

NORTH CAROLINA GENERAL ASSEMBLY
1981 SESSION

CHAPTER 855
HOUSE BILL 1265

AN ACT TO AMEND THE TAX LAW IN RELATION TO AN INTERNATIONAL BANKING FACILITY.

Whereas, this State in recent years has greatly expanded its international trade and the future holds even greater promise for the industries of this State to participate in worldwide markets; and

Whereas, this expanded trade must necessarily have readily available international banking facilities conveniently available; and

Whereas, the expansion of international banking within the State would result in additional directly related employment and further the position of this State in international trade; and

Whereas, the General Assembly by the adoption of this act intends to provide for the exemption of international banking facilities from State and local taxation and thereby make it possible for such facilities to be established in this State on a competitive basis; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-130.5(b) is hereby amended by adding a new paragraph (13) to read:

- "(13) The eligible income of an international banking facility to the extent included in determining federal taxable income, determined as follows:
 - (A) 'International banking facility' shall have the same meaning as is set forth in the laws of the United States or regulations of the Board of Governors of the federal reserve system.
 - (B) The eligible income of an international banking facility for the taxable year shall be an amount obtained by multiplying State taxable income as determined under G.S. 105-130.3 (determined without regard to eligible income of an international banking facility and allocation and apportionment, if applicable) for such year by a fraction, the denominator of which shall be the gross receipts for such year derived by the bank from all sources, and the numerator of which shall be the adjusted gross receipts for such year derived by the international banking facility from:
 - (i) making, arranging for, placing or servicing loans to foreign persons substantially all the proceeds of which are for use outside the United States;
 - (ii) making or placing deposits with foreign persons which are banks or foreign branches of banks (including foreign subsidiaries or foreign branches of the taxpayer) or with other international banking facilities; or

(iii) entering into foreign exchange trading or hedging transactions related to any of the transactions described in this paragraph.

(C) The adjusted gross receipts shall be determined by multiplying the gross receipts of the international banking facility by a fraction the numerator of which is the average amount for the taxable year of all assets of the international banking facility which are employed outside the United States and the denominator of which is the average amount for the taxable year of all assets of the international banking facility.

(D) For the purposes of this subsection the term 'foreign person' means:

- (i) an individual who is not a resident of the United States;
- (ii) a foreign corporation, a foreign partnership or a foreign trust, as defined in Section 7701 of the Internal Revenue Code of 1954, other than a domestic branch thereof;
- (iii) a foreign branch of a domestic corporation (including the taxpayer);
- (iv) a foreign government or an international organization or an agency of either, or
- (v) an international banking facility.

For purposes of this paragraph, the terms 'foreign' and 'domestic' shall have the same meaning as set forth in Section 7701 of the Internal Revenue Code of 1954."

Sec. 2. G.S. 105-102.3 is hereby amended to read as follows:

"§ 105-102.3. Banks. — There is hereby imposed upon every bank or banking association, including each national banking association, that is operating in this State as a commercial bank, an industrial bank, a savings bank, a trust company, or any combination of such facilities or services, and whether such bank or banking association, hereinafter to be referred to as a bank or banks, be organized, under the laws of the United States or the laws of North Carolina, in the corporate form or in some other form of business organization, an annual privilege tax in the amount of thirty dollars (\$30.00) for each one million dollars (\$1,000,000) or fractional part thereof of total assets held as hereinafter provided. The assets upon which the tax is levied shall be determined by averaging the total assets shown in the four quarterly call reports of condition (consolidating domestic subsidiaries) for the preceding calendar year as required by bank regulatory authorities; provided, however, where a new bank commences operations within the State there shall be levied and paid an annual privilege tax of one hundred dollars (\$100.00) until such bank shall have made four quarterly call reports of condition (consolidating domestic subsidiaries) for a single calendar year; provided further, however, where a bank operates an international banking facility, as defined in G.S. 105-130.5(b)(13), the assets upon which the tax is levied shall be reduced by the average amount for the taxable year of all assets of the international banking facility which are employed outside the United States, as computed pursuant to G.S. 105-130.5(b)(13)(C). The tax imposed hereunder shall be for the privilege of carrying on the businesses herein defined on a statewide basis regardless of the number of places or locations of business within the State. Counties, cities and towns shall not levy a license or privilege tax on the businesses taxed under this section, nor on the business of an international banking facility as defined in subsection (b)(13) of G.S. 105-130.5."

Sec. 3. G.S. 105-122(b) is hereby amended by adding at the end of the first unnumbered paragraph the following sentences:

"In the case of an international banking facility, the capital base shall be reduced by the excess of the amount as of the end of the taxable year of all assets of an international banking facility which are employed outside the United States over liabilities of the international

banking facility owed to foreign persons. For purposes of such reduction, foreign persons shall have the same meaning as defined in G.S. 105-130.5(b)(13)(D)."

Sec. 4. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 7th day of July, 1981.