

### **III. TAX CREDITS** **(Articles 3A, 3B, 3C, 3D, 3E, and 4)**

#### **A. General Tax Credits**

##### **1. General Information**

###### **a. Franchise, Income, or Gross Premium Tax Election**

The general tax credits allowed in Chapter 105 may be taken against corporate income tax only unless otherwise stated.

###### **b. Forms**

Form CD-425 is used to report credits that are not limited to fifty percent (50%) of the tax. The Form NC-478 series is used to calculate and report tax credits, that are limited to fifty percent (50%) of the taxpayer's tax less the sum of all other credits that the taxpayer claims. Forms NC-478A through NC-478H are used to calculate the specific credits without regard to the fifty percent (50%) limitation. Form NC-478 is used to total the specific credits, to determine if the fifty percent (50%) limitation applies, and, if so, to allocate the limited total credit among the specific credits.

Form CD-425 and, if applicable, both Form NC-478 and the applicable Form NC-478 series form must be filed for any taxable year in which the taxpayer is eligible to claim a credit or an installment of a credit against the taxpayer's tax liability for that year. This requirement applies even if the taxpayer's tax liability for that year is not large enough for the taxpayer to benefit from the credit.

##### **2. Credit for Dwelling Units for Handicapped Persons (G.S. 105-130.22)**

###### **a. Credit**

Corporate owners of multifamily rental units located in North Carolina are allowed an income tax credit for each dwelling unit for physically handicapped persons constructed during the income year, subject to the limitations set out below.

The allowable credit is \$550 for each dwelling unit that qualifies for use by physically handicapped persons. However, credit is allowed only for the number of such dwelling units completed during the income year that were constructed and required to be built in compliance with Volume I-C of the North Carolina Building Code.

No adjustment is required to be made to the depreciable cost of the unit on account of the allowable credit.

###### **b. Carryforward**

In case the allowable income tax credit exceeds the taxpayer's income tax liability reduced by all other credits allowed against North Carolina income tax, the excess may be carried over and deducted by such taxpayer in the next succeeding year only.

###### **c. Eligibility**

To qualify for the credit, the units must meet the requirements of Volume I-C of the North Carolina Building Code. Volume I-C is administered by the Building Accessibility Section of the North Carolina Department of Insurance and contains provisions and standards for making buildings and facilities accessible to and usable by physically handicapped persons. This section applies to all buildings and facilities regulated by the North Carolina State Building Code, with the exception of single and two-family dwellings.

**d. Substantiation**

In order to secure the credit, the corporation must include with the tax return a copy of the occupancy permit on which the building inspector must record the number of qualified units completed during the income year.

**3. Credit for Construction of Cogenerating Power Plant (G.S. 105-130.25)**

**a. Credit**

A corporation or partnership, other than a public utility as defined in G.S. 62-3(23), that constructs a cogenerating power plant is allowed a credit for a portion of the cost to purchase and install the electrical or mechanical power generation equipment of that plant. To be eligible for the credit, the corporation or partnership must own or control the power plant at the time of construction.

The allowable credit is equal to ten percent (10%) of the cost paid during the tax year in which the credit is claimed for the purchase and installation of the electrical or mechanical power generation equipment of a cogenerating power plant. The credit may not be taken for the year in which the costs are paid but shall be taken for the taxable year beginning during the calendar year following the calendar year in which the costs are paid.

**b. Cogenerating Power Plant Defined**

A cogenerating power plant is a power plant that sequentially produces electrical or mechanical power and useful thermal energy using natural gas as its primary energy source. A plant whose combustion equipment uses residual oil, middle distillate oil, gasoline, or liquid propane gas (LPG) as a primary fuel will not qualify for the credit.

**c. Alternative Method**

An eligible taxpayer may elect to treat the costs paid during an earlier year as if they were paid during the year the plant becomes operational. Once made, the election is irrevocable. An election with respect to costs paid by a partnership must be made by the partnership and is binding on any partners to whom the credit is passed through.

If a taxpayer makes this election, the credit may not exceed twenty-five percent (25%) of the amount of tax for the year reduced by the sum of all credits allowed, except payments of tax by or on behalf of the taxpayer. Any unused portion of the credit may be carried forward for the next 10 taxable years. The unused balance must be applied for annually until exhausted or the carryover period expires.

