

GENERAL ASSEMBLY OF NORTH CAROLINA
1991 SESSION

CHAPTER 453
SENATE BILL 104

AN ACT TO ELIMINATE A TAXPAYER'S DEDUCTION FOR CERTAIN CONTRIBUTIONS OF LAND OR CROPS TO ACCOUNT FOR TAX CREDITS ALLOWED FOR THE SAME CONTRIBUTIONS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-134.6(c) reads as rewritten:

"(c) Additions. The following additions to taxable income shall be made in calculating North Carolina taxable income, to the extent each item is not included in gross income:

- (1) Interest upon the obligations of states, other than this State, and their political subdivisions.
- (2) Any amount allowed as a deduction from gross income under the Code that is taxed under the Code by a separate tax other than the tax imposed in section 1 of the Code. The Secretary shall report to the 1991 General Assembly all provisions under the Code for taxing certain amounts separately and shall recommend whether those amounts should be taxed separately under this Division or should be added to taxable income in calculating North Carolina taxable income.
- (3) Any amount deducted from gross income under section 164 of the Code as State, local, or foreign income tax to the extent that the taxpayer's total itemized deductions deducted under the Code for the taxable year exceed the standard deduction allowable to the taxpayer under the Code reduced by the amount by which the taxpayer's allowable standard deduction has been increased under section 63(c)(4) of the Code.
- (4) The amount by which the taxpayer's standard deduction has been increased under section 63(c)(4) of the Code and the amount by which the taxpayer's personal exemptions have been increased under section 151(d)(3) of the Code.
- (5) The fair market value, up to a maximum of one hundred thousand dollars (\$100,000), of the donated property interest for which the taxpayer claims a credit for the taxable year under G.S. 105-151.12 and the market price of the gleaned crop for which the taxpayer claims a credit for the taxable year under G.S. 105-151.14."

Sec. 2. G.S. 105-151.12 reads as rewritten:

"§ 105-151.12. Credit for certain real property donations.

(a) A person who makes a qualified donation of interests in real property located in North Carolina during the taxable year that is useful for (i) public beach access or use, (ii) public access to public waters or trails, (iii) fish and wildlife conservation, or (iv) other similar land conservation purposes, shall be allowed as a credit against the tax imposed by this Division an amount equal to twenty-five percent (25%) of the fair market value of the donated property interest. To be eligible for this credit, the interest in property must be donated to and accepted by either the State, a local government, or a body that is both organized to receive and administer lands for conservation purposes and is qualified to receive charitable contributions under the Code; provided, however, that lands required to be dedicated pursuant to local governmental regulation or ordinance and dedications made to increase building density levels permitted under such regulations or ordinances are not eligible for this credit. The credit allowed under this section may not exceed twenty-five thousand dollars (\$25,000). To support the credit allowed by this section, the taxpayer shall file with the income tax return for the taxable year in which the credit is claimed a certification by the Department of Environment, Health, and Natural Resources that the property donated is suitable for one or more of the valid public benefits set forth by this subsection.

(b) The credit allowed by this section may not exceed the amount of tax imposed by this Division for the taxable year reduced by the sum of all credits allowed under this Division, except payments of tax made by or on behalf of the taxpayer.

Any unused portion of this credit may be carried forward for the next succeeding five years.

~~(c) No credit shall be allowed under this section for amounts deducted from gross income in calculating taxable income under the Code. In order to claim the credit allowed under this section, the taxpayer must add the fair market value of the donated property interest, up to a maximum of one hundred thousand dollars (\$100,000), to taxable income as provided in G.S. 105-134.6(c).~~

(d) In the case of property owned by the entirety, where both spouses are required to file North Carolina income tax returns, the credit allowed by this section may be claimed only if the spouses file a joint return under G.S. 105-152.1. Where only one spouse is required to file a North Carolina income tax return, that spouse may claim the credit allowed by this section.

(e) In the case of marshland for which a claim has been filed pursuant to G.S. 113-205, the offer of donation must be made before 31 December 1994 to qualify for the credit allowed by this section."

Sec. 3. G.S. 105-151.14 reads as rewritten:

"§ 105-151.14. Credit for gleaned crop.

(a) A person who grows a crop and permits the gleaning of the crop shall be allowed as a credit against the tax imposed by this Division an amount equal to ten percent (10%) of the market price of the quantity of the gleaned crop. This credit may not exceed the amount of tax imposed by this Division for the taxable year reduced by the sum of all credits allowable under this Division, except tax payments made by or on behalf of the taxpayer. ~~No credit is allowed under this section for amounts that were deducted from gross income in calculating taxable income under the Code. In order to~~

claim the credit allowed under this section, the taxpayer must add the market price of the gleaned crop to taxable income as provided in G.S. 105-134.6(c). Any unused portion of the credit may be carried forward for the next succeeding five years.

(b) The following definitions apply to this section:

- (1) 'Gleaning' means the harvesting of a crop that has been donated by the grower to a nonprofit organization which will distribute the crop to individuals or other nonprofit organizations it considers appropriate recipients of the food.
- (2) 'Market price' means the season average price of the crop as determined by the North Carolina Crop and Livestock Reporting Service in the Department of Agriculture, or the average price of the crop in the nearest local market for the month in which the crop is gleaned if the Crop and Livestock Reporting Service does not determine the season average price for that crop.
- (3) 'Nonprofit organization' means an organization to which charitable contributions are deductible from gross income under the Code."

Sec. 4. G.S. 105-151.12(d) reads as rewritten:

"(d) In the case of property owned by ~~the entirety, a married couple,~~ where both spouses are required to file North Carolina income tax returns, the credit allowed by this section may be claimed only if the spouses file a joint return under G.S. 105-152.1. Where only one spouse is required to file a North Carolina income tax return, that spouse may claim the credit allowed by this section."

Sec. 5. Section 4 of this act is effective for taxable years beginning on or after January 1, 1991. The remainder of this act is effective retroactively for taxable years beginning on or after January 1, 1989.

In the General Assembly read three times and ratified this the 1st day of July, 1991.

James C. Gardner
President of the Senate

Daniel Blue, Jr.
Speaker of the House of Representatives