

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

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HOUSE BILL 1634

Short Title: Stimulate Economy Manufacturing. (Public)

Sponsors: Representatives Blackwood; Blust, Capps, Cleveland, Culp, Current, Daughtry, Dollar, Frye, Gulley, Lewis, McMahan, Moore, Rayfield, Rhodes, and Walend.

Referred to: Finance.

May 11, 2005

A BILL TO BE ENTITLED

AN ACT TO STIMULATE THE ECONOMY BY EXEMPTING FROM INCOME TAX INCOME DERIVED FROM MANUFACTURING AND BY EXEMPTING MANUFACTURING CORPORATIONS FROM THE FRANCHISE TAX.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 105-228.90(b) is amended by adding a new subdivision to read:

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

...

(4b) Manufacturing. – An industry in manufacturing sectors 31 through 33, as defined by NAICS, but not including quick printing or retail bakeries."

SECTION 2. G.S. 105-130.5(b) is amended by adding a new subdivision to read:

"(22) Income, net of expenses, directly attributable to manufacturing activities. This deduction is optional at the election of the taxpayer."

SECTION 3. G.S. 105-134.6(b) is amended by adding a new subdivision to read:

"(18) Income, net of expenses, directly attributable to manufacturing activities. This deduction is optional at the election of the taxpayer."

SECTION 4. G.S. 105-129.2(16) reads as rewritten:

~~"(16) Manufacturing. – An industry in manufacturing sectors 31 through 33, as defined by NAICS, but not including quick printing or retail bakeries. Defined in G.S. 105-228.90."~~

SECTION 5. 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,

1 the numerator of which is the property factor plus the payroll factor plus twice the sales
2 factor, and the denominator of which is four. ~~Provided, that where~~If the sales factor
3 does not exist, the denominator of the fraction ~~shall be~~is the number of existing factors
4 and ~~where~~if the sales factor exists but the payroll factor or the property factor does not
5 exist, the denominator of the fraction ~~shall be~~is the number of existing factors plus one.

6 For taxpayers that elect to deduct manufacturing income pursuant to
7 G.S. 105-130.5(b)(22), in calculating the property factor, the payroll factor, and the
8 sales factor under this section, the following shall be excluded from both the numerator
9 and the denominator: property used directly and primarily for manufacturing,
10 compensation paid directly and primarily for manufacturing, and receipts derived
11 directly and primarily from manufacturing."

12 **SECTION 6.** The General Assembly finds the following:

- 13 (1) For corporations that are taxable in North Carolina and not taxable in
14 any other states, the calculation under Section 2 of this act is the only
15 calculation that applies. Section 5 of this act does not apply to those
16 corporations.
- 17 (2) For a corporation that is taxable in more than one state, if the
18 corporation is currently allocating and apportioning its income to
19 North Carolina by using the fraction provided in G.S. 105-130.4(i), the
20 provisions of Section 5 of this act govern how that fraction is
21 calculated. Section 5 of this act does not itself require a corporation to
22 use the fraction method.
- 23 (3) Alternatively, G.S. 105-130.4(t) sets out the circumstances under
24 which a corporation taxable in more than one state may determine the
25 portion of its income taxable to North Carolina based on its books of
26 account, in accordance with generally accepted accounting procedures
27 as established by the Financial Accounting Standards Board.
- 28 (4) Section 5 of this act would not, therefore, apply to corporations
29 currently using the separate accounting method under
30 G.S. 105-130.4(t).

31 **SECTION 7.** G.S. 105-125(a) is amended by adding a new subdivision to
32 read:

33 "(a) Exemptions. – The following corporations are exempt from the taxes levied
34 by this Article. Upon request of the Secretary, an exempt corporation must establish its
35 claim for exemption in writing:

36 ...

- 37 (10) A corporation that derives at least eighty percent (80%) of its annual
38 revenue directly from manufacturing activities."

39 **SECTION 8.** This act becomes effective for taxable years beginning on or
40 after January 1, 2005.