

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

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SENATE BILL 726*

Short Title: IRC Update.

(Public)

Sponsors: Senators Rucho, Rabon, and Tillman (Primary Sponsors).

Referred to: Finance

April 26, 2016

A BILL TO BE ENTITLED

AN ACT TO UPDATE THE REFERENCE TO THE INTERNAL REVENUE CODE AND TO
DECOUPLE FROM CERTAIN PROVISIONS OF THE FEDERAL PROTECTING
AMERICANS FROM TAX HIKES ACT OF 2015.

The General Assembly of North Carolina enacts:

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

"(1b) Code. – The Internal Revenue Code as enacted as of ~~January 1, 2015,~~ January 1, 2016, including any provisions enacted as of that date that become effective either before or after that date."

SECTION 2.(a) G.S. 105-130.5B(c) reads as rewritten:

"(c) Section 179 Expense. – For purposes of this subdivision, the definition of section 179 property has the same meaning as under section 179 of the ~~Code as of January 1, 2015.~~ Code. A taxpayer who places section 179 property in service during a taxable year ~~listed in the table below~~ must add to the taxpayer's federal taxable income eighty-five percent (85%) of the amount by which the taxpayer's expense deduction under section 179 of the Code exceeds the dollar and investment limitation ~~listed in the table below~~ for the taxable year. For taxable years 2010, 2011, and 2012, the dollar limitation is two hundred and fifty thousand dollars (\$250,000) and the investment limitation is eight hundred thousand dollars (\$800,000). For taxable years beginning on or after 2013, the dollar limitation is twenty-five thousand dollars (\$25,000) and the investment limitation is two hundred thousand dollars (\$200,000).

A taxpayer is allowed to deduct twenty percent (20%) of the add-back in each of the first five taxable years following the year the taxpayer is required to include the add-back in income.

Taxable Year of 85% Add-Back	Dollar Limitation	Investment Limitation
2010	\$250,000	\$800,000
2011	\$250,000	\$800,000
2012	\$250,000	\$800,000
2013	\$25,000	\$200,000
2014	\$25,000	\$200,000"

SECTION 2.(b) G.S. 105-153.6(c) reads as rewritten:

"(c) Section 179 Expense. – For purposes of this subdivision, the definition of section 179 property has the same meaning as under section 179 of the ~~Code as of January 1, 2015.~~ Code. A taxpayer who places section 179 property in service during a taxable year ~~listed in the table below~~ must add to the taxpayer's federal taxable income or adjusted gross income, as appropriate, eighty-five percent (85%) of the amount by which the taxpayer's expense deduction under section 179 of the Code exceeds the dollar and investment limitation ~~listed in the table below~~ for that



1 taxable year. For taxable years before 2012, the taxpayer must add the amount to the taxpayer's
 2 federal taxable income. For taxable year 2012 and after, the taxpayer must add the amount to the
 3 taxpayer's adjusted gross income. For taxable years 2010, 2011, and 2012, the dollar limitation is
 4 two hundred and fifty thousand dollars (\$250,000) and the investment limitation is eight hundred
 5 thousand dollars (\$800,000). For taxable years beginning on or after 2013, the dollar limitation is
 6 twenty-five thousand dollars (\$25,000) and the investment limitation is two hundred thousand
 7 dollars (\$200,000).

8 A taxpayer is allowed to deduct twenty percent (20%) of the add-back in each of the first five
 9 taxable years following the year the taxpayer is required to include the add-back in income.

10	Taxable Year of	Dollar Limitation	Investment Limitation
11	85% Add-Back		
12	2010	\$250,000	\$800,000
13	2011	\$250,000	\$800,000
14	2012	\$250,000	\$800,000
15	2013	\$25,000	\$200,000
16	2014	\$25,000	\$200,000"

17 **SECTION 3.** G.S. 105-153.5(a)(2) reads as rewritten:

18 "(2) Itemized deduction amount. – An amount equal to the sum of the items listed in
 19 this subdivision. The amounts allowed under this subdivision are not subject to
 20 the overall limitation on itemized deductions under section 68 of the Code:

21 a. Charitable Contribution. – The amount allowed as a deduction for
 22 charitable contributions under section 170 of the Code for that taxable
 23 year. For taxable year 2014, years beginning on or after 2014, a
 24 taxpayer who elected to take the income exclusion under section
 25 408(d)(8) of the Code for a qualified charitable distribution from an
 26 individual retirement plan by a person who has attained the age of 70
 27 1/2 may deduct the amount that would have been allowed as a charitable
 28 deduction under section 170 of the Code had the taxpayer not elected to
 29 take the income exclusion.

