

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

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HOUSE BILL 1373

Short Title: Modernize Franchise Tax Base.

(Public)

Sponsors: Representative Miller.

Referred to: Finance.

April 29, 1999

A BILL TO BE ENTITLED

AN ACT TO ELIMINATE THE FRANCHISE TAX FLOOR BASED ON TAXABLE TANGIBLE AND INTANGIBLE PROPERTY AND TO DELETE A DEDUCTION FOR DEBT INCURRED IN THE ACQUISITION OF REAL PROPERTY.

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 each such corporation in this State. ~~Appraised value of tangible property including real estate shall be the~~

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

37 Section 2. This act is effective for taxable years beginning on or after January  
38 1, 2000.