

GENERAL ASSEMBLY OF NORTH CAROLINA  
1993 SESSION

CHAPTER 681  
HOUSE BILL 1944

AN ACT TO EXPAND THE STATE PORTS TAX CREDIT.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-130.41 reads as rewritten:

**"§ 105-130.41. (For expiration date see note) Credit for North Carolina State Ports Authority wharfage and handling charges on exports.**

(a) ~~Credit. – A corporation utilizing the deepwater docks at the Wilmington or Morehead City ports for the export of cargo that is loaded on an ocean carrier calling at either port is allowed a credit against the tax imposed by this Division. The amount of credit allowed is equal to the excess of the charges paid, directly or indirectly, by the corporation on exported, processed cargo for the current taxable year over an amount equal to the average of the charges paid by the corporation on exported, processed cargo for the current taxable year and the two preceding taxable years. The credit applies to the following charges on exported, processed cargo assessed by the Ports Authority: wharfage, handling charges on break bulk cargo or LCL (less than container load) cargo, bulk through put charges, and the equivalent or like charges on container cargo. To obtain the credit, a corporation must provide to the Secretary a statement from the State Ports Authority certifying the amount of charges paid by the corporation for which a credit is claimed and any other information required by the Secretary.~~

A taxpayer who is a cargo owner utilizing the deep water docks at the Wilmington or Morehead City port for the movement of export cargo onto an ocean carrier calling at either State-owned port terminal, without consideration of the free-on-board (FOB) terms under which the export cargo is moved, is allowed a credit against the tax imposed by this Division. The amount of credit allowed is equal to the excess of the wharfage, handling in, and through put charges assessed on the cargo owned by that cargo owner for the current taxable year over an amount equal to the average of the charges for the current taxable year and the two preceding taxable years. The credit applies to break-bulk cargo, bulk cargo, and container cargo including less-than-container load cargo. To obtain the credit, taxpayers must provide to the Secretary a statement from the State Ports Authority certifying the amount of charges for which a credit is claimed and any other information required by the Secretary.

(b) ~~Limitations. – This credit may not exceed fifty percent (50%) of the amount of tax imposed by this Division for the taxable year reduced by the sum of all credits allowable under this Division, allowable, except tax payments made by or on behalf of the corporation. Any unused portion of the credit may be carried forward for the~~

succeeding five years. The maximum cumulative credit that may be claimed by a corporation under this section is one million dollars (\$1,000,000).

(c) Definitions. – For purposes of this section, the terms '~~handling~~' 'handling in' and 'wharfage' have the meanings provided in the State Ports Tariff Publications, 'Wilmington Tariff, Terminal Tariff #6,' and 'Morehead City Tariff, Terminal Tariff #1.' For purposes of this section, the term 'through put' has the same meaning as 'wharfage' but applies only to bulk products, both dry and liquid."

Sec. 2. G.S. 105-151.22 reads as rewritten:

**"§ 105-151.22. (For expiration date see note) Credit for North Carolina State Ports Authority wharfage and handling charges on exports.**

(a) Credit. – ~~A taxpayer utilizing the deepwater docks at the Wilmington or Morehead City ports for the export of cargo that is loaded on an ocean carrier calling at either port is allowed a credit against the tax imposed by this Division. The amount of credit allowed is equal to the excess of the charges paid, directly or indirectly, by the taxpayer on exported, processed cargo for the current taxable year over an amount equal to the average of the charges paid by the taxpayer on exported, processed cargo for the current taxable year and the two preceding taxable years. The credit applies to the following charges on exported, processed cargo assessed by the Ports Authority: wharfage, handling charges on break bulk cargo or LCL (less than container load) cargo, bulk through put charges, and the equivalent or like charges on container cargo. To obtain the credit, a taxpayer must provide to the Secretary a statement from the State Ports Authority certifying the amount of charges paid by the taxpayer for which a credit is claimed and any other information required by the Secretary.~~

A taxpayer who is a cargo owner utilizing the deep water docks at the Wilmington or Morehead City port for the movement of export cargo onto an ocean carrier calling at either State-owned port terminal, without consideration of the free-on-board (FOB) terms under which the export cargo is moved, is allowed a credit against the tax imposed by this Division. The amount of credit allowed is equal to the excess of the wharfage, handling in, and through put charges assessed on the cargo owned by that cargo owner for the current taxable year over an amount equal to the average of the charges for the current taxable year and the two preceding taxable years. The credit applies to break-bulk cargo, bulk cargo, and container cargo including less-than-container load cargo. To obtain the credit, taxpayers must provide to the Secretary a statement from the State Ports Authority certifying the amount of charges for which a credit is claimed and any other information required by the Secretary.

(b) Limitations. – This credit may not exceed fifty percent (50%) of the amount of tax imposed by this Division for the taxable year reduced by the sum of all credits ~~allowable under this Division, allowable,~~ except tax payments made by or on behalf of the taxpayer. Any unused portion of the credit may be carried forward for the succeeding five years. The maximum cumulative credit that may be claimed by a taxpayer under this section is one million dollars (\$1,000,000).

(c) Definitions. – For purposes of this section, the terms '~~handling~~' 'handling in' and 'wharfage' have the meanings provided in the State Ports Tariff Publications, 'Wilmington Tariff, Terminal Tariff #6,' and 'Morehead City Tariff, Terminal Tariff #1.'

For purposes of this section, the term 'through put' has the same meaning as 'wharfage' but applies only to bulk products, both dry and liquid."

Sec. 3. Section 3 of Chapter 977 of the 1991 Session Laws reads as rewritten:

"Sec. 3. The North Carolina State Ports Authority shall report annually to the General Assembly regarding the impact of this act on shipping and economic growth. Each report shall show the overall annual increase in shipping at each port affected by this act for the most recent year for which data is available and for each of the previous 10 years. Each report shall estimate the number of jobs created at each port and in businesses related to port activity at each port since ~~January 1, 1992,~~ July 1, 1992, as compared to the number of similar jobs created during the 10 years preceding ~~January 1, 1992,~~ July 1, 1992. Each report shall state the net economic impact on the State as a result of the allowance of tax credits under this act. Each report shall include the number of persons using the tax credit who have stopped, or are likely to stop, using a North Carolina port when the credit expires and to then use a port in another state. The Ports Authority shall file a report on May 1 of 1993, 1994, and 1995, by submitting a copy to the Speaker of the House of Representatives and the President Pro Tempore of the Senate. The Department of Revenue and the Department of ~~Economic and Community Development~~ Commerce shall cooperate with the Ports Authority in providing the information required in the annual reports."

Sec. 4. This act is effective for taxable years beginning on or after January 1, 1994.

In the General Assembly read three times and ratified this the 5th day of July, 1994.

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Dennis A. Wicker  
President of the Senate

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Daniel Blue, Jr.  
Speaker of the House of Representatives