

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

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HOUSE BILL 320

Short Title: Small Business New Job Creation Incentive. (Public)

Sponsors: Representatives Goodman, Waddell, Wray, and B. Turner (Primary Sponsors).
For a complete list of Sponsors, refer to the North Carolina General Assembly Web Site.

Referred to: Commerce and Job Development, if favorable, Finance.

March 23, 2015

1 A BILL TO BE ENTITLED
2 AN ACT TO CREATE A TAX CREDIT FOR NEW JOBS CREATED BY SMALL
3 BUSINESSES.

4 The General Assembly of North Carolina enacts:

5 **SECTION 1.** Article 3J of Subchapter I of Chapter 105 of the General Statutes is
6 reenacted as it existed immediately before its repeal and reads as rewritten:

7 "Article 3J.

8 "Tax Credits for Growing Businesses.

9 ...

10 **"§ 105-129.81. Definitions.**

11 The following definitions apply in this Article:

- 12 (1) Agrarian growth zone. – Defined in G.S. 143B-437.010.
13 ~~(2) Air courier services. – Defined in G.S. 143B-437.01.~~
14 ~~(3) Aircraft maintenance and repair. – The provision of specialized maintenance~~
15 ~~or repair services for commercial aircraft or the rebuilding of commercial~~
16 ~~aircraft.~~
17 ~~(4) Business property. – Tangible personal property that is used in a business~~
18 ~~and capitalized by the taxpayer for tax purposes under the Code.~~
19 (5) Company headquarters. – Defined in G.S. 143B-437.01.
20 ~~(6) Cost. – In the case of property owned by the taxpayer, cost is determined~~
21 ~~pursuant to regulations adopted under section 1012 of the Code. In the case~~
22 ~~of property the taxpayer leases from another, cost is value as determined~~
23 ~~pursuant to G.S. 105-130.4(j)(2).~~
24 ~~(7) Customer service call center. – The provision of support service by a~~
25 ~~business to its customers by telephone or other electronic means to support~~
26 ~~products or services of the business. For the purposes of this definition, an~~
27 ~~establishment is primarily engaged in providing support services by~~
28 ~~telephone or other electronic means only if at least sixty percent (60%) of its~~
29 ~~calls are incoming or at least sixty percent (60%) of its other electronic~~
30 ~~communications are initiated by its customers.~~
31 (8) Development tier. – The classification assigned to an area pursuant to
32 G.S. 143B-437.08.
33 ~~(9) Electronic shopping and mail order houses. – An industry in electronic~~
34 ~~shopping and mail order houses industry group 4541 as defined by NAICS.~~

35 ...



- 1 (12) ~~Hub. — Defined in G.S. 105-164.3.~~
- 2 (13) ~~Information technology and services. — Defined in G.S. 143B-437.01.~~
- 3 (14) Long-term unemployed worker. – An individual that has been totally
- 4 unemployed for at least the preceding 26 consecutive weeks as evidenced by
- 5 records maintained by the Division of Employment Security (DES) of the
- 6 Department of Commerce.
- 7 (15) ~~Manufacturing. — Defined in G.S. 143B-437.01.~~
- 8 (16) ~~Motorsports facility. — A motorsports racetrack classified in the United~~
- 9 ~~States racetrack national industry 711212, as defined by NAICS.~~
- 10 (17) ~~Motorsports racing team. — A professional racing team primarily engaged in~~
- 11 ~~the research and development, design, manufacture, repair, maintenance, and~~
- 12 ~~operation of motor vehicles used in live motorsports racing events before a~~
- 13 ~~paying audience.~~
- 14 ...
- 15 (23) ~~Research and development. — An industry in scientific research and~~
- 16 ~~development services industry group 5417 as defined by NAICS.~~
- 17 (23a) Small business. – A taxpayer that employs no more than 50 eligible
- 18 employees throughout the taxable year and that is engaged in a business
- 19 other than retail trade, as designated by sectors 44 and 45 of NAICS, or food
- 20 services and drinking places, as designated by subsector 722 of NAICS.
- 21 (24) Urban progress zone. – The classification assigned to an area pursuant to
- 22 G.S. 143B-437.09.
- 23 (25) ~~Warehousing. — Defined in G.S. 143B-437.01.~~
- 24 (26) ~~Wholesale trade. — Defined in G.S. 143B-437.01.~~

25 **"§ 105-129.82. Sunset; studies.**

26 (a) Sunset. – This Article is repealed effective for business activities that occur on or

27 after January 1, ~~2014-2020.~~

28 ...

