

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

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HOUSE BILL 994*

Short Title: IRC Update. (Public)

Sponsors: Representatives Brody, Dixon, Langdon, and Steinburg (Primary Sponsors).
For a complete list of sponsors, refer to the North Carolina General Assembly web site.

Referred to: Finance

April 28, 2016

A BILL TO BE ENTITLED

AN ACT TO UPDATE THE REFERENCE TO THE INTERNAL REVENUE CODE AND TO
DECOUPLE FROM CERTAIN PROVISIONS OF THE FEDERAL PROTECTING
AMERICANS FROM TAX HIKES ACT OF 2015, AS RECOMMENDED BY THE
AGRICULTURE AND FORESTRY AWARENESS STUDY COMMISSION.

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 ~~January 1, 2015~~, January 1, 2016, including any provisions enacted as of that date that become effective either before or after that date."

SECTION 2.(a) G.S. 105-130.5B(c) reads as rewritten:

"(c) Section 179 Expense. – For purposes of this subdivision, the definition of section 179 property has the same meaning as under section 179 of the Code as of ~~January 1, 2015~~, January 1, 2016. A taxpayer who places section 179 property in service during a taxable year listed in the table below must add to the taxpayer's federal taxable income eighty-five percent (85%) of the amount by which the taxpayer's expense deduction under section 179 of the Code exceeds the dollar and investment limitation listed in the table below for the taxable year.

A taxpayer is allowed to deduct twenty percent (20%) of the add-back in each of the first five taxable years following the year the taxpayer is required to include the add-back in income.

Taxable Year of 85% Add-Back	Dollar Limitation	Investment Limitation
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2010	\$250,000	\$800,000
2011	\$250,000	\$800,000
2012	\$250,000	\$800,000
2013	\$25,000	\$200,000
2014	\$25,000	\$200,000
<u>2015</u>	<u>\$25,000</u>	<u>\$200,000</u>

SECTION 2.(b) G.S. 105-153.6(c) reads as rewritten:

"(c) Section 179 Expense. – For purposes of this subdivision, the definition of section 179 property has the same meaning as under section 179 of the Code as of ~~January 1, 2015~~, January 1, 2016. A taxpayer who places section 179 property in service during a taxable year listed in the table below must add to the taxpayer's federal taxable income or adjusted gross income, as appropriate, eighty-five percent (85%) of the amount by which the taxpayer's expense deduction under section 179 of the Code exceeds the dollar and investment limitation listed in the table below for that taxable year. For taxable years before 2012, the taxpayer must add the amount to



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1 the taxpayer's federal taxable income. For taxable year 2012 and after, the taxpayer must add the
 2 amount to the taxpayer's adjusted gross income.

3 A taxpayer is allowed to deduct twenty percent (20%) of the add-back in each of the first five
 4 taxable years following the year the taxpayer is required to include the add-back in income.

5 Taxable Year of	Dollar Limitation	Investment Limitation
6 85% Add-Back		
7 2010	\$250,000	\$800,000
8 2011	\$250,000	\$800,000
9 2012	\$250,000	\$800,000
10 2013	\$25,000	\$200,000
11 2014	\$25,000	\$200,000
12 <u>2015</u>	<u>\$25,000</u>	<u>\$200,000"</u>

13 **SECTION 3.** G.S. 105-153.5(a)(2) reads as rewritten:

14 "(2) Itemized deduction amount. – An amount equal to the sum of the items listed in
 15 this subdivision. The amounts allowed under this subdivision are not subject to
 16 the overall limitation on itemized deductions under section 68 of the Code:

17 a. Charitable Contribution. – The amount allowed as a deduction for
 18 charitable contributions under section 170 of the Code for that taxable
 19 year. For taxable ~~year 2014,~~ years beginning on or after 2014,
 20 a taxpayer who elected to take the income exclusion under section
 21 408(d)(8) of the Code for a qualified charitable distribution from an
 22 individual retirement plan by a person who has attained the age of 70
 23 1/2 may deduct the amount that would have been allowed as a charitable
 24 deduction under section 170 of the Code had the taxpayer not elected to
 25 take the income exclusion.

