

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

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SENATE BILL 51\*

Finance Committee Substitute Adopted 6/14/89

House Committee Substitute Favorable 7/27/89

Short Title: Tax Fairness Act.

(Public)

Sponsors:

Referred to:

January 25, 1989

A BILL TO BE ENTITLED

AN ACT TO ENHANCE THE SIMPLICITY AND FAIRNESS OF THE STATE INCOME TAX SYSTEM.

The General Assembly of North Carolina enacts:

Section 0.1. This act shall be known as The Tax Fairness Act of 1989.

Sec. 0.2. The following is a table of contents for this act. It is designed for reference only; the descriptive headings in the table of contents and throughout the act do not affect the scope or application of the act.

Part I. Income Tax Reform.

A. Individual Income Tax Act Amendments.

B. S Corporation Income Tax Act Amendments.

C. Income Tax Act for Estates and Trusts Amendments.

D. Chapter 105 Conforming Amendments.

Part II. Savings Clause and Effective Date.

PART I.

INCOME TAX REFORM.

A. INDIVIDUAL INCOME TAX ACT AMENDMENTS.

Sec. 1.1. G.S. 105-133 reads as rewritten:

"§ 105-133. Short title.

This Division of the income tax Article shall be known and may be cited as the Individual Income Tax Act."

Sec. 1.2. G.S. 105-134 reads as rewritten:

1 **"§ 105-134. Purpose.**

2 The general purpose of this Division is to impose a tax for the use of the State  
3 government upon the ~~net taxable income in excess of the exemptions herein allowed~~  
4 collectible annually:

- 5 (1) Of every resident of this State.  
6 (2) Of every nonresident individual deriving income from North Carolina  
7 sources attributable to the ownership of any interest in real or tangible  
8 personal property in this State or deriving income from a business,  
9 trade, profession, or occupation carried on in this State."

10 Sec. 1.3. G.S. 105-135 through G.S. 105-149 are repealed.

11 Sec. 1.4. Division II of Article 4 of Chapter 105 of the General Statutes is  
12 amended by adding after G.S. 105-134 the following new sections to read:

13 **"§ 105-134.1. Definitions.**

14 The following definitions apply in this Division:

- 15 (1) Code. The Internal Revenue Code as enacted as of January 1, 1989,  
16 including any provisions enacted as of that date which become  
17 effective either before or after that date, but not including sections  
18 63(c)(4) and 151(d)(3).  
19 (2) Department. The Department of Revenue.  
20 (3) Educational institution. An educational institution that normally  
21 maintains a regular faculty and curriculum and normally has a  
22 regularly organized body of students in attendance at the place where  
23 its educational activities are carried on.  
24 (4) Fiscal year. Defined in section 441(e) of the Code.  
25 (5) Gross income. Defined in section 61 of the Code.  
26 (6) Head of household. Defined in section 2(b) of the Code.  
27 (7) Individual. A natural person.  
28 (8) Married individual. An individual who is married and is considered  
29 married as provided in section 7703 of the Code.  
30 (9) Nonresident individual. An individual who is not a resident of this  
31 State.  
32 (10) North Carolina taxable income. Defined in G.S. 105-134.5.  
33 (11) Person. An individual, a fiduciary, a partnership, or a corporation.  
34 The term includes an officer or employee of a corporation or a member  
35 or employee of a partnership who, as officer, employee, or member, is  
36 under a duty to perform an act in meeting the requirements of this  
37 Division.  
38 (12) Resident. An individual who is domiciled in this State at any time  
39 during the taxable year or who resides in this State during the taxable  
40 year for other than a temporary or transitory purpose. In the absence  
41 of convincing proof to the contrary, an individual who is present  
42 within the State for more than 183 days during the taxable year is  
43 presumed to be a resident, but the absence of an individual from the  
44 State for more than 183 days raises no presumption that the individual

1 is not a resident. A resident who removes from the State during a  
2 taxable year is considered a resident until he has both established a  
3 definite domicile elsewhere and abandoned any domicile in this State.  
4 The fact of marriage does not raise any presumption as to domicile or  
5 residence.

6 (13) Retirement benefits. Amounts paid to a former employee or the  
7 beneficiary of a former employee under a written retirement plan  
8 established by the employer to provide payments to an employee or the  
9 beneficiary of an employee after the end of the employee's  
10 employment with the employer where the right to receive the  
11 payments is based upon the employment relationship. With respect to  
12 a self-employed individual or the beneficiary of a self-employed  
13 individual, the term means amounts paid to the individual or  
14 beneficiary of the individual under a written retirement plan  
15 established by the individual to provide payments to the individual or  
16 the beneficiary of the individual after the end of the self-employment.  
17 For the purpose of this subdivision, the term 'employee' includes a  
18 volunteer worker.

19 (14) S Corporation. Defined in G.S. 105-131(b).

20 (15) Secretary. The Secretary of Revenue.

21 (16) Taxable income. Defined in section 63 of the Code.

22 (17) Taxable year. Defined in section 441(b) of the Code.

23 (18) Taxpayer. An individual subject to the tax imposed by this Division.

24 (19) This State. The State of North Carolina.

25 **§ 105-134.2. Individual income tax imposed.**

26 (a) A tax is imposed upon the North Carolina taxable income of every individual.  
27 The tax shall be levied, collected, and paid annually and shall be computed at the  
28 following percentages of the taxpayer's North Carolina taxable income.

29 (1) For married individuals who file a joint return under G.S. 105-152.1  
30 and for surviving spouses, as defined in section 2(a) of the Code:

31 On the North Carolina taxable income up to twenty-one thousand two  
32 hundred fifty dollars (\$21,250), six percent (6%); and

33 On the excess over twenty-one thousand two hundred fifty dollars (\$21,250),  
34 seven percent (7%).

35 (2) For heads of households, as defined in section 2(b) of the Code:

36 On the North Carolina taxable income up to seventeen thousand dollars  
37 (\$17,000), six percent (6%); and

38 On the excess over seventeen thousand dollars (\$17,000), seven percent (7%).

39 (3) For unmarried individuals other than surviving spouses and heads of  
40 households:

41 On the North Carolina taxable income up to twelve thousand seven hundred  
42 fifty dollars (\$12,750), six percent (6%); and

43 On the excess over twelve thousand seven hundred fifty dollars (\$12,750),  
44 seven percent (7%).

1           (4) For married individuals who do not file a joint return under G.S. 105-  
2           152.1:

3           On the North Carolina taxable income up to ten thousand six hundred twenty-  
4 five dollars (\$10,625), six percent (6%); and

5           On the excess over ten thousand six hundred twenty-five dollars (\$10,625),  
6 seven percent (7%).

7 **"§ 105-134.3. Year of assessment.**

8           The tax imposed by this Division shall be assessed, collected, and paid in the taxable  
9 year following the taxable year for which the assessment is made, except as provided to  
10 the contrary in Article 4A of this Chapter.

11 **"§ 105-134.4. Taxable year.**

12           A taxpayer shall compute North Carolina taxable income on the basis of the taxable  
13 year used in computing the taxpayer's income tax liability under the Code.

14 **"§ 105-134.5. North Carolina taxable income defined.**

15           (a) Residents. For residents of this State, the term 'North Carolina taxable  
16 income' means taxable income as calculated under the Code, adjusted as provided in  
17 G.S. 105-134.6 and G.S. 105-134.7.

18           (b) Nonresidents. For nonresident individuals, the term 'North Carolina taxable  
19 income' means taxable income as calculated under the Code, adjusted as provided in  
20 G.S. 105-134.6 and G.S. 105-134.7, multiplied by a fraction the denominator of which  
21 is the taxpayer's gross income as calculated under the Code, adjusted as provided in  
22 G.S. 105-134.6 and G.S. 105-134.7, and the numerator of which is the amount of that  
23 gross income, as adjusted, that is derived from North Carolina sources and is  
24 attributable to the ownership of any interest in real or tangible personal property in this  
25 State or is derived from a business, trade, profession, or occupation carried on in this  
26 State.

27           (c) Part-year Residents. If an individual was a resident of this State for only part  
28 of the taxable year, having moved into or removed from the State during the year, the  
29 term 'North Carolina taxable income' has the same meaning as in subsection (b) except  
30 that the numerator shall include gross income, adjusted as provided in G.S. 105-134.6  
31 and G.S. 105-134.7, derived from all sources during the period the individual was a  
32 resident.

33           (d) S Corporations and Partnerships. In order to calculate the numerator of the  
34 fraction provided in subsection (b), the amount of a shareholder's pro rata share of S  
35 Corporation income that is includable in the numerator shall be the shareholder's pro  
36 rata share of the S Corporation's income attributable to the State, as defined in G.S. 105-  
37 131(b)(4). In order to calculate the numerator of the fraction provided in subsection (b)  
38 for a member of a partnership or other unincorporated business with one or more  
39 nonresident members that operates in one or more other states, the amount of the  
40 member's distributive share of income of the business that is includable in the numerator  
41 shall be determined by multiplying the total net income of the business by the ratio  
42 ascertained under the provisions of G.S. 105-130.4. As used in this subsection, total net  
43 income means the entire gross income of the business less all expenses, taxes, interest,

1 and other deductions allowable under the Code which were incurred in the operation of  
2 the business.

3 **"§ 105-134.6. Adjustments to taxable income.**

4 (a) S Corporations. The pro rata share of each shareholder in the income  
5 attributable to the State of an S Corporation shall be adjusted as provided in G.S. 105-  
6 130.5. The pro rata share of each resident shareholder in the income not attributable to  
7 the State of an S Corporation shall be subject to the adjustments provided in subsections  
8 (b) and (c) of this section.

9 (b) Deductions. The following deductions from taxable income shall be made in  
10 calculating North Carolina taxable income, to the extent each item is included in gross  
11 income:

12 (1) Interest upon the obligations of (i) the United States or its possessions,  
13 (ii) this State or a political subdivision of this State, or (iii) a nonprofit  
14 educational institution organized or chartered under the laws of this  
15 State.

16 (2) Interest upon obligations and gain from the disposition of obligations  
17 to the extent the interest or gain is exempt from tax under the laws of  
18 this State.

19 (3) Benefits received under Title II of the Social Security Act and amounts  
20 received from retirement annuities or pensions paid under the  
21 provisions of the Railroad Retirement Act of 1937.

22 (4) Any amount not to exceed one thousand five hundred dollars (\$1,500)  
23 received by the taxpayer during the taxable year as compensation for  
24 the performance of duties as a member of the North Carolina  
25 organized militia, the national guard as defined in G.S. 127A-3.

26 (5) Refunds of State, local, and foreign income taxes included in the  
27 taxpayer's gross income.

28 (c) Additions. The following additions to taxable income shall be made in  
29 calculating North Carolina taxable income, to the extent each item is not included in  
30 gross income:

31 (1) Interest upon the obligations of states, other than this State, and their  
32 political subdivisions.

33 (2) Any amount allowed as a deduction from gross income under the Code  
34 that is taxed under the Code by a separate tax other than the tax  
35 imposed in section 1 of the Code. The Secretary shall report to the  
36 1991 General Assembly all provisions under the Code for taxing  
37 certain amounts separately and shall recommend whether those  
38 amounts should be taxed separately under this Division or should be  
39 added to taxable income in calculating North Carolina taxable income.

40 (3) Any amount deducted from gross income under section 164 of the  
41 Code as State, local, or foreign income tax to the extent that the  
42 taxpayer's total itemized deductions deducted under the Code for the  
43 taxable year exceed the standard deduction allowable to the taxpayer  
44 under the Code reduced by the amount by which the taxpayer's

1           allowable standard deduction has been increased under section  
2           63(c)(4) of the Code.

- 3           (4)   The amount by which the taxpayer's standard deduction has been  
4           increased under section 63(c)(4) of the Code and the amount by which  
5           the taxpayer's personal exemptions have been increased under section  
6           151(d)(3) of the Code.