**d. Application**

An application is required to be filed with the Secretary on or before April 15 following the calendar year in which the costs were paid without regard to the method elected by the taxpayer. Under either method, the taxpayer applies for the total credit for the first year eligible.

**e. Ceiling**

The total amount of all tax credits allowed for payments for construction and installation made in a calendar year may not exceed five million dollars (\$5,000,000). If the total amount of credits for eligible payments applied for by all taxpayers exceeds five million dollars (\$5,000,000), in any one calendar year, the maximum allowable credit will be prorated among all applicants proportionally.

#### **4. Credit for Construction of Renewable Energy Equipment Facility (G.S. 105-130.28)**

##### **a. Credit**

Any corporation that constructs a facility in North Carolina for the manufacture of renewable energy equipment is allowed a credit against its corporate income tax equal to twenty-five percent (25%) of the cost of installation and equipment construction. The corporation must own or control the facility at the time of construction. No credit is allowed for any portion of the cost of installation and equipment construction paid by federal, state, or local grants. The credit must be taken in five equal installments beginning with the taxable year in which the costs are paid.

##### **b. Renewable Energy Equipment**

For purposes of this credit, “renewable energy equipment” includes biomass equipment, hydroelectric generators, solar electric or thermal equipment, and wind energy equipment as defined in G.S. 105-130.28 and related G.S. 105-129.16A.

##### **c. Cap on Credit**

The credit allowed may not exceed fifty percent (50%) of the amount of corporate income tax for the taxable year reduced by the sum of all other credits, including carryforwards, allowed against North Carolina corporate income tax for the taxable year, except payments of tax made by or on behalf of the taxpayer. Any unused portion of the credit may be carried forward for the succeeding 10 years.

##### **d. Restrictions**

Any taxpayer that claims any other credit allowed under G.S. Chapter 105 with respect to construction of a facility for the manufacture of renewable energy equipment may not take the credit allowed in this section with respect to the same facility.

#### **5. Credit for Real Property Donated for Conservation Purposes (G.S. 105-130.34)**

##### **a. Credit**

Any corporation that makes a qualified donation of an interest in real property located in North Carolina during the taxable year is allowed a credit against its corporate income tax only if the interest in property is donated in perpetuity. The credit is twenty-five percent (25%) of the fair market value of the property interest donated, not to exceed \$500,000.

##### **b. Eligible Property Interest**

To be eligible for this credit the donated interest in real property must be useful for public beach access or use, public access to public waters or trails, fish and wildlife conservation, or other similar land conservation purposes, and the interest in real property must be donated in perpetuity to and accepted by the State, a local government, or a body that is both organized to receive and administer lands for conservation purposes and qualified to receive charitable contributions pursuant to G.S. 105-130.9.

Lands required to be dedicated pursuant to local government regulation or ordinance and dedications made to increase building density levels permitted under a regulation or ordinance are not eligible for this credit.

##### **c. Substantiation**

The taxpayer must file with its income tax return for the taxable year in which the credit is claimed, a certification by the Department of Environment and Natural

property donated is suitable for one or more of the valid public benefits set forth in this subsection.

**d. Carryforward**

In case the allowable income tax credit exceeds the taxpayer's tax liability reduced by all other credits allowed against North Carolina income tax, the excess may be carried forward and deducted in the next five succeeding years.

**e. Limitations**

The portion of the fair market value of the property allowed as a tax credit is not allowed as a charitable contribution deduction.

**6. Credit for Conservation Tillage Equipment (G.S. 105-130.36)**

**a. Credit**

A corporation that purchases conservation tillage equipment for use in a farming business, including tree farming, shall be allowed an income tax credit equal to twenty-five percent (25%) of the cost of the equipment paid during the taxable year.

**b. Conservation Tillage Equipment Defined**

Conservation tillage equipment means planters such as those commonly known as "no-till" planters designed to minimize disturbance of the soil in planting crops or trees, including equipment that may be attached to equipment already owned by the taxpayer. The term also means equipment designed to minimize disturbance of the soil in reforestation site preparation. The inclusion of reforestation equipment that may be attached to equipment already owned by the taxpayer is limited to those items of equipment generally known as "KG-Blades", "drum-choppers", or "V-Blades".

**c. Cap on Credit**

This credit may not exceed two thousand five hundred dollars (\$2,500) for any taxable year of any taxpayer.

