

**GENERAL ASSEMBLY OF NORTH CAROLINA**

**SESSION 1995**

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HOUSE BILL 1093  
Committee Substitute Favorable 6/19/96

Short Title: 1996 Tax Reform Act.

(Public)

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Sponsors:

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Referred to:

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May 14, 1996

1                                   A BILL TO BE ENTITLED  
2 AN ACT TO PROVIDE TAX REFORM AND TAX RELIEF FOR THE CITIZENS OF  
3 NORTH CAROLINA BY REPEALING THE UNCONSTITUTIONAL  
4 CORPORATE TAX CREDIT FOR NORTH CAROLINA WINE, REPEALING THE  
5 UNCONSTITUTIONAL CORPORATE TAX DEDUCTION FOR NORTH  
6 CAROLINA DIVIDENDS, REVISING THE UNCONSTITUTIONAL  
7 INDIVIDUAL INCOME TAX CREDIT FOR NORTH CAROLINA DIVIDENDS,  
8 REPEALING THE UNCONSTITUTIONAL TAX CREDIT FOR QUALIFIED  
9 BUSINESS INVESTMENTS, AND PROVIDING THE SECRETARY OF  
10 REVENUE AUTHORITY TO IMPROVE USE TAX COLLECTION.

11 The General Assembly of North Carolina enacts:

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18                                   **PART I. REFORM UNCONSTITUTIONAL TAX PROVISIONS**

19                                   Section 1. G.S. 105-130.38 and G.S. 105-151.15 are repealed.

1           Sec. 2. G.S. 105-151.19 reads as rewritten:

2 **"§ 105-151.19. Credit for North Carolina dividends.**

3           There is allowed as a credit against the tax imposed by this Division an amount equal  
4 to six percent (6%) of the amount of dividends received by the taxpayer directly or  
5 indirectly during the taxable year from ~~stock issued by a qualified corporation, corporate~~  
6 ~~stock,~~ up to a maximum credit of ~~three hundred dollars (\$300.00)~~ twelve dollars (\$12.00)  
7 per taxpayer for the taxable year. This credit ~~A corporation is a qualified corporation if fifty~~  
8 ~~percent (50%) or more of the dividends from stock issued by the corporation would be~~  
9 ~~deductible by a corporate shareholder for the taxable year under the provisions of G.S. 105-~~  
10 ~~130.7(1), (2), (3), (3a), or (5) except that no credit shall be allowed for dividends deemed~~  
11 ~~distributable from earnings for a taxable period during which the corporation is an S Corporation~~  
12 ~~subject to the provisions of Division I-S of this Article.~~

13           ~~This credit applies only with respect to dividends received while the taxpayer was a~~  
14 ~~resident of this State. In the case of a married couple filing a joint return where both~~  
15 ~~spouses received dividends during the taxable year, the three hundred dollar (\$300.00)~~  
16 ~~maximum~~ maximum credit amount applies separately to each spouse's dividends for a  
17 potential total credit of ~~six hundred dollars (\$600.00)~~ twenty-four dollars (\$24.00) for the  
18 couple. This credit may not exceed the amount of tax imposed by this Division for the  
19 taxable year reduced by the sum of all credits allowed under this Division, except  
20 payments of tax made by or on behalf of the taxpayer."

21           Sec. 3. Effective for taxable years beginning on or after January 1, 2001, G.S.  
22 105-151.19 is repealed.

23           Sec. 4. G.S. 105-130.7 reads as rewritten:

24 **"§ 105-130.7. Deductible portion of dividends.**

25           Dividends from stock issued by ~~any a~~ corporation shall be deducted to the extent herein  
26 ~~provided.~~ are deductible to the extent provided in this section.

