

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2015

H.B. 40  
Feb 3, 2015  
HOUSE PRINCIPAL CLERK

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HOUSE DRH10012-SVxz-2D (01/08)

Short Title: IRC Update.

(Public)

Sponsors: Representatives Howard, Brawley, Lewis, and Setzer (Primary Sponsors).

Referred to:

1 A BILL TO BE ENTITLED  
2 AN ACT TO UPDATE THE REFERENCE TO THE INTERNAL REVENUE CODE AND  
3 TO DECOUPLE FROM CERTAIN PROVISIONS OF THE FEDERAL TAX INCREASE  
4 PREVENTION ACT OF 2014.

5 The General Assembly of North Carolina enacts:

6 **SECTION 1.** G.S. 105-228.90(b)(1b) reads as rewritten:

7 "(1b) Code. – The Internal Revenue Code as enacted as of ~~December 31, 2013~~, January 1,  
8 2015, including any provisions enacted as of that date that become effective either before or  
9 after that date."

10 **SECTION 2.(a)** G.S. 130.5B(c) reads as rewritten:

11 "**§ 105-130.5B. Adjustments when State decouples from federal accelerated depreciation**  
12 **and expensing.**

13 ...

14 (c) Section 179 Expense. – For purposes of this subdivision, the definition of section  
15 179 property has the same meaning as under section 179 of the Code as of January 2, 2013. A  
16 taxpayer who places section 179 property in service during a taxable year listed in the table  
17 below must add to the taxpayer's federal taxable income eighty-five percent (85%) of the  
18 amount by which the taxpayer's expense deduction under section 179 of the Code exceeds the  
19 dollar and investment limitation listed in the table below for the taxable year.

20 A taxpayer is allowed to deduct twenty percent (20%) of the add-back in each of the first  
21 five taxable years following the year the taxpayer is required to include the add-back in income.

22 **Taxable Year of Dollar Limitation Investment Limitation**  
23 **85% Add-Back**

24 2010	\$250,000	\$800,000
25 2011	\$250,000	\$800,000
26 2012	\$250,000	\$800,000
27 2013	\$25,000	\$200,000
28 <u>2014</u>	<u>\$25,000</u>	<u>\$200,000</u> "

29 **SECTION 2.(b)** G.S. 105-153.6(c) reads as rewritten:

30 "**§ 105-153.6. Adjustments when State decouples from federal accelerated depreciation**  
31 **and expensing.**

32 ...

33 (c) Section 179 Expense. – For purposes of this subdivision, the definition of section  
34 179 property has the same meaning as under section 179 of the Code as of January 2, 2013. A  
35 taxpayer who places section 179 property in service during a taxable year listed in the table  
36 below must add to the taxpayer's federal taxable income or adjusted gross income, as



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1 appropriate, eighty-five percent (85%) of the amount by which the taxpayer's expense  
 2 deduction under section 179 of the Code exceeds the dollar and investment limitation listed in  
 3 the table below for that taxable year. For taxable years before 2012, the taxpayer must add the  
 4 amount to the taxpayer's federal taxable income. For taxable year 2012 and after, the taxpayer  
 5 must add the amount to the taxpayer's adjusted gross income.

6 A taxpayer is allowed to deduct twenty percent (20%) of the add-back in each of the first  
 7 five taxable years following the year the taxpayer is required to include the add-back in income.

8	Taxable Year of	Dollar Limitation	Investment Limitation
9	85% Add-Back		
10	2010	\$250,000	\$800,000
11	2011	\$250,000	\$800,000
12	2012	\$250,000	\$800,000
13	2013	\$25,000	\$200,000
14	2014	\$25,000	\$200,000"

15 **SECTION 3.(a)** G.S. 105-153.5 reads as rewritten:

16 "**§ 105-153.5. Modifications to adjusted gross income.**

17 ...

18 (d) Decoupling Adjustments. – In calculating North Carolina taxable income, a  
 19 taxpayer must add to the taxpayer's adjusted gross income any of the following items that are  
 20 not included in the taxpayer's adjusted gross income:

- 21 (1) For taxable year 2014, the amount excluded from the taxpayer's gross  
 22 income for the discharge of qualified principal residence indebtedness under  
 23 section 108 of the Code. The purpose of this subdivision is to decouple from  
 24 the extension of the income exclusion under section 102 of the Tax Increase  
 25 Prevention Act of 2014.
- 26 (2) For taxable year 2014, the amount of the taxpayer's deduction for mortgage  
 27 insurance premiums as qualified residence interest under section 163 of the  
 28 Code. The purpose of this subdivision is to decouple from the extension of  
 29 the deduction under section 104 of the Tax Increase Prevention Act of 2014.
- 30 (3) For taxable year 2014, the amount of the taxpayer's deduction for qualified  
 31 tuition and related expenses under section 222 of the Code. The purpose of  
 32 this subdivision is to decouple from the extension of the federal  
 33 above-the-line deduction under section 107 of the Tax Increase Prevention  
 34 Act of 2014.
- 35 (4) For taxable year 2014, the amount excluded from the taxpayer's gross  
 36 income for a qualified charitable distribution from an individual retirement  
 37 plan by a person who has attained age 70 1/2 under section 408(d)(8) of the  
 38 Code. The purpose of this subdivision is to decouple from the extension of  
 39 the income exclusion under section 108 of the Tax Increase Prevention Act  
 40 of 2014.

41 ~~(d)~~(e) S Corporations. – Each shareholder's pro rata share of an S Corporation's income is  
 42 subject to the adjustments provided in this section and in G.S. 105-153.6."

43 **SECTION 3.(b)** G.S. 105-153.5(d) is amended by adding a new subdivision to  
 44 read:

45 "(10) For taxable year 2014, the taxpayer may deduct the amount that would have  
 46 been allowed as a charitable deduction under section 170 of the Code had  
 47 the taxpayer not elected to take the income exclusion under section  
 48 408(d)(8) of the Code."

49 **SECTION 4.** This act is effective when it becomes law. Notwithstanding Section 1  
 50 of this act, any amendments to the Internal Revenue Code enacted after December 31, 2013,

1 that increase North Carolina taxable income for the 2014 taxable year are effective for taxable  
2 years beginning on or after January 1, 2015.