

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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HOUSE BILL 952

Short Title: Deduct Postsecondary Tuition.

(Public)

Sponsors: Representatives Starnes; Hardy, Goodwin, and Wood.

Referred to: Education, if favorable, Finance.

April 15, 1997

A BILL TO BE ENTITLED

AN ACT TO ALLOW A STATE INCOME TAX DEDUCTION FOR TUITION OF
THE TAXPAYER OR THE TAXPAYER'S DEPENDENTS TO ATTEND A
NORTH CAROLINA POSTSECONDARY EDUCATIONAL INSTITUTION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-134.1 reads as rewritten:

"§ 105-134.1. Definitions.

The following definitions apply in this Division:

(1) Code. – Defined in G.S. 105-228.90.

(2) Department. – The Department of Revenue.

(3) Educational institution. – An educational institution that normally maintains a regular faculty and curriculum and normally has a regularly organized body of students in attendance at the place where its educational activities are carried on.

(4) Fiscal year. – Defined in section 441(e) of the Code.

(5) Gross income. – Defined in section 61 of the Code.

(6) Head of household. – Defined in section 2(b) of the Code.

(7) Individual. – A human being.

(7a) Limited liability company. – Either a domestic limited liability company organized under Chapter 57C of the General Statutes or a foreign

1 limited liability company authorized by that Chapter to transact business
2 in this State that is classified for federal income tax purposes as a
3 partnership. As applied to a limited liability company that is a
4 partnership under this Division, the term 'partner' means a member of
5 the limited liability company.

6 (7b) Manufacturing and processing. – Defined in the Standard Industrial
7 Classification Manual issued by the United States Bureau of the Census.

8 (8) Married individual. – An individual who is married and is considered
9 married as provided in section 7703 of the Code.

10 (9) Nonresident individual. – An individual who is not a resident of this
11 State.

12 (10) North Carolina taxable income. – Defined in G.S. 105-134.5.

13 (10a) Partnership. – A domestic partnership, a foreign partnership, or a limited
14 liability company.

15 (11) Person. – Defined in G.S. 105-228.90.

16 (11a) Postsecondary educational institution. – An educational institution
17 located in North Carolina that is a business or trade school as defined in
18 G.S. 127A-192 or that conducts postsecondary degree activity as
19 defined in G.S. 116-15.

20 (12) Resident. – An individual who is domiciled in this State at any time
21 during the taxable year or who resides in this State during the taxable
22 year for other than a temporary or transitory purpose. In the absence of
23 convincing proof to the contrary, an individual who is present within the
24 State for more than 183 days during the taxable year is presumed to be a
25 resident, but the absence of an individual from the state for more than
26 183 days raises no presumption that the individual is not a resident. A
27 resident who removes from the State during a taxable year is considered
28 a resident until he has both established a definite domicile elsewhere
29 and abandoned any domicile in this State. The fact of marriage does not
30 raise any presumption as to domicile or residence.

31 (13) Retirement benefits. – Amounts paid to a former employee or the
32 beneficiary of a former employee under a written retirement plan
33 established by the employer to provide payments to an employee or the
34 beneficiary of an employee after the end of the employee's employment
35 with the employer where the right to receive the payments is based upon
36 the employment relationship. With respect to a self-employed individual
37 or the beneficiary of a self-employed individual, the term means
38 amounts paid to the individual or beneficiary of the individual under a
39 written retirement plan established by the individual to provide
40 payments to the individual or the beneficiary of the individual after the
41 end of the self-employment. In addition, the term includes amounts
42 received from an individual retirement account described in section 408
43 of the Code or from an individual retirement annuity described in

- 1 section 408 of the Code. For the purpose of this subdivision, the term
2 'employee' includes a volunteer worker.
- 3 (14) S Corporation. – Defined in G.S. 105-131(b).
4 (15) Secretary. – The Secretary of Revenue.
5 (16) Taxable income. – Defined in section 63 of the Code.
6 (17) Taxable year. – Defined in section 441(b) of the Code.
7 (18) Taxpayer. – An individual subject to the tax imposed by this Division.
8 (19) This State. – The State of North Carolina.
9 (20) Tuition. – The amount charged for registering for instruction at an
10 educational institution. The term does not include any other fees or
11 charges or the costs of textbooks or other educational material."
- 12 Section 2. G.S. 105-134.6(b) is amended by adding a new subdivision to read:
13 "(12) Tuition paid during the taxable year for the taxpayer or a person the
14 taxpayer claims as a dependent under the Code to attend a
15 postsecondary educational institution. This deduction is not allowed to
16 a taxpayer who can be claimed by another as a dependent under the
17 Code."
- 18 Section 3. This act is effective for taxable years beginning on or after January
19 1, 1998.