

NORTH CAROLINA GENERAL ASSEMBLY
1977 SESSION

CHAPTER 1200
SENATE BILL 642

AN ACT TO PROVIDE AN INCOME TAX CREDIT FOR PROPERTY TAXES PAID ON
MANUFACTURERS' INVENTORIES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-130.5(a) is amended by adding a new subdivision (10) at the end thereof, to read as follows:

"(10) The amount of property taxes allowed under Division IV of this Article during the taxable year as a credit against the taxpayer's income tax."

Sec. 2. G.S. 105-141(a) is amended by adding a new subdivision (22) at the end thereof, to read as follows:

"(22) The amount of property taxes allowed under Division IV of this Article during the taxable year as a credit against the taxpayer's income tax."

Sec. 3. Article 4 of Subchapter I of Chapter 105 of the General Statutes, entitled "Schedule D. Income Tax", is amended by adding a new Division IV at the end thereof, to read as follows:

"Division IV. Manufacturer's Income Tax Credit".

§ 105-163.01. Short title. — This division shall be known and may be cited as the Manufacturer's Income Tax Credit Act.

§ 105-163.02. Definitions. — For the purposes of this division and unless otherwise required by the context:

(a) 'Book value' of qualifying inventories means the net amount at which qualifying inventories are valued for North Carolina income tax purposes, and the date of such valuation shall be the first day of the taxable year.

(b) 'Cost of manufacturing' means the costs of producing the goods manufactured in this State. The term shall be interpreted so as to conform to generally accepted accounting practices in the industry. Unless in the opinion of the Secretary of Revenue the peculiar circumstances in any case justify a different meaning, such term shall be construed to include as elements of cost the following: the cost of materials put into production; the cost of labor applied to material conversions; and all of the other costs for services and facilities utilized in manufacturing, including factory superintendence, indirect labor, depreciation and other costs relating to factory buildings, machinery and equipment, factory supplies used, patent amortization, and factory light, heat and power. The 'cost of materials put into production' shall mean the inventories of raw materials and goods in process of manufacture at the beginning of the taxable year plus purchases of raw materials, less inventories of raw materials and goods in process of manufacture at the end of the taxable year. The 'cost of manufacturing' shall be for the taxable year as defined herein. Where the 'taxable year' of the taxpayer is less than 12 months (or 52 weeks) the taxpayer shall annualize his cost of manufacturing. 'Annualize' means the projection of an annual amount or rate ordinarily expressed in terms of a year, where the amount or

rate to be projected has been experienced for less than a year, as in the case of a manufacturer having a short taxable year due to a change in his taxable year or due to his commencing operations in this State during his taxable year.

(c) 'Establishment' means a mill or plant in North Carolina at which manufacturing operations are performed, and which constitute an economic unit at a single physical location or site, unless otherwise indicated herein. The word 'establishment' includes along with a manufacturing plant all sites in North Carolina where raw materials and/or partially manufactured goods are stored away from the manufacturing plant for use in such manufacturing plant. Two or more plants engaged in different steps of a manufacturing process constitute an establishment if goods must move through each plant before becoming a finished product even though the plants are at different sites in North Carolina. Two or more plants having a common ownership in North Carolina located at different sites and producing the same class or type of products may be deemed at the option of the taxpayer to be a single establishment for the purposes of this division.

(d) 'Finished goods' means those articles of tangible personal property which are the products of the manufacturing process after all production in North Carolina by the manufacturer in this State has been completed and the products are being held for sale or are being held for shipment out of this State for further manufacture by the same manufacturer in another state before they are ready for sale.

(e) 'Goods in process of manufacture' means materials to which manufacturing services have been applied by the manufacturer in this State and which do not meet the definition of finished goods in (d) above.

(f) 'Inventory' means raw materials and supplies, goods finished and in the process of manufacture, and merchandise on hand, in transit, in storage or consigned to others at the end of the accounting period.

(g) 'Manufacturer' means a taxpayer taxable under any provision of Article 4 of this Subchapter whose business is such as would cause him to be classified as a manufacturer in the Standard Industrial Classification Manual whose publication by the Executive Office of the President, Office of Management and Budget, occurred next before January 1, 1978; provided, however, that fabricating processors whose cost of materials consumed is seventy-five percent (75%) or more of their cost of manufacturing shall not be deemed to be manufacturers under this division. Costs incurred in performance of construction activities by a fabricator shall not be included in cost of manufacturing for purposes of this division.