27           (1) ~~As soon as may be practicable after September 30 of each year, the~~  
28 ~~Secretary of Revenue shall determine from the corporate income tax~~  
29 ~~return filed during the year ending September 30 by each corporation~~  
30 ~~required to file a return during that period the proportion of the entire~~  
31 ~~net income or loss of the corporation allocable to this State under the~~  
32 ~~provisions of G.S. 105-130.4, except as provided herein. If a~~  
33 ~~corporation has a net income in North Carolina and a net loss from all~~  
34 ~~sources wherever located, or if a corporation has a net loss in North~~  
35 ~~Carolina and a net income from all sources wherever located, the~~  
36 ~~Secretary shall require the use of the allocation fraction determined~~  
37 ~~under the provisions of G.S. 105-130.4. A corporation which is a~~  
38 ~~stockholder in any such corporation shall be allowed to deduct the same~~  
39 ~~proportion of the dividends received by it from such corporation during~~  
40 ~~its income year ending on or after September 30. No deduction shall be~~  
41 ~~allowed for any part of any dividend received from any corporation that~~  
42 ~~was required to file an income tax return during the year ending~~  
43 ~~September 30 but failed to file the return. In the case of dividends~~

1 received from a corporation that was not required to file a return during  
2 the year ending September 30, the proportion of dividends deductible by  
3 the stockholder shall be determined by the Secretary from the best  
4 information available.

5 (2) Dividends received by a corporation from stock in any insurance  
6 company of this State taxed under the provisions of G.S. 105-228.5  
7 shall be deductible by such corporation, and a proportionate part of any  
8 dividends received from stock in any foreign insurance corporation shall  
9 be deductible, such part to be determined on the basis of the ratio of  
10 premiums reported for taxation in this State to total premiums collected  
11 both in and out of this State.

12 (3) A corporation shall be allowed to may deduct such proportionate part of  
13 dividends received by it from a regulated investment company or a real  
14 estate investment trust, as defined in G.S. 105-130.12, as represents and  
15 corresponds to income received by such regulated investment company  
16 or real estate investment trust which would not be taxed by this State if  
17 received directly by the corporation.

18 (3a) Dividends received on shares of capital stock owned in a stock-owned  
19 savings and loan association taxed under Article 8D of this Chapter  
20 shall be deductible.

21 (4) Notwithstanding the provisions of subdivisions (1) through (3a) of this  
22 section, a corporation which, A corporation that, at the close of its taxable  
23 year, has its commercial domicile within North Carolina shall be  
24 allowed to deduct all dividends received from corporations in which it  
25 owns more than fifty percent (50%) of the outstanding voting stock.

26 (5) Notwithstanding any other provisions of this Division, a corporation  
27 which is a shareholder in a holding company shall be allowed as a  
28 deduction an amount equal to those dividends received by it from such  
29 holding company, multiplied by a fraction, the numerator of which shall  
30 be the dividends received by such holding company attributable to  
31 North Carolina, and the denominator of which shall be the gross  
32 dividends received by such holding company; provided, however, that  
33 no deduction shall be allowed where the fraction is smaller than one-  
34 third (1/3). For purposes of this section, "dividends attributable to  
35 North Carolina" shall be the amount of dividend income received by the  
36 holding company on stock owned in other corporations equal to the total  
37 of the proportion of each of such corporation's dividends as shall be  
38 determined deductible by the Secretary under subdivisions (1) through  
39 (3a) of this section; provided that a holding company which owns more  
40 than fifty percent (50%) of the outstanding voting stock of one or more  
41 holding companies as defined in this subdivision shall be permitted a  
42 deduction for all dividends received from such holding companies and  
43 all other corporations in which it owns more than fifty percent (50%) of

1 the outstanding voting stock except that no deduction shall be allowed if  
2 less than one third (1/3) of the dividends received by the holding  
3 company are attributable to North Carolina. A shareholder of such a  
4 holding company shall determine the deductible portion of its dividends  
5 received from such holding company as hereinabove provided except  
6 that the amounts received from a subsidiary holding company as  
7 "dividends attributable to North Carolina" shall be determined as though  
8 the subsidiary corporation of the subsidiary holding company had paid  
9 the dividends directly to the parent holding company. For the purposes  
10 of this section and unless the context clearly requires a different  
11 meaning, "holding company" shall mean any corporation subject to the  
12 tax imposed by G.S. 105-130.3 whose ordinary gross income consists of  
13 fifty percent (50%) or more of dividend income received from  
14 corporations in which it owns more than fifty percent (50%) of the  
15 outstanding voting stock, and "subsidiary" shall mean any corporation,  
16 more than fifty percent (50%) of whose outstanding voting stock is  
17 owned by another corporation. For the purposes of this subsection, the  
18 term "dividend" includes, in addition to corporate dividends,  
19 distributions received from a partnership by a corporation owning more  
20 than a fifty percent (50%) interest in the partnership.

