

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

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HOUSE BILL 2067*
Committee Substitute Favorable 7/3/90

Short Title: Update I.R.C. Reference.

(Public)

Sponsors:

Referred to:

May 24, 1990

A BILL TO BE ENTITLED
AN ACT TO UPDATE THE REFERENCE TO THE INTERNAL REVENUE CODE
USED TO DETERMINE CERTAIN TAXABLE INCOME AND TAX
EXEMPTIONS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-2.1 reads as rewritten:

"§ 105-2.1. Internal Revenue Code definition.

As used in this Article, the term 'Code' means the Internal Revenue Code as enacted as of ~~January 1, 1989~~, January 1, 1990, and includes any provisions enacted as of that date which become effective either before or after that date."

Sec. 2. G.S. 105-114 reads as rewritten:

"§ 105-114. Nature of taxes; definitions.

(a) Nature of Taxes. The taxes levied in this Article upon persons and partnerships are for the privilege of engaging in business or doing the act named. The taxes levied in this Article upon corporations are privilege or excise taxes levied upon:

(1) Corporations organized under the laws of this State for the existence of the corporate rights and privileges granted by their charters, and the enjoyment, under the protection of the laws of this State, of the powers, rights, privileges and immunities derived from the State by the form of such existence; and

(2) Corporations not organized under the laws of this State for doing business in this State and for the benefit and protection which such

1 corporations receive from the government and laws of this State in
2 doing business in this State.

3 If the corporation is organized under the laws of this State, the payment of the taxes
4 levied by this Article shall be a condition precedent to the right to continue in such form
5 of organization; and if the corporation is not organized under the laws of this State,
6 payment of these taxes shall be a condition precedent to the right to continue to engage
7 in doing business in this State. The taxes levied in this Article or schedule shall be for
8 the fiscal year of the State in which the taxes become due; except that the taxes levied in
9 G.S. 105-122 and G.S. 105-123 shall be for the income year of the corporation in which
10 the taxes become due.

11 (b) Definitions. The following definitions apply in this Article:

12 (1) ~~As used in this Article, the~~ The term 'Code' means the Internal Revenue
13 Code as enacted as of ~~January 1, 1989, January 1, 1990,~~ and includes
14 any provisions enacted as of that date which become effective either
15 before or after that date.

16 (2) The term 'corporation' ~~as used in this Article~~ shall, unless the context
17 clearly requires another interpretation, mean and include not only
18 corporations but also associations or joint-stock companies and every
19 other form of organization for pecuniary gain, having capital stock
20 represented by shares, whether with or without par value, and having
21 privileges not possessed by individuals or partnerships; and whether
22 organized under, or without, statutory authority. The term
23 'corporation' ~~as used in this Article~~ shall also mean and include any
24 electric membership corporation organized under Chapter 117, and any
25 electric membership corporation, whether or not organized under the
26 laws of this State, doing business within the State.

27 (3) ~~The~~ When the term 'doing business' is used in this Article, it shall mean
28 and include each and every act, power or privilege exercised or
29 enjoyed in this State, as an incident to, or by virtue of the powers and
30 privileges acquired by the nature of such organizations whether the
31 form of existence be corporate, associate, joint-stock company or
32 common-law trust.

33 ~~If the corporation is organized under the laws of this State, the payment of the taxes~~
34 ~~levied by this Article shall be a condition precedent to the right to continue in such form~~
35 ~~of organization; and if the corporation is not organized under the laws of this State,~~
36 ~~payment of said taxes shall be a condition precedent to the right to continue to engage in~~
37 ~~doing business in this State. The taxes levied in this Article or schedule shall be for the~~
38 ~~fiscal year of the State in which said taxes become due; except, that the taxes levied in~~
39 ~~G.S. 105-122 and G.S. 105-123 shall be for the income year of the corporation in which~~
40 ~~such taxes become due. For purposes of this Article, the words~~

41 (4) The term 'income year' shall mean an income year as defined in G.S.
42 105-130.2(5)."

43 Sec. 3. G.S. 105-130.2(1) reads as rewritten:

1 "(1) 'Code' means the Internal Revenue Code as enacted as of ~~January 1,~~
2 ~~1989,~~ January 1, 1990, and includes any provisions enacted as of that
3 date which become effective either before or after that date."

4 Sec. 4. G.S. 105-131(b)(1) reads as rewritten:

5 "(1) 'Code' means the Internal Revenue Code ~~of 1986,~~ as enacted as of
6 ~~January 1, 1989,~~ January 1, 1990, and includes any provisions enacted
7 as of that date which become effective either before or after that date."

8 Sec. 5. G.S. 105-134.1(1) reads as rewritten:

9 "(1) Code. The Internal Revenue Code as enacted as of January 1, ~~1989,~~
10 1990, including any provisions enacted as of that date which become
11 effective either before or after that date, but not including sections
12 63(c)(4) and 151(d)(3)."

13 Sec. 6. G.S. 105-163.1(11) reads as rewritten:

14 "(11) 'Code' means the Internal Revenue Code as enacted as of ~~January 1,~~
15 ~~1989,~~ January 1, 1990, and includes any provisions enacted as of that
16 date which become effective either before or after that date."

17 Sec. 7. G.S. 105-212(f) reads as rewritten:

18 "(f) As used in this section, the term 'Code' means the Internal Revenue Code as
19 enacted as of ~~January 1, 1989,~~ January 1, 1990, and includes any provisions enacted as of
20 that date which become effective either before or after that date."

21 Sec. 8. This act is effective upon ratification.