(h) 'Property taxes' means taxes levied by counties and municipalities in this State under authority of the Machinery Act on qualifying inventories located in this State. The term shall not include any amounts paid as costs, penalties, interest or other charges notwithstanding the fact that such amounts may be defined as taxes under the Machinery Act. The term does not include taxes paid subsequent to the effective date of this Act with respect to inventories listed for taxation prior to such effective date, or taxes paid with respect to inventories which the taxpayer had failed to list for a regular listing period prior to such effective date.

(i) 'Qualifying inventories' means inventories of raw materials and goods in process of manufacture in this State which have been assessed for property tax purposes. The book value of qualifying inventories shall be determined

as of the valuation date established for inventories for property tax purposes, pursuant to G.S. 105-285(c), which inventories give rise to the total property tax used in computing the manufacturer's income tax credit allowed under G.S. 105-163.03(a).

- (j) 'Raw materials' means those articles of tangible personal property which are held by a manufacturer for use as ingredient or component parts of finished goods to be manufactured by the manufacturer in North Carolina.
- (k) 'Taxable year' shall have the meaning ascribed to such term in G.S. 105-135(9) and G.S. 105-130.2(5), as appropriate. In addition, 'taxable year' shall be that taxable year for which a manufacturer files an income tax return upon which the tax credit provided for under this division is claimed.
- (l) 'Total property tax' means the total amount of property tax paid by a manufacturer to counties and municipalities in this State during his taxable year on qualifying inventories. The term does not include taxes paid subsequent to the effective date of this act with respect to inventories listed for taxation prior to such effective date, or taxes paid with respect to inventories which the taxpayer had failed to list for a regular listing period prior to such effective date.

"§ 105-163.03. Tax Credit. — (a) A credit against the income tax imposed in this Article may be claimed by a manufacturer for that portion of property taxes paid by such manufacturer to counties and municipalities in this State upon qualifying inventories on hand on the first day of the taxable year which were listed for taxation and upon which taxes have been assessed and paid, the amount of the credit shall be determined as follows:

- (1) the book value of the manufacturer's qualifying inventory in each establishment shall be divided by the manufacturer's cost of manufacturing for that establishment, the quotient of which division shall be determined to the nearest five decimal places;
- (2) from the quotient determined in (1) above shall be subtracted .15;
- (3) if the amount determined in (2) above is zero or less than zero, the tax credit shall be zero;
- (4) if the difference obtained in (2) above is greater than zero, that difference shall be divided by the amount obtained in (1) above, the quotient of which division shall be determined to the nearest five decimal places;
- (5) if the amount determined in (2) above is greater than zero, the total property tax on qualifying inventories paid by each establishment of the manufacturer to counties and municipalities in this State shall be multiplied by the amount determined in (4) above for the same establishment, the result of which shall be the manufacturer's credit for that establishment.
- (6) The sum of credits applicable to all of the manufacturer's establishments shall be the manufacturer's income tax credit.
- (7) The value of inventories of raw materials located in the State but not at a manufacturing establishment, shall be apportioned to establishments for the purposes of paragraphs (1) through (5) if inventories at such location are shipped to more than one establishment. The value shall be apportioned by the proportion of shipments from the site of the inventories to each establishment during the taxable year. If different types of materials are shipped to two or more manufacturing plants, the value of the materials of each type shall be attributed to the plant at which such materials are customarily used; provided that if any type of such material is used at more than one establishment, the qualifying inventories of such type of material shall be apportioned between the establishments at which used in the

proportion of shipments from the site of the inventories to each establishment during the taxable year. Where qualifying inventories are stored at one manufacturing establishment but are in fact used to supply raw materials to one or more other establishments, the value of such inventory shall be attributed to each establishment at which the inventories are used in accordance with the provisions of this paragraph for attributing the value of inventories not located at a manufacturing establishment.

(8) Where the 'total property tax' includes taxes which were paid after the time during which said taxes could have been paid at par pursuant to G.S. 105-360(a)(1), the tax credit for such property taxes shall be computed using the ratios determined under paragraphs (1) through (4) herein for the taxable year in which such property taxes would have been payable at par.