7    **"§ 105-134.7. Transitional adjustments.**

8           (a)   The following adjustments to taxable income shall be made in calculating  
9           North Carolina taxable income:

- 10           (1)   Amounts that were included in the basis of property under federal tax  
11           law but not under State tax law before January 1, 1989, shall be added  
12           to taxable income in the year the taxpayer disposes of the property.
- 13           (2)   Amounts that were included in the basis of property under State tax  
14           law but not under federal tax law before January 1, 1989, shall be  
15           deducted from taxable income in the year the taxpayer disposes of the  
16           property.
- 17           (3)   Amounts that were recognized as income under federal law but not  
18           under State law due to a taxpayer's use of the installment method set  
19           out in G.S. 105-142(f) prior to January 1, 1989, shall be added to  
20           taxable income in the taxpayer's first taxable year beginning on or after  
21           January 1, 1989. Amounts that were recognized as income under State  
22           law but not under federal law due to a taxpayer's use of a different  
23           installment method prior to January 1, 1989, shall be deducted from  
24           taxable income in the taxpayer's first taxable year beginning on or after  
25           January 1, 1989.
- 26           (4)   Losses in the nature of net economic losses sustained in any or all of  
27           the five taxable years preceding the taxpayer's first taxable year  
28           beginning on or after January 1, 1989, arising from business  
29           transactions, business capital, or business property, may be deducted  
30           from taxable income subject to the limitations contained in former  
31           G.S. 105-147(9)a., c., and d. (repealed).
- 32           (5)   The amount of any net operating loss for a taxable year beginning on  
33           or after January 1, 1989, carried back to a taxable year beginning  
34           before January 1, 1989, pursuant to section 172 of the Code may be  
35           deducted from taxable income in the taxable year following the taxable  
36           year for which the loss occurred.
- 37           (6)   A loss or deduction that was incurred or paid and deducted from State  
38           taxable income in a taxable year beginning before January 1, 1989, and  
39           is carried forward and deducted in a taxable year beginning on or after  
40           January 1, 1989, under the Code shall be added to taxable income.
- 41           (7)   The transitional adjustments provided in Division I-S of this Article  
42           shall be made with respect to a shareholder's pro rata share of S  
43           Corporation income.

1 (b) The Secretary may by rule require other adjustments to be made to taxable  
 2 income as necessary to assure that the transition to the tax changes effective January 1,  
 3 1989, will not result in double taxation of income, exemption of otherwise taxable  
 4 income from taxation under this Division, or double allowance of deductions.

5 **"§ 105-134.8. Inventory.**

6 Whenever, in the opinion of the Secretary, it is necessary in order clearly to  
 7 determine the income of any taxpayer, inventories shall be taken by the taxpayer as  
 8 prescribed by the Secretary, conforming as nearly as possible to the best accounting  
 9 practice in the trade or business and most clearly reflecting the income."

10 Sec. 1.5. G.S. 105-151 reads as rewritten:

11 **"§ 105-151. Tax credits for income taxes paid to other states by individuals.**

12 (a) ~~Individuals who are residents~~ An individual who is a resident of this State shall  
 13 ~~be allowed~~ is allowed a credit against the taxes imposed by this ~~division~~ Division for  
 14 income taxes imposed by and paid to another state or country on income taxed under  
 15 this ~~division~~ Division, subject to the following conditions:

16 (1) The credit shall be allowed only for taxes paid to ~~such other~~ another  
 17 state or country on income derived from sources within ~~such that~~ that state  
 18 or country ~~which that~~ is taxed under ~~the its~~ its laws thereof irrespective of  
 19 the residence or domicile of the recipient; provided, that whenever a  
 20 taxpayer who is deemed to be a resident of this State under the  
 21 provisions of this ~~division~~ Division ~~and who~~ is deemed also to be a  
 22 resident of another state or country under the laws of ~~such other that~~ that  
 23 state or ~~country~~ country, the Secretary of Revenue ~~may~~, in his  
 24 discretion, allow a credit against the taxes imposed by this ~~division~~ Division  
 25 Division for ~~such~~ the taxes imposed by and paid to ~~such the~~ the other state or  
 26 country on income taxed under this ~~division~~ Division.

27 (2) The fraction of the gross ~~income for North Carolina income tax purposes~~  
 28 ~~which income~~, as calculated under the Code and adjusted as provided  
 29 in G.S. 105-134.6 and G.S. 105-134.7, that is subject to income tax in  
 30 another state or country shall be ~~ascertained~~ ascertained, and the North  
 31 Carolina net income tax before credit under this section shall be  
 32 multiplied by ~~such that~~ that fraction. The credit allowed shall be either the  
 33 product thus calculated or the income tax actually paid the other state  
 34 or ~~country~~ country, whichever is smaller.

35 (3) Receipts showing the payment of income taxes to another state or  
 36 country and a true copy of a return or returns upon the basis of which  
 37 the taxes are assessed ~~must~~ shall be filed with the Secretary of Revenue  
 38 at, or prior to, the time credit is claimed. If credit is claimed on  
 39 account of a deficiency assessment, a true copy of the notice assessing  
 40 or proposing to assess the deficiency, as well as a receipt showing the  
 41 payment of the deficiency, shall be filed.

42 (b) If any taxes paid to another state or country for which a taxpayer has been  
 43 allowed a credit under this section are at any time credited or refunded to the taxpayer, a  
 44 tax equal to that portion of the credit allowed for ~~such the~~ the taxes so credited or refunded

1 shall be due and payable from the taxpayer ~~within 30 days from the date of the receipt of~~  
2 ~~the refund or notice of the credit. If the amount of tax is not paid within 30 days of receipt or~~  
3 ~~notice the taxpayer and~~ shall be subject to the penalties and interest on delinquent payments  
4 provided for in Subchapter I of this Chapter."

5 Sec. 1.6. G.S. 105-151.1 reads as rewritten:

6 **"§ 105-151.1. Tax credit for construction of dwelling units for handicapped**  
7 **persons.**

8 There shall be allowed to resident owners of multifamily rental units located in  
9 North Carolina as a credit against the tax imposed by this ~~Division, Division~~ an amount  
10 equal to five hundred fifty dollars (\$550.00) for each dwelling unit constructed by ~~such~~  
11 ~~the resident owner which that~~ conforms to the recommendations of section (11x) of the  
12 North Carolina Building Code for the taxable year within which the construction of ~~such~~  
13 ~~the dwelling units is completed; provided, that credit will be allowed under this section~~  
14 ~~only for the number of such dwelling units completed during the taxable year which that~~  
15 ~~were required to be built in compliance with section (11x) of the North Carolina~~  
16 ~~Building Code; provided further, that if the credit allowed by this section exceeds the~~  
17 ~~tax imposed by this Division reduced by all other credits allowed by the provisions of~~  
18 ~~this Division, such the excess shall be allowed as a credit against the tax imposed by this~~  
19 ~~Division for the next succeeding year; and provided further, that in order to secure the~~  
20 ~~credit allowed by this section the taxpayer shall file with his the income tax return for~~  
21 ~~the taxable year with respect to which such the credit is to be claimed, a copy of the~~  
22 ~~occupancy permit on the face of which there shall be recorded by the building inspector~~  
23 ~~the number of units completed during the taxable year which that conform to section~~  
24 ~~(11x) of the North Carolina Building Code. When he has recorded After recording the~~  
25 ~~number of such units on the face of the occupancy permit, the building inspector shall~~  
26 ~~promptly make and forward a copy of the permit to the Special Office for the~~  
27 ~~Handicapped, Department of Insurance."~~

28 Sec. 1.7. G.S. 105-151.2 reads as rewritten:

29 **"§ 105-151.2. Credit against personal income tax for solar hot water, heating heating,**  
30 **and cooling.**

31 (a) ~~Any person (to include partnerships) A person or partnership~~ who causes to be  
32 constructed or installed a solar hot water, ~~heating heating,~~ or cooling system in any  
33 ~~residence or other building in North Carolina shall be allowed as a credit against the tax~~  
34 ~~imposed by this Division, Division~~ an amount equal to twenty-five percent (25%) of the  
35 installation and equipment cost of the solar hot water, ~~heating heating,~~ or cooling  
36 equipment; ~~provided; provided,~~ that ~~the credit allowed under this section shall may not~~  
37 ~~exceed one thousand dollars (\$1,000) per system or per year on any single building or~~  
38 ~~for each family dwelling unit of a multi-dwelling building which is individually metered~~  
39 ~~for electric power or natural gas or with separate furnace for oil heat paid for by the~~  
40 ~~occupant; provided further, that to obtain the credit the taxpayer must own or control the~~  
41 ~~use of the building at the time of the installation, except that in the case of a building~~  
42 ~~constructed or modified for sale in which a solar system is constructed or installed, the~~  
43 ~~credit shall be allowed to the owner who first occupies the building for use after the~~  
44 ~~construction or installation of the system or the owner-lessor who first leases the~~



1 building for use after the construction or installation of the system; provided further,  
2 that the credit shall not be allowed to the extent that any of the cost of the system was  
3 provided by federal, State, or local grants; and provided further, that if the credit  
4 allowed by this section exceeds the taxes imposed by this Division reduced by all other  
5 credits allowed by the provisions of this Division, ~~such the~~ excess shall be allowed  
6 against the taxes imposed by this Division for the next three succeeding years.

7 (b) In the case of property owned by the entirety, where both spouses are  
8 required to file North Carolina income tax returns, ~~each spouse may claim one half of~~  
9 ~~the credit allowed by this section or one spouse may claim the entire credit allowed by~~  
10 ~~this section by agreement with the other spouse, provided both spouses were living~~  
11 ~~together at the end of the taxable year and file their separate returns for the taxable year~~  
12 ~~on the combined form. the credit allowed by this section may be claimed only if the~~  
13 ~~spouses file a joint return under G.S. 105-152.1. Where only one spouse is required to~~  
14 ~~file a North Carolina income tax return, such that~~ spouse may claim the credit allowed  
15 by this section.

16 (c) For the purpose of this section, the term 'solar hot water, ~~heating~~ heating, and  
17 cooling equipment' means any hot water, heating, cooling, or heating and cooling  
18 equipment which meets the definitive performance criteria established by the U.S.  
19 Secretary of the Treasury or any other performance criteria approved and published by  
20 the Secretary of Revenue, or passive solar systems that meet the eligibility criteria  
21 approved and published by the Secretary of Revenue."

22 Sec. 1.8. G.S. 105-151.4 is repealed.

23 Sec. 1.9. G.S. 105-151.5 reads as rewritten:

24 "**§ 105-151.5. Credit against personal income tax for conversion of industrial boiler to**  
25 **wood fuel.**

26 ~~Any~~ A person who modifies or replaces an oil or gas-fired boiler or kiln and the  
27 associated fuel and residue handling equipment used in the manufacturing process of a  
28 manufacturing business located in this State with one ~~which that~~ is capable of burning  
29 wood shall be allowed as a credit against the tax imposed by this ~~Division, Division~~ an  
30 amount equal to fifteen percent (15%) of the installation and equipment cost of ~~such the~~  
31 conversion; provided, that in order to secure the credit allowed by this section, the  
32 taxpayer must own or control the business in which ~~such the~~ boiler or kiln is used at the  
33 time of ~~such the~~ conversion and payment in part or in whole for ~~such the~~ installation and  
34 equipment must be made by the taxpayer during the ~~tax~~ taxable year for which the credit  
35 is ~~claimed, and the~~ claimed. The amount of credit allowed for any one income year shall  
36 be limited to taxable year may not exceed fifteen percent (15%) of such the costs paid  
37 during the year, and the year. The credit allowed by this section shall may not exceed the  
38 amount of the tax imposed by this Division for the taxable year reduced by the sum of  
39 all credits allowable under this Division, except for payments of tax made by or on  
40 behalf of the taxpayer. If a credit is granted under this section to a taxpayer engaged in  
41 the business of poultry production and that credit exceeds the tax imposed under this  
42 Division, the excess may be carried forward and applied to the tax imposed under this  
43 Division for the succeeding five years."

44 Sec. 1.10. The catch line of G.S. 105-151.6 reads as rewritten:

1 **"§ 105-151.6. Credit ~~against personal income tax~~ for construction of a fuel ethanol**  
2 **distillery."**

3 Sec. 1.11. G.S. 105-151.6A is repealed.

4 Sec. 1.12. G.S. 105-151.7 reads as rewritten:

5 **"§ 105-151.7. Credit ~~against personal income tax~~ for installation of a hydroelectric**  
6 **generator.**

7 (a) ~~Any~~A person who constructs or installs a hydroelectric generator with a  
8 capacity of at least three kilowatts (3KW) at an existing dam or free flowing stream  
9 located in this State shall be allowed as a credit against the tax imposed by this Division  
10 an amount equal to ten percent (10%) of the installation and equipment costs of the  
11 hydroelectric generator. The credit allowed under this section may not exceed five  
12 thousand dollars (\$5,000) for any single installation. This credit shall not be allowed to  
13 the extent that any of the costs of the system were provided by federal, State, or local  
14 grants. To secure the credit allowed by this section, the taxpayer must own or control  
15 the site at the time the hydroelectric generator is installed. The credit allowed by this  
16 section may not exceed the amount of the tax imposed by this Division for the taxable  
17 year reduced by the sum of all credits allowable under this Division, except payments of  
18 tax made by or on behalf of the taxpayer.

