

**GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2001**

**SESSION LAW 2002-146  
HOUSE BILL 1665**

AN ACT TO AMEND TAX LAWS RELATED TO INTERSTATE AIR COURIERS  
AND TO AMEND THE WAGE STANDARD UNDER THE WILLIAM S. LEE  
QUALITY JOBS AND BUSINESS EXPANSION ACT TO ACCOUNT FOR THE  
VALUE OF HEALTH INSURANCE TO PART-TIME JOBS.

The General Assembly of North Carolina enacts:

**SECTION 1.** G.S. 105-164.3(13) and (15) read as rewritten:

**"§ 105-164.3. Definitions.**

The following definitions apply in this Article:

- (13) Hub. – Either of the following:
- a. An interstate air courier's hub is ~~the airport in this State that meets all of the following conditions:~~
    - 1. ~~The air courier has allocated to the airport under G.S. 105-338 more than sixty percent (60%) of its aircraft value apportioned to this State.~~
    - 2. ~~The air courier's primary function at the airport is to sort and distribute letters and packages received from multiple consolidation locations.~~
    - 3. ~~The air courier's primary function at the airport is not to consolidate letters and packages and deliver them to another airport for sorting and distribution.~~ the interstate air courier's principal airport within the State for sorting and distributing letters and packages and from which the interstate air courier has, or expects to have upon completion of construction, no less than 150 departures a month under normal operating conditions.
  - b. An interstate passenger air carrier's hub is the airport in this State that meets both of the following conditions:
    - 1. The air carrier has allocated to the airport under G.S. 105-338 more than sixty percent (60%) of its aircraft value apportioned to this State.
    - 2. The majority of the air carrier's passengers boarding at the airport are connecting from other airports rather than originating at that airport.
- (15) Interstate air courier. – ~~A person engaged in the air courier services business, as defined in G.S. 105-129.2, in interstate commerce whose~~ primary business is the furnishing of air delivery of individually addressed letters and packages for compensation, in interstate commerce, except by the United States Postal Service."

**SECTION 2.** G.S. 105-129.2A is amended by adding a new subsection to

read:

"(a1) Sunset for Interstate Air Couriers. – Notwithstanding subsection (a) of this section, in the case of an interstate air courier that enters into a real estate lease on or

before January 1, 2006, with an airport authority that provides for the lease of at least 100 acres of real property with a lease term in excess of 15 years, this Article is repealed effective for business activities that occur on or after January 1, 2010."

**SECTION 3.** G.S. 105-129.4(b) reads as rewritten:

"(b) Wage Standard. – A taxpayer is eligible for the credit for creating jobs or the credit for worker training if, for the calendar year the jobs are created or the worker training is provided, the average wage of the jobs for which the credit is claimed meets the wage standard and the average wage of all jobs at the location with respect to which the credit is claimed meets the wage standard. No credit is allowed for jobs not included in the wage calculation. A taxpayer is eligible for the credit for investing in machinery and equipment, the credit for research and development, the credit for investing in real property for a central office or aircraft facility, or the credit for substantial investment in other property if, for the calendar year the taxpayer engages in the activity that qualifies for the credit, the average wage of all jobs at the location with respect to which the credit is claimed meets the wage standard. In making the wage calculation, the taxpayer must include any positions that were filled for at least 1,600 hours during the calendar year the taxpayer engages in the activity that qualifies for the credit even if those positions are not filled at the time the taxpayer claims the credit.

Part-time jobs for which the taxpayer provides health insurance as provided in subsection (b2) of this section are considered to have an average weekly wage at least equal to the applicable percentage times the applicable average weekly wage for the county in which the jobs will be located. There may be a period of up to 100 days between the time at which an employee begins a part-time job and the time at which the taxpayer begins to provide health insurance for that employee.

Jobs meet the wage standard if they pay an average weekly wage that is at least equal to the applicable percentage times the applicable average weekly wage for the county in which the jobs will be located, as computed by the Secretary of Commerce from data compiled by the Employment Security Commission for the most recent period for which data are available. The applicable percentage for jobs located in an enterprise tier one area is one hundred percent (100%). The applicable percentage for all other jobs is one hundred ten percent (110%). The applicable average weekly wage is the lowest of the following: (i) the average wage for all insured private employers in the county, (ii) the average wage for all insured private employers in the State, and (iii) the average wage for all insured private employers in the county multiplied by the county income/wage adjustment factor. The county income/wage adjustment factor is the county income/wage ratio divided by the State income/wage ratio. The county income/wage ratio is average per capita income in the county divided by the annualized average wage for all insured private employers in the county. The State income/wage ratio is the average per capita income in the State divided by the annualized average wage for all insured private employers in the State. The Department of Commerce must annually publish the wage standard for each county."

**SECTION 4.** G.S. 105-129.4(b1) reads as rewritten:

"(b1) Large Investment. – A taxpayer who is otherwise eligible for a tax credit under this Article becomes eligible for the large investment enhancements provided for credits under this Article if the Secretary of Commerce makes a written determination that the taxpayer is expected to purchase or lease, and place in service in connection with the eligible business within a two-year period, at least one hundred fifty million dollars (\$150,000,000) worth of one or more of the following: real property, machinery and equipment, or central office or aircraft facility property. In the case of an interstate air courier that has or is constructing a hub in this State, this investment may be placed in service in connection with the eligible business within a seven-year period. If the taxpayer fails to make the required level of investment within ~~this two-year~~ the applicable period, the taxpayer forfeits the large investment enhancements as provided in subsection (d) of this section."

