

NORTH CAROLINA GENERAL ASSEMBLY
1981 SESSION

CHAPTER 899
HOUSE BILL 905

AN ACT TO PROVIDE AN INDIVIDUAL INCOME TAX CREDIT FOR CHILD-CARE
AND OTHER EMPLOYMENT-RELATED EXPENSES.

The General Assembly of North Carolina enacts:

Section 1. Division II of Article 4 of Chapter 105 of the General Statutes is hereby amended by:

- (a) Repealing in its entirety G.S. 105-147(26);
- (b) Adding thereto a new section, G.S. 105-151.7, reading as follows:

"§ 105-151.7. Credit against personal income tax for child-care and certain employment-related expenses. — (a) Any person who maintains a household which includes as a member one or more qualifying individuals shall be allowed as a credit against the tax imposed by this Division an amount equal to seven percent (7%) of the employment-related expenses as defined in subdivision b.2. herein. The employment-related expenses on which the credit is computed shall not exceed four thousand dollars (\$4,000) during any one taxable year.

In the case of such expenses for services outside the taxpayer's household incurred for the care of a qualifying individual described in b.1.I. below, the amount on which the credit is computed during any one taxable year shall not exceed two thousand dollars (\$2,000) per qualifying individual, subject, however, to the four thousand dollar (\$4,000) limitation set out above.

(b) For the purposes of this section:

- 1. The term 'qualifying individual' means:
 - I. A dependent of the taxpayer who is under the age of 15 and with respect to whom the taxpayer is entitled to a deduction under G.S. 105-149(5);
 - II. A dependent of the taxpayer who is physically or mentally incapable of caring for himself; or
 - III. The spouse of the taxpayer, if the spouse is physically or mentally incapable of caring for himself or herself.
- 2. The term 'employment-related expenses' means amounts paid for expenses for household service and for the care of a qualifying individual, but only if such expenses are incurred to enable the taxpayer to be gainfully employed.
- 3. I. For the purposes of this section, an individual shall be treated as maintaining a household for any period only if over half of the cost of maintaining the household during such period is furnished by such individual.
 - II. In the case of a married person living with his or her spouse and such spouse is maintaining the household, the credit provided for herein shall be allowed with respect to employment-related expenses in connection with any qualifying individuals, except as limited herein, of the spouse not maintaining the household.
- 4. If a child (as defined in G.S. 105-149(a)(5) who is under the age of 15 or who is physically or mentally incapable of caring for himself receives over

half of his support during the calendar year from his parents who are divorced or separated with the intent to remain separate and apart, and such child is in the custody of one or both of his parents for more than one-half of the calendar year, in the case of any taxable year beginning in such calendar year such child shall be treated as being a qualifying individual described in subparagraph I. or II. of subdivision b.l., as the case may be, with respect to that parent who has custody for a longer period during such calendar year than the other parent, and shall not be treated as being a qualifying individual with respect to such other parent.

(c) 1. If the taxpayer is married and living with his spouse for any period during the taxable year, there shall be taken into account employment-related expenses incurred during any month of such period only if:

- I. Both spouses are gainfully employed on a substantially full-time basis, or one spouse is gainfully employed on a substantially full-time basis and the other spouse is a full-time student, which shall mean an individual who during each of five calendar months during the taxable year is a full-time student at an educational institution, or
- II. The spouse is a qualifying individual described in subdivision b.l.III.

2. No credit shall be allowed under this section with respect to any amount paid by the taxpayer to an individual with respect to whom a deduction is allowable under G.S. 105-149(5) to the taxpayer or his spouse, or who is a child of the taxpayer (within the meaning of G.S. 105-149(a)(5)) who has not attained the age of 19 at the close of the taxable year.

3. In the case of employment-related expenses incurred during any taxable year solely with respect to a qualifying individual (other than an individual who is also described in subdivision b.l.I.), the amount of such expenses which may be taken into account for purposes of this section shall be reduced:

- I. If such individual is described in subdivision b.l.II., by the amount by which the sum of:
 - A. Such individual's adjusted gross income for such taxable year, and
 - B. The disability payments received by such individual during such year, exceed one thousand dollars (\$1,000), or
- II. In the case of a qualifying individual described in subdivision b.l.III., by the amount of disability payments received by such individual during the taxable year.

For purposes of this paragraph, the term 'disability payment' means a payment (other than a gift) which is made on account of the physical or mental condition of an individual and which is not included in gross income.

(d) If a husband and wife are living together at the end of the taxable year, no credit under this section shall be allowed unless they file a combined return for the year.

(e) No credit shall be allowed under this section unless the taxpayer completes and attaches to his return the necessary form or forms as may be required by the Secretary of Revenue, nor shall any deduction be allowed under G.S. 105-147(11) for amounts claimed under this subdivision.

(f) The credit allowed by this section shall not exceed the amount of tax imposed by this division for the taxable year reduced by the sum of all credits allowable under this division, except for payments of tax made by or on behalf of the taxpayer.

(g) No credit shall be allowed under this section with respect to employment-related expenses paid by a nonresident of this State."

Sec. 2. This act shall become effective for income tax years beginning on and after January 1, 1981.

In the General Assembly read three times and ratified, this the 9th day of July, 1981.