29 **"§ 105-129.83. Eligibility; forfeiture.**

30 (a) ~~Eligible Business. — A taxpayer is eligible for a credit under this Article only with~~

31 ~~respect to activities occurring at an establishment whose primary activity is listed in this~~

32 ~~subsection. The primary activity of an establishment is determined based on the establishment's~~

33 ~~principal product or group of products produced or distributed, or services rendered.~~

- 34 (1) ~~Air courier services hub.~~
- 35 (2) ~~Aircraft maintenance and repair.~~
- 36 (3) ~~Company headquarters, but only if the additional eligibility requirements of~~
- 37 ~~subsection (b) of this section are satisfied.~~
- 38 (4) ~~Customer service call centers.~~
- 39 (5) ~~Electronic shopping and mail order houses.~~
- 40 (6) ~~Information technology and services.~~
- 41 (7) ~~Manufacturing.~~
- 42 (8) ~~Motorsports facility.~~
- 43 (9) ~~Motorsports racing team.~~
- 44 (10) ~~Research and development.~~
- 45 (11) ~~Warehousing.~~
- 46 (12) ~~Wholesale trade.~~

47 (b) Company Headquarters Eligibility. – A taxpayer is eligible for a credit under this

48 Article with respect to a company headquarters only if the taxpayer creates at least 75 new jobs

49 at the company headquarters within a 24-month period. A taxpayer that meets this job creation

50 requirement is eligible for credits under this Article with respect to the company headquarters

51 for three taxable years beginning with the year in which the job creation requirement is

1 satisfied. ~~A taxpayer that creates an additional 75 new jobs at the company headquarters in a~~
2 ~~24-month period during a three-year eligibility period does not qualify for any extended~~
3 ~~eligibility period. However, a taxpayer that creates an additional 75 new jobs at the company~~
4 ~~headquarters in a 24-month period after the completion of a three-year eligibility period is~~
5 ~~eligible for credits with respect to the company headquarters for an additional three taxable~~
6 ~~years beginning in the year in which the additional job creation requirement is satisfied.~~

7 ...

8 **"§ 105-129.84. Tax election; cap; carryforwards; limitations.**

9 ...

10 (c) Carryforward. – Unless a longer carryforward period applies, any unused portion of
11 a credit allowed under G.S. 105-129.87 ~~or G.S. 105-129.88~~ may be carried forward for the
12 succeeding five years, and any unused portion of a credit allowed under G.S. 105-129.89 may
13 be carried forward for the succeeding 15 years. If the Secretary of Commerce makes a written
14 determination that the taxpayer is expected to purchase or lease, and place in service in
15 connection with an eligible business within a two-year period, at least one hundred fifty million
16 dollars (\$150,000,000) worth of business and real property, any unused portion of a credit
17 under this Article with respect to the establishment that satisfies that condition may be carried
18 forward for the succeeding 20 years. If the taxpayer does not make the required level of
19 investment, the taxpayer shall apply the standard carryforward period rather than the 20-year
20 carryforward period.years.

21 ...

22 **"§ 105-129.85. Fees and reports.**

23 (a) Fee. – When filing a return for a taxable year in which the taxpayer engaged in
24 activity for which the taxpayer is eligible for a credit under this Article, the taxpayer shall pay
25 the Department of Revenue a fee of five hundred dollars (\$500.00) for ~~each type of the~~ credit
26 the taxpayer claims or intends to claim with respect to an establishment. The fee is due at the
27 time the return is due for the taxable year in which the taxpayer engaged in the activity for
28 which the taxpayer is eligible for a credit. No credit is allowed under this Article for a taxable
29 year until all outstanding fees have been paid. Fees collected under this section shall be credited
30 to the General Fund.

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

- 33 (1) The number and amount of credits generated and taken for each credit
34 allowed in this Article.
- 35 (2) The number and development tier area of new jobs with respect to which
36 credits were generated and to which credits were taken.
- 37 (3) ~~The cost and development tier area of business property with respect to~~
38 ~~which credits were generated and to which credits were taken.~~
- 39 (4) ~~The cost and development tier area of real property investment with respect~~
40 ~~to which credits were generated and to which credits were taken.~~

41 ...

