GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

SESSION LAW 2013-259
SENATE BILL 490

AN ACT TO EXCLUDE CUSTOM SOFTWARE FROM PROPERTY TAX.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 105-275(40) reads as rewritten:

"**§ 105-275. Property classified and excluded from the tax base.**

The following classes of property are designated special classes under Article V, Sec. 2(2), of the North Carolina Constitution and are excluded from tax:

…

(40) Computer software and any documentation related to the computer software. As used in this subdivision, the term "computer software" means any program or routine used to cause a computer to perform a specific task or set of tasks. The term includes system and application programs and database storage and management programs.

The exclusion established by this subdivision does not apply to computer software and its related documentation if the computer software meets one or more of the following descriptions:

a. It is embedded software. "Embedded software" means computer instructions, known as microcode, that reside permanently in the internal memory of a computer system or other equipment and are not intended to be removed without terminating the operation of the computer system or equipment and removing a computer chip, a circuit, or another mechanical device.

b. It is purchased or licensed from a person who is unrelated to the taxpayer and it is capitalized on the books of the taxpayer in accordance with generally accepted accounting principles, including financial accounting standards issued by the Financial Accounting Standards Board. A person is unrelated to a taxpayer if (i) the taxpayer and the person are not subject to any common ownership, either directly or indirectly, and (ii) neither the taxpayer nor the person has any ownership interest, either directly or indirectly, in the other. <u>The foregoing does not include development of software or any modifications to software, whether done internally by the taxpayer or externally by a third party, to meet the customer's specified needs.</u>

This subdivision does not affect the value or taxable status of any property that is otherwise subject to taxation under this Subchapter.

The provisions of the exclusion established by this subdivision are not severable. If any provision of this subdivision or its application is held invalid, the entire subdivision is repealed.

…."

SECTION 2. Section 1 of this act shall not be construed to affect the interpretation of any statute that is the subject of litigation pending as of the effective date of this act in the General Court of Justice or to affect any other aspect of such pending litigation.

SECTION 3. Section 1 of this act is effective for taxes imposed for taxable years beginning on or after July 1, 2014. The remainder of this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 1st day of July, 2013.

s/ Philip E. Berger
President Pro Tempore of the Senate

s/ Paul Stam
Speaker Pro Tempore of the House of Representatives

s/ Pat McCrory
Governor

Approved 4:16 p.m. this 10th day of July, 2013