**SECTION 5.** G.S. 105-129.5(c) reads as rewritten:

"(c) Carryforward. – Any unused portion of a credit with respect to a large investment, with respect to the technology commercialization credit allowed in G.S. 105-129.9A, or with respect to substantial investment in other property under G.S. 105-129.12A may be carried forward for the succeeding 20 years. Any unused portion of a credit with respect to research and development activities under G.S. 105-129.10 may be carried forward for the succeeding 15 years. Any unused portion of a credit may be carried forward for the succeeding 10 years if, before the taxpayer claims the credit, the Secretary of Commerce makes a written determination that the taxpayer is expected to purchase or lease, and place in service in connection with the eligible business within a two-year period, at least fifty million dollars (\$50,000,000) worth of one or more of the following: real property, machinery and equipment, or central office or aircraft facility property. In the case of an interstate air courier that has or is constructing a hub in this State, this investment may be placed in service in connection with the eligible business within a seven-year period. If the taxpayer fails to make the required level of investment within ~~this two-year~~ the applicable period, the taxpayer forfeits this enhanced carryforward period. Any unused portion of any other credit may be carried forward for the succeeding five years."

**SECTION 6.** G.S. 105-129.8(d) reads as rewritten:

"(d) Planned Expansion. – A taxpayer that signs a letter of commitment with the Department of Commerce to create at least twenty new full-time jobs in a specific area within two years of the date the letter is signed qualifies for the credit in the amount allowed by this section based on the area's enterprise tier and development zone designation for that year even though the employees are not hired that year. In the case of an interstate air courier that has or is constructing a hub in this State, the applicable time period is seven years. The credit shall be available in the taxable year after at least twenty employees have been hired if the hirings are within the ~~two-year~~ applicable commitment period. The conditions outlined in subsection (a) apply to a credit taken under this subsection except that if the area is redesignated to a higher-numbered enterprise tier or loses its development zone designation after the year the letter of commitment was signed, the credit is allowed based on the area's enterprise tier and development zone designation for the year the letter was signed. If the taxpayer does not hire the employees within the ~~two-year~~ applicable period, the taxpayer does not qualify for the credit. However, if the taxpayer qualifies for a credit under subsection (a) in the year any new employees are hired, the taxpayer may take the credit under that subsection."

**SECTION 7.** G.S. 105-129.9(e) reads as rewritten:

"(e) Planned Expansion. – A taxpayer that signs a letter of commitment with the Department of Commerce to place specific eligible machinery and equipment in service in an area within two years after the date the letter is signed may, in the year the eligible machinery and equipment are placed in service in that area, calculate the credit for which the taxpayer qualifies based on the area's enterprise tier and development zone designation for the year the letter was signed. In the case of an interstate air courier that has or is constructing a hub in this State, the applicable time period is seven years. All other conditions apply to the credit, but if the area has been redesignated to a higher-numbered enterprise tier or has lost its development zone designation after the year the letter of commitment was signed, the credit is allowed based on the area's enterprise tier and development zone designation for the year the letter was signed. If the taxpayer does not place part or all of the specified eligible machinery and equipment in service within the ~~two-year~~ applicable period, the taxpayer does not qualify for the benefit of this subsection with respect to the machinery and equipment not placed in service within the ~~two-year~~ applicable period. However, if the taxpayer qualifies for a credit in the year the eligible machinery and equipment are placed in service, the taxpayer may take the credit for that year as if no letter of commitment had been signed pursuant to this subsection."

**SECTION 8.** Section 22 of S.L. 1998-55, as amended by Section 16(a) of S.L. 2001-476, reads as rewritten:

"Section 22. Section 10 of this act is effective for taxes imposed for taxable years beginning on or after July 1, 2001. Section 11 of this act becomes effective January 1, 1999, and expires January 1, ~~2008, 2010~~. The remainder of Part III of this act becomes effective January 1, 2001, and applies to sales made on or after that date."

**SECTION 9.** It is the intent of the General Assembly that the provisions of this act not be expanded. If a court of competent jurisdiction holds any provision of this act invalid, the section containing that provision is repealed. The repeal of a section of this act under this section does not affect other provisions of this act that may be given affect without the invalid provision.

**SECTION 10.** Section 1 of this act becomes effective October 1, 2002, and applies to sales made on or after that date. Sections 8 and 9 of this act are effective when it becomes law. The remainder of this act is effective for taxable years that begin on or after January 1, 2002.

In the General Assembly read three times and ratified this the 30<sup>th</sup> day of September, 2002.

s/ Beverly E. Perdue  
President of the Senate

s/ James B. Black  
Speaker of the House of Representatives

s/ Michael F. Easley  
Governor

Approved 3:21 p.m. this 7<sup>th</sup> day of October, 2002