42 **"§ 105-129.87. Credit for creating jobs.**

43 (a) Credit. – ~~A taxpayer that meets the eligibility requirements set out in~~
44 ~~G.S. 105-129.83 and satisfies the threshold requirement for new job creation in this State under~~
45 ~~subsection (b) of this section during the taxable year is allowed a credit for creating jobs. that is~~
46 ~~a small business that meets the eligibility requirements set out in G.S. 105-129.83 and that~~
47 ~~satisfies the threshold requirement for new job creation in this State under subsection (b) of this~~
48 ~~section during the taxable year, is allowed a credit for creating jobs.~~ The amount of the credit
49 for each new job created is set out in the table below and is based on the development tier
50 designation of the county in which the job is located. If the job is located in an urban progress
51 zone or an agrarian growth ~~zone,~~ zone and is created by a taxpayer other than a small business,

1 the amount of the credit is increased by an additional one thousand dollars (\$1,000) per job. In
 2 addition, if ~~a~~the job is located in an urban progress zone or an agrarian growth zone ~~is and~~
 3 filled by a resident of that zone or by a long-term unemployed ~~worker, worker or is created by a~~
 4 small business, the amount of the credit is increased by an additional two thousand dollars
 5 (\$2,000) per job.

Area Development Tier	Amount of Credit
Tier One	\$12,500
Tier Two	5,000
Tier Three	750"

10 (b) Threshold. – The applicable threshold is the appropriate amount set out in the
 11 following table based on the development tier designation of the county where the new jobs are
 12 created during the taxable year. If the taxpayer creates new jobs at more than one eligible
 13 establishment in a county during the taxable year, the threshold applies to the aggregate number
 14 of new jobs created at all eligible establishments within the county during that year. If the
 15 taxpayer creates new jobs at eligible establishments in different counties during the taxable
 16 year, the threshold applies separately to the aggregate number of new jobs created at eligible
 17 establishments in each county. If the taxpayer creates new jobs in an urban progress zone, a
 18 port enhancement zone, or an agrarian growth zone, the applicable threshold is the one for a
 19 development tier one area. New jobs created in an urban progress zone, a port enhancement
 20 zone, or an agrarian growth zone are not aggregated with jobs created at any other eligible
 21 establishments regardless of county.

Area Development Tier	Threshold
Tier One	5
Tier Two	10
Tier Three	15

26 ...
 27 ~~"§ 105-129.88. Credit for investing in business property.~~

28 (a) General Credit. — A taxpayer that meets the eligibility requirements set out in
 29 G.S. 105-129.83 and that has purchased or leased business property and placed it in service in
 30 this State during the taxable year and that has satisfied the threshold requirements of subsection
 31 (c) of this section is ~~allowed a credit equal to the applicable percentage of the excess of the~~
 32 ~~eligible investment amount over the applicable threshold. If the taxpayer places business~~
 33 ~~property in service in an urban progress zone, a port enhancement zone, or an agrarian growth~~
 34 ~~zone, the applicable percentage is the one for a development tier one area. Business property is~~
 35 ~~eligible if it is not leased to another party. The credit may not be taken for the taxable year in~~
 36 ~~which the business property is placed in service but shall be taken in equal installments over the~~
 37 ~~four years following the taxable year in which it is placed in service. The applicable percentage~~
 38 ~~is as follows:~~

Area Development Tier	Applicable Percentage
Tier One	7%
Tier Two	5%
Tier Three	3.5%

43 (b) Eligible Investment Amount. — ~~The eligible investment amount is the lesser of (i)~~
 44 ~~the cost of the eligible business property and (ii) the amount by which the cost of all of the~~
 45 ~~taxpayer's eligible business property that is in service in this State on the last day of the taxable~~
 46 ~~year exceeds the cost of all of the taxpayer's eligible business property that was in service in~~
 47 ~~this State on the last day of the base year. The base year is that year, of the three immediately~~
 48 ~~preceding taxable years, in which the taxpayer had the most eligible business property in~~
 49 ~~service in this State.~~