(b) The manufacturer's income tax credit shall be applied against the income tax due from the manufacturer for the taxable year in which the property tax which is the basis for the credit was actually paid. If such credit exceeds the income tax due from, or if a loss is sustained by, the manufacturer for such taxable year, the excess credit may be carried forward for not more than five taxable years next succeeding the taxable year in which the credit first became available to the manufacturer. In such case, the excess credit shall be applied against income tax due in the earliest taxable year possible and to its maximum extent before any excess credit may be carried forward to a later taxable year.

(c) If any portion of the property taxes used in calculating a credit in G.S. 105-163.03 is at any time credited or refunded to the manufacturer by the county or municipality which imposed the tax, the manufacturer shall notify the Secretary of Revenue within 90 days, who shall recompute the tax due for the income tax year in which the credit was claimed. Any additional tax found to be due therefor shall be assessed as provided in G.S. 105-241.1.

(d) In order for a manufacturer to be entitled to the tax credit provided in G.S. 105-163.03, said manufacturer, in listing his property for taxation pursuant to the provisions of G.S. 105-285, shall provide to the taxing authority a breakdown of his inventories into raw materials, goods in process of manufacture, finished goods, and supplies and other property included in the listing as 'inventories', and said manufacturer shall attach a copy of such listings with his income tax return upon which the tax credit is claimed.

§ 105-163.04. Manufacturer must keep records. — Every manufacturer shall maintain and preserve such books and records as may be necessary to determine or verify the amount of income tax credit to which he may be entitled under the provisions of this Article. It shall be the duty of such manufacturer to support fully each calculation by means of which he has derived the credit. Such books and records shall be open for examination at all reasonable times to the Secretary or any of his duly authorized agents. The requirements of this section shall be in addition to any other record-keeping requirements imposed by other provisions of this Subchapter."

Sec. 4. Subsection (1) of G.S. 105-275, as the same appears in the 1977 Cumulative Supplement to 1972 Replacement Volume 2D of the General Statutes, is amended by deleting the number "12" from line 4 of said subsection and substituting therefor the number "48"; and by deleting from the third sentence thereof the phrase "next tax listing date" and substituting therefor the phrase "the first tax listing date following 48 months of storage".

Sec. 5. Subchapter II of Chapter 105 of the General Statutes is amended by adding thereto a new section, G.S. 105-289.1, immediately after G.S. 105-289, to read as follows:

§ 105-289.1. Department of Revenue; duties; manufacturers' inventories. — (a) In the exercise of its supervision over the valuation of property, as provided for in G.S. 105-288, the Department of Revenue shall have the authority to review the valuation of 'qualifying inventories' of 'manufacturers', as those terms are used in the Manufacturers Income Tax Credit Act. If, in the opinion of the Secretary of Revenue, any of such inventories are valued in excess

of their true value in money, the Secretary shall determine their true value and shall order the taxing unit to reduce the value of such inventories to their true value and to recalculate the tax thereon. Notwithstanding any provisions of law to the contrary, if the manufacturer has overpaid the tax as recalculated, the taxing unit shall thereupon make any refund which is found to be due to the manufacturer.

(b) The Secretary's order shall be in writing and shall be served upon the appropriate local taxing authority (as defined in G.S. 105-289(e)) and upon the manufacturer by any means authorized for the service of written notices in Rule 5 of the Rules of Civil Procedure. However, any order served more than five years after the date as of which the inventories which are the subject of the order were required to be listed shall be void and of no effect.

(c) If the taxing unit shall be aggrieved by the Secretary's order, it may, within 30 days after service of the order, except to the order and appeal therefrom to the Property Tax Commission by filing a written notice of appeal and a written statement of the grounds of appeal with the Secretary of Revenue and with the Property Tax Commission. Upon timely appeal, the Property Tax Commission shall proceed under the provisions of G.S. 105-290(b). The parties to the proceeding shall be the taxing unit and the Secretary of Revenue."

Sec. 6. This act shall become effective January 1, 1980, and shall apply to taxable years beginning on and after that date.

In the General Assembly read three times and ratified, this the 16th day of June, 1978.