

GENERAL ASSEMBLY OF NORTH CAROLINA  
1987 SESSION

CHAPTER 994  
HOUSE BILL 2372

AN ACT TO AMEND THE FORMULA USED TO APPORTION THE INCOME OF  
MULTI-STATE CORPORATIONS TO THIS STATE FOR INCOME TAXATION  
AND TO CONFORM THE FORMULA FOR PAYMENT OF ESTIMATED  
TAXES TO THE FEDERAL FORMULA.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-130.4(i) reads as rewritten:

"(i) All business income of corporations other than public utilities and excluded corporations shall be apportioned to this State by multiplying the income by a fraction, the numerator of which is the property factor plus the payroll factor plus twice the sales factor, and the denominator of which is ~~three-four~~. Provided, that where less than three of the said factors exist, the denominator of the fraction shall be the same as the number of existing factors. the sales factor does not exist, the denominator of the fraction shall be the number of existing factors and where the sales factor exists but the payroll factor or the property factor does not exist, the denominator of the fraction shall be the number of existing factors plus one."

Sec. 2. G.S. 105-163.41(b) reads as rewritten:

"(b) The amount of the underpayment shall be the difference between:

- (1) The amount of the installment the corporation would have been required to pay if the corporation's estimated tax equalled ~~eighty-ninety~~ percent ~~(80%)-(90%)~~ of the tax imposed under Article 4 for the taxable year, assuming the same schedule of installments, or ~~eighty-ninety~~ percent ~~(80%)-(90%)~~ of the tax imposed for the taxable year if the corporation made no installment payments; and
- (2) The amount, if any, of the corresponding installment timely paid by the corporation."

Sec. 3. G.S. 105-163.41(d) reads as rewritten:

"(d) ~~The~~ Except as provided in subdivision (5) of this subsection, the penalty for underpayment shall not be imposed if the total amount of all payments of estimated tax made on or before the last date prescribed for the payment of the installments equals or exceeds the amount that would have been required to be paid on or before that date if the estimated tax was equal to the least of:

- (1) The tax shown on the return of the corporation for the preceding taxable year, if the corporation filed a return for the preceding taxable year and the preceding year was a taxable year of 12 months;

- (2) An amount equal to the tax computed at the rates applicable to the taxable year but otherwise on the basis of the facts shown on the return of the corporation for, and the law applicable to, the preceding taxable year; or
- (3) An amount equal to ~~eighty-ninety~~ percent (80%)–(90%) of the tax for the taxable year computed by placing on an annualized basis the taxable income:
  - a. For the first three months of the taxable year, in the case of the installment required to be paid in the 4th month;
  - b. For the first three months or for the first five months of the taxable year, in the case of the installment required to be paid in the 6th month;
  - c. For the first six months or for the first eight months of the taxable year, in the case of the installment required to be paid in the 9th month; and
  - d. For the first nine months or for the first 11 months of the taxable year, in the case of the installment required to be paid in the 12th month of the taxable year.
- (4) For purposes of this subdivision, the taxable income shall be placed on an annualized basis by multiplying by 12 the taxable income referred to in the preceding sentence, and dividing the resulting amount by the number of months in the taxable year (3, 5, 6, 8, 9, or 11 as the case may be) referred to in that sentence.
- (5) In the case of a large corporation, as defined in section 6655 of the Code, subdivisions (1) and (2) of this subsection shall not apply."

Sec. 4. Section 1 of this act is effective for taxable years beginning on or after January 1, 1989. Sections 2 and 3 of this act are effective for taxable years beginning on or after June 25, 1988. Section 4 of this act is effective upon ratification.

In the General Assembly read three times and ratified this the 27th day of June, 1988.