

GENERAL ASSEMBLY OF NORTH CAROLINA
1995 SESSION

CHAPTER 495
HOUSE BILL 396

AN ACT TO MODIFY THE STATE PORTS TAX CREDIT BY EXPANDING IT TO INCLUDE IMPORTS, BY EXTENDING THE SUNSET ON THE CREDIT, AND BY LIMITING THE CREDIT FOR BULK EXPORTS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-130.41 reads as rewritten:

"§ 105-130.41. **Credit for North Carolina State Ports Authority ~~wharfage and handling charges on exports.~~ wharfage, handling, and throughput charges.**

(a) Credit. – A taxpayer ~~who is a~~ whose waterborne cargo owner utilizing the ~~deep water docks at the Wilmington or Morehead City port for the movement of export cargo is loaded onto or unloaded from an ocean carrier calling at either the State-owned port terminal, terminal at Wilmington or Morehead City,~~ without consideration of the ~~free on board (FOB) terms under which the export cargo is moved,~~ is allowed a credit against the tax imposed by this Division. The amount of credit allowed is equal to the excess of the wharfage, ~~handling in, handling (in or out), and through put throughput~~ charges assessed on the cargo ~~owned by that cargo owner~~ for the current taxable year over an amount equal to the average of the charges for the current taxable year and the two preceding taxable years. The credit applies to break-bulk ~~cargo, bulk cargo, cargo~~ and container ~~cargo cargo,~~ including ~~less than container load cargo, less than container load cargo,~~ that is loaded onto or unloaded from an ocean carrier calling at either the Wilmington or Morehead City port terminal and to bulk cargo that is loaded onto or unloaded from an ocean carrier calling at the Morehead City port terminal. To obtain the credit, taxpayers must provide to the Secretary a statement from the State Ports Authority certifying the amount of charges for which a credit is claimed and any other information required by the Secretary.

(b) Limitations. – This credit may not exceed fifty percent (50%) of the amount of tax imposed by this Division for the taxable year reduced by the sum of all credits allowable, except tax payments made by or on behalf of the corporation. Any unused portion of the credit may be carried forward for the succeeding five years. The maximum cumulative credit that may be claimed by a corporation under this section is one million dollars (\$1,000,000).

(c) Definitions. – For purposes of this section, the terms ~~"handling in"~~ 'handling' (in or out) and 'wharfage' have the meanings provided in the State Ports Tariff Publications, 'Wilmington Tariff, Terminal Tariff #6,' and 'Morehead City Tariff,

Terminal Tariff #1.' For purposes of this section, the term '~~through put~~' 'throughput' has the same meaning as 'wharfage' but applies only to bulk products, both dry and liquid."

Sec. 2. G.S. 105-151.22 reads as rewritten:

"§ 105-151.22. Credit for North Carolina State Ports Authority ~~wharfage and handling charges on exports.~~ wharfage, handling, and throughput charges.

(a) Credit. – A taxpayer ~~who is a~~ whose waterborne cargo owner utilizing the deep water docks at the ~~Wilmington or Morehead City port~~ for the movement of export cargo is loaded onto or unloaded from an ocean carrier calling at either the State-owned port terminal, terminal at Wilmington or Morehead City, without consideration of the free-on-board (FOB) terms under which the export cargo is moved, is allowed a credit against the tax imposed by this Division. The amount of credit allowed is equal to the excess of the wharfage, ~~handling in,~~ handling (in or out), and ~~through put~~ throughput charges assessed on the cargo ~~owned by that cargo owner~~ for the current taxable year over an amount equal to the average of the charges for the current taxable year and the two preceding taxable years. The credit applies to break-bulk cargo, ~~bulk cargo,~~ cargo and container ~~cargo cargo,~~ including less-than-container load cargo, less-than-container-load cargo, that is loaded onto or unloaded from an ocean carrier calling at either the Wilmington or Morehead City port terminal and to bulk cargo that is loaded onto or unloaded from an ocean carrier calling at the Morehead City port terminal. To obtain the credit, taxpayers must provide to the Secretary a statement from the State Ports Authority certifying the amount of charges for which a credit is claimed and any other information required by the Secretary.

(b) Limitations. – This credit may not exceed fifty percent (50%) of the amount of tax imposed by this Division for the taxable year reduced by the sum of all credits allowable, except tax payments made by or on behalf of the taxpayer. Any unused portion of the credit may be carried forward for the succeeding five years. The maximum cumulative credit that may be claimed by a taxpayer under this section is one million dollars (\$1,000,000).

(c) Definitions. – For purposes of this section, the terms "~~handling in~~" "handling (in or out)" and 'wharfage' have the meanings provided in the State Ports Tariff Publications, 'Wilmington Tariff, Terminal Tariff #6,' and 'Morehead City Tariff, Terminal Tariff #1.' For purposes of this section, the term '~~through put~~' 'throughput' has the same meaning as 'wharfage' but applies only to bulk products, both dry and liquid."

Sec. 3. Section 4 of Chapter 977 of the 1991 Session Laws reads as rewritten:

"Sec. 4. This act is effective for taxable years beginning on or after March 1, 1992, and ending on or before February 28, ~~1996.~~ 1998."

Sec. 4. Section 4 of Chapter 681 of the 1993 Session Laws, as amended by Section 17 of Chapter 17 of the 1995 Session Laws, reads as rewritten:

"Sec. 4. This act is effective for taxable years beginning on or after January 1, 1994, and ending on or before February 28, ~~1996.~~ 1998."

Sec. 5. Section 3 of Chapter 977 of the 1991 Session Laws reads as rewritten:

"Sec. 3. The North Carolina State Ports Authority shall report annually to the General Assembly regarding the impact of ~~this act~~ the income tax credit enacted by this act on shipping and economic growth. Each report shall show the overall annual increase in shipping at each State port ~~affected by this act~~ for the most recent year for which data is available and for each of the previous 10 years. Each report shall estimate the number of jobs created at each port and in businesses related to port activity at each port since January 1, 1992, as compared to the number of similar jobs created during the 10 years preceding January 1, 1992. Each report shall state the net economic impact on the State as a result of the allowance of ~~tax credits under this act~~ the tax credit. Each report shall include the number of persons using the tax credit who have stopped, or are likely to stop, using a North Carolina port when the credit expires and to then use a port in another state. The Ports Authority shall file a report on May 1 of 1993, 1994, ~~and 1995, 1996, and 1997~~ by submitting a copy to the Fiscal Research Division and five copies to the Legislative library. ~~Speaker of the House of Representatives and the President Pro Tempore of the Senate.~~ The Department of Revenue and the Department of Economic and Community Development shall cooperate with the Ports Authority in providing the information required in the annual reports."

Sec. 6. This act is effective for taxable years beginning on or after January 1, 1995.

In the General Assembly read three times and ratified this the 27th day of July, 1995.

Dennis A. Wicker
President of the Senate

Harold J. Brubaker
Speaker of the House of Representatives