

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

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HOUSE BILL 13

Short Title: Repeal Franchise Tax Initial Return.

(Public)

Sponsors: Representatives Lilley, Abernethy, Brawley, and Hasty.

Referred to: Rules.

February 4, 1991

A BILL TO BE ENTITLED

AN ACT TO ELIMINATE THE FRANCHISE TAX INITIAL RETURN AND TO
INCREASE THE MINIMUM FRANCHISE TAX.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-123 is repealed.

Sec. 2. G.S. 105-122(d) reads as rewritten:

"(d) After determining the proportion of its total capital stock, surplus and undivided profits as set out in subsection (c) of this section, which amount so determined shall in no case be less than fifty-five percent (55%) of the appraised value as determined for ad valorem taxation of all the real and tangible personal property in this State of each such corporation plus the total appraised value of intangible property returned for taxation of intangible personal property as herein specified nor less than its total actual investment in tangible property in this State, every corporation taxed under this section shall annually pay to the Secretary of Revenue, at the time the report and statement are due, a franchise or privilege tax, which is hereby levied at the rate of one dollar and fifty cents (\$1.50) per one thousand dollars (\$1,000) of the total amount of capital stock, surplus and undivided profits as herein provided. The tax imposed in this section shall in no case be less than ~~twenty-five dollars (\$25.00)~~ thirty-five dollars (\$35.00) and shall be for the privilege of carrying on, doing business, and/or the continuance of articles of incorporation or domestication of each such corporation in this State. Appraised value of tangible property including real estate shall be the ad valorem valuation for the calendar year next preceding the due date of the franchise tax return. Appraised value of intangible property shall be the total gross valuation required to be reported for intangible tax purposes on April 15 coincident with or next preceding

1 the due date of the franchise tax return. The term 'total actual investment in tangible
2 property' as used in this section shall be construed to mean the total original purchase
3 price or consideration to the reporting taxpayer of its tangible properties, including real
4 estate, in this State plus additions and improvements thereto less reserve for
5 depreciation as permitted for income tax purposes, and also less any indebtedness
6 incurred and existing by virtue of the purchase of any real estate and any permanent
7 improvements made thereon. In computing 'total actual investment in tangible personal
8 property' there shall also be deducted reserves for the entire cost of any air-cleaning
9 device or sewage or waste treatment plant, including waste lagoons, and pollution
10 abatement equipment purchased or constructed and installed which reduces the amount
11 of air or water pollution resulting from the emission of air contaminants or the discharge
12 of sewage and industrial wastes or other polluting materials or substances into the
13 outdoor atmosphere or into streams, lakes, or rivers, upon condition that the corporation
14 claiming such deduction shall furnish to the Secretary a certificate from the Department
15 of Environment, Health, and Natural Resources or from a local air pollution control
16 program for air-cleaning devices located in an area where the Environmental
17 Management Commission has certified a local air pollution control program pursuant to
18 G.S. 143-215.112 certifying that said Department or local air pollution control program
19 has found as a fact that the air-cleaning device, waste treatment plant or pollution
20 abatement equipment purchased or constructed and installed as above described has
21 actually been constructed and installed and that such device, plant or equipment
22 complies with the requirements of the Environmental Management Commission or local
23 air pollution control program with respect to such devices, plants or equipment, that
24 such device, plant or equipment is being effectively operated in accordance with the
25 terms and conditions set forth in the permit, certificate of approval, or other document
26 of approval issued by the Environmental Management Commission or local air
27 pollution control program and that the primary purpose thereof is to reduce air or water
28 pollution resulting from the emission of air contaminants or the discharge of sewage and
29 waste and not merely incidental to other purposes and functions. The cost of
30 constructing facilities of any private or public utility built for the purpose of providing
31 sewer service to residential and outlying areas shall be treated as deductible for the
32 purposes of this section; the deductible liability allowed by this section shall apply only
33 with respect to such pollution abatement plants or equipment constructed or installed on
34 or after January 1, 1955.

35 In determining the total tax payable by any corporation under this section, there shall
36 be allowed as a credit on such tax the amount of the credit authorized by Division V of
37 Article 4 of this Chapter."

38 Sec. 3. This act is effective for taxable years beginning on or after September
39 1, 1991.