

GENERAL ASSEMBLY OF NORTH CAROLINA
1989 SESSION

CHAPTER 716
SENATE BILL 405

AN ACT TO INCREASE THE MAXIMUM INCOME TAX CREDIT FOR
DONATIONS OF REAL PROPERTY FOR LAND CONSERVATION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-130.34 reads as rewritten:

"§ 105-130.34. Credit for certain real property donations.

(a) Any corporation that makes a qualified donation of interest in real property located in North Carolina during the taxable year that is useful for public beach access or use, public access to public waters or trails, fish and wildlife conservation, or other similar land conservation purposes, shall be allowed a credit against the taxes imposed by this Division equal to twenty-five percent (25%) of the fair market value of the donated property interest. To be eligible for this credit, the interest in real property must be donated to and accepted by either the State, local government or a body that is both organized to receive and administer lands for conservation purposes and is qualified to receive charitable contributions pursuant to G.S. 105-130.9; provided, however, that lands required to be dedicated pursuant to local governmental regulation or ordinance and dedications made to increase building density levels permitted under such regulations or ordinances shall not be eligible for this credit. The credit allowed under this section may not exceed ~~five thousand dollars (\$5,000)~~ twenty-five thousand dollars (\$25,000). To support the credit allowed by this section, the taxpayer shall file with its income tax return for the taxable year in which the credit is claimed, a certification by the Department of Natural Resources and Community Development that the property donated is suitable for one or more of the valid public benefits set forth in this subsection.

(b) The credit allowed by this section may not exceed the amount of tax imposed by this Division for the taxable year reduced by the sum of all credits allowed under this Division, except payments of tax made by or on behalf of the taxpayer.

(c) Any unused portion of this credit may be carried forward for the next succeeding five years.

(d) The fair market value, or any portion thereof, of a qualifying donation that is not eligible for a credit pursuant to this section may be considered as a charitable contribution pursuant to G.S. 105-130.9. That portion of the donation allowed as a credit pursuant to this section shall not be eligible as a charitable contribution."

Sec. 2. G.S. 105-151.12 reads as rewritten:

"§ 105-151.12. Credit for certain real property donations.

(a) Any person that makes a qualified donation of interests in real property located in North Carolina during the taxable year that is useful for public beach access or use, public access to public waters or trails, fish and wildlife conservation, or other similar land conservation purposes, shall be allowed a credit against the taxes imposed by this Division equal to twenty-five percent (25%) of the fair market value of the donated property interest. To be eligible for this credit, the interest in property must be donated to and accepted by either the State, local government or a body that is both organized to receive and administer lands for conservation purposes and is qualified to receive charitable contributions pursuant to G.S. 105-147(15) or (16); provided, however, that lands required to be dedicated pursuant to local governmental regulation or ordinance and dedications made to increase building density levels permitted under such regulations or ordinances shall not be eligible for this credit. The credit allowed under this section may not exceed ~~five thousand dollars (\$5,000)~~ twenty-five thousand dollars (\$25,000). To support the credit allowed by this section, the taxpayer shall file with the income tax return for the taxable year in which the credit is claimed, a certification by the Department of Natural Resources and Community Development that the property donated is suitable for one or more of the valid public benefits set forth by this subsection.

(b) The credit allowed by this section may not exceed the amount of tax imposed by this Division for the taxable year reduced by the sum of all credits allowed under this Division, except payments of tax made by or on behalf of the taxpayer.

(c) Any unused portion of this credit may be carried forward for the next succeeding five years.

(d) The fair market value, or any portion thereof, of a qualifying donation that is not eligible for a credit pursuant to this section may be considered as a charitable contribution pursuant to G.S. 105-147(15) or (16). That portion of the donation allowed as a credit pursuant to this section shall not be eligible as a charitable contribution.

(e) In the case of property owned by the entirety, where both spouses are required to file North Carolina income tax returns, each spouse may claim one half of the credit allowed by this section or one spouse may claim the entire credit allowed by this section by agreement with the other spouse, provided both spouses were living together at the end of the taxable year and file their separate returns for the taxable year on the combined form. Where only one spouse is required to file a North Carolina income tax return, such spouse may claim the credit allowed by this section.

(f) In the case of marshland for which a claim has been filed pursuant to G.S. 113-205, the offer of donation must be made before December 31, 1990, to qualify for the credit allowed by this section."

Sec. 3. This act is effective for taxable years beginning on or after January 1, 1989.

In the General Assembly read three times and ratified this the 3rd day of August, 1989.