

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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SENATE BILL 841
Finance Committee Substitute Adopted 8/4/97
Third Edition Engrossed 8/18/97
House Committee Substitute Favorable 8/25/97

Short Title: Modify Corporate Dividend Taxation.

(Public)

Sponsors:

Referred to:

April 15, 1997

1 A BILL TO BE ENTITLED
2 AN ACT TO ALLOW FOREIGN CORPORATIONS TO DEDUCT EXPENSES
3 RELATED TO DEDUCTIBLE SUBSIDIARY DIVIDENDS TO THE SAME
4 EXTENT AS NORTH CAROLINA CORPORATIONS, TO CLARIFY THE
5 TREATMENT OF DIVIDENDS AS BUSINESS OR NONBUSINESS INCOME,
6 AND TO ALLOW LOCAL BOARDS OF EDUCATION TO OBTAIN REFUNDS
7 OF SALES AND USE TAXES.

8 The General Assembly of North Carolina enacts:

9 Section 1. G.S. 105-130.7(b), as amended by House Bill 1157, 1997 General
10 Assembly, reads as rewritten:

11 "(b) Subsidiary Dividends. – A corporation ~~that, at the close of its taxable year, has its~~
12 ~~commercial domicile within North Carolina~~ may deduct all dividends received from
13 corporations in which it owns more than fifty percent (50%) of the outstanding voting
14 stock."

15 Section 2. G.S. 105-130.4(a)(1) reads as rewritten:

16 "(1) 'Business income' means income arising from transactions and activity
17 in the regular course of the corporation's trade or business and includes

1 income from tangible and intangible property if the acquisition,
2 management, ~~and/or or~~ disposition of the property ~~constitute integral parts~~
3 constitutes an integral part of the corporation's regular trade or business
4 operations. Dividend income, like other income from intangible
5 property, is business income if it meets the requirements of this
6 definition."

7 Section 3. G.S. 105-164.14(c) reads as rewritten:

8 "(c) Certain Governmental Entities. – A governmental entity listed in this
9 subsection is allowed an annual refund of sales and use ~~tax~~-taxes paid by it under this
10 Article, except under G.S. 105-164.4(a)(4a) and G.S. 105-164.4(a)(4c), on direct
11 purchases of tangible personal property. Sales and use tax liability indirectly incurred by
12 a governmental entity on building materials, supplies, fixtures, and equipment that
13 become a part of or annexed to any building or structure that is owned or leased by the
14 governmental entity and is being erected, altered, or repaired for use by the governmental
15 entity is considered a sales or use tax liability incurred on direct purchases by the
16 governmental entity for the purpose of this subsection. A request for a refund must be in
17 writing and must include any information and documentation required by the Secretary.
18 A request for a refund is due within six months after the end of the governmental entity's
19 fiscal year.

20 This subsection applies only to the following governmental entities:

- 21 (1) A county.
- 22 (2) A city as defined in G.S. 160A-1.
- 23 (2a) A consolidated city-county as defined in G.S. 160B-2.
- 24 (2b) A local school administrative unit.
- 25 (3) A metropolitan sewerage district or a metropolitan water district in this
26 State.
- 27 (4) A water and sewer authority created under Chapter 162A of the General
28 Statutes.
- 29 (5) A lake authority created by a board of county commissioners pursuant
30 to an act of the General Assembly.
- 31 (6) A sanitary district.
- 32 (7) A regional solid waste management authority created pursuant to G.S.
33 153A-421.
- 34 (8) An area mental health, developmental disabilities, and substance abuse
35 authority, other than a single-county area authority, established pursuant
36 to Article 4 of Chapter 122C of the General Statutes.
- 37 (9) A district health department.
- 38 (10) A regional council of governments created pursuant to G.S. 160A-470.
- 39 (11) A regional planning and economic development commission or a
40 regional economic development commission created pursuant to
41 Chapter 158 of the General Statutes.
- 42 (12) A regional planning commission created pursuant to G.S. 153A-391.
- 43 (13) A regional sports authority created pursuant to G.S. 160A-479.

- 1 (14) A public transportation authority created pursuant to Article 25 of
2 Chapter 160A of the General Statutes.
- 3 (14a) A facility authority created pursuant to Part 4 of Article 20 of Chapter
4 160A of the General Statutes.
- 5 (15) A regional public transportation authority created pursuant to Article 26
6 of Chapter 160A of the General Statutes.
- 7 (16) A local airport authority that was created pursuant to a local act of the
8 General Assembly and has at least one of the following characteristics:
9 a. It has all of the rights of a municipality.
10 b. A local act of the General Assembly declares it to be a
11 municipality.
12 c. A local act of the General Assembly specifically authorizes it to
13 receive a refund under this section.
- 14 (17) A joint agency created by interlocal agreement pursuant to G.S. 160A-
15 462 to operate a public broadcasting television station.
- 16 (18) The North Carolina Low-Level Radioactive Waste Management
17 Authority created pursuant to Chapter 104G of the General Statutes.
- 18 (19) The North Carolina Hazardous Waste Management Commission created
19 pursuant to Chapter 130B of the General Statutes.
- 20 (20) A constituent institution of The University of North Carolina, but only
21 with respect to sales and use tax paid by it for tangible personal property
22 acquired by it through the expenditure of contract and grant funds.
- 23 (21) The University of North Carolina Hospitals at Chapel Hill."
- 24 Section 4. Sections 1 and 2 of this act are effective for taxable years beginning
25 on or after January 1, 1997. Sections 3 and 4 of this act are effective when they become
26 law and Section 3 of this act applies to taxes paid on or after July 1, 1997.