## GENERAL ASSEMBLY OF NORTH CAROLINA

### SESSION 1999

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## SENATE BILL 1030

Short Title: Franchise Tax Credit for CIP.	(Public)	
Sponsors: Senator Reeves.	_	
Referred to: Finance.		

## April 15, 1999

1 A BILL TO BE ENTITLED

AN ACT TO ALLOW A CREDIT AGAINST THE FRANCHISE TAX FOR PROPERTY TAXES PAID ON CONSTRUCTION IN PROGRESS.

The General Assembly of North Carolina enacts:

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

# "§ 105-127.1. Credit for property tax paid on construction in progress.

(a) Credit. – A person required to file a report and remit a tax under this Article is allowed a credit against the tax imposed by this Article equal to the amount of property taxes the taxpayer paid at par during the calendar year next preceding the due date of the franchise tax return on construction in progress. In addition, a person that must file a report and remit a tax under this Article that is the owner of a pass-through entity that is not subject to the tax imposed under this Article is allowed a credit against the tax imposed by this Article equal to the taxpayer's pro rata share of the amount of property taxes the pass-through entity paid at par during the calendar year next preceding the due date of the franchise tax return on construction in progress. The total credit allowed under this section for the taxable year may not exceed the amount of tax imposed by this Article for the taxable year reduced by the sum of all credits allowed against this tax, except payments of tax made by or on behalf of the taxpayer. To claim the credit, the taxpayer must attach to the return a copy of the tax receipt for the property taxes for

which a credit is claimed. The receipt must indicate that the taxes have been paid and the amount and date of the payment.

- (b) Adjustment. If a taxing unit gives a taxpayer a credit or refund for any of the property taxes for which the taxpayer claimed a credit under this section, the taxpayer must notify the Secretary of Revenue within 90 days. The Secretary shall then recompute the credit allowed under this section and make any resulting adjustment of franchise tax for the taxable year for which the credit was claimed.
- (c) <u>Definition. For the purposes of this section, the term 'construction in progress' has the same meaning as defined in G.S. 105-273."</u>

Section 2. G.S. 105-273 reads as rewritten:

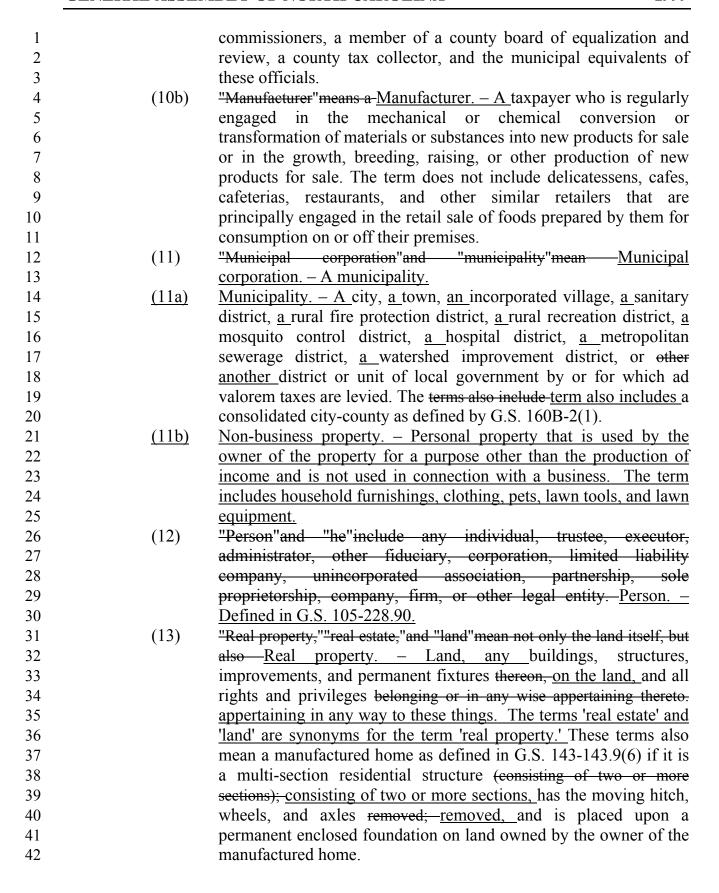
### "§ 105-273. Definitions.

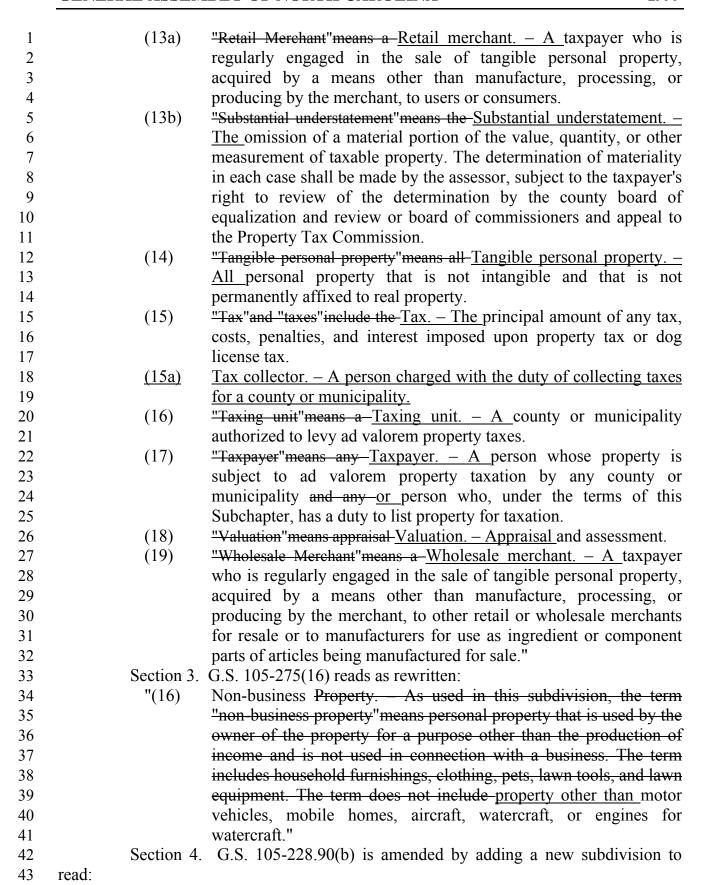
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When used in this Subchapter (unless the context requires a different meaning): <u>The following definitions apply in this Subchapter:</u>

