

February 17, 2003

S 51. CLOSE FRANCHISE TAX LOOPHOLE. TO CLOSE A LOOPHOLE THAT ALLOWS CORPORATIONS TO CONTINUE AVOIDING FRANCHISE TAXES. Provides that any membership interest that a business trust holds in a limited liability company is attributed to the owners of the beneficial interest in the business trust for purposes of determining franchise taxes. Effective Jan. 1, 2004.

Intro. by Clodfelter.

Ref. to Finance	GS 105
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July 10, 2003

S 51. AMEND FRANCHISE TAX LOOPHOLE (NEW). Intro. 2/17/03. House committee substitute makes the following changes to 1st edition. Amends definitions in GS 105-114.1 and provision on controlled companies. Modifies new subsection on attribution and adds new exception. Amends GS 105-130.7A(b)(4) (defining the term related entity).

June 15, 2004

S 51. AMEND FRANCHISE TAX LOOPHOLE. Intro. 2/17/2003. Conference report recommends the following changes to 2nd edition to reconcile matters in controversy. Substitutes new committee substitute with following changes: (1) Adds new definitions for affiliated group; capital interest, and entity and deletes definition of owned directly and qualified limited liability company. (2) Amends GS 105-114.1 to provide that if corporation or an affiliated group of corporations owns 70% or more of the capital interests in a limited liability company, the corporation must include in its three tax bases the same percentage of the limited liability company's net assets. If corporation is required to include percentage of limited liability company's assets in its tax bases, its investment in the limited liability company is not included in its computation of capital stock base under GS 105-122(b). (3) Provides that ownership of the capital interests in a limited liability company is determined by reference to the constructive ownership rules for partnerships, estates and trusts in the Internal Revenue Code with certain modifications spelled out in bill. (4) If owner of capital interests in a limited liability company is an affiliated group of corporations, specifies how to determine percentage to be included under (2) above. (5) Does not apply to assets owned by limited liability company if the total book value of the company's assets never exceeded \$150,000 during its taxable year. (6) Provides that ownership of capital interests in a limited liability company is determined as of the last day of its taxable year. (6) Effective Jan. 1, 2005, further amends GS 105-114.1 to lower from 70% to 50% the percentage of ownership of the capital interests of a limited liability company that triggers the requirement to include in its tax bases the percentage of the limited liability company's net assets. (7) Sections (1)-(5) above are effective Jan. 1, 2003, and apply to taxes due on or after that date, and section (6) is effective Jan. 1, 2005, for taxes due on or after that date.

July 12, 2004

SL 2004-74 (S 51). AMEND FRANCHISE TAX LOOPHOLE. AN ACT TO CLOSE A LOOPHOLE THAT ALLOWS CORPORATIONS TO CONTINUE AVOIDING FRANCHISE TAXES AND TO REMOVE PROVISIONS THAT COULD RESULT IN FRANCHISE TAXES ON ASSETS NOT INDIRECTLY OWNED BY CORPORATIONS. Summarized in *Daily Bulletin* 2/17/03, 7/10/03, and 6/15/04. Enacted July 8, 2004. Section 1 is effective January 1, 2003, and applies to taxes due on or after that date. The remainder of this act is effective January 1, 2005, and applies to taxes due on or after that date.