to be added under G.S. 105-130.5B when the State  
51                   decouples from federal accelerated depreciation and expensing.

- 1 (b) The following deductions from federal taxable income shall be made in determining  
2 State net income:
- 3 (1) Interest upon the obligations of the United States or its possessions, to the  
4 extent included in federal taxable income: Provided, interest upon the  
5 obligations of the United States shall not be an allowable deduction unless  
6 interest upon obligations of the State of North Carolina or any of its political  
7 subdivisions is exempt from income taxes imposed by the United States.
- 8 (1a) Interest upon the obligations of any of the following, net of related expenses,  
9 to the extent included in federal taxable income:
- 10 a. This State, a political subdivision of this State, or a commission, an  
11 authority, or another agency of this State or of a political subdivision  
12 of this State.
- 13 b. A nonprofit educational institution organized or chartered under the  
14 laws of this State.
- 15 (2) Payments received from a parent, subsidiary or affiliated corporation in  
16 excess of fair compensation in intercompany transactions which in the  
17 determination of the net income or net loss of such corporation were not  
18 allowed as a deduction under the Revenue Laws of this State.
- 19 (3) Repealed by Session Laws 2003-349, s. 1.1, effective January 1, 2003.
- 20 (3a) Dividends treated as received from sources outside the United States as  
21 determined under section 862 of the Code, net of related expenses, to the  
22 extent included in federal taxable income. Notwithstanding the proviso in  
23 subdivision (c)(3) of this section, the netting of related expenses shall be  
24 calculated in accordance with subdivision (c)(3) of this section and  
25 G.S. 105-130.6A.
- 26 (3b) Any amount included in federal taxable income under section 78 or section  
27 951 of the Code, net of related expenses.
- 28 ~~(4) Losses in the nature of net economic losses sustained by the corporation in  
29 any or all of the 15 preceding years pursuant to the provisions of  
30 G.S. 105-130.8. A corporation required to allocate and apportion its net  
31 income under the provisions of G.S. 105-130.4 shall deduct its allocable net  
32 economic loss only from total income allocable to this State pursuant to the  
33 provisions of G.S. 105-130.8.~~
- 34 ~~(5) Contributions or gifts made by any corporation within the income year to the  
35 extent provided under G.S. 105-130.9.~~
- 36 ~~(6) Amortization in excess of depreciation allowed under the Code on the cost  
37 of any sewage or waste treatment plant, and facilities or equipment used for  
38 purposes of recycling or resource recovery of or from solid waste, or for  
39 purposes of reducing the volume of hazardous waste generated as provided  
40 in G.S. 105-130.10.~~
- 41 ~~(7) Depreciation of emergency facilities acquired prior to January 1, 1955. Any  
42 corporation shall be permitted to depreciate any emergency facility, as such  
43 is defined in section 168 of the Code, over its useful life, provided such  
44 facility was acquired prior to January 1, 1955, and no amortization has been  
45 claimed on such facility for State income tax purposes.~~
- 46 ~~(8) The amount of losses realized on the sale or other disposition of assets not  
47 allowed under section 1211(a) of the Code. All losses recognized on the sale  
48 or other disposition of assets must be included in determining State net  
49 income or loss in the year of disposition.~~
- 50 (9) With respect to a shareholder of a regulated investment company, the portion  
51 of undistributed capital gains of such regulated investment company

1 included in such shareholder's federal taxable income and on which the  
2 federal tax paid by the regulated investment company is allowed as a credit  
3 or refund to the shareholder under section 852 of the Code.

4 (10) Repealed by Session Laws 1987, c. 778, s. 2.

5 (11) If a deduction for an ordinary and necessary business expense was required  
6 to be reduced or was not allowed under the Code because the corporation  
7 claimed a federal tax credit against its federal income tax liability for the  
8 income year in lieu of a deduction, the amount by which the deduction was  
9 reduced and the amount of the deduction that was disallowed. This  
10 deduction is allowed only to the extent that a similar credit is not allowed by  
11 this Chapter for the amount.

