

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

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SENATE BILL 1365*
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Short Title: Inheritance Tax Adjustment.

(Public)

Sponsors: Senators Winner, Guy, Kincaid, Rauch, Staton; and Simpson.

Referred to: Finance.

May 23, 1990

A BILL TO BE ENTITLED

AN ACT TO PROVIDE AN INHERITANCE TAX EXEMPTION FOR STATE AND LOCAL GOVERNMENT RETIREMENT BENEFITS PAID TO LINEAL DESCENDANTS AND ANCESTORS AND TO LIMIT THE CURRENT INHERITANCE TAX EXEMPTION FOR FEDERAL GOVERNMENT RETIREMENT BENEFITS TO ONLY THOSE BENEFITS PAID TO LINEAL DESCENDANTS AND ANCESTORS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-3 reads as rewritten:

§ 105-3. Property exempt.

The following property shall be exempt from taxation under this Article:

(1) Property passing to or for the use of any one or more of the following: the United States, any state, territory or any political subdivision thereof, or the District of Columbia, for exclusively public purposes.

(2) Property passing to religious, charitable, or educational corporations, or to churches, hospitals, orphan asylums, public libraries, religious, or charitable organizations, or passing to any trustee or trustees for religious or charitable purposes, where such religious, charitable, or educational institutions, corporations, churches, trusts, etc., are located within the State and not conducted for profit.

1 (3) Property passing to religious, educational, or charitable
2 corporations, foundations or trusts, not conducted for profit,
3 incorporated or created or administered under the laws of any other
4 state: If such other state levies no inheritance or estate taxes on
5 property similarly passing from residents of such state to religious,
6 educational or charitable corporations, foundations or trusts
7 incorporated or created or administered under the laws of this State;
8 or if such corporation, foundation or trust is one receiving and
9 disbursing funds donated in this State for religious, educational or
10 charitable purposes.

11 (4) The proceeds of all life insurance policies payable to
12 beneficiaries named in subdivisions (1), (2) and (3) of this section.
13 And also proceeds of all policies of insurance and the proceeds of all
14 adjusted service certificates that have been or may be paid by the
15 United States government, or that have been or may be paid on
16 account of policies required to be carried by the United States
17 government or any agency thereof, to the estate, beneficiary, or
18 beneficiaries of any person who has served in the armed forces of
19 the United States or in the merchant marine during the first or
20 second World War or any subsequent military engagement; and
21 proceeds, not exceeding the sum of twenty thousand dollars
22 (\$20,000), of all policies of insurance paid to the estate, beneficiary
23 or beneficiaries of any person whose death was caused by enemy
24 action during the second World War or any subsequent military
25 engagement involving the United States. This provision will be
26 operative only when satisfactory proof that the death was caused by
27 enemy action is filed by the executor, administrator, or beneficiary
28 with the Secretary of Revenue.

29 (5) The value of an annuity or other payment receivable by any
30 beneficiary (other than the executor) under (a) an employees' trust
31 (or under a contract or insurance policy purchased by an employees'
32 trust) forming part of a pension, stock bonus, or profit-sharing plan,
33 which at the time of the decedent's separation from employment
34 (whether by death or otherwise), or at the time of termination of the
35 plan if earlier, met the requirements of 26 U.S.C. § 401(a); or (b) a
36 retirement annuity contract purchased by an employer (and not by an
37 employees' trust) pursuant to a plan, which at the time of decedent's
38 separation from employment (by death or otherwise), or at the time
39 of termination of the plan if earlier, met the requirements of 26
40 U.S.C. § 403(a) or § 403(b). If such amounts payable after the death
41 of the decedent under a plan described in clause (a) or (b) are
42 attributable to any extent to payments or contributions made by the
43 decedent, no exemption shall be allowed for that part of the value of
44 such amounts in the proportion that the total payments or