**d. Restrictions**

The credit may only be claimed by the first purchaser of the equipment and may not be claimed by a corporation that purchases the equipment for resale or for use outside this State.

**e. Carryforward**

In case the credit exceeds the taxpayer's income tax liability, the excess may be carried over and claimed in the next five (5) succeeding years.

**f. Basis Reduction**

The basis in any equipment for which a credit is allowed under this section shall be reduced by such credit.

**7. Credit for Gleaned Crop (G.S. 105-130.37)**

**a. Credit**

A corporation that grows and permits the gleaning of the crop shall be allowed an income tax credit equal to ten percent (10%) of the market price of the quantity of the gleaned crop.

**b. Definitions**

These definitions apply:

**i. Gleaning**

The harvesting of a crop that has been donated by the grower to the nonprofit organization that will distribute the crop to individuals or other nonprofit organizations it considers appropriate recipients of the food.

**ii. Market price**

The season average price of the crop as determined by the North Carolina Crop and Livestock Reporting Service in the Department of Agriculture and Consumer Services, or the average price of the crop in the nearest local market for the month in which the crop is gleaned if the Crop and Livestock Reporting Service does not determine the season average price for that crop.

**iii. Nonprofit organization**

An organization to which charitable contributions are deductible under the Code.

**c. Cap on Credit**

The allowable credit cannot exceed the taxpayer's tax liability.

**d. Carryforward**

Any unused portion of the credit may be carried forward for the succeeding five (5) years.

**e. Restrictions**

A charitable contribution deduction is not allowed under G.S. 105-130.5(b)(5) for any items for which this credit is claimed.

**8. Credit for Certain Telephone Subscriber Line Charges (G.S. 105-130.39)**

**a. Credit**

A corporation that provides local telephone services to low income residential customers at reduced rates is allowed a credit equal to the difference between the amount of receipts the corporation would have received from those low-income customers had the regular rates been charged and the amount billed to those low income customers.

**b. Restrictions**

The credit is allowed only for a reduction in local telephone service rates and fees. No credit is allowed for any reduction in interstate subscriber line charges.

**c. Cap on Credit**

The credit may not exceed the amount of corporate income tax for the taxable year reduced by the sum of all credits allowable, except tax payments made by or on behalf of the corporation.

**9. Credit for Property Taxes Paid on Farm Machinery by an S Corporation (G.S. 105-151.21)**

**a. Credit**

An individual shareholder of an S Corporation engaged in the business of farming is allowed a credit against its pro rata share of the corporate income tax equal to the shareholder's pro rata share of the property taxes the S Corporation paid at par during the taxable year on farm machinery and on attachments and repair parts for farm machinery.

**b. Definitions**

These definitions apply:

**i. Farm machinery**

Machinery as defined in G.S. 105-164.4A(s) that is subject to State sales tax at the rate of one percent (1%) under G.S. 105-164.4(a)(1d).

**ii. Property taxes**

The principal amount of taxes levied and assessed by a taxing unit under Subchapter II of Chapter 105.

**iii. Taxing unit**

A county or municipality authorized to levy ad valorem property taxes.

**c. Cap on Credit**

The tax credit is limited to the lesser of one thousand dollars (\$1,000) or the amount of tax for the taxable year reduced by the sum of all credits allowable, except payments of tax made by or on behalf of the taxpayer.

**d. Substantiation**

To claim this credit, a taxpayer must attach a copy of the tax receipt for the property taxes for which credit is claimed to return on which the credit is claimed. The receipt must show the amount and date of payment of the property taxes.

**e. Adjustment**

If a taxing unit gives a taxpayer a credit or refund for any of the property taxes that have been claimed as a credit, the taxpayer must notify the Secretary within 90 days. The Secretary will recompute the credit allowed and adjust taxable income for the year for which the credit was claimed.

**10. Credit for Use of North Carolina Ports (G.S. 105-130.41)**

**a. Credit**

An income tax credit is available to a corporation whose waterborne cargo is loaded onto or unloaded from an ocean carrier calling at the North Carolina ports of Wilmington or Morehead City. The credit is allowed against corporate income tax in an amount equal to the excess of the wharfage, handling (in or out) and throughput charges assessed on the cargo for the current taxable year over an amount equal to the average of the charges for the current taxable year and the two preceding taxable years. For purposes of this section, the terms “handling (in and out)” and “wharfage” have the meanings provided in the State Ports Tariff Publications, “Wilmington Tariff, Terminal Tariff #6,” and “Morehead City Tariff, Terminal Tariff #1” and the term “throughput” has the same meaning as “wharfage” but applies only to bulk products, both dry and liquid. The credit sunsets for taxable years beginning on or after January 1, 2009.