19 (b) In the case of property owned by the entirety, where both spouses are  
20 required to file North Carolina income tax returns, ~~each spouse may claim one half of~~  
21 ~~the credit allowed by this section or one spouse may claim the entire credit allowed by~~  
22 ~~this section by agreement with the other spouse, provided both spouses were living~~  
23 ~~together at the end of the taxable year and file their separate returns for the taxable year~~  
24 ~~on the combined form. the credit allowed by this section may be claimed only if the~~  
25 spouses file a joint return under G.S. 105-152.1. Where only one spouse is required to  
26 file a North Carolina income tax return, ~~such~~that spouse may claim the credit allowed  
27 by this section.

28 (c) The term 'installation costs' includes spillway and other site construction and  
29 modifications necessary to accommodate the hydroelectric generator.

30 (d) As used in this section, 'hydroelectric generator' means a machine that  
31 produces electricity by water power or by the friction of water or steam."

32 Sec. 1.13. G.S. 105-151.8 reads as rewritten:

33 **"§ 105-151.8. Credit ~~against personal income tax~~ for installation of solar equipment**  
34 **for the production of industrial or process heat.**

35 (a) ~~Any~~A person who constructs or installs solar equipment for the production of  
36 heat in the manufacturing or service processes of his business located in this State shall  
37 be allowed as a credit against the tax imposed by this Division an amount equal to  
38 twenty percent (20%) of the installation and equipment costs of the solar equipment.  
39 The credit allowed under this section may not exceed eight thousand dollars (\$8,000)  
40 for any single installation. This credit shall not be allowed to the extent that any of the  
41 costs of the system were provided by federal, State, or local grants. To secure the credit  
42 allowed by this section, the taxpayer must own or control the business at the time the  
43 solar equipment is installed. The credit allowed by this section may not exceed the  
44 amount of ~~the~~ tax imposed by this Division for the taxable year reduced by the sum of

1 all credits allowable under this Division, except payment of tax made by or on behalf of  
2 the taxpayer. In no case shall a tax credit be allowed ~~both under the provisions of both~~  
3 this section and G.S. 105-151.2.

4 (b) In the case of property owned by the entirety, where both spouses are  
5 required to file North Carolina income tax returns, ~~each spouse may claim one half of~~  
6 ~~the credit allowed by this section or one spouse may claim the entire credit allowed by~~  
7 ~~this section by agreement with the other spouse, provided both spouses were living~~  
8 ~~together at the end of the taxable year and file their separate returns for the taxable year~~  
9 ~~on the combined form. the credit allowed by this section may be claimed only if the~~  
10 spouses file a joint return under G.S. 105-152.2. Where only one spouse is required to  
11 file a North Carolina income tax return, ~~such that~~ spouse may claim the credit allowed  
12 by this section.

13 (c) As used in this section, 'solar equipment' means equipment and materials  
14 designed to collect, store, transport, or control energy derived directly from the sun."

15 Sec. 1.14. G.S. 105-151.9 reads as rewritten:

16 **"§ 105-151.9. Credit ~~against personal income tax for installation of a wind energy~~**  
17 **device.**

18 (a) ~~Any~~ A person who constructs or installs a wind energy device for the  
19 production of electricity at a site located in this State shall be allowed as a credit against  
20 the tax imposed by this Division an amount equal to ten percent (10%) of the  
21 installation and equipment costs of the wind energy device. The credit allowed under  
22 this section may not exceed one thousand dollars (\$1,000) for any single installation.  
23 This credit shall not be allowed to the extent that any of the costs of the system were  
24 provided by federal, State, or local grants. To secure the credit allowed by this section,  
25 the taxpayer must own or control the site at the time the wind energy device is installed.  
26 The credit allowed by this section may not exceed the amount of the tax imposed by this  
27 Division for the taxable year reduced by the sum of all credits allowable under this  
28 Division, except payments of tax made by or on behalf of the taxpayer.

29 (b) In the case of property owned by the entirety, where both spouses are  
30 required to file North Carolina income tax returns, ~~each spouse may claim one half of~~  
31 ~~the credit allowed by this section or one spouse may claim the entire credit allowed by~~  
32 ~~this section by agreement with the other spouse, provided both spouses were living~~  
33 ~~together at the end of the taxable year and file their separate returns for the taxable year~~  
34 ~~on the combined form. the credit allowed by this section may be claimed only if the~~  
35 spouses file a joint return under G.S. 105-152.1. Where only one spouse is required to  
36 file a North Carolina income tax return, ~~such that~~ spouse may claim the credit allowed  
37 by this section.

38 (c) As used in this section, 'wind energy device' means ~~equipment (and~~  
39 equipment, and parts solely related related solely to the functioning of the ~~equipment)~~  
40 equipment, that, when installed on a site, transmits or uses transmit or use wind energy to  
41 generate electricity."

42 Sec. 1.15. G.S. 105-151.10 reads as rewritten:

43 **"§ 105-151.10. Credit ~~against personal income tax for construction of a methane gas~~**  
44 **facility.**

1 (a) ~~Any~~ A person who constructs in North Carolina a facility for the production  
2 of methane gas from renewable biomass resources shall be allowed as a credit against  
3 the tax imposed by this Division an amount equal to ten percent (10%) of the  
4 installation and equipment costs of construction. The credit allowed under this section  
5 may not exceed two thousand five hundred dollars (\$2,500) for any single installation.  
6 This credit shall not be allowed to the extent that any of the costs of the system were  
7 provided by federal, State, or local grants. To secure the credit allowed by this section,  
8 the taxpayer must own or control the facility at the time of construction. The credit  
9 allowed by this section may not exceed the amount of the tax imposed by this Division  
10 for the taxable year reduced by the sum of all credits allowable under this Division,  
11 except payments of tax made by or on behalf of the taxpayer.

12 (b) In the case of property owned by the entirety, where both spouses are  
13 required to file North Carolina income tax returns, ~~each spouse may claim one half of~~  
14 ~~the credit allowed by this section or one spouse may claim the entire credit allowed by~~  
15 ~~this section by agreement with the other spouse, provided both spouses were living~~  
16 ~~together at the end of the taxable year and file their separate returns for the taxable year~~  
17 ~~on the combined form.~~ the credit allowed by this section may be claimed only if the  
18 spouses file a joint return under G.S. 105-152.1. Where only one spouse is required to  
19 file a North Carolina income tax return, ~~such~~ that spouse may claim the credit allowed  
20 by this section.

21 (c) As used in this section, 'renewable biomass resources' means organic matter  
22 produced by terrestrial and aquatic plants and animals such as standing vegetation,  
23 aquatic crops, forestry and agricultural residues and animal wastes that can be used for  
24 the production of energy."

25 Sec. 1.16. G.S. 105-151.11 reads as rewritten:

26 "**§ 105-151.11. Credit ~~against personal income tax for child care and certain~~**  
27 **employment-related expenses.**

28 (a) ~~Any person who maintains a household which includes as a member one or~~  
29 ~~more qualifying individuals shall be allowed as a credit against the tax imposed by this~~  
30 ~~Division an amount equal to seven percent (7%) of the employment-related expenses as~~  
31 ~~defined in subdivision (b)(2) herein.~~

32 (b) For the purposes of this section:

33 (1) The term "qualifying individual" means:

34 a. ~~A dependent of the taxpayer who is under the age of 15 and~~  
35 ~~with respect to whom the taxpayer is entitled to a deduction~~  
36 ~~under G.S. 105-149(a)(5);~~

37 b. ~~A dependent of the taxpayer who is physically or mentally~~  
38 ~~incapable of caring for himself; or~~

39 e. ~~The spouse of the taxpayer, if the spouse is physically or~~  
40 ~~mentally incapable of caring for himself or herself.~~

41 (2) ~~The term "employment-related expenses" means amounts paid for~~  
42 ~~expenses for household service and for the care of a qualifying~~  
43 ~~individual, but only if such expenses are incurred to enable the~~  
44 ~~taxpayer to be gainfully employed. The term includes expenses~~

- 1 incurred for services outside the taxpayer's household if the expenses  
2 incurred are for the care of a qualifying individual described in (b)(1)a.  
3 or a qualifying individual described in (b)(1)b. or c. who regularly  
4 spends at least eight hours each day in the taxpayer's household.
- 5 (3) a. For the purposes of this section, an individual shall be treated as  
6 maintaining a household for any period only if over half of the cost of  
7 maintaining the household during such period is furnished by such  
8 individual.
- 9 b. In the case of a married person living with his or her spouse and  
10 such spouse is maintaining the household, the credit provided  
11 for herein shall be allowed with respect to employment-related  
12 expenses in connection with any qualifying individuals, except  
13 as limited herein, of the spouse not maintaining the household.
- 14 (4) If a child (as defined in G.S. 105-149(a)(5)) who is under the age of 15  
15 or who is physically or mentally incapable of caring for himself  
16 receives over half of his support during the calendar year from his  
17 parents who are divorced or separated with the intent to remain  
18 separate and apart, and such child is in the custody of one or both of  
19 his parents for more than one half of the calendar year, in the case of  
20 any taxable year beginning in such calendar year such child shall be  
21 treated as being a qualifying individual described in subparagraph a or  
22 b of subdivision (b)(1), as the case may be, with respect to that parent  
23 who has custody for a longer period during such calendar year than the  
24 other parent, and shall not be treated as being a qualifying individual  
25 with respect to such other parent.
- 26 (b1) The amount of employment-related expenses for which a credit may be  
27 claimed may not exceed two thousand four hundred dollars (\$2,400) if the taxpayer's  
28 household includes one qualifying individual, and may not exceed four thousand eight  
29 hundred dollars (\$4,800) if the taxpayer's household includes more than one qualifying  
30 individual.
- 31 (c) (1) If the taxpayer is married and living with his spouse for any  
32 period during the taxable year, there shall be taken into account  
33 employment-related expenses incurred during any month of such  
34 period only if:
- 35 a. Both spouses are gainfully employed on a substantially full-  
36 time basis, or one spouse is gainfully employed on a  
37 substantially full-time basis and the other spouse is a full-time  
38 student, which shall mean an individual who during each of five  
39 calendar months during the taxable year is a full-time student at  
40 an educational institution, or
- 41 b. The spouse is a qualifying individual described in subdivision  
42 (b)(1)c.
- 43 (2) No credit shall be allowed under this section with respect to any  
44 amount paid by the taxpayer to an individual with respect to whom a

1 deduction is allowable under G.S. 105-149(a)(5) to the taxpayer or his  
2 spouse, or who is a child of the taxpayer (within the meaning of G.S.  
3 105-149(a)(5)) who has not attained the age of 19 at the close of the  
4 taxable year.

5 (3) In the case of employment-related expenses incurred during any  
6 taxable year solely with respect to a qualifying individual (other than  
7 an individual who is also described in subdivision (b)(1)a), the amount  
8 of such expenses which may be taken into account for purposes of this  
9 section shall be reduced:

10 a. If such individual is described in subdivision (b)(1)b, by the  
11 amount by which the sum of:

12 1. Such individual's adjusted gross income for such taxable  
13 year, and

14 2. The disability payments received by such individual  
15 during such year, exceed one thousand dollars (\$1,000),  
16 or

17 b. In the case of a qualifying individual described in subdivision  
18 (b)(1)c, by the amount of disability payments received by such  
19 individual during the taxable year.

20 For purposes of this paragraph, the term "disability payment" means  
21 a payment (other than a gift) which is made on account of the physical  
22 or mental condition of an individual and which is not included in gross  
23 income.

24 (d) If a husband and wife are living together at the end of the taxable year, no  
25 credit under this section shall be allowed unless they file a combined return for the year.

26 (a) A person who is allowed a credit against federal income tax for a percentage  
27 of employment-related expenses under section 21 of the Code shall be allowed as a  
28 credit against the tax imposed by this Division an amount equal to the applicable  
29 percentage of the employment-related expenses as defined in section 21(b)(2) of the  
30 Code. For employment-related expenses that are incurred only with respect to one or  
31 more dependents who are seven years old or older and are not physically or mentally  
32 incapable of caring for themselves, the applicable percentage is seven percent (7%).  
33 For employment-related expenses with respect to any other qualifying individual, the  
34 applicable percentage is ten percent (10%).