26 b. Mortgage Expense and Property Tax. – The amount allowed as a
 27 deduction for interest paid or accrued during the taxable year under
 28 section 163(h) of the Code with respect to any qualified residence plus
 29 the amount allowed as a deduction for property taxes paid or accrued on
 30 real estate under section 164 of the Code for that taxable year. For
 31 taxable ~~year 2014,~~ years 2014, 2015, and 2016, the amount allowed as a
 32 deduction for interest paid or accrued during the taxable year under
 33 section 163(h) of the Code with respect to any qualified residence shall
 34 not include the amount for mortgage insurance premiums treated as
 35 qualified residence interest. The amount allowed under this
 36 sub-subdivision may not exceed twenty thousand dollars (\$20,000). For
 37 spouses filing as married filing separately or married filing jointly, the
 38 total mortgage interest and real estate taxes claimed by both spouses
 39 combined may not exceed twenty thousand dollars (\$20,000). For
 40 spouses filing as married filing separately with a joint obligation for
 41 mortgage interest and real estate taxes, the deduction for these items is
 42 allowable to the spouse who actually paid them. If the amount of the
 43 mortgage interest and real estate taxes paid by both spouses exceeds
 44 twenty thousand dollars (\$20,000), these deductions must be prorated
 45 based on the percentage paid by each spouse. For joint obligations paid
 46 from joint accounts, the proration is based on the income reported by
 47 each spouse for that taxable year.

48 c. Medical and Dental Expense. – The amount allowed as a deduction for
 49 medical and dental expenses under section 213 of the Code for that
 50 taxable year."

51 **SECTION 4.** G.S. 105-153.5(c2) reads as rewritten:

1 "(c2) Decoupling Adjustments. – In calculating North Carolina taxable income, a taxpayer
2 must add to the taxpayer's adjusted gross income any of the following items that are not included
3 in the taxpayer's adjusted gross income:

- 4 (1) For taxable ~~year 2014, years 2014, 2015, and 2016,~~ the amount excluded from
5 the taxpayer's gross income for the discharge of qualified principal residence
6 indebtedness under section 108 of the Code. The purpose of this subdivision is
7 to decouple from the ~~extension of the income exclusion under section 102 of~~
8 ~~the Tax Increase Prevention Act of 2014,~~available under federal tax law.
- 9 (2) For taxable year 2014, the amount of the taxpayer's deduction for qualified
10 tuition and related expenses under section 222 of the Code. The purpose of this
11 subdivision is to decouple from the ~~extension of the federal above-the-line~~
12 ~~deduction under section 107 of the Tax Increase Prevention Act of~~
13 ~~2014,~~available under federal tax law.
- 14 (3) For taxable ~~year 2014, years beginning on or after 2014,~~ the amount excluded
15 from the taxpayer's gross income for a qualified charitable distribution from an
16 individual retirement plan by a person who has attained age 70 1/2 under
17 section 408(d)(8) of the Code. The purpose of this subdivision is to decouple
18 from the ~~extension of the income exclusion under section 108 of the Tax~~
19 ~~Increase Prevention Act of 2014,~~available under federal tax law.
- 20 (4) For taxable years prior to 2014, the amount excluded from the taxpayer's gross
21 income for amounts received by a wrongfully incarcerated individual under
22 section 139F of the Code for which the taxpayer took a deduction under former
23 G.S. 105-134.6(b)(14). The purpose of this subdivision is to prevent a double
24 benefit where federal tax law provides an income exclusion for income for
25 which the State previously provided a deduction."

26 **SECTION 5.(a)** G.S. 105-241.6(b) is amended by adding a new subdivision to read:

27 "(6) Wrongfully Incarcerated Individuals. – If a request for a refund of an
28 overpayment of tax under section 139F of the Code for a taxable year prior to
29 2016 is barred by the operation of any law or rule of law, the refund may
30 nevertheless be allowed if the claim for the refund is filed by December 18,
31 2016."

32 **SECTION 5.(b)** This section expires January 1, 2017.

33 **SECTION 6.** Except as otherwise provided, this act is effective when it becomes law.

34 Notwithstanding Section 1 of this act, any amendments to the Internal Revenue Code enacted after
35 January 1, 2015, that increase North Carolina taxable income for the 2015 taxable year are
36 effective for taxable years beginning on or after January 1, 2016.