**b. Limitations and Carryforward**

The amount of credit is limited to fifty percent (50%) of the income tax liability for the taxable year reduced by the sum of all credits allowable. Any unused portion of the credit may be carried forward and applied to the income tax liability for the five succeeding years. The maximum cumulative credit that may be claimed by a corporation is two million dollars (\$2,000,000).

**c. Substantiation**

To obtain the credit, the taxpayer must provide a statement from the State Ports Authority certifying the amount of charges paid on which the credit is based.

**11. Credit for Supervisory Fees Paid by Savings and Loan Associations (G.S. 105-130.43)**

**a. Credit**

Savings and loan associations are allowed an income tax credit equal to the amount of supervisory fees paid to the savings and loan division of the Department of Commerce.

**b. Cap on Credit**

The credit claimed may not exceed the amount of corporate income tax, reduced by the sum of all credits allowed against the tax, except tax payments made by or on behalf of the taxpayer.

**c. Restrictions**

These fees cannot be deducted in determining taxable income if they are claimed as an income tax credit.

**12. Income Tax Credit for Poultry Composting Facility (G.S. 105-130.44)**

**a. Credit**

An income tax credit is available to corporations for constructing a poultry composting facility in North Carolina for the composting of poultry carcasses from commercial poultry operations. The credit is equal to twenty-five percent (25%) of the installation, materials and equipment costs of construction paid during the taxable year. The credit allowed does not apply to costs paid with funds provided by a State or federal agency.

**b. Limitations and Carryforward**

The credit may not exceed one thousand dollars (\$1,000) for any single installation. The credit may not exceed the amount of tax for the taxable year reduced by the sum of all tax credits allowable, except payments of tax by or on behalf of the taxpayer. Any unused portions of the credit may not be carried forward.

**13. Credit for Manufacturing Cigarettes for Exportation (G.S. 105-130.45)**

**a. Credit**

An income tax credit is allowed to a corporation engaged in the business of manufacturing cigarettes in the United States for exportation to a foreign country. (Effective for taxable years beginning on or after January 1, 2004, exportation destinations can include a possession of the United States and a commonwealth of the United States that is not a state in addition to a foreign country.) The amount of credit available is based on the current year's exportation volume compared to the base year's exportation volume. In the case of a successor in business, the amount of credit allowed under this section is determined by comparing the exportation volume of the corporation in the year for which the credit is claimed with all of the corporation's predecessor corporations' combined base year exportation volume, rounded to the nearest whole percentage. The amount of credit may not exceed six million dollars (\$6,000,000) and is computed as follows:

<b>Current Year's Exportation Volume Compared to its Base Year's Exportation Volume</b>	<b>Amount of Credit per 1000 Cigarettes Exported</b>
120% or more	40 cents
119% - 100%	35 cents
99% - 80%	30 cents
79% - 60%	25 cents
59% - 50%	20 cents
Less than 50%	None

**b. Substantiation**

A corporation that claims this credit must include these items with its return:

- i. A statement of the base year exportation volume.
- ii. A statement of the exportation volume on which the credit is based.
- iii. A list of the corporation's export volumes as shown on its monthly reports to the Alcohol and Tobacco Tax and Trade Bureau of the United States Treasury for the months in the tax year for which the credit is claimed.

**c. Limitations and Carryforward**

The maximum eligible credit for cigarettes exported during the taxable year is \$6,000,000. The credit allowed may not exceed 50% of the amount of income tax liability for the taxable year reduced by the sum of all other credits. Any unused credit allowed may be carried forward for the next succeeding 5 years.

**Note:** The second extra session of the 2003 General Assembly made several changes to this credit that are not effective until taxable years beginning on or after January 1, 2005. Another credit for manufacturing cigarettes for exportation while increasing employment, G.S. 105-130.46, was also enacted for taxable years beginning on or after January 1, 2006. These law changes are not addressed in this publication because the affected tax years are outside the scope of this publication. Information on these law changes is available on the Department's website.