50 (c) Threshold. — ~~The applicable threshold is the appropriate amount set out in the~~
 51 ~~following table based on the development tier where the eligible business property is placed in~~

1 service during the taxable year. If the taxpayer places business property in service in an urban
 2 progress zone, a port enhancement zone, or an agrarian growth zone, the applicable threshold is
 3 the one for a development tier one area. Business property placed in service in an urban
 4 progress zone, a port enhancement zone, or an agrarian growth zone is not aggregated with
 5 business property placed in service at any other eligible establishments regardless of county. If
 6 the taxpayer places eligible business property in service at more than one establishment in a
 7 county during the taxable year, the threshold applies to the aggregate amount of eligible
 8 business property placed in service during the taxable year at all establishments in the county.
 9 If the taxpayer places eligible business property in service at establishments in different
 10 counties, the threshold applies separately to the aggregate amount of eligible business property
 11 placed in service in each county. If the taxpayer places eligible business property in service at
 12 an establishment over the course of a two-year period, the applicable threshold for the second
 13 taxable year is reduced by the eligible investment amount for the previous taxable year.

Area Development Tier	Threshold
Tier One	\$ -0-
Tier Two	1,000,000
Tier Three	2,000,000

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 17
 18 (d) Expiration.— As used in this subsection, the term "disposed of" means disposed of,
 19 taken out of service, or moved out of State. If, in one of the four years in which the installment
 20 of a credit accrues, the business property with respect to which the credit was claimed is
 21 disposed of, the credit expires, and the taxpayer may not take any remaining installment of the
 22 credit for that business property unless the cost of that business property is offset in the same
 23 taxable year by the taxpayer's new investment in eligible business property placed in service in
 24 the same county, as provided in this subsection. If, during the taxable year, the taxpayer
 25 disposed of the business property for which installments remain, there has been a net reduction
 26 in the cost of all the taxpayer's eligible business property that are in service in the same county
 27 as the business property that was disposed of, and the amount of this reduction is greater than
 28 twenty percent (20%) of the cost of the business property that was disposed of, then the credit
 29 for the business property that was disposed of expires. If the amount of the net reduction is
 30 equal to twenty percent (20%) or less of the cost of the business property that was disposed of,
 31 or if there is no net reduction, then the credit does not expire. In determining the amount of any
 32 net reduction during the taxable year, the cost of business property the taxpayer placed in
 33 service during the taxable year and for which the taxpayer claims a credit under Article 3A or
 34 Article 3B of this Chapter may not be included in the cost of all the taxpayer's eligible business
 35 property that is in service. If in a single taxable year business property with respect to two or
 36 more credits in the same county are disposed of, the net reduction in the cost of all the
 37 taxpayer's eligible business property that is in service in the same county is compared to the
 38 total cost of all the business property for which credits expired in order to determine whether
 39 the remaining installments of the credits are forfeited.

40 The expiration of a credit does not prevent the taxpayer from taking the portion of an
 41 installment that accrued in a previous year and was carried forward to the extent permitted
 42 under G.S. 105-129.84.

43 (e) Transferred Property.— If, in one of the four years in which the installment of a
 44 credit accrues, the business property with respect to which the credit was claimed is moved to a
 45 county in a higher numbered development tier or out of an urban progress zone, a port
 46 enhancement zone, or an agrarian growth zone, the remaining installments of the credit are
 47 allowed only to the extent they would have been allowed if the business property had been
 48 placed in service initially in the area to which it was moved. If, in one of the four years in
 49 which the installment of a credit accrues, the business property with respect to which a credit
 50 was claimed is moved to a county in a lower numbered development tier or an urban progress
 51 zone, a port enhancement zone, or an agrarian growth zone, the remaining installments of the

1 credit shall be calculated as if the business property had been placed in service initially in the
2 area to which it was moved.

3 (f) ~~Wage Standard.~~—For the purposes of this section, a taxpayer satisfies the wage
4 standard requirement of G.S. 105-129.83 only if the taxpayer satisfies the requirement with
5 respect to all of the jobs at the establishment, considered collectively, with respect to which a
6 credit is claimed.

7 (g) ~~No Double Credit.~~—A taxpayer may not claim a credit under this section with
8 respect to business property for which the taxpayer claims a credit under G.S. 105-129.9 or
9 G.S. 105-129.9A.

