

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: HB 74 Senate Committee Substitute (4th Edition)

SHORT TITLE: Phase II Funds/Immunity/Tax Exempt

SPONSOR(S): Rep. Baker, et al

FISCAL IMPACT					
(\$Million)					
	Yes (X)	No ()	No Estimate Available ()		
	<u>FY 1999-00</u>	<u>FY 2000-01</u>	<u>FY 2001-02</u>	<u>FY 2002-03</u>	<u>FY 2003-04</u>
REVENUES*	-\$8.7	-\$9.0	-\$9.3	-\$9.6	-\$9.9
State General Fund					
PRINCIPAL DEPARTMENT AFFECTED: The corporate income tax is collected by the Department of Revenue.					
EFFECTIVE DATE: Income tax changes are effective with tax years beginning on or after January 1, 1999. The tobacco manufacturing export credit sunsets on January 1, 2005.					
*In addition to the losses shown for the tobacco export credit, there would be a reduction in income tax revenue for exempting the earnings of the settlement fund if the fund locates in North Carolina. Given the many unknown elements of the final Phase II agreements and the payout schedule for the proceeds of the fund, it is impossible to predict the loss of revenue.					

BILL SUMMARY: (1) Provides for corporate income tax credit for manufacturing cigarettes for exportation to a foreign country. The credit is equal to based on the amount of export volume in the tax year, compared to 1998, as shown on the following page:

<u>Volume Compared to its</u> <u>Base Year's Exportation Volume</u>	<u>Per Thousand</u> <u>Cigarettes Exported</u>
120 or more	40¢
199% - 100%	35¢
99% - 80%	30¢
79% - 60%	25¢
59% - 50%	20¢
Less than 50	None

The credit for a taxpayer is limited to the lesser of \$6 million or 50% of the tax due, reduced by the sum of other credits available. Any unused credit may be carried forward for five years. The credit limit calculation in a particular year includes the carryforwards claimed for prior years.

(2) Allows a deduction from the corporate income for interest, investment earnings, and gains of a qualified settlement fund that meet the following conditions:

- a. the settlors of the fund are two or more manufacturers that sign a settlement agreement with the State to settle existing and potential claims of the State against the manufacturers for damages attributable to the product of the manufacturers if the following conditions are met:
- b. the purpose of the fund is to address potential adverse economic consequences resulting from a decline in market demand for the product because of market restrictions and other provisions in the settlement agreement.
- c. a State court approves and retains jurisdiction over the fund.
- d. At least 25% of the distributions from the fund are made in accordance with certifications that meet the criteria in the settlement agreement and are made by a nonprofit entity, the governing board of which includes State officials.

The bill contains a similar deduction for trusts.

(3) Prohibits the sale in North Carolina of cigarettes whose package differs from the labeling requirement of federal law, is labeled "For Export Only", or violates federal trademark or copyright law. In addition, cigarettes whose import in the U.S. is prohibited by federal law cannot legally be sold in the State. A violation of this law is a Class 1 misdemeanor and an unfair trade practice and cigarettes whose sale violates this law may be seized by law enforcement officers.

ASSUMPTIONS AND METHODOLOGY:

Under the Phase II settlement, tobacco manufacturers will be required to pay up to \$5.15 billion over a 12 year period into the National Tobacco Community Trust. The annual payments are specified in the settlement. However, there is no way to know how much cash will be available for investment between the time the settlement payments are received by the Trust and the disbursement to growers/quota holders. The estimate of the potential revenue loss from the manufacturers' export credit is based on discussions with a company spokesman.

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