12 ~~(12) Reasonable expenses, in excess of deductions allowed under the Code, paid~~  
13 ~~for reforestation and cultivation of commercially grown trees; provided, that~~  
14 ~~this deduction shall be allowed only to those corporations in which the real~~  
15 ~~owners of all the shares of such corporation are natural persons actively~~  
16 ~~engaged in the commercial growing of trees, or the spouse, siblings, or~~  
17 ~~parents of such persons. Provided, further, that in no case shall a corporation~~  
18 ~~be allowed a deduction for the same reforestation or cultivation expenditure~~  
19 ~~more than once.~~

20 ~~(13) The eligible income of an international banking facility to the extent~~  
21 ~~included in determining federal taxable income, determined as follows:~~

22 a. ~~"International banking facility" shall have the same meaning as is set~~  
23 ~~forth in the laws of the United States or regulations of the board of~~  
24 ~~governors of the federal reserve system.~~

25 b. ~~The eligible income of an international banking facility for the~~  
26 ~~taxable year shall be an amount obtained by multiplying State taxable~~  
27 ~~income as determined under G.S. 105-130.3 (determined without~~  
28 ~~regard to eligible income of an international banking facility and~~  
29 ~~allocation and apportionment, if applicable) for such year by a~~  
30 ~~fraction, the denominator of which shall be the gross receipts for~~  
31 ~~such year derived by the bank from all sources, and the numerator of~~  
32 ~~which shall be the adjusted gross receipts for such year derived by~~  
33 ~~the international banking facility from:~~

34 1. ~~Making, arranging for, placing or servicing loans to foreign~~  
35 ~~persons substantially all the proceeds of which are for use~~  
36 ~~outside the United States;~~

37 2. ~~Making or placing deposits with foreign persons which are~~  
38 ~~banks or foreign branches of banks (including foreign~~  
39 ~~subsidiaries or foreign branches of the taxpayer) or with other~~  
40 ~~international banking facilities; or~~

41 3. ~~Entering into foreign exchange trading or hedging~~  
42 ~~transactions related to any of the transactions described in this~~  
43 ~~paragraph.~~

44 e. ~~The adjusted gross receipts shall be determined by multiplying the~~  
45 ~~gross receipts of the international banking facility by a fraction the~~  
46 ~~numerator of which is the average amount for the taxable year of all~~  
47 ~~assets of the international banking facility which are employed~~  
48 ~~outside the United States and the denominator of which is the~~  
49 ~~average amount for the taxable year of all assets of the international~~  
50 ~~banking facility.~~

51 d. ~~For the purposes of this subsection the term "foreign person" means:~~

1. An individual who is not a resident of the United States;
  2. A foreign corporation, a foreign partnership or a foreign trust, as defined in section 7701 of the Code, other than a domestic branch thereof;
  3. A foreign branch of a domestic corporation (including the taxpayer);
  4. A foreign government or an international organization or an agency of either, or
  5. An international banking facility.
- For purposes of this paragraph, the terms "foreign" and "domestic" shall have the same meaning as set forth in section 7701 of the Code.
- (14) The amount by which the basis of a depreciable asset is required to be reduced under the Code for federal tax purposes because of a tax credit allowed against the corporation's federal income tax liability or because of a grant allowed under section 1603 of the American Recovery and Reinvestment Tax Act of 2009, P.L. 111-3. This deduction may be claimed only in the year in which the Code requires that the asset's basis be reduced. In computing gain or loss on the asset's disposition, this deduction shall be considered as depreciation.
  - (15) ~~The amount paid during the income year, pursuant to 7 U.S.C. § 1445-2, as marketing assessments on tobacco grown by the corporation in North Carolina.~~
  - (16) The amount of natural gas expansion surcharges collected by a natural gas local distribution company under G.S. 62-158.
  - (17) To the extent included in federal taxable income, 911 charges imposed under G.S. 62A-43 and remitted to the 911 Fund under that section.
  - (18) ~~Interest, investment earnings, and gains of a trust, the settlors of which are two or more manufacturers that signed a settlement agreement with this State to settle existing and potential claims of the State against the manufacturers for damages attributable to a product of the manufacturers, if the trust meets all of the following conditions:~~
    - a. ~~The purpose of the trust is to address adverse economic consequences resulting from a decline in demand of the manufactured product potentially expected to occur because of market restrictions and other provisions in the settlement agreement.~~
    - b. ~~A court of this State approves and retains jurisdiction over the trust.~~
    - e. ~~Certain portions of the distributions from the trust are made in accordance with certifications that meet the criteria in the agreement creating the trust and are provided by a nonprofit entity, the governing board of which includes State officials.~~
  - (19) ~~To the extent included in federal taxable income, the amount paid to the taxpayer during the taxable year from the Hurricane Floyd Reserve Fund in the Office of State Budget and Management for hurricane relief or assistance, but not including payments for goods or services provided by the taxpayer.~~
  - (20) Royalty payments and interest expenses received from a related member who added the payments to income under G.S. 105-130.7A for the same taxable year.
  - (21) ~~In each of the taxpayer's first five taxable years beginning on or after January 1, 2005, an amount equal to twenty percent (20%) of the amount~~