10 **~~§ 105-129.89. Credit for investment in real property.~~**

11 (a) ~~Credit.~~—If a taxpayer that has purchased or leased real property in a development
12 tier one area begins to use the property in an eligible business during the taxable year, the
13 taxpayer is allowed a credit equal to thirty percent (30%) of the eligible investment amount if
14 all of the eligibility requirements of G.S. 105-129.83 and of subsection (b) of this section are
15 met. For the purposes of this section, property is located in a development tier one area if the
16 area the property is located in was a development tier one area at the time the taxpayer made a
17 written application for the determination required under subsection (b) of this section. The
18 eligible investment amount is the lesser of (i) the cost of the property and (ii) the amount by
19 which the cost of all of the real property the taxpayer is using in this State in an eligible
20 business on the last day of the taxable year exceeds the cost of all of the real property the
21 taxpayer was using in this State in an eligible business on the last day of the base year. The
22 base year is that year, of the three immediately preceding taxable years, in which the taxpayer
23 was using the most real property in this State in an eligible business. In the case of property that
24 is leased, the cost of the property is not determined as provided in G.S. 105-129.81 but is
25 considered to be the taxpayer's lease payments over a seven year period, plus any expenditures
26 made by the taxpayer to improve the property before it is used by the taxpayer if the
27 expenditures are not reimbursed or credited by the lessor. The entire credit may not be taken for
28 the taxable year in which the property is first used in an eligible business but shall be taken in
29 equal installments over the seven years following the taxable year in which the property is first
30 used in an eligible business. When part of the property is first used in an eligible business in
31 one year and part is first used in an eligible business in a later year, separate credits may be
32 claimed for the amount of property first used in an eligible business in each year. The basis in
33 any real property for which a credit is allowed under this section shall be reduced by the
34 amount of credit allowable.

35 (b) ~~Determination by the Secretary of Commerce.~~—A taxpayer is eligible for the credit
36 allowed under this section with respect to an establishment only if the Secretary of Commerce
37 makes a written determination that the taxpayer is expected to purchase or lease and use in an
38 eligible business at that establishment within a three year period at least ten million dollars
39 (\$10,000,000) of real property and that the establishment that is the subject of the credit will
40 create at least 200 new jobs within two years of the time that the property is first used in an
41 eligible business. If the taxpayer fails to timely make the required level of investment or fails to
42 timely create the required number of new jobs, the taxpayer forfeits the credit as provided in
43 G.S. 105-129.83.

44 (c) ~~Mixed Use Property.~~—If the taxpayer uses only part of the property in an eligible
45 business, the amount of the credit allowed under this section is reduced by multiplying it by a
46 fraction, the numerator of which is the square footage of the property used in an eligible
47 business and the denominator of which is the total square footage of the property.

48 (d) ~~Expiration.~~—If, in one of the seven years in which the installment of a credit
49 accrues, the property with respect to which the credit was claimed is no longer used in an
50 eligible business, the credit expires, and the taxpayer may not take any remaining installment of
51 the credit. If, in one of the seven years in which the installment of a credit accrues, part of the

1 ~~property with respect to which the credit was claimed is no longer used in an eligible business,~~
2 ~~the remaining installments of the credit shall be reduced by multiplying it by the fraction~~
3 ~~described in subsection (c) of this section. If, in one of the years in which the installment of a~~
4 ~~credit accrues and by which the taxpayer is required to have created 200 new jobs at the~~
5 ~~property, the total number of employees the taxpayer employs at the property with respect to~~
6 ~~which the credit is claimed is less than 200, the credit expires, and the taxpayer may not take~~
7 ~~any remaining installment of the credit.~~

8 ~~In each of these cases, the taxpayer may nonetheless take the portion of an installment that~~
9 ~~accrued in a previous year and was carried forward to the extent permitted under~~
10 ~~G.S. 105-129.84.~~

11 ~~(e) No Double Credit. A taxpayer may not claim a credit under this section with~~
12 ~~respect to real property for which a credit is claimed under G.S. 105-129.12 or~~
13 ~~G.S. 105-129.12A."~~

14 **SECTION 2.** This act is effective for taxable years beginning on or after January 1,
15 2015.