35 (b) The amount of employment-related expenses for which a credit may be  
36 claimed may not exceed two thousand four hundred dollars (\$2,400) if the taxpayer's  
37 household includes one qualifying individual, as defined in section 21(b)(1) of the  
38 Code, and may not exceed four thousand eight hundred dollars (\$4,800) if the taxpayer's  
39 household includes more than one qualifying individual.

40 (e)(c) No credit shall be allowed under this section unless the taxpayer  
41 completes and attaches to his the tax return the necessary form or forms as may be  
42 required by the Secretary. Secretary of Revenue, nor shall any deduction be allowed under  
43 G.S. 105-147(11) for amounts claimed under this subdivision. No credit shall be allowed

1 under this section for amounts deducted from gross income in calculating taxable  
2 income under the Code.

3 ~~(f)~~(d) The credit allowed by this section ~~shall~~may not exceed the amount of tax  
4 imposed by this Division for the taxable year reduced by the sum of all credits  
5 allowable under this Division, except for payments of tax made by or on behalf of the  
6 taxpayer.

7 ~~(g)~~(e) No credit shall be allowed under this section with respect to employment-  
8 related expenses paid by a nonresident of this State."

9 Sec. 1.17. G.S. 105-151.12 reads as rewritten:

10 **"§ 105-151.12. Credit for certain real property donations.**

11 (a) ~~Any~~A person ~~that~~who makes a qualified donation of interests in real property  
12 located in North Carolina during the taxable year that is useful for (i) public beach  
13 access or use, (ii) public access to public waters or trails, (iii) fish and wildlife  
14 conservation, or (iv) other similar land conservation purposes, shall be allowed as a  
15 credit against the ~~taxes~~tax imposed by this Division an amount equal to twenty-five  
16 percent (25%) of the fair market value of the donated property interest. To be eligible  
17 for this credit, the interest in property must be donated to and accepted by either the  
18 State, a local government~~government~~, or a body that is both organized to receive and  
19 administer lands for conservation purposes and is qualified to receive charitable  
20 contributions ~~pursuant to G.S. 105-147(15) or (16); under the Code;~~ provided, however,  
21 that lands required to be dedicated pursuant to local governmental regulation or  
22 ordinance and dedications made to increase building density levels permitted under such  
23 regulations or ordinances ~~shall~~are not be eligible for this credit. The credit allowed  
24 under this section may not exceed five thousand dollars (\$5,000). To support the credit  
25 allowed by this section, the taxpayer shall file with the income tax return for the taxable  
26 year in which the credit is ~~claimed~~claimed a certification by the Department of Natural  
27 Resources and Community Development that the property donated is suitable for one or  
28 more of the valid public benefits set forth by this subsection.

29 (b) The credit allowed by this section may not exceed the amount of tax imposed  
30 by this Division for the taxable year reduced by the sum of all credits allowed under this  
31 Division, except payments of tax made by or on behalf of the taxpayer.

32 ~~(e)~~ Any unused portion of this credit may be carried forward for the next  
33 succeeding five years.

34 ~~(d)~~ The fair market value, or any portion thereof, of a qualifying donation that is  
35 not eligible for a credit pursuant to this section may be considered as a charitable  
36 contribution pursuant to G.S. 105-147(15) or (16). That portion of the donation allowed  
37 as a credit pursuant to this section shall not be eligible as a charitable contribution.

38 (c) No credit shall be allowed under this section for amounts deducted from gross  
39 income in calculating taxable income under the Code.

40 ~~(e)~~(d) In the case of property owned by the entirety, where both spouses are  
41 required to file North Carolina income tax returns, ~~each spouse may claim one half of~~  
42 ~~the credit allowed by this section or one spouse may claim the entire credit allowed by~~  
43 ~~this section by agreement with the other spouse, provided both spouses were living~~  
44 ~~together at the end of the taxable year and file their separate returns for the taxable year~~

1 ~~on the combined form.~~ the credit allowed by this section may be claimed only if the  
2 spouses file a joint return under G.S. 105-152.1. Where only one spouse is required to  
3 file a North Carolina income tax return, ~~such that~~ spouse may claim the credit allowed  
4 by this section.

5 (f)(e) In the case of marshland for which a claim has been filed pursuant to G.S.  
6 113-205, the offer of donation must be made before December 31, 1990, to qualify for  
7 the credit allowed by this section."

8 Sec. 1.18. G.S. 105-151.13 reads as rewritten:

9 **"§ 105-151.13. Credit for conservation tillage equipment.**

10 (a) ~~Any~~ A person who purchases conservation tillage equipment for use in a  
11 farming business, including tree farming, shall be allowed as a credit against the tax  
12 imposed by this Division an amount equal to twenty-five percent (25%) of the cost of  
13 the equipment. This credit may not exceed two thousand five hundred dollars (\$2,500)  
14 for any ~~income-taxable~~ year. The credit may ~~only~~ be claimed only by the first purchaser  
15 of the equipment and may not be claimed by a person who purchases the equipment for  
16 resale or for use outside this State. This credit may not exceed the amount of tax  
17 imposed by this Division for the taxable year reduced by the sum of all credits  
18 allowable under this Division, except tax payments made by or on behalf of the  
19 taxpayer. If the credit allowed by this section exceeds the tax imposed under this  
20 Division, the excess may be carried forward and applied to the tax imposed under this  
21 Division for the next succeeding five years. The basis in any equipment for which a  
22 credit is allowed under this section shall be reduced by the amount of the credit  
23 allowable.

24 (b) As used in this section, 'conservation tillage equipment' means:

- 25 (1) A planter such as a planter commonly known as a 'no-till' planter  
26 designed to minimize disturbance of the soil in planting crops or trees,  
27 including equipment that may be attached to equipment already owned  
28 by the taxpayer; ~~or~~ or
- 29 (2) Equipment designed to minimize disturbance of the soil in  
30 reforestation site preparation, including equipment that may be  
31 attached to equipment already owned by the taxpayer; provided,  
32 however, this shall include only those items of equipment generally  
33 known as a 'KG-Blade', a 'drum-chopper', or a 'V-Blade'.

34 (c) In the case of conservation tillage equipment owned jointly by a husband and  
35 wife, where both spouses are required to file North Carolina income tax returns, ~~each~~  
36 ~~spouse may claim one-half of the credit allowed by this section or one spouse may claim the~~  
37 ~~entire credit allowed by this section by agreement with the other spouse, provided both spouses~~  
38 ~~were living together at the end of the taxable year and file their separate returns for the taxable~~  
39 ~~year on the combined form.~~ the credit allowed by this section may be claimed only if the  
40 spouses file a joint return under G.S. 105-152.1. Where only one spouse is required to  
41 file a North Carolina income tax return, that spouse may claim the credit allowed by this  
42 section."

43 Sec. 1.19. G.S. 105-151.14 reads as rewritten:

44 **"§ 105-151.14. Credit for gleaned crop.**



1 (a) ~~Any~~ A person who grows a crop and permits the gleaning of the crop shall be  
 2 allowed as a credit against the tax imposed by this Division an amount equal to ten  
 3 percent (10%) of the market price of the quantity of the gleaned crop. This credit may  
 4 not exceed the amount of tax imposed by this Division for the taxable year reduced by  
 5 the sum of all credits allowable under this Division, except tax payments made by or on  
 6 behalf of the taxpayer. ~~No deduction is allowed under G.S. 105-147(15) or (16) for the items~~  
 7 ~~for which a credit is claimed under this section.~~ No credit is allowed under this section for  
 8 amounts that were deducted from gross income in calculating taxable income under the  
 9 Code. Any unused portion of the credit may be carried forward for the next succeeding  
 10 five years.

11 (b) The following definitions apply to this section:

- 12 (1) 'Gleaning' means the harvesting of a crop that has been donated by the  
 13 grower to a nonprofit organization which will distribute the crop to  
 14 individuals or other nonprofit organizations it considers appropriate  
 15 recipients of the ~~food;~~ food.
- 16 (2) 'Market price' means the season average price of the crop as  
 17 determined by the North Carolina Crop and Livestock Reporting  
 18 Service in the Department of Agriculture, or the average price of the  
 19 crop in the nearest local market for the month in which the crop is  
 20 gleaned if the Crop and Livestock Reporting Service does not  
 21 determine the season average price for that ~~crop;~~ and crop.
- 22 (3) 'Nonprofit organization' means an organization ~~for to~~ which charitable  
 23 contributions are deductible from gross income under ~~G.S. 105-130.9 or~~  
 24 ~~G.S. 105-147(15) or (16).~~ the Code."

25 Sec. 1.20. G.S. 105-151.15 reads as rewritten:

26 **"§ 105-151.15. Credit for distributing North Carolina wine.**

27 (a) Credit. A person who is required by Article 2C of this Chapter to pay the  
 28 excise tax levied on unfortified or fortified wine is allowed as a credit against the tax  
 29 imposed by this Division an amount equal to the product of twenty cents (20¢) and the  
 30 number of liters of qualifying native wine on which the person paid excise tax during  
 31 the taxable year. To obtain this credit a person who is a wine wholesaler or an importer  
 32 must attach the following to the tax return on which the credit is claimed:

- 33 (1) A copy of the sales invoice between the manufacturer of the wine for  
 34 which the credit is claimed and the grower from whom the fruits or  
 35 berries of which the wine is composed was purchased;
- 36 (2) A statement signed by the manufacturer of the wine certifying that the  
 37 wine for which the credit is claimed is qualifying native wine and  
 38 giving the names of any other wine wholesalers or importers in North  
 39 Carolina who received part of the same qualifying native wine.

40 If the person claiming the credit is an unfortified winery or a fortified winery, the  
 41 person must attach to his return a signed statement certifying that the wine for which the  
 42 credit is claimed is qualifying native wine. This credit may not exceed the amount of  
 43 tax imposed by this Division for the taxable year reduced by the sum of all credits

1 allowable under this Division, except tax payments made by or on behalf of the  
2 taxpayer.

3 (b) Definitions. The following definitions apply in this section:

4 (1) Native Wine. Unfortified or fortified wine at least sixty percent (60%)  
5 of which is composed of fruits or berries grown in North Carolina.

6 (2) Qualifying Native Wine. Native wine that is part of the first 950 liters  
7 of wine produced by a manufacturer from a ton of fruits or berries  
8 grown in North Carolina."

9 Sec. 1.21. G.S. 105-151.16 is repealed.

10 Sec. 1.22. Division II of Article 4 of Chapter 105 of the General Statutes is  
11 amended by adding after G.S. 105-151.17 the following new sections to read:

12 **"§ 105-151.18. Credit for the disabled.**

13 A person who (i) is retired on disability, (ii) at the time of retirement, was  
14 permanently and totally disabled as defined in section 22 of the Code, and (iii) claims a  
15 federal income tax credit under section 22 of the Code for the taxable year, is allowed as  
16 a credit against the tax imposed by this Division an amount equal to one-third of the  
17 amount of the federal income tax credit for which he is eligible under section 22 of the  
18 Code. The credit allowed under this section may not exceed the amount of tax imposed  
19 by this Division for the taxable year reduced by the sum of all credits allowed under this  
20 Division, except payments of tax made by or on behalf of the taxpayer.

21 **"§ 105-151.19. Credit for North Carolina dividends.**

22 There is allowed as a credit against the tax imposed by this Division an amount  
23 equal to six percent (6%) of the amount of dividends received by the taxpayer during  
24 the taxable year from stock issued by a qualified corporation, up to a maximum credit of  
25 three hundred dollars (\$300.00) per taxpayer for the taxable year. A corporation is a  
26 qualified corporation if fifty percent (50%) or more of the dividends from stock issued  
27 by the corporation would be deductible by a corporate shareholder for the taxable year  
28 under the provisions of G.S. 105-130.7(1), (2), (3), or (3a), except that no credit shall be  
29 allowed for dividends issued with respect to a taxable period during which the  
30 corporation is an S Corporation subject to the provisions of Division I-S of this Article.

31 This credit applies only with respect to dividends received while the taxpayer was a  
32 resident of this State. In the case of a married couple filing a joint return where both  
33 spouses received dividends during the taxable year, the three hundred dollar (\$300.00)  
34 maximum applies separately to each spouse's dividends for a potential total credit of six  
35 hundred dollars (\$600.00) for the couple. This credit may not exceed the amount of tax  
36 imposed by this Division for the taxable year reduced by the sum of all credits allowed  
37 under this Division, except payments of tax made by or on behalf of the taxpayer."