- 1 added to taxable income in a previous year as accelerated depreciation under  
2 subdivision (a)(15) of this section.
- 3 ~~(21a) An amount equal to twenty percent (20%) of the amount added to federal~~  
4 ~~taxable income as accelerated depreciation under subdivision (a)(15a) of this~~  
5 ~~section. For a taxpayer who made the addition for accelerated depreciation in~~  
6 ~~the 2008 taxable year, the deduction allowed by this subdivision applies to~~  
7 ~~the first five taxable years beginning on or after January 1, 2009. For a~~  
8 ~~taxpayer who made the addition for accelerated depreciation in the 2009~~  
9 ~~taxable year, the deduction allowed by this subdivision applies to the first~~  
10 ~~five taxable years beginning on or after January 1, 2010.~~
- 11 ~~(21b) An amount equal to twenty percent (20%) of the amount added to federal~~  
12 ~~taxable income as accelerated depreciation under subdivision (a)(15b) of this~~  
13 ~~section. For the amount added to taxable income in the 2010 taxable year,~~  
14 ~~the deduction allowed by this subdivision applies to the first five taxable~~  
15 ~~years beginning on or after January 1, 2011. For the amount added to taxable~~  
16 ~~income in the 2011 taxable year, the deduction allowed by this subdivision~~  
17 ~~applies to the first five taxable years beginning on or after January 1, 2012.~~  
18 ~~For the amount added to taxable income in the 2012 taxable year, the~~  
19 ~~deduction allowed by this subdivision applies to the first five taxable years~~  
20 ~~beginning on or after January 1, 2013. For the amount added to taxable~~  
21 ~~income in the 2013 taxable year, the deduction allowed by this subdivision~~  
22 ~~applies to the first five taxable years beginning on or after January 1, 2014.~~
- 23 ~~(22) To the extent included in federal taxable income, the amount paid to the~~  
24 ~~taxpayer during the taxable year from the Disaster Relief Reserve Fund in~~  
25 ~~the Office of State Budget and Management for hurricane relief or~~  
26 ~~assistance, but not including payments for goods or services provided by the~~  
27 ~~taxpayer.~~
- 28 (23) A dividend received from a captive REIT, as defined in G.S. 105-130.12.
- 29 (24) ~~Five percent (5%) of the gross purchase price of a qualified sale of a~~  
30 ~~manufactured home community. A qualified sale is a transfer of land~~  
31 ~~comprising a manufactured home community in a single purchase to a group~~  
32 ~~composed of a majority of the manufactured home community leaseholders~~  
33 ~~or to a nonprofit organization that represents such a group. To be eligible for~~  
34 ~~this deduction, a taxpayer must give notice of the sale to the North Carolina~~  
35 ~~Housing Finance Agency under G.S. 42-14.3.~~
- 36 (25) The amount added to federal taxable income as deferred income under  
37 section 108(i)(1) of the Code. This deduction applies to taxable years  
38 beginning on or after January 1, 2014.
- 39 ~~(26) An amount equal to twenty percent (20%) of the amount added to federal~~  
40 ~~taxable income under subdivision (a)(23) of this section. For the amount~~  
41 ~~added to taxable income in the 2010 taxable year, the deduction allowed by~~  
42 ~~this subdivision applies to the first five taxable years beginning on or after~~  
43 ~~January 1, 2011. For the amount added to taxable income in the 2011 taxable~~  
44 ~~year, the deduction allowed by this subdivision applies to the first five~~  
45 ~~taxable years beginning on or after January 1, 2012.~~
- 46 ~~(26a) An amount equal to twenty percent (20%) of the amount added to federal~~  
47 ~~taxable income under subdivision (a)(23a) of this section. For the amount~~  
48 ~~added to taxable income in the 2012 taxable year, the deduction allowed by~~  
49 ~~this subdivision applies to the first five taxable years beginning on or after~~  
50 ~~January 1, 2013. For the amount added to taxable income in the 2013 taxable~~



1 year, the deduction allowed by this subdivision applies to the first five  
2 taxable years beginning on or after January 1, 2014.

