§ 105-130.46. (See notes for expiration date) Credit for manufacturing cigarettes for
exportation while increasing employment and utilizing State Ports.

(a) Purpose. – The credit authorized by this section is intended to enhance the economy
of this State by encouraging qualifying cigarette manufacturers to increase employment in this
State with the purpose of expanding this State's economy, the use of the North Carolina State
Ports, and the use of other State goods and services, including tobacco.

(b) Definitions. – The following definitions apply in this section:

(1) Employment level. – The total number of full-time jobs and part-time jobs
converted into full-time equivalences. A job is included in the employment
level for a year only if that job is located within the State for more than six
months of the year. A job is located in this State if more than fifty percent
(50%) of the employee's duties are performed in this State.

(2) Exportation. – The shipment of cigarettes manufactured in the United States
to a foreign country sufficient to relieve the cigarettes in the shipment of the
federal excise tax on cigarettes.

(3) Full-time job. – A position that requires at least 1,600 hours of work per year
and is intended to be held by one employee during the entire year.

(4) Successor in business. – A corporation that through amalgamation, merger,
acquisition, consolidation, or other legal succession becomes invested with
the rights and assumes the burdens of the predecessor corporation and
continues the cigarette exportation business.

(c) Employment Level. – In order to be eligible for a full credit allowed under this
section, the corporation must maintain an employment level in this State for the taxable year
that exceeds the corporation's employment level in this State at the end of the 2004 calendar
year by at least 800 full-time jobs. In the case of a successor in business, the corporation must
maintain an employment level in this State for the taxable year that exceeds all its predecessor
corporations' combined employment levels in this State at the end of the 2004 calendar year by
at least 800 full-time jobs.

(d) Credit. – A corporation that satisfies the employment level requirement under
subsection (c) of this section, is engaged in the business of manufacturing cigarettes for
exportation, and exports cigarettes and other tobacco products through the North Carolina State
Ports during the taxable year is allowed a credit as provided in this section. The amount of
credit allowed under this section is equal to forty cents (40¢) per one thousand cigarettes
exported. The amount of credit earned during the taxable year may not exceed ten million
dollars ($10,000,000).

(e) Reduction of Credit. – A corporation that has previously satisfied the qualification
requirements of this section but that fails to satisfy the employment level requirement in a
succeeding year may still claim a partial credit for the year in which the employment level
requirement is not satisfied. The partial credit allowed is equal to the credit that would
otherwise be allowed under subsection (d) of this section multiplied by a fraction. The
numerator of the fraction is the number of full-time jobs by which the corporation's
employment level in this State for the taxable year exceeds the corporation's employment level
in this State at the end of the 2004 calendar year. The denominator of the fraction is 800. In the
case of a successor in business, the numerator of the fraction is the number of full-time jobs by
which the corporation's employment level in this State for the taxable year exceeds all its
predecessor corporations' combined employment levels in this State at the end of the 2004
calendar year.

(f) Allocation. – The credit allowed by this section may be taken against the income
taxes levied under this Part or the franchise taxes levied under Article 3 of this Chapter. When
the taxpayer claims a credit under this section, the taxpayer must elect the percentage of the credit to be applied against the taxes levied under this Part with any remaining percentage to be applied against the taxes levied under Article 3 of this Chapter. This election is binding for the year in which it is made and for any carryforwards. A taxpayer may elect a different allocation for each year in which the taxpayer qualifies for a credit.

(g) Ceiling. – The total amount of credit that may be taken in a taxable year under this section may not exceed the lesser of the amount of credit which may be earned for that year under subsection (d) of this section or fifty percent (50%) of the amount of tax against which the credit is taken for the taxable year reduced by the sum of all other credits allowable, except tax payments made by or on behalf of the taxpayer. This limitation applies to the cumulative amount of the credit allowed in any tax year, including carryforwards claimed by the taxpayer under this section or G.S. 105-130.45 for previous tax years.

(h) Carryforward. – Any unused portion of a credit allowed in this section may be carried forward for the next succeeding 10 years. All carryforwards of a credit must be taken against the tax against which the credit was originally claimed. A successor in business may take the carryforwards of a predecessor corporation as if they were carryforwards of a credit allowed to the successor in business.

(i) Documentation of Credit. – A corporation that claims the credit under this section must include the following with its tax return:

1. A statement of the exportation volume on which the credit is based.
2. A list of the corporation's export volumes shown on its monthly reports to the Alcohol and Tobacco Tax and Trade Bureau of the United States Treasury for the months in the tax year for which the credit is claimed.
3. Any other information required by the Department of Revenue.

(j) No Double Credit. – A taxpayer may not claim this credit and the credit allowed under G.S. 105-130.45 for the same activity.

(k) Report. – The Department must include in the economic incentives report required by G.S. 105-256 the following information itemized by taxpayer:

1. The number of taxpayers that took the credit allowed in this section.
2. The amount of cigarettes and other tobacco products exported through the North Carolina State Ports with respect to which credits were taken.
3. The percentage of domestic leaf content in cigarettes produced during the previous year, as reported by the taxpayer.
4. The total cost to the General Fund of the credits taken. (2003-435, 2nd Ex. Sess., s. 6.1; 2004-170, s. 16(a); 2010-166, s. 1.13.)