38 Sec. 1.23. G.S. 105-152 reads as rewritten:

39 **"§ 105-152. Returns.**

40 (a) The following persons shall file with the Secretary of Revenue ~~an income tax~~  
41 ~~return under affirmation, showing therein specifically the items of gross taxable income~~  
42 ~~and the deductions allowed adjustments required by this Division, and such other facts as~~  
43 ~~the Secretary may require for the purpose of making any computation required by this~~  
44 ~~Division:~~

- 1           (1)    Every resident required to file an income tax return for the taxable year  
2                   under the Code and every ~~or~~ nonresident who (i) derived gross income  
3                   from North Carolina sources during the taxable year attributable to the  
4                   ownership of any interest in real or tangible personal property in this  
5                   State or derived from a business, trade, profession, or occupation  
6                   carried on in this State and (ii) is required to file an income tax return  
7                   for the taxable year under the Code. ~~has a gross income during the~~  
8                   ~~income year which is in excess of the personal exemption to which he or she~~  
9                   ~~is entitled under the provisions of G.S. 105-149(a), without the inclusion of~~  
10                  ~~the exemptions for dependents provided under subdivision (5), any part of~~  
11                  ~~which is subject to taxation in this State.~~
- 12           (2)    Every resident ~~or nonresident required under the provisions of G.S.~~  
13                   ~~105-149(b) to prorate his exemption and who has a gross income~~  
14                   ~~during the income year from sources both within and without this State~~  
15                   ~~in excess of the prorated exemption, any part of which is subject to~~  
16                   ~~taxation in this State.~~
- 17           (3)(2)   Every partnership doing business in this State as provided in G.S.  
18                   105-154.
- 19           (4)(3)   Any person whom the Secretary believes to be liable for a tax under  
20                   this Division, when so notified by the Secretary ~~of Revenue~~ and  
21                   requested to file a return.
- 22           (b)    If the taxpayer is unable to make his own return, the return shall be made by a  
23                   duly authorized agent or by a guardian or other person charged with the care of the  
24                   person or property of ~~such~~ the taxpayer.
- 25           (c)    The return of an ~~individual, who, while living, receiving income in excess of the~~  
26                   ~~exemption during the income year, individual who was required to file a return for the~~  
27                   taxable year while living and who has died before making the return, shall be made in  
28                   his name and behalf by the ~~administrator, administrator~~ or executor of the estate, and the  
29                   tax shall be levied upon and collected from ~~his~~ the estate.
- 30           (d)    When the Secretary ~~of Revenue~~ has reason to believe that any taxpayer so  
31                   conducts ~~the~~ a trade or business as either directly or indirectly to distort ~~his true net~~ the  
32                   taxpayer's taxable income and the net income properly attributable to the State, or North  
33                   Carolina taxable income whether by the arbitrary shifting of income, through price  
34                   fixing, charges for service, or otherwise, whereby the net income is arbitrarily assigned  
35                   to one or another unit in a group of taxpayers carrying on business under a substantially  
36                   common control, ~~he~~ the Secretary may require such facts as he deems necessary for the  
37                   proper computation of the ~~entire net~~ taxable income and the North Carolina taxable  
38                   income, net income properly attributable to the State, and in determining the same the  
39                   Secretary ~~of Revenue~~ shall have regard to the fair profit ~~which~~ that would normally arise  
40                   from the conduct of the trade or business.
- 41           (e)    A ~~joint return may not be filed by a husband and wife; however, a husband and~~  
42                   ~~wife may, at their election, file their separate income tax returns on a single form, and a~~  
43                   ~~husband and wife so filing shall be deemed to have expressly agreed that:~~

- 1           ~~(1) If the sum of the payments by either spouse, including withheld and~~  
2           ~~estimated taxes, exceeds the amount of the tax for which such spouse~~  
3           ~~is separately liable, the excess may be applied by the Department of~~  
4           ~~Revenue to the credit of the other spouse if the sum of the payments by~~  
5           ~~such other spouse, including withholding and estimated taxes, is less~~  
6           ~~than the amount of the tax for which such other spouse is separately~~  
7           ~~liable.~~
- 8           ~~(2) If the sum of the payments made by both spouses with respect to the~~  
9           ~~taxes for which they are separately liable, including withheld and~~  
10           ~~estimated taxes, exceeds the total of the taxes due, refund of the excess~~  
11           ~~may be made payable to both spouses or if either is deceased, to the~~  
12           ~~survivor.~~

13           A joint return may be filed by a husband and wife as provided in G.S. 105-152.1.  
14           Except as otherwise provided in this Division, a wife and husband filing jointly are  
15           treated as one taxpayer for the purpose of determining the tax imposed by this Division.  
16           A husband and wife filing jointly are jointly and severally liable for the tax imposed by  
17           this Division reduced by the sum of all credits allowable under this Division including  
18           tax payments made by or on behalf of the husband and wife. However, if a spouse has  
19           been relieved of liability for federal tax attributable to a substantial understatement by  
20           the other spouse pursuant to section 6013 of the Code, that spouse is not liable for the  
21           corresponding tax imposed by this Division attributable to the same substantial  
22           understatement by the other spouse. A wife and husband filing jointly shall be deemed  
23           to have expressly agreed that if the amount of the payments made by them with respect  
24           to the taxes for which they are liable, including withheld and estimated taxes, exceeds  
25           the total of the taxes due, refund of the excess may be made payable to both spouses  
26           jointly or, if either is deceased, to the survivor alone.

27           (f) The Secretary may require some or all persons required to file a return under  
28           this section to attach to the return a copy of their federal income tax return for the  
29           taxable year. The Secretary may require a taxpayer to provide the Department with  
30           copies of any other return the taxpayer has filed with the Internal Revenue Service and  
31           to verify any information in the return."

32           Sec. 1.24. Division II of Article 4 of Chapter 105 of the General Statutes is  
33 amended by adding after G.S. 105-152 a new section to read:

34 **"§ 105-152.1. Joint returns.**

35           A husband and wife shall make a single return jointly if:

- 36           (1) Their federal taxable income is determined on a joint federal return;  
37           and  
38           (2) Both spouses are residents of this State or both spouses have North  
39           Carolina taxable income."

40           Sec. 1.25. G.S. 105-154 reads as rewritten:

41 **"§ 105-154. Information at the source.**

42           (a) Every individual, partnership, corporation, joint-stock company or  
43           association, or insurance company, being a resident or having a place of business or  
44           having one or more employees, agents, or other representatives in this State, in whatever

1 capacity acting, including lessors or mortgagors of real or personal property, fiduciaries,  
2 employers, and all officers and employees of the State or of any political subdivision of  
3 the State and all officers and employees of the United States ~~of America~~ or of any  
4 political subdivision or agency thereof having the control, receipt, custody, disposal, or  
5 payment of interest (other than interest coupons payable to bearer), rent, salaries, wages,  
6 dividends, premiums, annuities, compensations, remunerations, ~~emoluments~~  
7 emoluments, or other fixed or determinable annual or periodical gains, profits, and  
8 incomes paid or payable during any year to any taxpayer, shall make complete return  
9 thereof to the Secretary ~~of Revenue~~ under such regulations and in such form and manner  
10 and to such extent as may be prescribed by ~~him~~ the Secretary. The filing of any report  
11 in compliance with the provisions of this section by a foreign corporation shall not  
12 constitute an act in evidence of and shall not be deemed to be evidence that ~~such~~ the  
13 corporation is doing business in this State.

14 (b) Every partnership doing business in the State required to file a return under  
15 the Code shall make a return, return stating specifically the items of its gross income and  
16 the deductions allowed under the Code and the adjustments required by this Division,  
17 and shall include in the return the names and addresses of the individuals who would be  
18 entitled to share in the net income if distributable, and the amount of the distributive  
19 share of each individual, together with the distributive shares of corporation dividends.  
20 The return shall be signed by one of the partners under affirmation in the form  
21 prescribed in G.S. 105-155 of this Division, and the same penalties prescribed in G.S.  
22 105-236 shall apply in the event of a willful misstatement. If a business established in  
23 this State is owned by a nonresident individual or by a partnership having one or more  
24 nonresident members, the manager of the business shall report the earnings of the  
25 business in this State and the distributive share of the income of each nonresident owner  
26 or partner, and shall pay the tax as levied on individuals under G.S. 105-134.2 for each  
27 nonresident owner or partner. The business may deduct the payment for each  
28 nonresident owner or partner from the owner or partner's distributive share of the profits  
29 of the business in this State."

30 Sec. 1.26. G.S. 105-155 reads as rewritten:

31 "**§ 105-155. Time and place of filing returns.**

32 Returns shall be in such forms as the Secretary ~~of Revenue~~ may from time to time  
33 prescribe, and shall be filed with the Secretary at his main ~~office~~, office or at any branch  
34 office. ~~office which he may establish.~~ The return of every ~~person~~ taxpayer reporting on a  
35 calendar year basis shall be filed on or before the fifteenth day of April in each year, and  
36 the return of every ~~person~~ taxpayer reporting on a fiscal year basis shall be filed on or  
37 before the fifteenth day of the fourth month following the close of the fiscal year. In  
38 case of sickness, absence, or other disability or whenever in his judgment good cause  
39 exists, the Secretary may allow further time for filing returns.

40 There shall be annexed to the return the affirmation of the taxpayer making the  
41 return in the following form: 'Under penalties prescribed by law, I hereby affirm that to  
42 the best of my knowledge and belief this return, including any accompanying schedules  
43 and statements, is true and complete. (If prepared by a person other than the taxpayer,  
44 ~~his~~ that the preparer's affirmation is based on all information of which ~~he~~ the preparer

1 has any knowledge.)' The Secretary shall ~~cause to be prepared~~ prepare blank forms for  
2 the ~~said~~ returns, and shall ~~cause them to be distributed~~ distribute them throughout the State,  
3 and ~~to be furnished~~ furnish them upon application; but failure to receive or secure the  
4 form shall not relieve any taxpayer from the obligation of ~~making any~~ filing a return  
5 ~~herein required~~. required by this Division."

6 Sec. 1.27. G.S. 105-156 reads as rewritten:

7 **"§ 105-156. Failure to file returns; supplementary returns.**

8 If the Secretary of Revenue ~~shall be~~ is of the opinion that any taxpayer has failed to  
9 file a return or to include in a return filed, either intentionally or through error, ~~items of~~  
10 taxable income, ~~he~~ the Secretary may require from ~~such~~ the taxpayer a return or  
11 supplementary return, under oath, in such form as ~~he~~ the Secretary shall prescribe, of all  
12 the items of gross income ~~which~~ the taxpayer received during the year for which the  
13 return is made, whether or not taxable under the provisions of this Division. If from a  
14 supplementary return or otherwise the Secretary finds that any ~~items of income, taxable~~  
15 ~~under this Division, have~~ taxable income has been omitted from the original return, ~~or any~~  
16 ~~items returned as taxable that are not taxable, or any item as taxable income overstated,~~ he may  
17 require the ~~items~~ taxable income so omitted to be disclosed to him under oath of the  
18 taxpayer, and to be added to ~~or deducted from~~ the original return. ~~Such~~ The  
19 supplementary return and the correction of the original return shall not relieve the  
20 taxpayer from any of the penalties ~~to which he may be liable~~ under G.S. 105-236. The  
21 Secretary may proceed under the provisions of G.S. ~~405-241.1,~~ 105-241.1 whether or not  
22 he requires a return or a supplementary return under this section."

23 Sec. 1.28. G.S. 105-156.1 is repealed.

24 Sec. 1.29. G.S. 105-157 reads as rewritten:

25 **"§ 105-157. Time and place of payment of tax.**

26 (a) Except as otherwise provided in this section and in Article 4A of this Chapter,  
27 the full amount of the tax payable as shown on the face of the return shall be paid to the  
28 Secretary of Revenue at the office where the return is filed at the time fixed by law for  
29 filing the return. ~~return; provided, that when a husband and wife have elected under G.S. 105-~~  
30 ~~152(e) to file their separate income tax returns on a single form and the amount for which one~~  
31 ~~spouse is separately liable has been reduced by credit for overpayment of tax by the other~~  
32 ~~spouse as provided in that subsection, only the amount in excess of such credit shall be~~  
33 ~~payable; provided, that if~~ If the amount shown to be due ~~after all credits~~ is less than one  
34 dollar (\$1.00), no payment need be made.

35 (b) The tax may be paid with uncertified check during such time and under such  
36 regulations as the Secretary of Revenue ~~shall~~ may prescribe; but if a check so received is  
37 not paid by the bank on which it is drawn, the taxpayer by whom ~~such~~ the check ~~is~~ was  
38 tendered shall remain liable for the payment of the tax and for all legal penalties the  
39 same as if ~~such~~ the check had not been tendered."