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

5 (c) The following other adjustments to federal taxable income shall be made in  
6 determining State net income:

7 (1) In determining State net income, no deduction shall be allowed for annual  
8 amortization of bond premiums applicable to any bond acquired prior to  
9 January 1, 1963. The amount of premium paid on any such bond shall be  
10 deductible only in the year of sale or other disposition.

11 (2) Federal taxable income must be increased or decreased to account for any  
12 difference in the amount of depreciation, amortization, or gains or losses  
13 applicable to property which has been depreciated or amortized by use of a  
14 different basis or rate for State income tax purposes than used for federal  
15 income tax purposes prior to the effective date of this Part.

16 (3) No deduction is allowed for any direct or indirect expenses related to income  
17 not taxed under this Part; provided, no adjustment shall be made under this  
18 subsection for adjustments addressed in G.S. 105-130.5(a) and (b).  
19 ~~G.S. 105-130.6A applies to the adjustment for expenses related to dividends~~  
20 ~~received that are not taxed under this Part.~~

21 (4) The taxpayer shall add to federal taxable income the amount of any recovery  
22 during the taxable year not included in federal taxable income, to the extent  
23 the taxpayer's deduction of the recovered amount in a prior taxable year  
24 reduced the taxpayer's tax imposed by this Part but, due to differences  
25 between the Code and this Part, did not reduce the amount of the taxpayer's  
26 tax imposed by the Code. The taxpayer may deduct from federal taxable  
27 income the amount of any recovery during the taxable year included in  
28 federal taxable income under section 111 of the Code, to the extent the  
29 taxpayer's deduction of the recovered amount in a prior taxable year reduced  
30 the taxpayer's tax imposed by the Code but, due to differences between the  
31 Code and this Part, did not reduce the amount of the taxpayer's tax imposed  
32 by this Part.

33 (5) A savings and loan association may deduct interest earned on deposits at the  
34 Federal Home Loan Bank of Atlanta, or its successor, to the extent included  
35 in federal taxable income.

36 (d) Repealed by Session Laws 1987, c. 778, s. 3.

37 (e) Notwithstanding any other provision of this section, any recapture of depreciation  
38 required under the Code must be included in a corporation's State net income to the extent  
39 required for federal income tax purposes.

40 (f) Expired."

41 **SECTION 4.** Effective for taxable years beginning on or after January 1, 2014,  
42 Part 1 of Article 4 of Chapter 105 of the General Statutes is amended by adding a new section  
43 to read:

44 **"§ 105-130.5B. Adjustments when State decouples from federal accelerated depreciation**  
45 **and expensing.**

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

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>
<u>2010</u>	<u>2011 through 2015</u>
<u>2011</u>	<u>2012 through 2016</u>
<u>2012</u>	<u>2013 through 2017</u>
<u>2013</u>	<u>2014 through 2018</u>

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 in subsection (a) of  
 20 this section must add to the taxpayer's federal taxable income eighty-five percent (85%) of the  
 21 amount by which the taxpayer's expense deduction under section 179 of the Code exceeds the  
 22 amount that would have been allowed for that taxable year under section 179 of the Code as of  
 23 May 1, 2010.

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

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

29 **SECTION 5.** Effective for taxable years beginning on or after January 1, 2014,  
 30 G.S. 105-130.7A reads as rewritten:

31 "**§ 105-130.7A. Royalty income and interest expense reporting option-options.**

32 (a) Purpose. – Royalty payments received for the use of intangible property in this State  
 33 are income derived from doing business in this State. This section provides taxpayers with an  
 34 option concerning the method by which ~~these royalties~~ and interest expenses can be reported  
 35 for taxation when the recipient and the payer are related members. As provided in this section,  
 36 ~~these royalty payments~~ and interest expenses can be either (i) deducted by the payer and  
 37 included in the income of the recipient, or (ii) added back to the income of the payer and  
 38 excluded from the income of the recipient.

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

40 ...

41 (1b) Interest expense. – An amount directly or indirectly allowed as a deduction  
 42 under section 163 of the Code.

43 ...

44 (c) Election. – For the purpose of computing its State net income, a taxpayer must add  
 45 royalty payments and interest expenses made to, or in connection with transactions with, a  
 46 related member during the taxable year. This addition is not required for an amount of royalty  
 47 payments or interest expenses that meets any of the following conditions:

48 (1) The related member includes the amount as income on a return filed under  
 49 this Part for the same taxable year that the amount is deducted by the  
 50 taxpayer, and the related member does not elect to deduct the amount  
 51 pursuant to G.S. 105-130.5(b)(20).

