

HOW TO APPLY FOR CERTIFICATION FOR SPECIAL TAX TREATMENT AS A RECYCLING OR RESOURCE RECOVERY OPERATION

- 1) Familiarize yourself with the standards for special tax treatment for recycling or resource recovery equipment and described in the accompanying document.
- 2) Contact the Solid Waste Section of the North Carolina Department of Environment and Natural Resources for an informal assessment of which equipment and facilities are likely to qualify under the standards.

Raleigh Central Office Contact: Ms. Kris Callahan

phone: (919) 733-0692 ext. 270

fax: (919) 733-4810

e-mail: callahan@wastenot.ehnr.state.nc.us

- 3) Submit two copies of the enclosed application to the Solid Waste Section and include:
 - (a) drawings of the facilities that include acreage and general layout of recycling activity areas and equipment;
 - (b) construction schedule if facility is not completed, including estimated date of completion;
 - (c) copies of all leases for leased equipment.

Mail the application and enclosures to the N.C. Department of Environment and Natural Resources, Division of Waste Management, Solid Waste Section, Attention: Kris Callahan, Post Office Box 29603, Raleigh, North Carolina 27611-9603.

- 4) Upon receipt of the application and any enclosures, a representative of the Solid Waste Section will inspect the facilities and equipment cited in the application and make a recommendation for approval or denial to the Field Operations Branch Head. If the certification is denied, the reasons for denial will be made known to you in writing. If you disagree with the results of the certification process, you have the right to an appeal under the Administrative Procedures Act.
- 5) For income and franchise tax purposes, send a copy of the Division of Waste Management Tax Certification with your annual tax reporting form.
- 6) For property tax purposes, contact your County Tax Assessor's Office to obtain and fill out an application for exemption (Form AV-12) or contact the North Carolina Department of Revenue (phone 919-733-7711). Send the completed form and a copy of the Division of Waste Management Tax Certification to the local county property tax office with your annual reporting form.

DIVISION OF WASTE MANAGEMENT TAX CERTIFICATION APPLICATION

EQUIPMENT:

Year of Acquisition	Description of Equipment: Item Name/Manufacturer/ Model #	Serial Number, Asset Number or Vehicle Identification Number (VIN)	Original Historical Cost*	In what way is this piece of equipment used for recycling or resource recovery?	% of time item is used to recycle or recover.

*Original Historical Cost means the cost at the time of original acquisition (this cost should be the same as cost reported for ad valorem tax purposes).

You may continue on another page if more space is necessary.

FACILITY:
Please include drawings, in triplicate, of any facilities. Drawings should include the square footage, the general layout of activity areas and the location of the above equipment if applicable.

Description of Facility _____ Square Footage _____ Recycling or Resource Recovery Activities Administered in Facility _____

LAND:
Please state the acreage that is used for recycling or resource recovery and describe specifically how the land is used. Include a map, in triplicate, showing the location of the recycling/resource recovery area.

SIGNATURE:
I hereby certify that the above equipment, facilities and/or land are used for the purpose stated, and that the information presented in this application is accurate. Furthermore, I certify that any portable or mobile equipment listed on this application will be used exclusively in the state of North Carolina.

Signed: _____ Title: _____ Date: _____

North Carolina's Special Tax Provision for Recycling and Resource Recovery

If a business purchases or constructs facilities or equipment for recycling or resource recovery, it may be entitled to special tax treatment for the following types of tax:

- ◆ Real and personal property tax
- ◆ Corporate state income tax
- ◆ Franchise tax on domestic and foreign corporations

Facilities and equipment used part of the time for recycling or resource recovery do not qualify: prorating of time is not allowed. Division of space is allowed. For example, a small space within a larger building can qualify if used all of the time for recycling. Incidental and supportive facilities and equipment (such as rest rooms and office areas) do not qualify.

The specific tax provisions for each of the three types of tax are explained below.

Real and Personal Property Tax

Real or personal property that is used or, if under construction, is to be used exclusively for recycling or resource recovery is exempted from being listed, appraised, assessed or taxed by state or local government after an approved certification.

Corporate State Income Tax

An income tax is levied on corporations operating in North Carolina on the portion of net income allocable to the state. At the option of the corporation, when it is computing taxable income for corporate income tax, a deduction for the cost of constructing facilities or purchasing equipment for resource recovery or recycling can be amortized over a period of 60 months, in lieu of any depreciation allowance. This option, in effect, allows for the corporation to replace the normal depreciation schedule of 15 to 30 years with an accelerated deduction for amortization of costs.