40 Sec. 1.30. G.S. 105-158 reads as rewritten:

41 **"§ 105-158. Abatement of income taxes of certain members of the armed forces**  
42 **upon death.**

43 In the case of any individual

44 (1) Who dies

- 1 a. On or after January 1, ~~1964;~~ 1964,  
 2 b. While in active service as a member of the armed forces of the  
 3 United States, and  
 4 c. While serving in a combat zone; ~~zone (as determined under~~  
 5 ~~G.S.105-141(b)(12);~~ or  
 6 (2) Who dies  
 7 a. On or after January 1, ~~1964;~~ 1964, and  
 8 b. As a result of wounds, ~~disease~~-disease, or injury incurred while  
 9 in active service as a member of the armed forces of the United  
 10 States, and while serving in a combat zone on or after January  
 11 1, 1964,

12 No individual income tax imposed by ~~the State of North Carolina~~ this Division shall apply  
 13 with respect to the taxable year in which falls the date of ~~his~~ the individual's death, or  
 14 with respect to any prior taxable year ending on or after the first day ~~he~~ the individual so  
 15 served in a combat zone; and any tax under this Division and under the corresponding  
 16 provisions of prior revenue laws for taxable years preceding those above specified  
 17 which is unpaid at the date of ~~his~~ the individual's death (including interest, additions to  
 18 the tax, and additional amounts) shall not be assessed and if assessed the assessment  
 19 shall be abated, and if collected shall be credited or refunded as an overpayment. As  
 20 used in this section, the term 'combat zone' means an area which the President of the  
 21 United States by executive order designates as an area in which the armed forces of the  
 22 United States are or have been engaged in combat."

23 Sec. 1.31. G.S. 105-159 reads as rewritten:

24 "**§ 105-159. Corrections and changes.**

25 If the amount of the ~~net taxable~~ income for any year of any taxpayer under this  
 26 Division, as reported or as reportable to the United States Treasury Department, is  
 27 changed, corrected, or otherwise determined by the Commissioner of Internal Revenue  
 28 or other officer of the United States of competent authority, ~~such~~ the taxpayer, within  
 29 two years after receipt of the internal revenue agent's report or supplemental report  
 30 reflecting the corrected or determined ~~net taxable~~ income shall make return under oath  
 31 or affirmation to the Secretary of Revenue of ~~such~~ the corrected, ~~changed~~ changed, or  
 32 determined ~~net taxable~~ income. In making ~~any~~ an assessment or refund under this  
 33 section, the Secretary shall consider all ~~facts~~ or evidence brought to his attention,  
 34 whether or not ~~the same were~~ it was considered ~~or taken into account~~ in the federal  
 35 assessment or correction. If the taxpayer fails to notify the Secretary of Revenue of  
 36 ~~assessment of additional tax by the Commissioner of Internal Revenue,~~ that the taxpayer's  
 37 taxable income for any year as reported or as reportable to the United States Treasury  
 38 Department, is changed, corrected, or otherwise determined for federal income tax  
 39 purposes, the statute of limitations shall not apply. apply to assessments under this  
 40 section. The Secretary of Revenue shall ~~thereupon~~ proceed to ~~determine,~~ determine from  
 41 such evidence as ~~he~~ may have been brought to his attention ~~or shall otherwise acquire,~~  
 42 the correct North Carolina taxable ~~net~~ income of ~~such~~ the taxpayer for the ~~fiscal~~ or calendar  
 43 taxable year, and if there ~~shall be~~ is any additional tax due from ~~such~~ the taxpayer ~~the~~  
 44 ~~same~~ it shall be assessed and collected; and if there ~~shall have~~ has been an overpayment

1 of the tax the ~~said~~ Secretary shall, within 30 days after the final determination of the  
2 North Carolina taxable net-income of ~~such-the~~ taxpayer, refund the amount of ~~such-the~~  
3 excess: Provided, that any taxpayer who fails to comply with this section ~~as to making~~  
4 ~~report of such change as made by the federal government~~ within the time specified shall be  
5 subject to all penalties as provided in G.S. 105-236, in case of additional tax due, and  
6 shall forfeit ~~his rights-the right~~ to any refund due by reason of ~~such-the~~ change.

7 When the taxpayer makes the return reflecting the corrected net-taxable income as  
8 required by this section, the Secretary ~~of Revenue~~ shall make assessments or refunds  
9 based thereon within three years ~~from~~ after the date the return required by this section is  
10 filed and not thereafter. When the taxpayer does not make the return reflecting the  
11 corrected net-taxable income as required by this section but the Department ~~of Revenue~~  
12 receives from the United States government or one of its agents a report reflecting ~~such~~  
13 corrected net-taxable income, the Secretary ~~of Revenue~~ shall make assessments for taxes  
14 due based on ~~such-the~~ corrected net-taxable income within five years ~~from~~ after the date  
15 the report from the United States government or its agent is actually received and not  
16 thereafter.

17 Nothing in this section ~~shall be construed as preventing-prevents~~ the Secretary ~~of~~  
18 ~~Revenue~~ from making an assessment immediately following the receipt from any source  
19 of information concerning the correction, change in, or determination of net-taxable  
20 income of a taxpayer by the United States government. The assessment of tax or  
21 additional tax under this section shall not be subject to any statute of limitations except  
22 as provided in this section."

23 Sec. 1.32. G.S. 105-159.1 reads as rewritten:

24 "**§ 105-159.1. Designation of tax by individual to political party.**

25 (a) Every individual whose income tax liability for the taxable year is one dollar  
26 (\$1.00) or more may designate on his or her income tax return that one dollar (\$1.00) of  
27 the amount of tax paid by him or her to the Department ~~of Revenue~~ shall ~~thereafter~~ be  
28 paid by the Secretary ~~of Revenue~~, ~~in the manner hereinafter described~~, to the State  
29 Treasurer for the use of all political parties ~~as defined herein~~ upon a pro rata basis  
30 according to their respective party voter registrations according to the most recent  
31 certification of the State Board of Elections; Provided, however, that no political party  
32 with less than one percent (1%) of the total number of registered voters in the State shall  
33 receive any ~~such-of these~~ funds, and the registration of such ~~parties-a party~~ shall not be  
34 included in calculating the pro rata distribution. ~~For purposes of~~ As used in this section,  
35 ~~political party-the term 'political party' shall mean-means~~ a political party which at the last  
36 preceding general State election received at least ten percent (10%) of the entire vote  
37 cast in the State for ~~Governor, Governor~~ or for presidential electors, or a group of voters  
38 who by July 1 of the preceding calendar year, by virtue of a petition as a new political  
39 party, had duly qualified as a new political party within the meaning of Chapter 163 of  
40 the General ~~Statutes of North Carolina. Statutes.~~

41 (b) For each quarterly period beginning on or after January 1, 1978, ~~and for each~~  
42 ~~quarterly period thereafter~~, on or before the last day of the month following the close of  
43 ~~each-the~~ quarterly period, the Secretary ~~of Revenue~~ shall remit all funds ~~so~~ designated  
44 ~~above~~ pursuant to this section collected during the preceding quarter to the State



1 Treasurer who shall ~~thereafter~~ deposit them in an interest-bearing account to be known  
 2 as the North Carolina Political Parties Financing Fund. Any interest earned on funds so  
 3 deposited shall be credited to the political party ~~for~~ to which said the funds were  
 4 ~~designated~~ allocated. A report to the State Treasurer, State Board of ~~Elections~~ Elections,  
 5 and each State party chairman shall accompany each ~~such~~ remittance, and shall detail  
 6 the amount of funds forwarded, the cumulative total of funds forwarded to date for the  
 7 year, and an estimate of the probable total amount to be collected and forwarded for that  
 8 calendar year.

9 (d) The Secretary of ~~Revenue~~ shall amend the income tax return in order that all  
 10 taxpayers desiring to make the political contributions authorized ~~herein~~ shall in this  
 11 section may do so by designating ~~same~~ on the front face of the tax return. The line of  
 12 authorization for ~~such~~ the designation shall be color contrasted with the color scheme of  
 13 the remainder of the income tax return. ~~Such return,~~ The return or its accompanying  
 14 explanatory ~~instruction,~~ instruction shall readily indicate that any ~~such~~ designations  
 15 neither increase nor decrease an individual's tax liability."

#### 16 **B. S CORPORATION INCOME TAX ACT AMENDMENTS.**

17 Sec. 1.33. Section 6 of Chapter 1089 of the 1987 Session Laws reads as  
 18 rewritten:

19 "Sec. 6. This act is effective for taxable years beginning on or after ~~July 1, 1990.~~  
 20 January 1, 1989."

21 Sec. 1.34. Sections 3 and 4 of Chapter 1089 of the 1987 Session Laws are  
 22 repealed.

23 Sec. 1.35. Division I-S of Article 4 of Chapter 105 of the General Statutes  
 24 reads as rewritten:

#### 25 **"DIVISION I-S. S CORPORATION INCOME TAX.**

##### 26 **"§ 105-131. Title; definitions; interpretation.**

27 (a) This Division of the income tax Article shall be known and may be cited as  
 28 the S Corporation Income Tax Act.

29 (b) For the purpose of this Division, unless otherwise required by the context:

30 ~~(1) 'Business income' means items of income, loss, deduction or credit~~  
 31 ~~arising from transactions and activity in the regular course of the S~~  
 32 ~~Corporation's trade or business, and includes income from tangible and~~  
 33 ~~intangible property if the acquisition, management, and/or disposition~~  
 34 ~~of the property constitute integral parts of the S Corporation's regular~~  
 35 ~~trade or business operations.~~

36 (1) ~~(2)~~ 'Code' means the Internal Revenue Code of 1986, as enacted as of  
 37 January 1, ~~1988,~~ 1989, and includes any provisions enacted as of that  
 38 date which become effective either before or after that date.

39 (2) ~~(3)~~ 'C Corporation' means a corporation that is not an S Corporation  
 40 and is subject to the tax levied under Division I of this Article.

41 (3) ~~(4)~~ 'Department' means the Department of Revenue.

42 (4) 'Income attributable to the State' means items of income, loss,  
 43 deduction, or credit of the S Corporation apportioned and allocated to  
 44 this State pursuant to G.S. 105-130.4.

- 1           (5) ~~'Net income' or 'net loss' shall be the same as the S Corporation's~~  
2           ~~taxable income, as defined in the Code.~~  
3           (5) 'Income not attributable to the State' means all items of income, loss,  
4           deduction, or credit of the S Corporation other than income attributable  
5           to the State.  
6           (6) ~~'Nonbusiness income' means all items of income, loss, deduction, or~~  
7           ~~credit of the S Corporation other than business income.~~  
8           (6) ~~(7)~~ 'Post-termination transition period' means that period defined in  
9           section 1377(b)(1) of the Code.  
10          (7) ~~(8)~~ 'Pro rata share' means the share determined with respect to an S  
11          Corporation shareholder for a taxable period in the manner provided in  
12          section 1377(a) of the Code.  
13          (8) ~~(9)~~ 'S Corporation' means a corporation for which a valid election  
14          under section 1362(a) of the Code is in effect.  
15          (9) ~~(10)~~ 'Secretary' means the Secretary of Revenue.  
16          (10) ~~(11)~~ 'Taxable period' means any taxable year or portion of a taxable  
17          year during which a corporation is an S Corporation.

18          (c) Except as otherwise expressly provided or clearly appearing from the context,  
19          any term used in this Division shall have the same meaning as when used in a  
20          comparable context in the Code, or in any statute relating to federal income taxes, in  
21          effect during the taxable period. Due consideration shall be given in the interpretation  
22          of this Division to applicable sections of the Code in effect and to federal rulings and  
23          regulations interpreting ~~such~~ those sections, except where the Code, ruling, or regulation  
24          conflicts with the provisions of this Division.

25 **"§ 105-131.1. Taxation of an S Corporation and its shareholders.**

26          (a) An S Corporation shall not be subject to the tax levied under G.S. 105-130.3.

27          (b) Each shareholder's pro rata share of an S Corporation's income attributable to  
28          the State and each resident shareholder's pro rata share of income not attributable to the  
29          State, net income or net loss, to the extent apportioned and allocated to this State pursuant to  
30          G.S. 105-130.4, shall be taken into account by the shareholder in the manner and subject  
31          to the adjustments provided in ~~G.S. 105-131.2~~ Division II of this Article and section 1366  
32          of the Code and shall be subject to the tax levied under Division II of this Article.

