

GENERAL ASSEMBLY OF NORTH CAROLINA  
1995 SESSION

CHAPTER 491  
SENATE BILL 1049

AN ACT TO CLARIFY THE QUALIFIED BUSINESS TAX CREDIT TO ELIMINATE AN UNINTENDED LOOPHOLE THAT ALLOWS DOUBLE CREDITS FOR THE SAME INVESTMENT AND TO AUTHORIZE THE LEGISLATIVE RESEARCH COMMISSION TO STUDY THE QUALIFIED BUSINESS TAX CREDIT.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-163.011(b1) reads as rewritten:

"(b1) Pass-Through Entities. – This subsection does not apply to a pass-through entity that is a qualified grantee business, a qualified business venture, or a North Carolina Enterprise Corporation. Subject to the limitations provided in G.S. 105-163.012, a pass-through entity that purchases the equity securities or subordinated debt of a qualified grantee business, a qualified business venture, or a North Carolina Enterprise Corporation directly from the business or Corporation is eligible for a tax credit equal to twenty-five percent (25%) of the amount invested. The aggregate amount of credit allowed a pass-through entity for one or more investments in a single taxable year under this Division, whether directly or indirectly as owner of another pass-through entity, may not exceed seven hundred fifty thousand dollars (\$750,000). The pass-through entity is not eligible for the credit for the year in which the investment by the pass-through entity is made but shall be eligible for the credit for the taxable year beginning during the calendar year in which the application for the credit becomes effective as provided in subsection (c) of this section.

Each individual who is an owner of a pass-through entity is allowed as a credit against the tax imposed by Division II of this Article for the taxable year an amount equal to the owner's allocated share of the credits for which the pass-through entity is eligible under this subsection. The aggregate amount of credit allowed an individual for one or more investments in a single taxable year under this Division, whether directly or indirectly as owner of a pass-through entity, may not exceed fifty thousand dollars (\$50,000).

Each corporation that is an owner of a pass-through entity is allowed as a credit for the taxable year an amount equal to the corporation's allocated share of the tax credits for which the pass-through entity is eligible under this subsection as a result of the pass-through entity's investment in equity securities of a North Carolina Enterprise Corporation. The credit is allowed against one or more of the following taxes:

- (1) The income tax imposed by Division I of this Article.
- (2) The franchise tax imposed by G.S. 105-116, 105-120.2, and 105-122.

- (3) The gross premiums tax imposed by G.S. 105-228.5 and G.S. 105-228.8.

The aggregate amount of credit allowed a corporation for one or more investments in a single taxable year under this Division, whether directly or indirectly as owner of a pass-through entity, may not exceed seven hundred fifty thousand dollars (\$750,000).

If an owner's share of the pass-through entity's credit is limited due to the maximum allowable credit under this section for a taxable year or if a corporate owner is not eligible for the credit because the investment was not made in a North Carolina Enterprise Corporation, the pass-through entity and its owners may not reallocate the unused credit among the other owners."

Sec. 2. The Legislative Research Commission is authorized to study the qualified business investment tax credit provided in Division V of Article 4 of Chapter 105 of the General Statutes. The study may include consideration of how the law can be modified to better encourage venture capital investment in North Carolina, such as increasing the ceilings on credits, expanding the types of business that may qualify, and other modifications. The Commission may make an interim report of its findings and recommendations to the 1996 Session of the 1995 General Assembly and shall make a final report of its findings and recommendations to the 1997 General Assembly.

Sec. 3. Section 1 of this act is effective for taxable years beginning on or after January 1, 1995, but does not apply to investments made before August 1, 1995, or to investments made pursuant to commitments to invest entered into before August 1, 1995. The remainder of this act is effective upon ratification.

In the General Assembly read three times and ratified this the 27th day of July, 1995.

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Dennis A. Wicker  
President of the Senate

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Harold J. Brubaker  
Speaker of the House of Representatives