

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

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HOUSE BILL 934

Short Title: Tax Relief Act of 2015. (Public)

Sponsors: Representatives Saine, Brawley, and Szoka (Primary Sponsors).
For a complete list of Sponsors, refer to the North Carolina General Assembly Web Site.

Referred to: Finance.

April 20, 2015

1 A BILL TO BE ENTITLED
2 AN ACT TO PROVIDE TAX RELIEF FOR SMALL BUSINESSES AND TO PROVIDE A
3 SALES TAX EXEMPTION FOR DATACENTER EQUIPMENT.

4 The General Assembly of North Carolina enacts:

5 **SECTION 1.(a)** G.S. 105-153.5(b) is amended by adding a new subdivision to
6 read:

7 "(b) Other Deductions. – In calculating North Carolina taxable income, a taxpayer may
8 deduct from the taxpayer's adjusted gross income any of the following items that are included
9 in the taxpayer's adjusted gross income:

10 ...
11 (10) An amount not to exceed twenty-five thousand dollars (\$25,000) of net
12 business income the taxpayer receives during the taxable year if the taxpayer
13 has annual receipts, combined with the annual receipts of all related persons,
14 as defined in G.S. 105-163.010, of eight hundred thousand dollars
15 (\$800,000) or less. In the case of a married couple filing a joint return where
16 both spouses receive or incur net business income, the maximum dollar
17 amounts apply separately to each spouse's net business income, not to
18 exceed a total of fifty thousand dollars (\$50,000). For purposes of this
19 subdivision, the term "business income" does not include income that is
20 considered passive income under the Code."

21 **SECTION 1.(b)** This section is effective for taxable years beginning on or after
22 January 1, 2015.

23 **SECTION 2.(a)** G.S. 105-164.3 reads as rewritten:

24 "§ 105-164.3. **Definitions.**

25 The following definitions apply in this Article:

26 ...
27 (33) Purchase price. – The term has the same meaning as the term "sales price"
28 when applied to an item subject to use tax.
29 (33a) Qualifying datacenter. – A datacenter that satisfies each of the following
30 conditions:
31 a. The datacenter meets the wage standard and health insurance
32 requirements of G.S. 143B-437.08A.
33 b. The Secretary of Commerce has made a written determination that at
34 least seventy-five million dollars (\$75,000,000) in private funds has
35 been or will be invested by one or more owners, users, or tenants of



1 the datacenter within five years of the date the owner, user, or tenant
2 of the datacenter makes its first real or tangible property investment
3 in the datacenter on or after January 1, 2012. Investments in real or
4 tangible property in the datacenter made prior to January 1, 2012,
5 may not be included in the investment required by this subdivision.

6 ~~(33a)~~(33b) Real property contractor. – A person that contracts to perform
7 construction, reconstruction, installation, repair, or any other service with
8 respect to real property and to furnish tangible personal property to be
9 installed or applied to real property in connection with the contract and the
10 labor to install or apply the tangible personal property that becomes part of
11 real property. The term includes a general contractor, a subcontractor, or a
12 builder for purposes of G.S. 105-164.4H.

13 ~~(33b)~~(33c) Related member. – Defined in G.S. 105-130.7A.

14 ~~(33e)~~(33d) Remote sale. – A sale of tangible personal property or digital property
15 ordered by mail, by telephone, via the Internet, or by another similar method,
16 to a purchaser who is in this State at the time the order is remitted, from a
17 retailer who receives the order in another state and delivers the property or
18 causes it to be delivered to a person in this State. It is presumed that a
19 resident of this State who remits an order was in this State at the time the
20 order was remitted.

21"

22 **SECTION 2.(b)** G.S. 105-164.13 is amended by adding a new subdivision to read:

23 "~~(55a)~~ Sales of electricity for use at a qualifying datacenter and datacenter support
24 equipment to be located and used at the qualifying datacenter. As used in
25 this subdivision, "datacenter support equipment" is property that is
26 capitalized for tax purposes under the Code and is used either:

- 27 a. For the provision of a service or function included in the business of
28 an owner, user, or tenant of the datacenter.
29 b. For the generation, transformation, transmission, distribution, or
30 management of electricity, including exterior substations, generators,
31 transformers, unit substations, uninterruptible power supply systems,
32 batteries, power distribution units, remote power panels, and other
33 capital equipment used for these purposes.
34 c. For HVAC and mechanical systems, including chillers, cooling
35 towers, air handlers, pumps, and other capital equipment used for
36 these purposes.
37 d. For hardware and software for distributed and mainframe computers
38 and servers, data storage devices, network connectivity equipment,
39 and peripheral components and equipment.
40 e. To provide related computer engineering or computer science
41 research.

42 If the level of investment required by G.S. 105-164.3(33) is not timely
43 made, the exemption provided under this subdivision is forfeited. If the level
44 of investment required by G.S. 105-164.3(33) is timely made but any
45 specific datacenter support equipment is not located and used at the
46 qualifying datacenter, the exemption provided for such datacenter support
47 equipment under this subdivision is forfeited. If the level of investment
48 required by G.S. 105-164.3(33) is timely made but any portion of electricity
49 is not used at the qualifying datacenter, the exemption provided for such
50 electricity under this subdivision is forfeited. A taxpayer that forfeits an
51 exemption under this subdivision is liable for all past taxes avoided as a

1 result of the forfeited exemption, computed from the date the taxes would
2 have been due if the exemption had not been allowed, plus interest at the rate
3 established under G.S. 105-241.21. If the forfeiture is triggered due to the
4 lack of a timely investment required by G.S. 105-164.3(33), interest is
5 computed from the date the taxes would have been due if the exemption had
6 not been allowed. For all other forfeitures, interest is computed from the
7 time as of which the datacenter support equipment or electricity was put to a
8 disqualifying use. The past taxes and interest are due 30 days after the date
9 the exemption is forfeited. A taxpayer that fails to pay the past taxes and
10 interest by the due date is subject to the provisions of G.S. 105-236."

11 **SECTION 2.(c)** This section becomes effective July 1, 2015, and applies to sales
12 made on or after that date.