

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

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HOUSE BILL 1275

Short Title: Increase Corporate Franchise Tax.

(Public)

Sponsors: Representative Miller.

Referred to: Finance.

May 10, 1991

A BILL TO BE ENTITLED

AN ACT TO INCREASE THE CORPORATE FRANCHISE TAX.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-120.2(b)(1), as amended by Chapter 30 of the 1991 Session Laws, reads as rewritten:

"(b)(1) Every corporation taxed under this section shall annually pay to the Secretary of Revenue, at the time the report and statement are due, a franchise or privilege tax, which is hereby levied, at the rate of ~~one dollar and fifty cents (\$1.50)~~ two dollars (\$2.00) per one thousand dollars (\$1,000) of the amount determined under subsection (a) of this section, but in no case shall the tax be more than seventy-five thousand dollars (\$75,000) nor less than thirty-five dollars (\$35.00)."

Sec. 2. G.S. 105-122(d), as amended by Chapter 30 of the 1991 Session Laws, reads as rewritten:

"(d) After determining the proportion of its total capital stock, surplus and undivided profits as set out in subsection (c) of this section, which amount so determined shall in no case be less than fifty-five percent (55%) of the appraised value as determined for ad valorem taxation of all the real and tangible personal property in this State of each such corporation plus the total appraised value of intangible property returned for taxation of intangible personal property as herein specified nor less than its total actual investment in tangible property in this State, every corporation taxed under this section shall annually pay to the Secretary of Revenue, at the time the report and statement are due, a franchise or privilege tax, which is hereby levied at the rate of ~~one dollar and fifty cents (\$1.50)~~ two dollars (\$2.00) per one thousand dollars (\$1,000) of the

1 total amount of capital stock, surplus and undivided profits as herein provided. The tax
2 imposed in this section shall in no case be less than thirty-five dollars (\$35.00) and shall
3 be for the privilege of carrying on, doing business, and/or the continuance of articles of
4 incorporation or domestication of each such corporation in this State. Appraised value
5 of tangible property including real estate shall be the ad valorem valuation for the
6 calendar year next preceding the due date of the franchise tax return. Appraised value
7 of intangible property shall be the total gross valuation required to be reported for
8 intangible tax purposes on April 15 coincident with or next preceding the due date of
9 the franchise tax return. The term 'total actual investment in tangible property' as used
10 in this section shall be construed to mean the total original purchase price or
11 consideration to the reporting taxpayer of its tangible properties, including real estate, in
12 this State plus additions and improvements thereto less reserve for depreciation as
13 permitted for income tax purposes, and also less any indebtedness incurred and existing
14 by virtue of the purchase of any real estate and any permanent improvements made
15 thereon. In computing 'total actual investment in tangible personal property' there shall
16 also be deducted reserves for the entire cost of any air-cleaning device or sewage or
17 waste treatment plant, including waste lagoons, and pollution abatement equipment
18 purchased or constructed and installed which reduces the amount of air or water
19 pollution resulting from the emission of air contaminants or the discharge of sewage and
20 industrial wastes or other polluting materials or substances into the outdoor atmosphere
21 or into streams, lakes, or rivers, upon condition that the corporation claiming such
22 deduction shall furnish to the Secretary a certificate from the Department of
23 Environment, Health, and Natural Resources or from a local air pollution control
24 program for air-cleaning devices located in an area where the Environmental
25 Management Commission has certified a local air pollution control program pursuant to
26 G.S. 143-215.112 certifying that said Department or local air pollution control program
27 has found as a fact that the air-cleaning device, waste treatment plant or pollution
28 abatement equipment purchased or constructed and installed as above described has
29 actually been constructed and installed and that such device, plant or equipment
30 complies with the requirements of the Environmental Management Commission or local
31 air pollution control program with respect to such devices, plants or equipment, that
32 such device, plant or equipment is being effectively operated in accordance with the
33 terms and conditions set forth in the permit, certificate of approval, or other document
34 of approval issued by the Environmental Management Commission or local air
35 pollution control program and that the primary purpose thereof is to reduce air or water
36 pollution resulting from the emission of air contaminants or the discharge of sewage and
37 waste and not merely incidental to other purposes and functions. The cost of
38 constructing facilities of any private or public utility built for the purpose of providing
39 sewer service to residential and outlying areas shall be treated as deductible for the
40 purposes of this section; the deductible liability allowed by this section shall apply only
41 with respect to such pollution abatement plants or equipment constructed or installed on
42 or after January 1, 1955.

1 In determining the total tax payable by any corporation under this section, there shall
2 be allowed as a credit on such tax the amount of the credit authorized by Division V of
3 Article 4 of this Chapter."

4 Sec. 3. This act is effective for taxable years beginning on or after
5 September 1, 1991.