

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001

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HOUSE BILL 1645

Short Title: Close Corporate Loopholes to Save Education. (Public)

Sponsors: Representatives Luebke, Weiss, Insko (Primary Sponsors); Boyd-McIntyre, Cunningham, Easterling, Hensley, Holliman, Miller, Wainwright, Warren, Willingham, Womble, and Wright.

Referred to: Finance.

June 13, 2002

A BILL TO BE ENTITLED

AN ACT TO CONFORM THE DEFINITION OF BUSINESS INCOME TO FEDERAL STANDARDS; TO PROVIDE THAT IN APPORTIONING CORPORATE INCOME TO THIS STATE FOR TAX PURPOSES, SALES DELIVERED TO ANOTHER STATE WHERE THEY ARE NOT TAXABLE ARE TREATED AS SALES IN THIS STATE; AND TO INCREASE THE TAX RATE AND REMOVE THE CAP ON SALES OF CERTAIN MACHINERY AND EQUIPMENT.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 105-130.4(a)(1) reads as rewritten:

"(1) "Business income" means ~~income arising from transactions and activity in the regular course of the corporation's trade or business and includes income from tangible and intangible property if the acquisition, management, and/or disposition of the property constitute integral parts of the corporation's regular trade or business operations.~~ all income that is apportionable under the United States Constitution."

SECTION 2. G.S. 105-130.4(l)(2) reads as rewritten:

"(2) Sales of tangible personal property are in this State if (i) the property is received in this State by the purchaser, a purchaser other than the United States government, or (ii) the property is shipped from a place in this State and the purchaser is the United States government or the taxpayer is not taxable in the state of the purchaser. In the case of delivery of goods by common carrier or by other means of transportation, including transportation by the purchaser, the place at which the goods are ultimately received after all transportation has been completed shall be considered as the place at which the goods are received by the purchaser. Direct delivery into this State by the

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1 taxpayer to a person or firm designated by a purchaser from within or
2 without the State shall constitute delivery to the purchaser in this
3 State."

4 **SECTION 3.(a)** G.S. 105-164.4(a)(1d) reads as rewritten:

5 "(a) A privilege tax is imposed on a retailer at the following percentage rates of
6 the retailer's net taxable sales or gross receipts, as appropriate. The general rate of tax is
7 four and one-half percent (4 1/2%).

8 ...

9 (1d) The rate of ~~one percent (1%)~~ two percent (2%) applies to the sales price
10 of the articles listed in G.S. 105-164.4A. The maximum tax is ~~eighty~~
11 ~~dollars (\$80.00)~~ two hundred forty dollars (\$240.00) per article. As
12 used in G.S. 105-164.4A and G.S. 105-187.51, the term "accessories"
13 does not include electricity.

14 a. through k. Recodified as § 105-164.4A by Session Laws
15 1999-360, s. 3(a), effective August 4, 1999."

16 **SECTION 3.(b)** The catchline of G.S. 105-164.4A reads as rewritten:

17 "**§ 105-164.4A. Articles taxed at ~~one percent (1%), eighty dollars (\$80.00).~~two**
18 **percent (2%), two hundred forty dollars (\$240.00).**"

19 **SECTION 4.** Section 3 of this act becomes effective July 1, 2002, and
20 applies to sales made on or after that date. The remainder of this act is effective for
21 taxable years beginning on or after January 1, 2002. Notwithstanding G.S. 105-163.41,
22 no addition to tax may be made under that statute for a taxable year beginning on or
23 after January 1, 2002, and before January 1, 2001, with respect to an underpayment of
24 corporation income tax to the extent the underpayment was created or increased by this
25 act.