

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

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SENATE BILL 850

Short Title: Modify Franchise Tax Base.

(Public)

Sponsors: Senators Gulley, Sherron, Lucas, Carrington, and McKoy.

Referred to: Finance

April 26, 1995

A BILL TO BE ENTITLED

AN ACT TO PROVIDE THAT THE VALUE OF CERTAIN INVENTORIES IS DEDUCTIBLE IN CALCULATING A CORPORATION'S INVESTMENT IN TANGIBLE PROPERTY IN NORTH CAROLINA FOR FRANCHISE TAX PURPOSES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-122(d) reads as rewritten:

"(d) After determining the proportion of its total capital stock, surplus and undivided profits as set out in subsection (c) of this section, which amount so determined shall in no case be less than fifty-five percent (55%) of the appraised value as determined for ad valorem taxation of all the real and tangible personal property in this State of each such corporation plus the total appraised value of intangible property returned for taxation of intangible personal property as herein specified nor less than its total actual investment in tangible property in this State, every corporation taxed under this section shall annually pay to the Secretary of Revenue, at the time the report and statement are due, a franchise or privilege tax, which is hereby levied at the rate of one dollar and fifty cents (\$1.50) per one thousand dollars (\$1,000) of the total amount of capital stock, surplus and undivided profits as herein provided. The tax imposed in this section shall in no case be less than thirty-five dollars (\$35.00) and shall be for the privilege of carrying on, doing business, and/or the continuance of articles of incorporation or domestication of

1 each such corporation in this State. Appraised value of tangible property including real
2 estate shall be the ad valorem valuation for the calendar year next preceding the due date
3 of the franchise tax return. Appraised value of intangible property shall be the total gross
4 valuation required to be reported for intangible tax purposes on April 15 coincident with
5 or next preceding the due date of the franchise tax return. The term 'total actual
6 investment in tangible property' as used in this section shall be construed to mean the
7 total original purchase price or consideration to the reporting taxpayer of its tangible
8 properties, including real estate, in this State plus additions and improvements thereto
9 less reserve for depreciation as permitted for income tax purposes, and also less any
10 indebtedness incurred and existing by virtue of the purchase of any real estate and any
11 permanent improvements made thereon. In computing 'total actual investment in tangible
12 personal property' there shall also be deducted reserves for the entire cost of any air-
13 cleaning device or sewage or waste treatment plant, including waste lagoons, and
14 pollution abatement equipment purchased or constructed and installed which reduces the
15 amount of air or water pollution resulting from the emission of air contaminants or the
16 discharge of sewage and industrial wastes or other polluting materials or substances into
17 the outdoor atmosphere or into streams, lakes, or rivers, upon condition that the
18 corporation claiming such deduction shall furnish to the Secretary a certificate from the
19 Department of Environment, Health, and Natural Resources or from a local air pollution
20 control program for air-cleaning devices located in an area where the Environmental
21 Management Commission has certified a local air pollution control program pursuant to
22 G.S. 143-215.112 certifying that said Department or local air pollution control program
23 has found as a fact that the air-cleaning device, waste treatment plant or pollution
24 abatement equipment purchased or constructed and installed as above described has
25 actually been constructed and installed and that such device, plant or equipment complies
26 with the requirements of the Environmental Management Commission or local air
27 pollution control program with respect to such devices, plants or equipment, that such
28 device, plant or equipment is being effectively operated in accordance with the terms and
29 conditions set forth in the permit, certificate of approval, or other document of approval
30 issued by the Environmental Management Commission or local air pollution control
31 program and that the primary purpose thereof is to reduce air or water pollution resulting
32 from the emission of air contaminants or the discharge of sewage and waste and not
33 merely incidental to other purposes and functions. The cost of constructing facilities of
34 any private or public utility built for the purpose of providing sewer service to residential
35 and outlying areas shall be treated as deductible for the purposes of this section; the
36 deductible liability allowed by this section shall apply only with respect to such pollution
37 abatement plants or equipment constructed or installed on or after January 1, 1955.

38 In computing 'total actual investment in tangible property,' the taxpayer's investment
39 in inventories as defined in G.S. 105-273(8a) shall be deductible.

40 In determining the total tax payable by any corporation under this section, there shall
41 be allowed as a credit on such tax the amount of the credit authorized by Division V of
42 Article 4 of this Chapter."

1 Sec. 2. This act is effective for taxable years beginning on or after January 1,
2 1995.