

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

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HOUSE BILL 245

Short Title: Franchise Tax on Holding Companies.

(Public)

Sponsors: Representatives Luebke, Arnold, Gamble, Ramsey, and Tallent.

Referred to: Finance.

February 22, 1995

A BILL TO BE ENTITLED

1
2 AN ACT TO AMEND THE DEFINITION OF HOLDING COMPANY FOR
3 FRANCHISE TAX PURPOSES TO PROVIDE THAT A MINOR ONE-YEAR
4 FLUCTUATION IN INCOME DOES NOT DISQUALIFY A COMPANY AS A
5 HOLDING COMPANY AND TO ANNUALLY ADJUST THE MAXIMUM
6 FRANCHISE TAX ON HOLDING COMPANIES BY AN AMOUNT EQUAL TO
7 THE PERCENTAGE INCREASE OR DECREASE IN STATE PERSONAL
8 INCOME DURING THE MOST RECENT TWELVE-MONTH PERIOD.

9 The General Assembly of North Carolina enacts:

10 Section 1. G.S. 105-120.2 reads as rewritten:

11 "**§ 105-120.2. Franchise or privilege tax on holding companies.**

12 (a) Every corporation, domestic and foreign, incorporated or, by an act,
13 domesticated under the laws of this State or doing business in this State which, at the
14 close of its taxable year is a holding company as defined in subsection (c) of this section,
15 shall, pursuant to the provisions of G.S. 105-122:

16 (1) Make a report and statement, and

17 (2) Determine the total amount of its issued and outstanding capital stock,
18 surplus and undivided profits, and

19 (3) Apportion such outstanding capital stock, surplus and undivided profits
20 to this State.

- 1 (b) (1) Every corporation taxed under this section shall annually pay
2 to the Secretary of Revenue, at the time the report and statement are
3 due, a franchise or privilege tax, which is hereby levied, at the rate of
4 one dollar and fifty cents (\$1.50) per one thousand dollars (\$1,000) of
5 the amount determined under subsection (a) of this ~~section. section;~~
6 ~~but in no case shall the~~ The tax be more than seventy-five thousand dollars
7 (\$75,000) may not exceed the maximum tax amount determined under
8 subsection (g) of this section nor be less than thirty-five dollars
9 (\$35.00).
- 10 (2) Notwithstanding the provisions of subdivision (1) of this subsection, if
11 the tax produced pursuant to application of this ~~paragraph (2) subdivision~~
12 exceeds the tax produced pursuant to application of subdivision (1), then
13 the tax shall be levied at the rate of one dollar and fifty cents (\$1.50) per
14 one thousand dollars (\$1,000) on the greater of the amounts of
- 15 a. Fifty-five percent (55%) of the appraised value as determined for
16 ad valorem taxation of all the real and tangible personal property
17 in this State of each such corporation plus the total appraised
18 value of intangible property returned for taxation of intangible
19 personal property as computed under G.S. 105-122(d); or
- 20 b. The total actual investment in tangible property in this State of
21 such corporation as computed under G.S. 105-122(d).
- 22 (c) For purposes of this section, a 'holding company' is ~~any a~~ a corporation which
23 that meets at least one of the following conditions:
- 24 (1) ~~receives~~ Received during its taxable year more than eighty percent
25 (80%) of its gross income from corporations in which it owns directly or
26 indirectly more than fifty percent (50%) of the outstanding voting stock.
- 27 (2) Received an average of more than eighty percent (80%) of its gross
28 income during its taxable year and the two preceding taxable years from
29 corporations in which it owns directly or indirectly more than fifty
30 percent (50%) of the outstanding voting stock.
- 31 (3) Received more than eighty percent (80%) of its gross income during
32 two of the preceding three taxable years from corporations in which it
33 owns directly or indirectly more than fifty percent (50%) of the
34 outstanding voting stock.
- 35 (d) Repealed by Session Laws 1985, c. 656, s. 39.
- 36 (e) Counties, cities and towns shall not levy a franchise tax on corporations taxed
37 under this section. The tax imposed under the provisions of G.S. 105-122 shall not apply
38 to businesses taxed under the provisions of this section.
- 39 (f) In determining the total tax payable by any holding company under this
40 section, there shall be allowed as a credit on such tax the amount of the credit authorized
41 under Division V of Article 4 of this Chapter.
- 42 (g) For the 1995 taxable year, the maximum tax amount is seventy-five thousand
43 dollars (\$75,000). For each subsequent taxable year, the maximum tax amount is the

1 maximum tax amount for the preceding year, plus or minus the product of that amount
2 and the percentage by which State personal income has increased or decreased during the
3 most recent 12-month period for which State personal income data has been compiled by
4 the Bureau of Economic Analysis of the United States Department of Commerce,
5 rounded to the nearest hundred."

6 Sec. 2. This act is effective upon ratification and applies to taxable years
7 beginning on or after January 1, 1995.