1 contributions made by the decedent bears to the total payments or
2 contributions made. For purposes of the preceding sentence
3 contributions or payments made by the decedent's employer or
4 former employer under a trust or plan described in clause (a) or (b)
5 shall not be considered to be contributed by the decedent nor shall
6 any deductible employee contributions within the meaning of 26
7 U.S.C. § 72(o)(5) be considered to have been contributed by the
8 decedent. For purposes of this subdivision, contributions or
9 payments on behalf of the decedent while he was an employee
10 within the meaning of 26 U.S.C. § 401(c)(1) made under a trust or
11 plan described in clause (a) or (b) shall, to the extent allowable as a
12 deduction under 26 U.S.C. § 404, be considered to be made by a
13 person other than the decedent and, to the extent not so allowable,
14 shall be considered to be made by the decedent. Provided, that the
15 value of such annuities or other payments receivable described in
16 this subdivision shall not be exempt unless the payments received
17 therefrom are or will be subject to income taxation under Article 4 of
18 this Subchapter, and if such payments are not or will not be subject
19 to income taxation under Article 4 of this Subchapter the value of
20 such annuities or other payments receivable shall be included in the
21 gross value of the estate of the decedent and taxable under the
22 provisions of this Article.

- 23 (6) The value of an annuity receivable by any beneficiary (other than the
24 executor) under:
- 25 a. An individual retirement account described in section 408(a) of
26 the Code,
 - 27 b. An individual retirement annuity described in section
28 408(b) of the Code, or
 - 29 c. A retirement bond described in section 409(a) of the
30 Code.

31 If any payment to an account described in paragraph a or for an
32 annuity described in paragraph b or a bond described in
33 paragraph c was not allowable as a deduction under 26 U.S.C. §
34 219 or § 220 and was not a rollover contribution described in 26
35 U.S.C. §§ 402(a)(5), 403(a)(4), 408(d)(3), or 409(b)(3)(C), the
36 preceding sentence shall not apply to that portion of the value of
37 the amount receivable under such account, annuity, or bond (as
38 the case may be) which bears the same ratio to the total value of
39 the amount so receivable as the total amount which was paid to
40 or for such account, annuity, or bond and which was not
41 allowable as a deduction under 26 U.S.C. § 219 or § 220 and
42 was not such a rollover contribution bears to the total amount
43 paid to or for such account, annuity, or bond. For purposes of
44 this subdivision, the term 'annuity' means an annuity contract or

1 other arrangement providing for a series of substantially equal
2 periodic payments to be made to a beneficiary (other than the
3 executor) for his life or over a period extending for at least 36
4 months after the date of the decedent's death.

5 (7) The total value of proceeds of an annuity or other payment
6 receivable by any beneficiary (other than the executor) under a
7 military family protection, or survivor benefit, plan, or other
8 comparable plan, pursuant to Chapter 73 of Title 10 of the United
9 States Code.

10 (8) ~~The value of an annuity receivable by any beneficiary, or other~~
11 ~~than the estate, payment receivable by a Class A beneficiary under a~~
12 ~~federal government employee retirement or deferred compensation~~
13 ~~program plan to which the employee made contributions during his~~
14 ~~working years, contributions before retiring. The term 'deferred~~
15 ~~compensation plan' means a plan under which a limited portion of~~
16 ~~the employee's compensation may, upon the election of the~~
17 ~~employee, be deferred and excluded from income until the~~
18 ~~employee's retirement, death, disability, separation from service,~~
19 ~~hardship, or attainment of an age over 57 years. The term~~
20 ~~'government' means the United States, a state, or a local unit of~~
21 ~~government.~~

22 (9) The total value of death benefits paid to a decedent's estate or a named
23 beneficiary from voluntary pledges made by the North Carolina
24 Highway Patrol or other association of law-enforcement officers
25 employed by the State or a county or municipality, if the benefits are
26 paid from an assessment against the members of the association.

27 (10) Property passing to the surviving spouse of a decedent."

28 Sec. 2. This act shall become effective September 1, 1990, and shall apply to
29 the estates of decedents dying on or after that date.