Franchise Tax on Domestic and Foreign Corporations

A franchise tax is a tax on corporations for the privilege of engaging in business. The North Carolina franchise tax is levied on the largest of the three alternate tax bases:

1. The total amount of issued and outstanding capital stock, surplus, and undivided profits apportionable to the state;
2. The appraised value of property in the state subject to local taxation plus the assessed value of intangible property subject to taxation;
3. The book value of real and tangible personal property in the state less any debt outstanding which was created to acquire or improve real property.

When the corporate franchise tax is computed, the cost of equipment and facilities used exclusively in resource recovery or recycling can be deducted from either capital stock, surplus, or undivided profits. These costs can also be deducted from real and tangible personal property, minus depreciation, if the equipment and facilities are certified as excluded from the county property valuation.

Special Tax Provision Examples

1. A paper recovery business owns large containers where paper is placed for recycling. The business operates a truck that picks up the paper and delivers it to its facility, where a baler, a forklift truck, other large containers, and a second truck are used to prepare and ship the paper to paper mills for recycling.

All of the containers, the forklift truck, the other two trucks and the baler qualify for special tax treatment. The operations area of the facility also qualifies. The rest rooms and office areas of the facility do not qualify.

2. A retail store designates an area in its building for baling paper and cardboard for recycling. A forklift is used to transport the paper and cardboard to a loading dock.

If used for no other purpose, the area of the store used for the baling and the baler would qualify for special tax treatment. The loading dock and the forklift would only qualify if they were not used for any other purpose.

3. A paper mill produces new newspaper from old newspaper. It shreds the old newspaper, makes a pulp, rolls and dries the pulp, and cuts sheets.

The area of the mill where production takes place, plus the equipment used for these processes, would qualify for special tax treatment, provided the same equipment is not also used to manufacture product from non-recycled (virgin) materials.

For More Information

For additional information about special tax treatment for recycling and resource recovery operations, contact:

- ◆ Your county tax assessor's office
- ◆ The Solid Waste Section of the North Carolina Department of Environment and Natural Resources which is responsible for certifying operations for this special tax treatment.

Central Office Contact: Kris Callahan
Solid Waste Section
401 Oberlin Road, Suite 150
Raleigh, NC 27605
phone: (919) 733-0692 ext 270
fax: (919) 733-4810
email: callahan@wastenot.ehnr.state.nc.us

**North Carolina Department of Environment
and Natural Resources
Division of Waste Management**

James B. Hunt, Jr., Governor
Wayne McDevitt, Secretary
William L. Meyer, Director



NORTH CAROLINA TAX PROVISIONS REGARDING RECYCLING INDUSTRIES

G.S. 105-275. Property classified and excluded from the tax base.

The following classes of property are hereby designated special classes under authority of Article V, Sec. 2(2), of the North Carolina Constitution and shall not be listed, appraised, assessed or taxed:

....
(8)

b. Real or personal property that is used or, if under construction, is to be used exclusively for recycling or resource recovery of or from solid waste, if the Department of Environment, Health and Natural Resources furnishes a certificate to the tax supervisor of the county in which the property is situated stating the Department of Environment, Health and Natural Resources has found that the described property has been or will be constructed or installed, complies or will comply with the rules of the Department of Environment, Health and Natural Resources, and has, or will have as its primary purpose recycling or resource recovering of or from solid waste.

G.S. 105-122. Franchise or privilege tax on domestic and foreign corporations.

....
(b) The cost of purchasing and installing equipment or constructing facilities for the purpose of recycling or resource recovering of or from solid waste or for the purpose of reducing the volume of hazardous waste generated shall be treated as deductible for the purposes of this section upon condition that the corporation claiming such deductible liability shall furnish to the Secretary a certificate from the Department of Environment, Health and Natural Resources has found as a fact that the equipment or facility has actually been purchased, installed or constructed, that it is in conformance with all rules and regulations of the Department of Environment, Health and Natural Resources, and that recycling or resource recovering is the primary purpose of the facility or equipment.

G.S. 105-130.5. Adjustments to federal taxable income determining state net income.

....
(b) The following deductions from federal taxable income shall be made in determining state net income:

....
(6) Amortization in excess of depreciation allowed under the Code on the cost of any sewage or waste treatment plant, and facilities or equipment used for purposes of recycling or resource recovery of or from solid waste, or for purposes of reducing the volume of hazardous waste generated as provided in G.S. 105-130.10.

G.S. 105-130.10. Amortization of air-cleaning devices, waste treatment facilities and recycling facilities.