- (1) "Abstract" means the Abstract. The document on which the property of a taxpayer is listed for ad valorem taxation and on which the appraised and assessed values of the property are recorded.
- (2) "Appraisal" means both Appraisal. Both the true value of property and the process by which true value is ascertained.
- (3) "Assessment" means both—Assessment. Both the tax value of property and the process by which the assessment is determined.
- (4) Repealed by Session Laws 1973, c. 695, s. 15.
- (4a) Business personal property. Personal property that is not non-business property.
- (5) "Collector" or "tax collector" means any person charged with the duty of collecting taxes for a county or municipality. Collector. A tax collector.
- "Contractor" means a Construction in progress. Tangible business personal property that is on site but which the taxpayer has not yet begun to depreciate for federal income tax purposes because the property has not been placed in service.
- (5b) <u>Contractor. A taxpayer who is regularly engaged in building, installing, repairing, or improving real property.</u>
- (6) "Corporation" includes—Corporation. A nonprofit corporation and every type of organization having capital stock represented by shares.
- (6a) "Discovered property" includes all—Discovered property. All of the following:
  - a. Property that was not listed during a listing period.
  - b. Property that was listed but the listing included a substantial understatement.
  - c. Property that has been granted an exemption or exclusion and does not qualify for the exemption or exclusion.

1	(6b)	"To discover property" means to To discover property. – To determine
2		any of the following:
3	a.	Property has not been listed during a listing period.
4	b.	A taxpayer made a substantial understatement of listed property.
5	c.	Property was granted an exemption or exclusion and the property
6		does not qualify for an exemption or exclusion.
7	(7)	"Document" includes Document. – A book, paper, record, statement,
8		account, map, plat, film, picture, tape, object, instrument, and or
9		any other thing conveying information.
10	(7a)	"Failure to list property" includes all Failure to list property All of
11		the following:
12	a.	Failure to list property during a listing period.
12 13	b.	A substantial understatement of listed property.
14	c.	Failure to notify the assessor that property granted an exemption
15		or exclusion under an application for exemption or exclusion
16		does not qualify for the exemption or exclusion.
17	(8)	"Intangible personal property" means patents, Intangible personal
18		property Patents, copyrights, secret processes, formulae, good
19		will, trademarks, trade brands, franchises, stocks, bonds, cash, bank
20		deposits, notes, evidences of debt, leasehold interests in exempted
21		real property, bills and accounts receivable, and other like property.
	(8a)	"Inventories" means-Inventories Either of the following: (i) goods
23	. ,	held for sale in the regular course of business by manufacturers,
24		retail and wholesale merchants, and contractors, and (ii) goods held
22 23 24 25 26 27		by contractors to be furnished in the course of building, installing,
26		repairing, or improving real property. As to manufacturers, the
27		term includes raw materials, goods in process, and finished goods,
28		as well as other materials or supplies that are consumed in
29		manufacturing or processing, or that accompany and become a part
30		of the sale of the property being sold. The term also includes crops,
31		livestock, poultry, feed used in the production of livestock and
32		poultry, and other agricultural or horticultural products held for
33		sale, whether in process or ready for sale. The term does not
34		include fuel used in manufacturing or processing, nor does it
35		include materials or supplies not used directly in manufacturing or
36		processing. As to retail and wholesale merchants and contractors,
37		the term includes, in addition to articles held for sale, packaging
38		materials that accompany and become a part of the sale of the
39		property being sold.
40	<del>(9)</del>	"List" or "listing," when used as a noun, means abstract.
41	(10)	Repealed by Session Laws 1987, c. 43, s. 1.
42	(10a)	"Local tax official" includes a Local tax official. – A county assessor,
13	. /	an assistant county assessor a member of a county board of





1	"(4)	Pass-through entity An entity or business, including a limited
2	<del></del>	partnership, a general partnership, a joint venture, a Subchapter S
3		Corporation, or a limited liability company, all of which is treated
4		as owned by individuals or other entities under the federal tax laws,
5		in which the owners report their share of the income, losses, and
6		credits from the entity or business on their income tax returns filed
7		with this State. For the purpose of this Article, an owner of a pass-
8		through entity is an individual or entity who is treated as an owner
9		under the federal tax laws."
10	Section 5.	G.S. 105-163.010(7) reads as rewritten:
11	"(7)	Pass-through entity An entity or business, including a limited
12	, ,	partnership, a general partnership, a joint venture, a Subchapter S
13		Corporation, or a limited liability company, all of which is treated
14		as owned by individuals or other entities under the federal tax laws,
15		in which the owners report their share of the income, losses, and
16		credits from the entity or business on their income tax returns filed
17		with this State. For the purpose of this Part, an owner of a pass-
18		through entity is an individual or entity who is treated as an owner
19		under the federal tax laws. Defined in G.S. 105-228.90."
20	Section 6.	Section 1 of this act is effective for taxable years beginning on or

Section 6. Section 1 of this act is effective for taxable years beginning on or after January 1, 2000. The remainder of this act is effective when it becomes law.

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