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SESSION 2001

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HOUSE BILL 146
Committee Substitute Favorable 3/19/01
Third Edition Engrossed 4/11/01
Senate Finance Committee Substitute Adopted 7/12/01

Short Title: Modify Partnership Tax Credit.

(Public)

Sponsors:

Referred to:

February 19, 2001

A BILL TO BE ENTITLED

AN ACT TO MODIFY THE PASS-THROUGH DISTRIBUTION OF PARTNERSHIP
INCOME TAX CREDITS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 105-269.15(a) reads as rewritten:

"(a) ~~Pass Through of Credit. Qualification.~~ – A partnership may pass through to each of its partners the partner's distributive share of an income tax credit for which the partnership qualifies. Except as otherwise provided in this Chapter, all limitations on an income tax credit apply to the partnership, except the following:

(1) ~~The limitation that the credit may not exceed the amount of income tax imposed on the taxpayer.~~

(2) ~~A cap on the otherwise allowable amount of the credit, expressed as a specific maximum dollar amount or a specific percentage of tax imposed for the taxable year.~~

that engages in an activity that is eligible for a tax credit qualifies for the credit as an entity and then passes through to each of its partners the partner's distributive share of the credit for which the partnership entity qualifies. Maximum dollar limits and other limitations that apply in determining the amount of a tax credit available to a taxpayer apply to the same extent in determining the amount of a tax credit for which the partnership entity qualifies, with one exception. The exception is a limitation that the tax credit cannot exceed the amount of tax imposed on the taxpayer."

SECTION 2. G.S. 105-151.12 reads as rewritten:

"§ 105-151.12. Credit for certain real property donations.

(a) A person who makes a qualified donation of an interest in real property located in North Carolina during the taxable year that is useful for (i) public beach access or use, (ii) public access to public waters or trails, (iii) fish and wildlife conservation, or (iv) other similar land conservation purposes is allowed a credit against

1 the tax imposed by this Part equal to twenty-five percent (25%) of the fair market value
2 of the donated property interest. To be eligible for this credit, the interest in property
3 must be donated to and accepted by either the State, a local government, or a body that
4 is both organized to receive and administer lands for conservation purposes and
5 qualified to receive charitable contributions under the Code. Lands required to be
6 dedicated pursuant to local governmental regulation or ordinance and dedications made
7 to increase building density levels permitted under a regulation or ordinance are not
8 eligible for this credit. The credit allowed under this section may not exceed two
9 hundred fifty thousand dollars (\$250,000). To support the credit allowed by this section,
10 the taxpayer must file with the income tax return for the taxable year in which the credit
11 is claimed a certification by the Department of Environment and Natural Resources that
12 the property donated is suitable for one or more of the valid public benefits set forth in
13 this subsection.

14 (b) The credit allowed by this section may not exceed the amount of tax imposed
15 by this Part for the taxable year reduced by the sum of all credits allowed, except
16 payments of tax made by or on behalf of the taxpayer.

17 Any unused portion of this credit may be carried forward for the next succeeding
18 five years.

19 (c) Repealed by Session Laws 1998-212, s. 29A.13(b).

20 (d) In the case of property owned by a married couple, if both spouses are
21 required to file North Carolina income tax returns, the credit allowed by this section
22 may be claimed only if the spouses file a joint return. If only one spouse is required to
23 file a North Carolina income tax return, that spouse may claim the credit allowed by this
24 section on a separate return.

25 (e) In the case of marshland for which a claim has been filed pursuant to G.S.
26 113-205, the offer of donation must be made before December 31, 2003 to qualify for
27 the credit allowed by this section.

28 (f) Notwithstanding G.S. 105-269.15, the maximum dollar limit that applies in
29 determining the amount of the credit applicable to a partnership that qualifies for the
30 credit applies separately to each partner."

31 **SECTION 3.** This act becomes effective for taxable years beginning on or
32 after January 1, 2002. Section 2 of this act expires for taxable years beginning on or
33 after January 1, 2005.