In lieu of any depreciation allowance, at the option of the corporation, a deduction shall be allowed for the amortization, based on a period of 60 months, of the cost of:

.....
(2) Purchasing and installing equipment or constructing facilities for the purpose of recycling or resource recovering of or from solid waste, or for the purpose of reducing the volume of hazardous waste generated. The deduction provided for in this subdivision shall be allowed by the Secretary of Revenue only upon the condition that the corporation claiming such allowance shall furnish to the Secretary a certificate from the Department of Environment, Health and Natural Resources certifying that the Department of Environment, Health and Natural Resources has found as a fact that the equipment or facility has actually been purchased, installed or constructed, that it is in conformance with all rules and regulations of the Department of Environment, Health, and Natural Resources, and that recycling or resource recovering is the primary purpose of the facility or equipment.

The following is an edited copy of the Solid Waste Management Rules, including parts regarding the Solid Waste Section's Tax Certification Program. For a complete copy of the Solid Waste Management Rules (costing \$9.00), please call Crystal McCulters at (919) 733-0692 extension 273.

**SECTION .1500 STANDARDS FOR SPECIAL TAX TREATMENT OF RECYCLING
AND RESOURCE RECOVERY EQUIPMENT AND FACILITIES**

Rules .1501 - .1514 of Title 15A Subchapter 13B of the North Carolina Administrative Code (T15A.13B .1501 - .1514); have been transferred and recodified from Rules .0501 - .0514 of Title 10 Subchapter 10C of the North Carolina Administrative Code (T10.10C .0501 - .0514), effective June 27, 1991.

.1501 RESOURCE RECOVERING FACILITIES

(a) A resource recovering facility is a building, or buildings, or parts thereof, and includes any equipment exclusively and integrally used therein for obtaining material or energy resources from solid waste. The facility also includes land occupied by the buildings and equipment.

(b) Facilities used to collect, sort, or otherwise prepare solid waste for reuse or recycling are resource recovering facilities.

(c) Incidental or supportive facilities and equipment as defined in .1506(a) of this Section do not qualify for special tax treatment as resource recovering facilities.

History Note: Statutory Authority G.S. 130A-294(a)(3); Amended Eff. December 6, 1991.

.1502 RESOURCE RECOVERING EQUIPMENT

Resource recovering equipment is equipment exclusively and integrally used in the actual process of recovering material or energy resources from solid waste. To qualify, the equipment need not be specially designed for the resource recovery process.

History Note: Statutory Authority G.S. 130A-294(a)(3); Readopted Eff. December 5, 1977.

.1503 RECYCLING FACILITIES

(a) A recycling facility is a building, or buildings, or parts thereof, and includes any equipment exclusively and integrally used in a process by which recovered resources are transformed into new products in such a manner that the original materials lose their identity. Recovered resources are materials that have been recovered from solid waste. The facility also includes the land occupied by the buildings and equipment.

(b) Incidental or supportive facilities and equipment as defined in .1506(a) of this Section do not qualify for special tax treatment as recycling facilities.

History Note: Statutory Authority G.S. 130A-294(a)(3); Amended Eff. December 6, 1991.

.1504 RECYCLING PROCESS

(a) To constitute recycling, the recovered materials must be so altered in form that the original materials lose their identity and a new product is formed. A physical rather than a chemical change may be all that occurs but a substantial change in the form of the materials must occur.

(b) The recycling process ends when a new product has been created from the recovered materials, even though the complete manufacturing process involving the recycled products has not concluded.

History Note: Statutory Authority G.S. 130A-294(a)(3); Readopted Eff. December 5, 1977.

.1505 RECYCLING EQUIPMENT

Recycling equipment is equipment exclusively and integrally used in the actual process by which recovered resources are transformed into new products in such a manner that the original materials lose their identity. The equipment need not be specially designed for the recycling process.

History Note: Statutory Authority G.S. 130A-294(a)(3); Readopted Eff. December 5, 1977.

.1506 INCIDENTAL OR SUPPORTIVE FACILITIES AND EQUIPMENT

(a) Incidental or supportive facilities and equipment consist of a building, buildings, or parts thereof, land or equipment, which provide administrative or maintenance services to the resource recovery or recycling process or which provides a comfort or convenience for the employees.

(b) Buildings, land and equipment are used in the actual resource recovering or recycling process if they are an integral part of the process by which:

- (1) material or energy resources are obtained from solid waste, or
- (2) recovered resources are transformed into new products in such a manner that the original products lose their identity.

(c) Qualifying equipment and facilities must be used in a mechanical or chemical process, in transportation, or in storage.

History Note: Statutory Authority G.S. 130A-294(a)(3); Readopted Eff. December 5, 1977.