30 b. Mortgage Expense and Property Tax. – The amount allowed as a
 31 deduction for interest paid or accrued during the taxable year under
 32 section 163(h) of the Code with respect to any qualified residence plus
 33 the amount allowed as a deduction for property taxes paid or accrued on
 34 real estate under section 164 of the Code for that taxable year. For
 35 taxable year 2014, years 2014, 2015, and 2016, the amount allowed as a
 36 deduction for interest paid or accrued during the taxable year under
 37 section 163(h) of the Code with respect to any qualified residence shall
 38 not include the amount for mortgage insurance premiums treated as
 39 qualified residence interest. The amount allowed under this
 40 sub-subdivision may not exceed twenty thousand dollars (\$20,000). For
 41 spouses filing as married filing separately or married filing jointly, the
 42 total mortgage interest and real estate taxes claimed by both spouses
 43 combined may not exceed twenty thousand dollars (\$20,000). For
 44 spouses filing as married filing separately with a joint obligation for
 45 mortgage interest and real estate taxes, the deduction for these items is
 46 allowable to the spouse who actually paid them. If the amount of the
 47 mortgage interest and real estate taxes paid by both spouses exceeds
 48 twenty thousand dollars (\$20,000), these deductions must be prorated
 49 based on the percentage paid by each spouse. For joint obligations paid
 50 from joint accounts, the proration is based on the income reported by
 51 each spouse for that taxable year.

- 1 c. Medical and Dental Expense. – The amount allowed as a deduction for
2 medical and dental expenses under section 213 of the Code for that
3 taxable year."

4 **SECTION 4.** G.S. 105-153.5(c2) reads as rewritten:

5 "(c2) Decoupling Adjustments. – In calculating North Carolina taxable income, a taxpayer
6 must add to the taxpayer's adjusted gross income any of the following items that are not included
7 in the taxpayer's adjusted gross income:

- 8 (1) For taxable ~~year 2014,~~ years 2014, 2015, and 2016, the amount excluded from
9 the taxpayer's gross income for the discharge of qualified principal residence
10 indebtedness under section 108 of the Code. The purpose of this subdivision is
11 to decouple from the ~~extension of the income exclusion under section 102 of~~
12 ~~the Tax Increase Prevention Act of 2014,~~ available under federal tax law.
13 (2) For taxable year 2014, the amount of the taxpayer's deduction for qualified
14 tuition and related expenses under section 222 of the Code. The purpose of this
15 subdivision is to decouple from the ~~extension of the federal above-the-line~~
16 ~~deduction under section 107 of the Tax Increase Prevention Act of~~
17 ~~2014,~~ available under federal tax law.
18 (3) For taxable ~~year 2014,~~ years beginning on or after 2014, the amount excluded
19 from the taxpayer's gross income for a qualified charitable distribution from an
20 individual retirement plan by a person who has attained age 70 1/2 under
21 section 408(d)(8) of the Code. The purpose of this subdivision is to decouple
22 from the ~~extension of the income exclusion under section 108 of the Tax~~
23 ~~Increase Prevention Act of 2014,~~ available under federal tax law.
24 (4) For taxable years prior to 2014, the amount excluded from the taxpayer's gross
25 income for amounts received by a wrongfully incarcerated individual under
26 section 139F of the Code for which the taxpayer took a deduction under former
27 G.S. 105-134.6(b)(14). The purpose of this subdivision is to prevent a double
28 benefit where federal tax law provides an income exclusion for income for
29 which the State previously provided a deduction."

30 **SECTION 5.(a)** G.S. 105-241.6(b) is amended by adding a new subdivision to read:

31 "(6) Wrongfully Incarcerated Individuals. – If a request for a refund of an
32 overpayment of tax under Section 139F of the Code for a taxable year prior to
33 2016 is barred by the operation of any law or rule of law, the refund may
34 nevertheless be allowed if the claim for the refund is filed by December 18,
35 2016."

36 **SECTION 5.(b)** This section expires December 19, 2016.

37 **SECTION 6.** Except as otherwise provided, this act is effective when it becomes law.
38 Notwithstanding Section 1 of this act, any amendments to the Internal Revenue Code enacted after
39 January 1, 2015, that increase North Carolina taxable income for the 2015 taxable year are
40 effective for taxable years beginning on or after January 1, 2016.