

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2011

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HOUSE BILL 751  
PROPOSED COMMITTEE SUBSTITUTE H751-PCS70251-RB-72

Short Title: Expand Excise Tax on Mill Machinery.

(Public)

Sponsors:

Referred to:

April 7, 2011

A BILL TO BE ENTITLED

AN ACT TO EXPAND THE APPLICATION OF THE ONE PERCENT, EIGHTY DOLLAR  
EXCISE TAX ON CERTAIN MACHINERY AND EQUIPMENT TO SPECIALIZED  
EQUIPMENT USED AT A PORT FACILITY AND TO MACHINERY USED AT A  
LARGE MANUFACTURING AND DISTRIBUTION FACILITY.

The General Assembly of North Carolina enacts:

**SECTION 1.** G.S. 105-187.51B reads as rewritten:

**"§ 105-187.51B. Tax imposed on certain recyclers, research and development companies,  
~~and industrial machinery refurbishing companies.~~ companies, and companies  
located at ports facilities.**

(a) Tax. – A privilege tax is imposed on the following:

- (1) A major recycling facility that purchases any of the following tangible personal property for use in connection with the facility:
  - a. Cranes, structural steel crane support systems, and foundations related to the cranes and support systems.
  - b. Port and dock facilities.
  - c. Rail equipment.
  - d. Material handling equipment.
- (2) A research and development company in the physical, engineering, and life sciences that is included in industry 54171 of NAICS and that purchases equipment or an attachment or repair part for equipment that meets all of the following requirements:
  - a. Is capitalized by the company for tax purposes under the Code.
  - b. Is used by the company in the research and development of tangible personal property.
  - c. Would be considered mill machinery or mill machinery parts or accessories under G.S. 105-187.51 if it were purchased by a manufacturing industry or plant and used in the research and development of tangible personal property manufactured by the industry or plant.
- (3) A software publishing company that is included in the industry group 5112 of NAICS and that purchases equipment or an attachment or repair part for equipment that meets all of the following requirements:



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- 1 a. Is capitalized by the company for tax purposes under the Code.  
2 b. Is used by the company in the research and development of tangible  
3 personal property.  
4 c. Would be considered mill machinery under G.S. 105-187.51 if it  
5 were purchased by a manufacturing industry or plant and used in the  
6 research and development of tangible personal property  
7 manufactured by the industry or plant.
- 8 (4) An industrial machinery refurbishing company that is included in industry  
9 group 811310 of NAICS and that purchases equipment or an attachment or  
10 repair part for equipment that meets all of the following requirements:  
11 a. Is capitalized by the company for tax purposes under the Code.  
12 b. Is used by the company in repairing or refurbishing tangible personal  
13 property.  
14 c. Would be considered mill machinery under G.S. 105-187.51 if it  
15 were purchased by a manufacturing industry or plant and used by the  
16 industry or plant to manufacture tangible personal property.
- 17 (5) A company located at a ports facility for waterborne commerce that  
18 purchases specialized equipment to be used at the facility to unload or  
19 process bulk cargo to make it suitable for delivery to and use by  
20 manufacturing facilities.
- 21 (b) Rate. – The tax is one percent (1%) of the sales price of the equipment or other  
22 tangible personal property. The maximum tax is eighty dollars (\$80.00) per article."

23 **SECTION 2.** Article 5F of Chapter 105 of the General Statutes is amended by  
24 adding a new section to read:

25 **"§ 105-187.51D. Tax imposed on machinery at large manufacturing and distribution**  
26 **facility.**

27 (a) Definition. – For the purposes of this section, a 'large manufacturing and distribution  
28 facility' is a facility used primarily for manufacturing or assembling products and distributing  
29 finished products for which the Secretary of Commerce makes a certification that an  
30 investment of private funds of at least one hundred twenty-five million dollars (\$125,000,000)  
31 has been or will be made in real and tangible personal property for the facility within five years  
32 after the date on which the first property investment is made and that the facility will achieve  
33 an employment level of at least 1,130 within two years after the date the facility is placed into  
34 service and maintain that minimum level of employment throughout its operation.

35 (b) Tax. – A privilege tax is imposed on a large manufacturing and distribution facility  
36 that purchases mill machinery, distribution machinery, or parts or accessories for mill  
37 machinery or distribution machinery for storage, use, or consumption in this State. The tax is  
38 one percent (1%) of the sales price of the machinery, part, or accessory purchased. The  
39 maximum tax is eighty dollars (\$80.00) per article. As used in this section, the term  
40 'accessories' does not include electricity.

41 (c) Forfeiture. – If the required level of investment or employment to qualify as large  
42 manufacturing and distribution facility is not timely made, achieved, or maintained, then the  
43 rate provided under this section is forfeited. A taxpayer that forfeits a rate under this section is  
44 liable for all past sales and use taxes avoided as a result of the forfeiture, computed at the  
45 applicable State and local rates from the date the taxes would otherwise have been due, plus  
46 interest at the rate established under G.S. 105-241.21. Interest is computed from the date the  
47 sales or use tax would otherwise have been due. A credit is allowed against the State sales or  
48 use tax owed as a result of the forfeiture provisions of this subsection for privilege taxes paid  
49 pursuant to this section. For purposes of applying this credit, the fact that payment of the  
50 privilege tax occurred in a period outside the statute of limitations provided under  
51 G.S. 105-241.6 is not considered. The credit reduces the amount forfeited, and interest applies

1 only to the reduced amount. The past taxes and interest are due 30 days after the date of  
2 forfeiture. A taxpayer that fails to pay the past taxes and interest by the due date is subject to  
3 the provisions of G.S. 105-236.

4 (d) Sunset. – This section expires for sales occurring on or after July 1, 2018."

5 **SECTION 3.** This act becomes effective July 1, 2013, and applies to purchases  
6 made on or after that date.