GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

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SENATE BILL 717
Finance Committee Substitute Adopted 8/8/89

Short Title: Simplify Intangibles Tax. (Public)

Sponsors:

Referred to:

April 3, 1989

A BILL TO BE ENTITLED

AN ACT TO SIMPLIFY CALCULATION OF THE INTANGIBLES TAX ON SHARES OF STOCK BY EXEMPTING FROM TAXATION STOCK ISSUED BY A CORPORATION THAT ALLOCATES MORE THAN ONE-HALF OF ITS INCOME TO THIS STATE FOR INCOME TAX PURPOSES AND TAXING THE ENTIRE VALUE OF STOCK ISSUED BY A CORPORATION THAT ALLOCATES LESS THAN ONE-HALF OF ITS INCOME TO THIS STATE FOR INCOME TAX PURPOSES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-203, as amended by Chapter 728 of the 1989 Session Laws, reads as rewritten:

"§ 105-203. Shares of stock.

All shares of stock (including shares and units of ownership of mutual funds, investment trusts, and investment funds) owned by residents of this State or having a business, commercial, or taxable situs in this State on December 31 of each year, with the exception herein provided, shall be subject to an annual tax, which is hereby levied, of twenty-five cents (25¢) on every one hundred dollars ($100.00) of the total fair market value of the stock on December 31 of each ~~year less the proportion of the value that is equal to:~~ year.

~~(1)~~ ~~In the case of a taxpayer that is a corporation, the proportion of the dividends upon the stock deductible by the taxpayer in computing its income tax liability under G.S. 105-130.7 without regard to the fifteen thousand dollar ($15,000) limitation under G.S. 105-130.7; and~~

~~(2) In the case of a taxpayer that is not a corporation, the proportion of the dividends upon the stock that would be deductible by the taxpayer, if the taxpayer were a corporation, in computing its income tax liability under the provisions of G.S. 105-130.7(1),(2),(3), and (3a), without regard to the fifteen thousand dollar ($15,000) limitation under G.S. 105-130.7.~~

<u>The tax herein levied shall not apply to shares of stock issued by a qualified corporation.</u>

<u>(1)</u> <u>In the case of a taxpayer that is a corporate shareholder, a corporation is a qualified corporation if fifty percent (50%) or more of the dividends from stock issued by the corporation are deductible by the taxpayer in computing its income tax liability under G.S. 105-130.7 without regard to the fifteen thousand dollar ($15,000) limitation under G.S. 105-130.7.</u>

<u>(2)</u> <u>In the case of a taxpayer that is not a corporate shareholder, a corporation is a qualified corporation if fifty percent (50%) or more of the dividends from stock issued by the corporation would be deductible by a corporate shareholder for the taxable year under the provisions of G.S. 105-130.7(1), (2), (3), (3a), or (5) without regard to the fifteen thousand dollar ($15,000) limitation under G.S. 105-130.7.</u>

The tax herein levied shall not apply to shares of stock in building and loan associations or savings and loan associations which pay a tax as levied under Article 8D of Chapter 105 of the General Statutes, nor to shares of stock owned by any corporation which has its commercial domicile in North Carolina, where the corporation owns more than fifty percent (50%) of the outstanding voting stock.

The tax herein levied shall not apply to units of ownership in an investment trust, the corpus of which is composed (i) entirely of obligations of this State or (ii) entirely of obligations of the United States and of this State, at least eighty percent (80%) of the fair market value of which represents obligations of this State. For the purpose of this paragraph, 'State' includes the State of North Carolina, political subdivisions of this State, and agencies of such governmental units; 'United States' includes the United States and its possessions, and the District of Columbia; 'obligations' includes bonds, notes and other evidences of debt. In order for the exemption provided for in this paragraph to apply, it shall be the duty of the trustees of an investment trust to provide to the Secretary of Revenue, in form satisfactory to him and not later than December 31 of the year with respect to which the exemption applies, information sufficient to establish the applicability of this exemption.

Indebtedness incurred directly for the purchase of shares of stock may be deducted from the total value of those shares; provided, the specific shares of stock so purchased are pledged as collateral to secure the indebtedness; provided further, that only so much of the indebtedness may be deducted as is in the same proportion as the taxable value of the shares of stock is to the total value of the shares of stock."

Sec. 2. This act is effective for taxable years beginning on or after January 1, 1990.