

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

H

1

HOUSE BILL 1433

Short Title: Investment Tax Credit.

(Public)

Sponsors: Representatives Berry; Cansler, Creech, Linney, Gardner, Cummings, Sharpe, and Rayfield.

Referred to: Finance.

June 3, 1996

1 A BILL TO BE ENTITLED
2 AN ACT TO ALLOW AN INVESTMENT TAX CREDIT FOR INVESTMENTS IN
3 BUSINESS PROPERTY.

4 The General Assembly of North Carolina enacts:

5 Section 1. Chapter 105 of the General Statutes is amended by adding a new
6 Article 3A to read:

7 **"ARTICLE 3A.**
8 **"INVESTMENT TAX CREDIT.**

9 **"§ 105-129.2. Definitions.**

10 The following definitions apply in this Article:

11 (1) Business property. – Tangible personal property that is used by the
12 taxpayer in connection with a business or for the production of income
13 and is capitalized on the taxpayer's books in accordance with generally
14 accepted accounting principles, including financial accounting standards
15 issued by the Financial Accounting Standards Board.

16 (2) Cost. – Defined in section 179 of the Code.

17 (3) Purchase. – Defined in section 179 of the Code.

18 **"§ 105-129.3. Credit for investing in business property.**

1 (a) Credit. – A taxpayer that has purchased business property and places it in
2 service in this State during the taxable year is allowed a credit equal to a seven and
3 seventy-five one-hundredths percent (7.75%) of the cost of the property. The entire
4 credit may not be taken for the taxable year in which the property is placed in service but
5 shall be taken in five equal installments beginning with the taxable year in which the
6 property is placed in service.

7 (b) Expiration. – If, in one of the five years in which the installment of a credit
8 accrues, the business property with respect to which the credit was claimed is sold or
9 moved out of State, the credit expires and the taxpayer may not take any remaining
10 installment of the credit. The taxpayer may, however, take the portion of an installment
11 that accrued in a previous year and was carried forward to the extent permitted under
12 G.S. 105-129.4.

13 **"§ 105-129.4. Tax election; cap.**

14 (a) Tax Election. – The credit provided in this Article is allowed against the
15 franchise tax levied in Article 3 of this Chapter or the income taxes levied in Article 4 of
16 this Chapter. The taxpayer shall elect the tax against which the credit will be claimed
17 when filing the return on which the first installment of the credit is claimed. This
18 election is binding. Any carryforwards of the credit must be claimed against the same
19 tax.

20 (b) Cap. – The credit allowed under this Article may not exceed fifty percent
21 (50%) of the tax against which they are claimed for the taxable year, reduced by the sum
22 of all other credits allowed against that tax, except tax payments made by or on behalf of
23 the taxpayer. This limitation applies to the cumulative amount of credit, including
24 carryforwards, claimed by the taxpayer under this Article against each tax for the taxable
25 year. Any unused portion of the credit may be carried forward for the succeeding five
26 years.

27 **"§ 105-129.5. Substantiation.**

28 To claim the credit allowed by this Article, the taxpayer must provide any information
29 required by the Secretary of Revenue. Every taxpayer claiming a credit under this Article
30 shall maintain and make available for inspection by the Secretary of Revenue any records
31 the Secretary considers necessary to determine and verify the amount of the credit to
32 which the taxpayer is entitled. The burden of proving eligibility for the credit and the
33 amount of the credit shall rest upon the taxpayer, and no credit shall be allowed to a
34 taxpayer that fails to maintain adequate records or to make them available for inspection.

35 **"§ 105-129.6. Reports.**

36 The Department of Revenue shall report to the Legislative Research Commission and
37 to the Fiscal Research Division of the General Assembly by May 1 of each year the
38 following information for the 12-month period ending the preceding April 1:

- 39 (1) The number of taxpayers that claimed the credit allowed in this Article.
40 (2) The cost of business machinery with respect to which credits were
41 claimed.
42 (3) The total cost to the General Fund of the credits claimed."

1 Sec. 2. This act is effective for taxable years beginning on or after January 1,
2 1996, and applies to business property placed in service on or after July 1, 1996. This act
3 is repealed effective for business property placed in service on or after January 1, 2002.