

**§ 105-129.26. Qualification; forfeiture.**

(a) Major Recycling Facility. – A recycling facility qualifies for the tax benefits provided in this Article and in Article 5 of this Chapter for major recycling facilities if it meets all of the following conditions:

- (1) The facility is located in an area that, at the time the owner began construction of the facility, was a development tier one area as defined in G.S. 143B-437.08.
- (2) The Secretary of Commerce has certified that the owner will, by the end of the fourth year after the year the owner begins construction of the recycling facility, invest at least three hundred million dollars (\$300,000,000) in the facility and create at least 250 new, full-time jobs at the facility.
- (3) Repealed by Session Laws 2014-3, s. 14.2, effective May 29, 2014.

(b) Repealed by Session Laws 2010-166, s. 2.1, effective July 1, 2010.

(c) Forfeiture. – If the owner of a major recycling facility fails to make the required minimum investment or create the required number of new jobs within the period certified by the Secretary of Commerce under this section, the recycling facility no longer qualifies for the applicable recycling facility tax benefits provided in this Article and in Article 5 of this Chapter and forfeits all tax benefits previously received under those Articles. Forfeiture does not occur, however, if the failure was due to events beyond the owner's control. Upon forfeiture of tax benefits previously received, the owner is liable under Part 1 of Article 4 of this Chapter for a tax equal to the amount of all past taxes under Articles 3, 4, and 5 previously avoided as a result of the tax benefits received plus interest at the rate established in G.S. 105-241.21, computed from the date the taxes would have been due if the tax benefits had not been received. The tax and interest are due 30 days after the date of the forfeiture. An owner that fails to pay the tax and interest is subject to the penalties provided in G.S. 105-236.

(d) Substantiation. – To claim a credit allowed by this Article, the owner must provide any information required by the Secretary of Revenue. Every owner claiming a credit under this Article shall maintain and make available for inspection by the Secretary of Revenue any records the Secretary considers necessary to determine and verify the amount of the credit to which the owner is entitled. The burden of proving eligibility for the credit and the amount of the credit shall rest upon the owner, and no credit shall be allowed to an owner that fails to maintain adequate records or to make them available for inspection.

(e) Report. – The Department must include in the economic incentives report required by G.S. 105-256 the following information itemized by taxpayer:

- (1) The number and location of major recycling facilities qualified under this Article.
- (2) The number of new jobs created by each recycling facility.
- (3) The amount of investment in each recycling facility.
- (4) The amount of credits taken under this Article. (1998-55, s. 12; 2005-429, s. 2.4; 2007-491, s. 44(1)a; 2010-166, ss. 1.3, 2.1; 2013-414, s. 33; 2014-3, s. 14.2.)