March 23, 2009

S 751. QUALIFIED VENTURE CAPITAL GAIN EXEMPTION. Filed 3/23/09. *TO EXCLUDE FROM INCOME TAX CERTAIN GAINS FROM INVESTMENTS IN TECHNOLOGY BUSINESSES AND OTHER QUALIFIED SMALL BUSINESSES*.

Enacts new GS 105-163.020 through GS 105-163.023 to allow a taxpayer to exclude from taxable income under state corporate or individual income tax any recognized gain or other taxable income from the sale or exchange of qualified securities. Also provides that a taxpayer who is an owner of a pass-through entity may exclude from the taxpayer's income an amount equal to the taxpayer's allocated share of the exclusion for which the pass-through entity is eligible, unless the pass-through entity was a qualified grantee business at the time of the taxpayer's investment in the pass-through entity. If the pass-through entity was a qualified grantee, then the taxpayer may exclude from the taxpayer's income an amount equal to the gain or other taxable income recognized as a result of the taxpayer's ownership, multiplied by a fraction, based on the total amount by the pass-through entity in qualified businesses, divided by the total amount invested by the pass-through entity. Except as otherwise provided in the act, *qualified securities* include any equity security or subordinated debt instrument issued on or after January 1, 2010, by a qualified business, acquired by the taxpayer at its original issue in exchange for cash, promissory notes, services, or other equity securities, held for at least one year, acquired without payment of a broker's fee or commission for soliciting the purchase, and, if the security was purchased by a pass-through entity, the entity must meet the requirements of GS 105-163.011(b1) (tax credit allowed for certain pass-through entities). Provides that if a taxpayer claims an exclusion of gain from income, the taxpayer's income tax for the tax year for which the exclusion is claimed must be increased by the amount of all credits previously claimed with respect to qualified securities that have been sold and the gain from which has been excluded. Extensive provisions address qualification, registration, effect of redemptions and other distributions, exceptions for certain transactions, conversion of other securities, transfers of securities, contributions and exchanges of property, and short positions and other transactions that substantially reduce the risk of loss from holding the securities. Makes conforming changes to GS 105-130.5(b) (deductions for corporate income tax) and GS 105-134.6(b) (deductions for individual income tax).

Intro. by Clodfelter. GS 105