- 1 (2) The taxpayer can establish that the related member during the same taxable  
 2 year directly or indirectly paid, accrued, or incurred the amount to a person  
 3 who is not a related member.
- 4 (3) The taxpayer can establish that the related member to whom the amount was  
 5 paid is organized under the laws of a country other than the United States,  
 6 the country has a comprehensive income tax treaty with the United States,  
 7 and the country imposes a tax on the royalty income of the related member  
 8 at a rate that equals or exceeds the rate set in G.S. 105-130.3.
- 9 (d) Indirect Transactions. – For the purpose of this section, an indirect transaction or  
 10 relationship has the same effect as if it were direct."

11 **SECTION 6.(a)** Article 3C (Tax Incentives for Recycling Facilities) and Article  
 12 3K (Tax Incentives for Railroad Intermodal Facilities) of Chapter 105 of the General Statutes  
 13 are repealed.

14 **SECTION 6.(b)** The following statutes are repealed:

- 15 G.S. 105-130.6A (Adjustments for expenses related to dividends)  
 16 G.S. 105-130.8 (Net economic loss)  
 17 G.S. 105-130.9 (Contributions)  
 18 G.S. 105-130.10 (Amortization of air-cleaning devices, waste treatment  
 19 facilities, and recycling facilities)  
 20 G.S. 105-130.10A (Amortization of equipment mandated by OSHA)  
 21 G.S. 105-130.22 (Tax credit for construction of dwelling units for  
 22 handicapped person)  
 23 G.S. 105-151.1  
 24 G.S. 105-130.25 (Credit against corporate income tax for construction of  
 25 cogenerating power plants)  
 26 G.S. 105-130.34 (Credit for certain real property donations)  
 27 G.S. 105-151.12  
 28 G.S. 105-130.36 (Credit for conservation tillage equipment)  
 29 G.S. 105-151.13  
 30 G.S. 105-130.37 (Credit for gleaned crop)  
 31 G.S. 105-151.14  
 32 G.S. 105-130.39 (Credit for certain telephone subscriber line charges)  
 33 G.S. 105-130.43 (Credit for savings and loan supervisory fees)  
 34 G.S. 105-130.44 (Credit for construction of poultry composting facility)  
 35 G.S. 105-151.25

36 **SECTION 6.(c)** This section is effective for taxable years beginning on or after  
 37 January 1, 2014.

38 **SECTION 7.(a)** G.S. 105-259(b)(24), (37), and (38) are repealed.

39 **SECTION 7.(b)** Article 10 of Chapter 143B of the General Statutes is amended by  
 40 adding a new section to read:

41 **"§ 143B-437.08A. Wage, health insurance, and other standards applicable to economic**  
 42 **development incentives.**

43 (a) Wage. – The Department must annually determine the average weekly wage for a  
 44 calendar year for all insured private employers in each county and in the State and must publish  
 45 the following wage standards applicable to economic development incentives:

- 46 (1) General wage standard. – A job meets the general wage standard if it pays an  
 47 average weekly wage that is at least equal to the lesser of one hundred ten  
 48 percent (110%) of the average wage for all insured private employers in the  
 49 State and ninety percent (90%) of the average wage for all insured private  
 50 employers in the county.

1           (2)    Zone wage standard. – A job that is located within an urban progress zone or  
2                    an agrarian growth zone in a development tier two or tier three area satisfies  
3                    the wage standard if it pays an average weekly wage that is at least equal to  
4                    ninety percent (90%) of the lesser of the average wage for all insured private  
5                    employers in the State and the average wage for all insured private  
6                    employers in the county.

7           (3)    Calculation. – In determining whether an employer meets a wage standard,  
8                    the employer may include only full-time jobs and must include any jobs that  
9                    were filled for at least 1,600 hours during the calendar year even if the jobs  
10                   are not filled at the time the employer applies for or claims an economic  
11                   incentive benefit. An employer whose taxable year is not a calendar year  
12                   must use the wage standard for the calendar year in which the taxable year  
13                   begins. A full-time job is a position that requires at least 1,600 hours of work  
14                   per year and is intended to be held by one employee during the entire year. A  
15                   full-time employee is an employee who holds a full-time job.

