

K. Tax Incentive for Railroad Intermodal Facility (Article 3K)

1. Credit (G.S. 105-129.96)

A taxpayer that constructs or leases an eligible railroad intermodal facility in this State and places it in service during the tax year is allowed a tax credit equal to fifty percent (50%) of amounts paid by the taxpayer towards the cost of construction or under the lease. The credit may not exceed fifty percent (50%) of the tax against which it is claimed. Any unused portion of a credit may be carried forward for ten years.

2. Taxes Credited (G.S. 105-129.96)

The credit is allowed against either income or franchise tax. The taxpayer must elect the tax against which the credit is claimed when filing the return on which the credit is first claimed. This election is binding. Any carryforwards of the credit must be taken against the same tax.

3. Definitions (G.S. 105-129.95)

a. Costs of Construction

The costs of acquiring and improving land, constructing buildings and other structures, equipping the facility, and constructing and equipping rail tracks to the railroad intermodal facility that are necessary to access and support facility operations. In the case of property owned or leased by the taxpayer, cost is determined pursuant to regulations adopted under section 1012 of the Code.

b. Eligible railroad intermodal facility

A railroad intermodal facility for which the costs of construction exceed thirty million dollars (\$30,000,000).

c. Intermodal facility

A facility where freight is transferred from one mode of transportation to another.

d. Railroad intermodal facility

An intermodal facility whose primary purpose is to transfer freight between a railroad and another mode of transportation.

4. Substantiation (G.S. 105-129.97)

Any taxpayer claiming this credit must maintain adequate records to determine and verify the amount of the credit and must make these records available for inspection by the Secretary. The burden of proving eligibility and the amount of the credit rests upon the taxpayer. No credit will be allowed to any taxpayer that fails to maintain adequate records or to make them available for inspection.

5. Reports (G.S. 105-129.98)

The Department must publish a report showing the number of taxpayers claiming this credit, the amount of the credit claimed and the tax against which the credit is claimed, and the total cost to the General Fund no later than May 1 of each year.

6. Sunset (G.S. 105-129.99)

This credit sunsets for taxable years beginning on or after January 1, 2038.