- 21 (6) In no case shall the total amount of dividends that are allowed as a  
22 deduction to a corporation as a result of the application of subdivisions (1)  
23 through (3a) under subdivision (3) of this section be in excess of exceed  
24 fifteen thousand dollars (\$15,000) for the taxable year."

25 Sec. 5. G.S. 105-130.5(b)(3) reads as rewritten:

- 26 "(3) The deductible portion of dividends from stock issued by any corporation  
27 as provided under G.S. 105-130.7."

28 Sec. 6. G.S. 105-130.4(f) reads as rewritten:

29 "(f) Interest and net dividends are allocable to this State if the corporation's  
30 commercial domicile is in this State subject to the following limitations: State. For

- 31 (1) ~~Net dividends received by a corporation from another corporation in~~  
32 ~~which the recipient corporation owns fifty (50%) or more per centum of~~  
33 ~~the paying corporation's voting stock, shall be allocated to this State if~~  
34 ~~the paying corporation is subject to income tax in this State. In such~~  
35 ~~case, the net amount of such dividends received by the recipient~~  
36 ~~corporation from the paying corporation is allocable to this State by use~~  
37 ~~of the same percentage figure used in determining the portion of the~~  
38 ~~paying corporation's dividends deductible under the provisions of G.S.~~  
39 ~~105-130.7.~~

- 40 (2)

41 ~~For purposes of this section, the net amount of dividends shall mean term 'net dividends'~~  
42 ~~means gross dividend income received less related expenses and less that portion of such~~  
43 ~~the dividends deductible under the provisions of G.S. 105-130.7."~~



1 (a) The Secretary shall collect and administer a tax levied by a county pursuant to  
2 this Article.

3 (b) The Secretary shall require retailers who collect use tax on sales to North  
4 Carolina residents to ascertain the county of residence of each buyer and provide that  
5 information to the Secretary along with any other information necessary for the Secretary  
6 to allocate the use tax proceeds to the correct taxing county."

### 7 8 **PART III. EFFECTIVE DATES**

9 Sec. 12. Notwithstanding G.S. 105-163.15 and G.S. 105-163.41, no addition to  
10 tax may be made under either of those statutes for a taxable year beginning on or after  
11 January 1, 1996, and before January 1, 1997, with respect to an underpayment of  
12 individual or corporation income tax to the extent the underpayment was created or  
13 increased by this act.

14 Sec. 13. This act does not affect the rights or liabilities of the State, a taxpayer,  
15 or another person arising under a statute amended or repealed by this act before its  
16 amendment or repeal; nor does it affect the right to any refund or credit of a tax that  
17 would otherwise have been available under the amended or repealed statute before its  
18 amendment or repeal.

19 Prosecutions for offenses committed before the effective date of this act are not  
20 abated or affected by this act, and the statutes that would be applicable but for this act  
21 remain applicable to those prosecutions.

22 Sec. 14. This act becomes effective as follows:

- 23 (1) Unconstitutional Tax Preferences. – Sections 1, 2, and 4 through 6 of  
24 Part I of this act are effective for taxable years beginning on or after  
25 January 1, 1996. Section 3 of Part I of this act becomes effective for  
26 taxable years beginning on or after January 1, 2001.
- 27 (2) Repeal Qualified Business Tax Credits. – Sections 7 and 9 of Part I of  
28 this act are effective upon ratification and apply to investments made on  
29 or after January 1, 1997.
- 30 (3) Use Tax Collection. – Part II of this act is effective upon ratification.
- 31 (4) Remainder. – The remainder of this act is effective upon ratification.