GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

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SENATE BILL 726*
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Short Title:	IRC Update.	(Public)
Sponsors:	Senators Rucho, Rabon, and Tillman (Primary Sponsors).	
Referred to:	Finance	

April 26, 2016

A BILL TO BE ENTITLED

AN ACT TO UPDATE THE REFERENCE TO THE INTERNAL REVENUE CODE AND TO DECOUPLE FROM CERTAIN PROVISIONS OF THE FEDERAL PROTECTING AMERICANS FROM TAX HIKES ACT OF 2015.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 105-228.90(b)(1b) reads as rewritten:

"(1b) Code. – The Internal Revenue Code as enacted as of ~~January 1, 2015,~~ January 1, 2016, including any provisions enacted as of that date that become effective either before or after that date."

SECTION 2.(a) G.S. 105-130.5B(c) reads as rewritten:

"(c) Section 179 Expense. – For purposes of this subdivision, the definition of section 179 property has the same meaning as under section 179 of the ~~Code as of January 1, 2015.~~ Code. A taxpayer who places section 179 property in service during a taxable year ~~listed in the table below~~ must add to the taxpayer's federal taxable income eighty-five percent (85%) of the amount by which the taxpayer's expense deduction under section 179 of the Code exceeds the dollar and investment limitation ~~listed in the table below~~ for the taxable year. For taxable years 2010, 2011, and 2012, the dollar limitation is two hundred and fifty thousand dollars ($250,000) and the investment limitation is eight hundred thousand dollars ($800,000). For taxable years beginning on or after 2013, the dollar limitation is twenty-five thousand dollars ($25,000) and the investment limitation is two hundred thousand dollars ($200,000).

A taxpayer is allowed to deduct twenty percent (20%) of the add-back in each of the first five taxable years following the year the taxpayer is required to include the add-back in income.

~~**Taxable Year of 85% Add-Back**~~	~~**Dollar Limitation**~~	~~**Investment Limitation**~~
~~2010~~	~~$250,000~~	~~$800,000~~
~~2011~~	~~$250,000~~	~~$800,000~~
~~2012~~	~~$250,000~~	~~$800,000~~
~~2013~~	~~$25,000~~	~~$200,000~~
~~2014~~	~~$25,000~~	~~$200,000~~"

SECTION 2.(b) G.S. 105-153.6(c) reads as rewritten:

"(c) Section 179 Expense. – For purposes of this subdivision, the definition of section 179 property has the same meaning as under section 179 of the ~~Code as of January 1, 2015.~~ Code. A taxpayer who places section 179 property in service during a taxable year ~~listed in the table below~~ must add to the taxpayer's federal taxable income or adjusted gross income, as appropriate, eighty-five percent (85%) of the amount by which the taxpayer's expense deduction under section

179 of the Code exceeds the dollar and investment limitation ~~listed in the table below~~ for that taxable year. For taxable years before 2012, the taxpayer must add the amount to the taxpayer's federal taxable income. For taxable year 2012 and after, the taxpayer must add the amount to the taxpayer's adjusted gross income. For taxable years 2010, 2011, and 2012, the dollar limitation is two hundred and fifty thousand dollars ($250,000) and the investment limitation is eight hundred thousand dollars ($800,000). For taxable years beginning on or after 2013, the dollar limitation is twenty-five thousand dollars ($25,000) and the investment limitation is two hundred thousand dollars ($200,000).

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~~**Taxable Year of 85% Add-Back**~~	~~**Dollar Limitation**~~	~~**Investment Limitation**~~
~~2010~~	~~$250,000~~	~~$800,000~~
~~2011~~	~~$250,000~~	~~$800,000~~
~~2012~~	~~$250,000~~	~~$800,000~~
~~2013~~	~~$25,000~~	~~$200,000~~
~~2014~~	~~$25,000~~	~~$200,000~~"

SECTION 3. G.S. 105-153.5(a)(2) reads as rewritten:

