

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

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HOUSE BILL 1336

Short Title: Complete S Corporation Loss Relief.

(Public)

Sponsors: Representative Creech.

Referred to: Finance.

May 10, 1993

A BILL TO BE ENTITLED

AN ACT TO PROVIDE THE REMAINDER OF THE PARTIAL RELIEF ALLOWED IN 1990 TO SUBCHAPTER S CORPORATIONS FOR LOSS CARRYFORWARDS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-131.4(e) reads as rewritten:

"(e) Each shareholder's pro rata share of the reduction of an S Corporation's income because of the allowance of a carryforward loss to the S Corporation under this subsection shall be taken into account by the shareholder as a transitional adjustment under G.S. 105-134.7. Notwithstanding the provisions of subsection (a) of this section, an S Corporation that sustained a net economic loss in a taxable year beginning before January 1, 1989, may carry the loss forward to a taxable year beginning on or after January 1, 1989, and before July 1, 1991, and may deduct the loss in each year to one-half of the extent it could have carried forward and deducted the loss pursuant to G.S. 105-130.5(b)(4) and G.S. 105-130.8 if the S Corporation Income Tax Act had not become effective until taxable years beginning on or after July 1, 1991. Any loss carryforward allowed as a deduction by this subsection may not exceed one-half of the S Corporation's net income, as defined in the Code subject to the adjustments provided in G.S. 105-130.5 other than the adjustment provided in G.S. 105-130.5(b)(4), and is subject to the limitations provided in G.S. 105-131.4(b) and (d). Notwithstanding the provisions of G.S. 105-130.8(4), a net economic loss carried forward to a 1990 or 1991 taxable year pursuant to this subsection is not applied to or offset by that part of the net income of a preceding tax year from which the loss was not deductible solely due to the 'one-half' limitations provided in this subsection. Notwithstanding the provisions of G.S. 105-131.3,

1 the basis of a shareholder in the stock of an S Corporation shall be adjusted for the
2 shareholder's pro rata share of the carryforward loss allowed as a deduction to the S
3 Corporation under this subsection. Notwithstanding the provisions of G.S. 105-
4 131.6(c)(2), the accumulated adjustments account maintained for each resident
5 shareholder shall be adjusted for the shareholder's pro rata share of the carryforward
6 loss allowed as a deduction to the S Corporation under this subsection."

7 Sec. 2. This act is effective retroactively for taxable years beginning on or
8 after January 1, 1989, and expires for taxable years beginning on or after July 1, 1991.
9 Notwithstanding the time limitations of G.S. 105-266 and G. S. 105-266.1, if an
10 overpayment of tax is created by the provisions of this act, and demand for refund is
11 made on or before July 1, 1994, the time limitations of G.S. 105-266 and G.S. 105-
12 266.1 do not prohibit refund of the overpayment.