16       (b)    Health Insurance. – An employer meets the health insurance standard if the  
17       employer does all of the following:

18           (1)    Provides health insurance for all of its full-time jobs. A full-time job is a  
19                   position that requires at least 1,600 hours of work per year and is intended to  
20                   be held by one employee during the entire year.

21           (2)    Pays at least fifty percent (50%) of the premiums for health care coverage  
22                   that equals or exceeds the minimum provisions of the basic health care plan  
23                   of coverage recommended by the Small Employer Carrier Committee  
24                   pursuant to G.S. 58-50-125.

25       (c)    Environmental Impact. – A person meets the environmental standard if the person  
26       has no pending administrative, civil, or criminal enforcement action based on alleged  
27       significant violations of any program implemented by an agency of the Department of  
28       Environment and Natural Resources and has had no final determination of responsibility for  
29       any significant administrative, civil, or criminal violation of any program implemented by an  
30       agency of the Department of Environment and Natural Resources within the last five years. A  
31       significant violation is a violation or alleged violation that does not satisfy any of the conditions  
32       of G.S. 143-215.6B(d). The Secretary of Environment and Natural Resources must notify the  
33       Department of Commerce and the Department of Revenue annually of every person that  
34       currently has any of these pending actions and every person that has had any of these final  
35       determinations within the last five years.

36       (d)    Employee Safety and Health. – An employer meets the employee safety and health  
37       standard if the employer has no citations under the Occupational Safety and Health Act that  
38       have become a final order within the past three years for willful serious violations or for failing  
39       to abate serious violations. As used in this subsection, the term "serious violation" has the same  
40       meaning as in G.S. 95-127. The Commissioner of Labor must notify the Department of  
41       Commerce and the Department of Revenue annually of every person that has had these  
42       citations become final orders within the past three years."

43       **SECTION 7.(c)** G.S. 143B-437.01(a) and (a1) read as rewritten:

44       (a)    Creation and Purpose of Fund. – There is created in the Department of Commerce  
45       the Industrial Development Fund to provide funds to assist the local government units of the  
46       most economically distressed counties in the State in creating and retaining jobs in certain  
47       industries. The Department of Commerce shall adopt rules providing for the administration of  
48       the program. Those rules shall include the following provisions, which shall apply to each grant  
49       from the fund:

50       ...

- 1 (6) The funds shall not be used for any nonmanufacturing project that does not  
 2 meet the general wage standard set out in  
 3 ~~G.S. 105-129.4(b)~~. G.S. 143B-437.08A.
- 4 (a1) Definitions. – The following definitions apply in this section:
- 5 (1) Air courier services. – ~~Defined in G.S. 105-129.81.~~ The furnishing of air  
 6 delivery of individually addressed letters and packages for compensation, in  
 7 interstate commerce, except by the United States Postal Service.
- 8 (2) Repealed by Session Laws 2006-252, s. 2.4, effective January 1, 2007.
- 9 (2a) Company headquarters. – ~~Defined in G.S. 105-129.81.~~ A corporate,  
 10 subsidiary, or regional managing office, as defined by NAICS in United  
 11 States industry 551114, that is responsible for strategic or organizational  
 12 planning and decision making for the business on an international, national,  
 13 or multistate regional basis.
- 14 ...
- 15 (6) Information technology and services. – ~~Defined in G.S. 105-129.81.~~ An  
 16 industry in one of the following:
- 17 a. Internet service providers, Web search portals, and data processing  
 18 subsector 518, as defined by NAICS.
- 19 b. Software publishers industry group 5112, as defined by NAICS.
- 20 c. Computer systems design and related services industry group 5415,  
 21 as defined by NAICS.
- 22 ...
- 23 (8) Manufacturing. – ~~Defined in G.S. 105-129.81.~~ An industry in manufacturing  
 24 sectors 31 through 33, as defined by NAICS, but not including quick  
 25 printing or retail bakeries.
- 26 (9) NAICS. – Defined in G.S. 105-228.90.
- 27 (10) Warehousing. – ~~Defined in G.S. 105-129.81.~~ An industry in warehousing and  
 28 storage subsector 493, as defined by NAICS.
- 29 (11) Wholesale trade. – ~~Defined in G.S. 105-129.81.~~ An industry in wholesale  
 30 trade sector 42, as defined by NAICS."
- 31 **SECTION 7.(d)** This section becomes effective January 1, 2014.
- 32 **SECTION 8.** Except as otherwise provided, this act becomes effective for taxable  
 33 years beginning on or after January 1, 2014.