

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007

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SENATE BILL 1939*

Short Title: IRC Update.

(Public)

Sponsors: Senators Kerr, Brunstetter, Clodfelter, Dalton, Hartsell, and Hoyle.

Referred to: Finance.

May 22, 2008

A BILL TO BE ENTITLED

1 AN ACT TO UPDATE THE REFERENCE TO THE INTERNAL REVENUE CODE
2 USED IN DEFINING AND DETERMINING CERTAIN STATE TAX
3 PROVISIONS.
4

5 The General Assembly of North Carolina enacts:

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

7 "(1b) Code. – The Internal Revenue Code as enacted as of ~~January 1, 2007,~~
8 May 1, 2008, including any provisions enacted as of that date which
9 become effective either before or after that date."

10 **SECTION 2.** Notwithstanding Section 1 of this act, any amendments to the
11 Internal Revenue Code enacted after January 1, 2007, that increase North Carolina
12 taxable income for the 2007 taxable year become effective for taxable years beginning
13 on or after January 1, 2008.

14 **SECTION 3.** G.S. 105-130.5(a) reads as rewritten:

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

17 ...

18 (15) ~~The~~ For taxable years 2002-2005, the applicable percentage of the
19 amount allowed as a special accelerated depreciation deduction under
20 section 168(k) or section 1400L of the Code, as set out in the table
21 below. In addition, a taxpayer who was allowed a special accelerated
22 depreciation deduction under section 168(k) or section 1400L of the
23 Code in a taxable year beginning before January 1, 2002, and whose
24 North Carolina taxable income in that earlier year reflected that
25 accelerated depreciation deduction must add to federal taxable income
26 in the taxpayer's first taxable year beginning on or after January 1,
27 2002, an amount equal to the amount of the deduction allowed in the
28 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:

Taxable Year	Percentage
2002	100%
2003	70%
2004	70%
2005 and thereafter	0%

...."

SECTION 4. G.S. 105-130.5(a) is amended by adding a new subdivision to

read:

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

...

(15a) The applicable percentage of the amount allowed as a special accelerated depreciation deduction under section 168(k) of the Code for property placed in service after December 31, 2007, but before January 1, 2009. In addition, a taxpayer who was allowed a special accelerated depreciation deduction in taxable year 2007 for property placed in service during that period, and whose North Carolina taxable income for that year reflected that accelerated depreciation deduction must add to federal taxable income in the taxpayer's 2008 taxable year an amount equal to the applicable percentage of the deduction amount allowed in the 2007 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 under this subdivision is eighty-five percent (85%).

...."

SECTION 5. G.S. 105-134.6(c) reads as rewritten:

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

...

~~(8) The~~ 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:

Taxable Year	Percentage
2002	100%
2003	70%
2004	70%
2005 and thereafter	0%

...."

SECTION 6. G.S. 105-134.6(c) is amended by adding a new subdivision to read:

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

...

(8a) The applicable percentage of the amount allowed as a special accelerated depreciation deduction under section 168(k) of the Code for property placed in service after December 31, 2007, but before January 1, 2009. In addition, a taxpayer who was allowed a special accelerated depreciation deduction in taxable year 2007 for property placed in service for that period, and whose North Carolina taxable income for that year reflected that accelerated depreciation deduction must add to federal taxable income in the taxpayer's 2008 taxable year an amount equal to the applicable percentage of the deduction amount allowed in the 2007 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 under this subdivision is eighty-five percent (85%).

...."

SECTION 7. G.S. 105-130.5(b) is amended by adding a new subdivision to read:

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

...

(21a) In each of the taxpayer's first five taxable years beginning on or after January 1, 2009, an amount equal to twenty percent (20%) of the amount added to taxable income in taxable year 2008 as accelerated depreciation under subdivision (a)(15a) of this section.

...."

SECTION 8. G.S. 105-134.6(b) is amended by adding a new subdivision to read:

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

...

1 (17a) In each of the taxpayer's first five taxable years beginning on or after
2 January 1, 2009, an amount equal to twenty percent (20%) of the
3 amount added to taxable income in taxable year 2008 as accelerated
4 depreciation under subdivision (c)(8a) of this section.

5 "

6 **SECTION 9.** This act is effective for taxable years beginning on or after
7 January 1, 2008.