"(2) Itemized deduction amount. – An amount equal to the sum of the items listed in this subdivision. The amounts allowed under this subdivision are not subject to the overall limitation on itemized deductions under section 68 of the Code:

a. Charitable Contribution. – The amount allowed as a deduction for charitable contributions under section 170 of the Code for that taxable year. For taxable ~~year 2014,~~ years beginning on or after 2014, a taxpayer who elected to take the income exclusion under section 408(d)(8) of the Code for a qualified charitable distribution from an individual retirement plan by a person who has attained the age of 70 1/2 may deduct the amount that would have been allowed as a charitable deduction under section 170 of the Code had the taxpayer not elected to take the income exclusion.

b. Mortgage Expense and Property Tax. – The amount allowed as a deduction for interest paid or accrued during the taxable year under section 163(h) of the Code with respect to any qualified residence plus the amount allowed as a deduction for property taxes paid or accrued on real estate under section 164 of the Code for that taxable year. For taxable ~~year 2014,~~ years 2014, 2015, and 2016, the amount allowed as a deduction for interest paid or accrued during the taxable year under section 163(h) of the Code with respect to any qualified residence shall not include the amount for mortgage insurance premiums treated as qualified residence interest. The amount allowed under this sub-subdivision may not exceed twenty thousand dollars ($20,000). For spouses filing as married filing separately or married filing jointly, the total mortgage interest and real estate taxes claimed by both spouses combined may not exceed twenty thousand dollars ($20,000). For spouses filing as married filing separately with a joint obligation for mortgage interest and real estate taxes, the deduction for these items is allowable to the spouse who actually paid them. If the amount of the mortgage interest and real estate taxes paid by both spouses exceeds twenty thousand dollars ($20,000), these deductions must be prorated based on the percentage paid by each spouse. For joint obligations paid from joint accounts, the proration is based on the income reported by each spouse for that taxable year.

c. Medical and Dental Expense. – The amount allowed as a deduction for medical and dental expenses under section 213 of the Code for that taxable year."

SECTION 4. G.S. 105-153.5(c2) reads as rewritten:

"(c2) Decoupling Adjustments. – In calculating North Carolina taxable income, a taxpayer must add to the taxpayer's adjusted gross income any of the following items that are not included in the taxpayer's adjusted gross income:

(1) For taxable ~~year 2014,~~ years 2014, 2015, and 2016, the amount excluded from the taxpayer's gross income for the discharge of qualified principal residence indebtedness under section 108 of the Code. The purpose of this subdivision is to decouple from the ~~extension of the~~ income exclusion ~~under section 102 of the Tax Increase Prevention Act of 2014.~~available under federal tax law.

(2) For taxable year 2014, 2015, and 2016, the amount of the taxpayer's deduction for qualified tuition and related expenses under section 222 of the Code. The purpose of this subdivision is to decouple from the ~~extension of the federal~~ above-the-line deduction ~~under section 107 of the Tax Increase Prevention Act of 2014.~~available under federal tax law.

(3) For taxable ~~year 2014,~~ years beginning on or after 2014, the amount excluded from the taxpayer's gross income for a qualified charitable distribution from an individual retirement plan by a person who has attained age 70 1/2 under section 408(d)(8) of the Code. The purpose of this subdivision is to decouple from the ~~extension of the~~ income exclusion ~~under section 108 of the Tax Increase Prevention Act of 2014.~~available under federal tax law.

(4) For taxable years prior to 2014, the amount excluded from the taxpayer's gross income for amounts received by a wrongfully incarcerated individual under section 139F of the Code for which the taxpayer took a deduction under former G.S. 105-134.6(b)(14). The purpose of this subdivision is to prevent a double benefit where federal tax law provides an income exclusion for income for which the State previously provided a deduction."

SECTION 5.(a) G.S. 105-241.6(b) is amended by adding a new subdivision to read:

"(6) Wrongfully Incarcerated Individuals. – If a request for a refund of an overpayment of tax under Section 139F of the Code for a taxable year prior to 2016 is barred by the operation of any law or rule of law, the refund may nevertheless be allowed if the claim for the refund is filed by December 18, 2016."

SECTION 5.(b) This section expires December 19, 2016.

SECTION 6. Except as otherwise provided, this act is effective when it becomes law. Notwithstanding Section 1 of this act, any amendments to the Internal Revenue Code enacted after January 1, 2015, that increase North Carolina taxable income for the 2015 taxable year are effective for taxable years beginning on or after January 1, 2016.