.1507 OPERATIONAL REQUIREMENTS FOR FACILITIES AND EQUIPMENT

All resource recovering and recycling facilities and equipment shall be in full compliance with the rules on solid waste management in 15A NCAC 13B adopted by the Commission for Health Services.

History Note: Statutory Authority G.S. 130A-294(a)(3); Eff. June 2, 1976; Readopted Eff. December 5, 1977; Amended Eff. September 1, 1990; July 1, 1985.

.1508 APPLICATION FOR TAX CERTIFICATION

- (a) For the purposes of this Rule, the following definitions shall apply:
- (1) "Person" means any individual, partnership, firm, organization, corporation, association, business trust, company, or other legal entity.
 - (2) "Department" means the Secretary of the Department of Environment, Health and Natural Resources or his authorized representative.
- (b) No application for tax certification shall be received from any person unless submitted in triplicate to the Department containing the following information:
- (1) general layout of resource recovery or recycling facilities and equipment;
 - (2) specify and describe facilities and parts thereof to be considered (including therewith acreage involved);
 - (3) specify and describe equipment exclusively used in resource recovering or recycling processes;
 - (4) construction schedule if not yet completed, including anticipated date of final completion; and
 - (5) the individual primarily responsible for management operation and maintenance of the facilities and equipment.
- (c) The Department reserves the right to request additional information in the event the above does not provide sufficient specificity.
- (d) Upon proper receipt of the above information, a representative of the Division of Solid Waste Management shall inspect said facilities and equipment.
- (e) Evaluation of such facilities and equipment shall be made in accordance with these rules. Based thereon, the Division of Waste Management shall issue a written decision denying or granting tax certification. Where a request is denied, such decision shall enumerate the reasons therefor.

History Note: Statutory Authority G.S. 130A-294(a)(3); Amended Eff. December 6, 1991;

.1509 APPEALS

Repealed Eff. February 1, 1987.

.1510 SEVERABILITY

If any provision of these standards or its application to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the standards that can be given effect without the invalid provisions or applications, and to this end the provisions of these standards are declared to be severable.

History Note: Statutory Authority G.S. 130A-294(a)(3); Eff. June 2, 1976; Readopted Eff. Dec. 5, 1977.

.1511 PAMPHLET

There is available from the Division of Waste Management a pamphlet containing:

- (1) background information concerning these standards,
- (2) the standards, and
- (3) examples of types of facilities and equipment covered by these standards.

History Note: Statutory Authority G.S. 130A-294(a)(3); Eff. June 2, 1976; Readopted Eff. December 5, 1977; Amended Eff. September 1, 1990; June 30, 1980.

.1512 FACILITIES FOR REDUCING HAZARDOUS WASTE GENERATED

(a) A facility for the purpose of reducing the volume of hazardous waste generated is a building or buildings, or parts thereof, constructed for the purpose of reducing the amount of hazardous waste generated by an existing industrial facility and includes any equipment exclusively and integrally used therein for reducing the volume of hazardous waste generated by the existing industrial facility. The facility also includes any land necessarily acquired for occupation by the buildings or equipment.

(b) An existing industrial facility is a building or buildings, or parts thereof, which house an industrial process that has been or is capable of commercially feasible operation in the manner for which it was designed before the addition of the facility or equipment for reducing the volume of hazardous waste generated.

(c) Incidental or supportive facilities and equipment as defined in Rule .1506(a) of this Section do not qualify for special tax treatment as equipment or facilities for the purpose of reducing the volume of waste generated.

History Note: Statutory Authority G.S. 130A-294(a)(3); Eff. October 1, 1983; Amended Eff. December 6, 1991; September 1, 1990.

.1513 EQUIPMENT FOR REDUCING HAZARDOUS WASTE GENERATED

(a) Equipment for the purpose of reducing the volume of hazardous waste generated is equipment exclusively and integrally used in the actual process by which the volume of hazardous waste generated by an existing industrial process is reduced. The equipment need not be specially designed for the particular volume reduction process for which it is used.

(b) An existing industrial process is an industrial process that has been or is capable of commercially feasible operation in the manner for which it was designed before the addition of the equipment for reducing the volume of hazardous waste generated.

History Note: Statutory Authority G.S. 130A-294(a)(3); Eff. October 1, 1983.

.1514 APPEALS PROCEDURE

Appeals concerning the interpretation and enforcement of the rules in this Section shall be made in accordance with G.S. 150B.

History Note: Statutory Authority G.S. 130A-294(a)(3); Amended Eff. September 1, 1990.