33 **"§ 105-131.2. Apportionment, ~~allocation, adjustment,~~ Adjustment and**  
34          **characterization of income.**

35          ~~(a) Allocation of Net Income. The net income of an S Corporation shall be~~  
36          ~~allocated and apportioned to this State as provided in G.S. 105-130.4.~~

37          (a) Adjustment. The pro rata share of each shareholder in the income attributable  
38          to the State of an S Corporation shall be subject to the adjustments provided in G.S.  
39          105-130.5. The pro rata share of each resident shareholder in the income not  
40          attributable to the State of an S Corporation shall be subject to the adjustments provided  
41          in G.S. 105-134.6(b) and (c).

42          ~~(b) Allocation of Shareholder's Pro Rata Share.~~

43          (1) ~~The pro rata share of each resident and nonresident shareholder in the~~  
44          ~~business income of the S Corporation apportioned to this State under~~

1 subsection (a) of this section shall, for purposes of G.S. 105-131.1(b),  
2 be taken into account by the shareholder subject to the adjustments in  
3 determining State net income as provided in G.S. 105-130.5.

4 (2) ~~The pro rata share of each resident shareholder in (i) the business  
5 income of the S Corporation not apportioned to this State under  
6 subsection (a) above, and (ii) the entire nonbusiness income of the S  
7 Corporation, shall, for purposes of G.S. 105-131.1(b), be taken into  
8 account by the shareholder subject to the adjustments in determining  
9 State net income for items exempt from taxation in the State under  
10 G.S. 105-141(b).~~

11 (3) ~~The pro rata share of each nonresident shareholder in the nonbusiness  
12 income of the S Corporation allocated to this State under subsection  
13 (a) above, shall, for purposes of G.S. 105-131.1(b), be taken into  
14 account by the shareholder subject to the adjustments in determining  
15 State net income as provided in G.S. 105-130.5.~~

16 (c) Characterization of Income. S Corporation items of income, loss,  
17 deduction, and credit taken into account by a shareholder pursuant to G.S. 105-131.1(b)  
18 shall be characterized for purposes of this Division as though received or incurred by the S  
19 Corporation and not its shareholder.

20 **"§ 105-131.3. Basis and adjustments.**

21 (a) The initial basis of a resident shareholder in the stock of an S Corporation and  
22 in any indebtedness of the corporation owed to that shareholder shall be determined, as  
23 of the later of the date the stock is acquired, the effective date of the S Corporation  
24 election, or the date the shareholder became a resident of this State, as provided under  
25 the Code.

26 (b) The basis of a resident shareholder in the stock and indebtedness of an S  
27 Corporation shall be adjusted in the manner and to the extent required by section 1011  
28 of the Code except that:

29 (1) ~~Any adjustments made (other than for income exempt from federal or  
30 State income taxes) to the S Corporation's business income and  
31 nonbusiness income pursuant to G.S. 105-131.2 shall be taken into  
32 account; and~~

33 (2) Any adjustments made pursuant to section 1367 of the Code for a  
34 taxable period during which this State did not measure S Corporation  
35 shareholder income by reference to the corporation's income shall be  
36 disregarded.

37 (c) The initial basis of a nonresident shareholder in the stock of an S Corporation  
38 and in any indebtedness of the corporation to that shareholder shall be zero.

39 (d) The basis of a nonresident shareholder in the stock and indebtedness of an S  
40 Corporation shall be adjusted as provided in section 1367 of the Code, except that  
41 adjustments to basis shall be limited to the ~~business income and nonbusiness~~ income taken  
42 into account by the shareholder pursuant to G.S. 105-131.1(b).

43 (e) The basis of a shareholder in the stock of an S Corporation shall be reduced  
44 by the amount allowed as a loss or deduction pursuant to G.S. 105-131.4(c).

1 (f) The basis of a resident shareholder in the stock of an S Corporation shall be  
2 reduced by the amount of any cash distribution that is not taxable to the shareholder as a  
3 result of the application of G.S. 105-131.6(b).

4 (g) For purposes of this section, a shareholder shall be considered to have  
5 acquired stock or indebtedness received by gift at the time the donor acquired the stock  
6 or indebtedness, if the donor was a resident of this State at the time of the gift.

7 **"§ 105-131.4. Carryforwards; carrybacks; loss limitation.**

8 (a) Carryforwards and carrybacks to and from an S Corporation shall be  
9 restricted in the manner provided in section 1371(b) of the Code.

10 (b) The aggregate amount of losses or deductions of an S Corporation taken into  
11 account by a shareholder pursuant to G.S. 105-131.1(b) may not exceed the combined  
12 adjusted bases, determined in accordance with G.S. 105-131.3, of the shareholder in the  
13 stock and indebtedness of the S Corporation.

14 (c) Any loss or deduction that is disallowed for a taxable period pursuant to  
15 subsection (b) of this section shall be treated as incurred by the corporation in the  
16 succeeding taxable period with respect to that shareholder.

17 (d) (1) Any loss or deduction that is disallowed pursuant to  
18 subsection (b) of this section for the corporation's last taxable period  
19 as an S Corporation shall be treated as incurred by the shareholder  
20 on the last day of any post-termination transition period.

21 (2) The aggregate amount of losses and deductions taken into account by a  
22 shareholder pursuant to subdivision (1) of this subsection may not  
23 exceed the adjusted basis of the shareholder in the stock of the  
24 corporation (determined in accordance with G.S. 105-131.3 at the  
25 close of the last day of any post-termination transition period and  
26 without regard to this subsection).

27 **"§ 105-131.5. Part-year resident shareholder.**

28 If a shareholder of an S Corporation is both a resident and nonresident of this State  
29 during any taxable period, the shareholder's pro rata share of the S Corporation's income  
30 attributable to the State and income not attributable to the State for the taxable period  
31 ~~business income and nonbusiness income determined pursuant to G.S. 105-131.2~~ shall be  
32 further prorated between the shareholder's periods of residence and nonresidence, in  
33 accordance with the number of days in each ~~period~~ period, as provided in G.S. 105-  
34 134.5.

35 **"§ 105-131.6. Distributions.**

36 (a) Subject to the provisions of subsection (c) of this section, a distribution made  
37 by an S Corporation with respect to its stock to a resident shareholder shall be taxable to  
38 the shareholder ~~under as provided in~~ Division II of this Article ~~only~~ to the extent that the  
39 distribution is characterized as a dividend or as gain from the sale or exchange of  
40 property pursuant to section 1368 of the Code.

41 (b) Subject to the provisions of subsection (c) of this section, any distribution of  
42 money made by a corporation with respect to its stock to a resident shareholder during a  
43 post-termination transition period shall not be taxable to the shareholder ~~under as~~  
44 provided in Division II of this Article to the extent the distribution is applied against and

1 reduces the adjusted basis of the stock of the shareholder in accordance with section  
2 1371(e) of the Code.

3 (c) In applying sections 1368 and 1371(e) of the Code to any distribution referred  
4 to in this section:

5 (1) The term 'adjusted basis of the stock' means the adjusted basis of the  
6 shareholder's stock as determined under G.S. 105-131.3; and

7 (2) The accumulated adjustments account maintained for each resident  
8 shareholder shall be equal to, and shall be adjusted in the same manner  
9 as, the corporation's accumulated adjustments account defined in  
10 section 1368(e)(1)(A) of the Code, except that:

11 a. The accumulated adjustments account shall be modified in the  
12 manner provided in G.S. 105-131.3(b)(1); and

13 b. The amount of the corporation's federal accumulated  
14 adjustments account that existed on the day this State began to  
15 measure the S Corporation shareholders' income by reference to  
16 the income of the S Corporation shall be ignored and shall be  
17 treated for purposes of Divisions I and II of this Article as  
18 additional accumulated earnings and profits of the corporation.

19 **"§ 105-131.7. Returns; shareholder agreements; mandatory withholding.**

20 (a) An S Corporation incorporated or doing business in the State shall file with  
21 the Department an annual return, on a form prescribed by the Secretary, on or before the  
22 due date prescribed for the filing of C Corporation returns in G.S. 105-130.17. The  
23 return shall show the name, address, and social security or federal identification number  
24 of each shareholder, income attributable to the State and the income not attributable ~~the~~  
25 ~~allocations and apportionments of income to this to the State with respect to each~~  
26 ~~shareholder as determined under G.S. 105-131.2, defined in G.S. 105-131(4) and (5), and~~  
27 such other information as the Secretary may require.

28 (b) The Department shall permit S Corporations to file composite returns and to  
29 make composite payments of tax on behalf of some or all nonresident shareholders.  
30 The Department may permit S Corporations to file composite returns and make  
31 composite payments of tax on behalf of some or all resident shareholders.

32 (c) An S Corporation shall file with the Department, on a form prescribed by the  
33 Secretary, the agreement of each nonresident shareholder of the corporation (i) to file a  
34 return and make timely payment of all taxes imposed by this State on the shareholder  
35 with respect to the income of the S Corporation, and (ii) to be subject to personal  
36 jurisdiction in this State for purposes of the collection of any unpaid income tax,  
37 together with related interest and penalties, owed by the nonresident shareholder. If the  
38 corporation fails to timely file an agreement required by this subsection on behalf of any  
39 of its nonresident shareholders, then the corporation shall at the time specified in  
40 subsection (d) of this section pay to the Department on behalf of each nonresident  
41 shareholder with respect to whom an agreement has not been timely filed ~~who fails to~~  
42 ~~execute such an agreement~~ an amount equal to seven percent (7%) of the shareholder's pro  
43 rata share of the S Corporation's net income attributable to the State reflected on the  
44 corporation's return for the taxable period. An S Corporation may recover a payment

1 made pursuant to the preceding sentence from the shareholder on whose behalf the  
2 payment was made, apportioned and allocated to this State pursuant to G.S. 105-130.4 and  
3 adjusted pursuant to G.S. 105-131.2.

4 (d) The agreements required to be filed pursuant to subsection (c) of this section  
5 shall be filed at the following times:

6 (1) At the time the annual return is required to be filed for the first taxable  
7 period for which the S Corporation becomes subject to the provisions  
8 of this Division; and

9 (2) At the time the annual return is required to be filed for any taxable  
10 period in which the corporation has a nonresident shareholder on  
11 whose behalf such an agreement has not been previously filed.

12 (e) Amounts paid to the Department on account of the corporation's shareholders  
13 under subsections (b) and (c) shall constitute payments on their behalf of the income tax  
14 imposed on them under Division II of this Article for the taxable period.

15 **"§ 105-131.8. Tax credits.**

16 (a) For purposes of G.S. 105-151, each resident shareholder shall be considered  
17 to have paid a tax imposed on the shareholder in an amount equal to the shareholder's  
18 pro rata share of any net income tax paid by the S Corporation to a state which does not  
19 measure the income of S Corporation shareholders by the income of the S Corporation.  
20 For purposes of the preceding sentence, the term 'net income tax' means any tax  
21 imposed on or measured by a corporation's net income.

22 (b) Each shareholder of an S Corporation shall be allowed as a credit against the  
23 tax imposed by Division II of this Article in an amount equal to the shareholder's pro  
24 rata share of the tax credits described in G.S. 105-130.22 through G.S. 105-130.39 for which  
25 the S Corporation is eligible."

26 **C. INCOME TAX ACT FOR ESTATES AND TRUSTS AMENDMENTS.**

27 Sec. 1.36. G.S. 105-160 reads as rewritten:

28 **"§ 105-160. Short title.**

29 This Division shall be known ~~and may be cited~~ as the Income Tax Act for Estates and  
30 Trusts."

31 Sec. 1.37. G.S. 105-161, 105-162, and 105-163 are repealed.

32 Sec. 1.38. Division III of Article 4 of Chapter 105 of the General Statutes is  
33 amended by adding after G.S. 105-160 the following new sections to read:

34 **"§ 105-160.1. Definitions.**

35 The definitions provided in Division II of this Article shall apply in this Division  
36 except where the context clearly indicates a different meaning.

