

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011

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SENATE BILL 94*

Short Title: IRC Update.

(Public)

Sponsors: Senators Hartsell, Tillman, Newton; East, Jenkins, Jones, Rucho; and Stein.

Referred to: Finance.

February 22, 2011

A BILL TO BE ENTITLED

AN ACT TO UPDATE THE REFERENCE TO THE INTERNAL REVENUE CODE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 105-228.90(b)(1b) reads as rewritten:

"(1b) Code. – The Internal Revenue Code as enacted as of ~~May 1, 2010~~, January 1, 2011, including any provisions enacted as of that date that become effective either before or after that date."

SECTION 2.(a) G.S. 105-130.5(a) is amended by adding a new subdivision to

read:

"(15b) For taxable years 2010 through 2012, eighty-five percent (85%) of the amount allowed as a special accelerated depreciation deduction under section 168(k) or 168(n) of the Code for property placed in service during the taxable year. In addition, for taxable year 2010, a taxpayer who placed property in service during the 2009 taxable year and whose North Carolina taxable income for the 2009 taxable year reflected a special accelerated depreciation deduction allowed for the property under section 168(k) of the Code must add eighty-five percent (85%) of the amount of the special accelerated depreciation deduction. These adjustments do not result in a difference in basis of the affected assets for State and federal income tax purposes."

SECTION 2.(b) G.S. 105-130.5(b) is amended by adding a new subdivision to

read:

"(21b) An amount equal to twenty percent (20%) of the amount added to federal taxable income as accelerated depreciation under subdivision (a)(15b) of this section. For the amount added to taxable income in the 2010 taxable year, the deduction allowed by this subdivision applies to the first five taxable years beginning on or after January 1, 2011. For the amount added to taxable income in the 2011 taxable year, the deduction allowed by this subdivision applies to the first five taxable years beginning on or after January 1, 2012. For the amount added to taxable income in the 2012 taxable year, the deduction allowed by this subdivision applies to the first five taxable years beginning on or after January 1, 2013."

SECTION 2.(c) G.S. 105-134.6(c) is amended by adding a new subdivision to

read:

"(8b) For taxable years 2010 through 2012, eighty-five percent (85%) of the amount allowed as a special accelerated depreciation deduction under section 168(k) or 168(n) of the Code for property placed in service during



1 the taxable year. In addition, for taxable year 2010, a taxpayer who placed
2 property in service during the 2009 taxable year and whose North Carolina
3 taxable income for the 2009 taxable year reflected a special accelerated
4 depreciation deduction allowed for the property under section 168(k) of the
5 Code must add eighty-five percent (85%) of the amount of the special
6 accelerated depreciation deduction. These adjustments do not result in a
7 difference in basis of the affected assets for State and federal income tax
8 purposes."

9 **SECTION 2.(d)** G.S. 105-134.6(b) is amended by adding a new subdivision to

10 read:

11 "(17b) An amount equal to twenty percent (20%) of the amount added to federal
12 taxable income as accelerated depreciation under subdivision (c)(8b) of this
13 section. For the amount added to taxable income in the 2010 taxable year,
14 the deduction allowed by this subdivision applies to the first five taxable
15 years beginning on or after January 1, 2011. For the amount added to taxable
16 income in the 2011 taxable year, the deduction allowed by this subdivision
17 applies to the first five taxable years beginning on or after January 1, 2012.
18 For the amount added to taxable income in the 2012 taxable year, the
19 deduction allowed by this subdivision applies to the first five taxable years
20 beginning on or after January 1, 2013."

21 **SECTION 3.(a)** G.S. 105-130.5(a) is amended by adding a new subdivision to

22 read:

23 "(23) For taxable years 2010 and 2011, eighty-five percent (85%) of the amount
24 by which the taxpayer's expense deduction under section 179 of the Code for
25 property placed in service in taxable year 2010 or 2011 exceeds the amount
26 that would have been allowed for the respective taxable year under section
27 179 of the Code as of May 1, 2010. These adjustments do not result in a
28 difference in basis of the affected assets for State and federal income tax
29 purposes."

30 **SECTION 3.(b)** G.S. 105-130.5(b) is amended by adding a new subdivision to

31 read:

32 "(26) An amount equal to twenty percent (20%) of the amount added to federal
33 taxable income under subdivision (a)(23) of this section. For the amount
34 added to taxable income in the 2010 taxable year, the deduction allowed by
35 this subdivision applies to the first five taxable years beginning on or after
36 January 1, 2011. For the amount added to taxable income in the 2011 taxable
37 year, the deduction allowed by this subdivision applies to the first five
38 taxable years beginning on or after January 1, 2012."

39 **SECTION 3.(c)** G.S. 105-134.6(c) is amended by adding a new subdivision to

40 read:

41 "(15) For taxable years 2010 and 2011, eighty-five percent (85%) of the amount
42 by which the taxpayer's expense deduction under section 179 of the Code for
43 property placed in service in taxable year 2010 or 2011 exceeds the amount
44 that would have been allowed for the respective taxable year under section
45 179 of the Code as of May 1, 2010. These adjustments do not result in a
46 difference in basis of the affected assets for State and federal income tax
47 purposes."

48 **SECTION 3.(d)** G.S. 105-134.6(b) is amended by adding a new subdivision to

49 read:

50 "(21) An amount equal to twenty percent (20%) of the amount added to federal
51 taxable income under subdivision (c)(15) of this section. For the amount

1 added to taxable income in the 2010 taxable year, the deduction allowed by
2 this subdivision applies to the first five taxable years beginning on or after
3 January 1, 2011. For the amount added to taxable income in the 2011 taxable
4 year, the deduction allowed by this subdivision applies to the first five
5 taxable years beginning on or after January 1, 2012."

6 **SECTION 4.** Article 1A of Chapter 105 of the General Statutes is amended by
7 adding a new section to read:

8 **"§ 105-32.2A. Election to receive stepped-up basis for 2010.**

9 A personal representative of an estate of a decedent dying in calendar year 2010 for which
10 the federal estate tax is paid may elect to conform the North Carolina basis of the property in
11 the estate to that of the federal stepped-up basis obtained by payment of the federal estate tax
12 by filing an election with the Secretary and paying the amount of tax that would have been
13 payable under this Article had the federal estate tax that was paid been in effect when the
14 decedent died. In the absence of this election and payment, the North Carolina basis of the
15 property differs from the federal basis. To make the election, an executor must file a return with
16 the Secretary within the time allowed for filing the federal estate tax return."

17 **SECTION 5.** This act is effective when it becomes law. Notwithstanding Section 1
18 of this act, any amendments to the Internal Revenue Code enacted after May 1, 2010, that
19 increase North Carolina taxable income for the 2010 taxable year become effective for taxable
20 years beginning on or after January 1, 2011.