37 **"§ 105-160.2. Imposition of tax.**

38 The tax imposed by this Division shall apply to the taxable income of estates and  
39 trusts as determined under the provisions of the Code except as otherwise provided in  
40 this Division. The taxable income of an estate or trust shall be the same as taxable  
41 income for such an estate or trust under the provisions of the Code, adjusted as provided  
42 in G.S. 105-134.6 and G.S. 105-134.7, except that the adjustments provided in G.S.  
43 105-134.6 and G.S. 105-134.7 shall be apportioned between the estate or trust and the  
44 beneficiaries based on the distributions made during the taxable year. The tax shall be

1 computed at the following percentages of an amount equal to the taxable income  
2 multiplied by a fraction, the numerator of which is the estate or trust's gross income  
3 from North Carolina sources, plus the gross income from sources outside of the State  
4 and from intangible sources which is for the benefit of a resident of this State, and the  
5 denominator of which is the estate or trust's gross income as calculated under the Code.  
6 For purposes of the preceding sentence, taxable income and gross income shall be  
7 computed subject to the adjustments provided in G.S. 105-134.6 and G.S. 105-134.7.  
8 The tax shall be at six percent (6%) on the first twelve thousand seven hundred fifty  
9 dollars (\$12,750) of the amount computed above; and at seven percent (7%) of the  
10 excess of the amount computed above over twelve thousand seven hundred fifty dollars  
11 (\$12,750). The tax computed under the provisions of this Division shall be paid by the  
12 fiduciary responsible for administering the estate or trust.

13 **"§ 105-160.3. Tax credits.**

14 (a) Except as otherwise provided in this section, the credits allowed to an  
15 individual against the tax imposed by Division II of this Article shall be allowed to the  
16 same extent to an estate or a trust against the tax imposed by this Division. Any credit  
17 computed as a percentage of income received shall be apportioned between the estate or  
18 trust and the beneficiaries based on the distributions made during the taxable year. No  
19 credit may exceed the amount of the tax imposed by this Division for the taxable year  
20 reduced by the sum of all credits allowable under this Division, except for payments of  
21 tax made by or on behalf of the estate or trust.

22 (b) The following credits are not allowed to an estate or trust:

- 23 (1) G.S. 105-151. Tax credits for income taxes paid to other states by  
24 individuals.  
25 (2) G.S. 105-151.11. Credit for child care and certain employment-related  
26 expenses.  
27 (3) G.S. 105-151.18. Credit for the disabled.

28 **"§ 105-160.4. Tax credits for income taxes paid to other states by estates and trusts.**

29 (a) If a fiduciary is required to pay income tax to this State for an estate or a trust,  
30 the fiduciary shall be allowed a credit against the tax imposed by this Division for  
31 income taxes imposed by and paid to another state or country on income derived from  
32 sources within that other state or country in accordance with the formula contained in  
33 subsection (b) and the requirements of subsection (c).

34 (b) The fraction of the gross income for North Carolina income tax purposes that  
35 is derived from sources within and subject to income tax in another state or country  
36 shall be ascertained and the North Carolina income tax before credit under this section  
37 shall be multiplied by that fraction. The credit allowed shall be either the product thus  
38 calculated or the income tax actually paid the other state or country, whichever is  
39 smaller.

40 (c) Receipts showing the payment of income taxes to another state or country and  
41 a true copy of the return upon the basis of which the taxes are assessed shall be filed  
42 with the Secretary at or before the time credit is claimed. If credit is claimed on account  
43 of a deficiency assessment, a true copy of the notice assessing or proposing to assess the

1 deficiency, as well as a receipt showing the payment of the deficiency, shall be filed  
2 with the Secretary.

3 (d) If any taxes paid to another state or country for which a fiduciary has been  
4 allowed a credit under this section are at any time credited or refunded to the fiduciary,  
5 a tax equal to that portion of the credit allowed for the taxes so credited or refunded  
6 shall be due and payable from the fiduciary and shall be subject to the penalties and  
7 interest on delinquent payments provided in G.S. 105-236 and G.S. 105-241.1.

8 (e) A resident beneficiary of an estate or trust who is taxed under the provisions  
9 of Division II of this Article on income from an estate or trust determined to be  
10 includable in the resident's gross income is allowed a credit against the tax imposed for  
11 income taxes paid by the fiduciary to another state or country on the income in  
12 accordance with the formula contained in subsection (b) of this section and the  
13 requirements of subsection (c) of this section; provided, that if any taxes paid to another  
14 state or country for which a beneficiary has been allowed credit under this section are at  
15 any time credited or refunded to the beneficiary, a tax equal to that portion of the credit  
16 allowed for the taxes so credited or refunded shall be due and payable from the  
17 beneficiary and shall be subject to the penalties and interest on delinquent payments  
18 provided in G.S. 105-236 and G.S. 105-241.1.

19 **"§ 105-160.5. Returns.**

20 The fiduciary of an estate or trust described below shall file an income tax return  
21 under affirmation, showing specifically the taxable income and the adjustments required  
22 by this Division and such other facts as the Secretary may require for the purpose of  
23 making any computation required by this Division:

24 (1) Every estate or trust which has taxable income under this Division  
25 during the taxable year and is required to file an income tax return for  
26 the taxable year under the Code.

27 (2) Every estate or trust which the Secretary believes to be liable for a tax  
28 under this Division, when so notified by the Secretary and requested to  
29 file a return.

30 **"§ 105-160.6. Time and place of filing returns.**

31 Returns required under the provisions of G.S. 105-160.5 shall be in such form as the  
32 Secretary may prescribe, and shall be filed with the Secretary at the Secretary's main  
33 office or at any branch office which the Secretary may establish. The return of every  
34 fiduciary reporting on a calendar-year basis shall be filed on or before the 15th day of  
35 April in each year, and the return of every fiduciary reporting on a fiscal year basis shall  
36 be filed on or before the 15th day of the fourth month following the close of the fiscal  
37 year. In the case of sickness, absence, or other disability or whenever in his judgment  
38 good cause exists, the Secretary may allow further time for filing a return.

39 **"§ 105-160.7. Time and place of payment of tax.**

40 (a) The full amount of the tax payable as shown on the face of the return shall be  
41 paid to the Secretary at the office where the return is filed at the time fixed by law for  
42 filing the return. However, if the amount shown to be due after all credits is less than  
43 one dollar (\$1.00), no payment need be made.



1 (b) The tax may be paid with uncertified check, but if a check so received is not  
2 paid by the financial institution on which it is drawn, the fiduciary by whom the check  
3 was tendered shall remain liable for the payment of the tax and for all penalties lawfully  
4 imposed.

5 **"§ 105-160.8. Corrections and changes.**

6 For purposes of this Division, the provisions of G.S. 105-159 requiring an individual  
7 to report changes, corrections, or the determination of net income by the Internal  
8 Revenue Service shall apply to fiduciaries required to file returns for estates and trusts."

9 **D. CHAPTER 105 CONFORMING AMENDMENTS.**

10 Sec. 1.39. G.S. 105-163.02(11) reads as rewritten:

11 "(11) 'Taxable year' shall have the meaning ~~ascribed to such term provided~~  
12 ~~in G.S. 105-135(9)—105-134.1~~ and G.S. 105-130.2(5), as  
13 appropriate. In addition, 'taxable year' shall be that taxable year  
14 for which a manufacturer files an income tax return upon which the  
15 tax credit provided for under this Division is claimed."

16 Sec. 1.40. G.S. 105-163.1(3) reads as rewritten:

17 "(3) 'Dependent' means a dependent with respect to whom an income tax  
18 exemption is allowed under the ~~provisions of G.S. 105-149(a)(5)-Code.~~"

19 Sec. 1.41. G.S. 105-163.2(a) and (b) read as rewritten:

20 "(a) Every employer making payment of wages on or after January 1, 1960, shall  
21 deduct and withhold with respect to the wages of each employee for each payroll period  
22 an amount determined as follows:

23 ~~Such An~~ amount which, if an equal amount was collected for each similar payroll  
24 period with respect to a similar amount of wages for each payroll period during an  
25 entire calendar year, would aggregate or approximate the income tax liability of ~~such the~~  
26 employee under Article 4 of this Chapter after making allowance for the personal  
27 exemptions to which ~~such the~~ employee would be entitled on the basis of his status  
28 during ~~such the~~ payroll period and after making allowance for withholding purposes for  
29 a deduction from wages of the amount of the standard deduction allowed under ~~G.S.~~  
30 ~~105-147(22)~~ the Code less the amount by which the standard deduction has been  
31 increased under section 63(c)(4) of the Code and without making allowance for any  
32 other deductions.

33 (b) The Secretary of ~~Revenue~~ shall cause to be prepared and shall promulgate  
34 tables for computing amounts to be withheld with respect to different rates of wages for  
35 different payroll periods applicable to the various combinations of exemptions to which  
36 an employee may be entitled and taking into account the ~~limited ten percent (10%)~~  
37 ~~deduction above referred to.~~ appropriate standard deduction. ~~Such The~~ tables may  
38 provide for the same amount to be withheld within reasonable salary brackets or ranges  
39 so designed as to result in the withholding during a year of approximately the amount of  
40 an employee's indicated income tax liability ~~with respect to said for that year.~~ The  
41 withholding of wages pursuant to and in accordance with ~~such these~~ tables shall be  
42 deemed as a matter of law to constitute compliance with the provisions of subsection (a)  
43 of this section, notwithstanding any other provisions of this Article."

44 Sec. 1.42. G.S. 105-163.3 reads as rewritten:

1 **"§ 105-163.3. Withholding in accordance with regulations.**

2 The manner of withholding and the amount to be deducted and withheld under G.S.  
3 105-163.2 shall be determined in accordance with tables, ~~rules~~ rules, and regulations  
4 promulgated by the Secretary. The withholding exemption allowed by ~~such~~ these tables,  
5 ~~rules~~ rules, and regulations shall, as nearly as possible, approximate the exemptions to  
6 which an employee would be entitled under ~~G.S. 105-149~~ the Code less the amount by  
7 which the exemptions would be increased under section 151(d)(3) of the Code."

8 Sec. 1.43. G.S. 105-163.5(b) reads as rewritten:

9 "(b) Every employee shall, on or before January 1, 1960, or at the time of  
10 commencing employment, whichever is later, furnish his employer with a signed  
11 withholding exemption certificate informing the employer of the exemptions ~~which~~ the  
12 employee claims, which in no event shall exceed the amount of exemptions to which the  
13 employee is entitled under ~~G.S. 105-149~~ the Code; but, in the event that the employee  
14 fails to file the exemption ~~certificate required herein~~ certificate the employer, in  
15 computing amounts to be withheld from ~~said~~ the employee's wages, shall allow the  
16 employee the exemption accorded a single person with no dependents."

17 Sec. 1.44. G.S. 105-163.10 reads as rewritten:

18 **"§ 105-163.10. Withheld amounts credited to individual for calendar year.**

19 The amount deducted and withheld under G.S. 105-163.2 during any calendar year  
20 from the wages of any individual shall be allowed as a credit to ~~such~~ that individual  
21 against the tax imposed by G.S. ~~105-136~~ 105-134.2 for taxable years beginning in ~~such~~  
22 that calendar year. If more than one taxable year begins in ~~such~~ that calendar year ~~such~~  
23 the amount shall be allowed as a credit against the tax for the last taxable year so  
24 beginning. As a prerequisite to obtaining the credit allowed ~~herein~~ in this section, the  
25 individual taxpayer must file with the Secretary one copy, and such other copies and  
26 information as may be required by regulation, of the withholding statement provided for  
27 by G.S. 105-163.7, and ~~such~~ the withholding statement must accompany the annual  
28 income tax return required by G.S. 105-152."

29 Sec. 1.45. G.S. 105-163.16(d), (e), and (f) read as rewritten:

30 "(d) When a husband and wife have elected under ~~G.S. 105-152(e)~~ G.S. 105-152.1 to  
31 file ~~their separate income tax returns on a single form~~ a joint return and a refund for  
32 overpayment of tax is made payable to both spouses as provided in that subsection, the  
33 provisions of this section shall apply to ~~such~~ the refund.

34 (e) Any taxpayer who ~~shall be~~ is entitled to a refund of taxes withheld or  
35 estimated taxes paid as provided by this section may elect to contribute all or any part of  
36 ~~such~~ the refund to the Wildlife Fund for the support of wildlife management and  
37 protection programs primarily for nongame wildlife species and wildlife species which  
38 are or may hereafter be designated as endangered or threatened. The Secretary shall  
39 provide appropriate language and space on the individual income tax form in which to  
40 make ~~such election~~ the election, and shall note the same in his instructions as a contribution  
41 ~~qualifying as a deduction under G.S. 105-147(16)~~. Any ~~such~~ The election shall become  
42 irrevocable upon filing the taxpayer's income tax return for the taxable year. All of ~~such~~  
43 the contributions made pursuant to this subsection shall be transmitted to the State  
44 Treasurer for credit to the Wildlife Fund which shall be made available to the Wildlife

1 Resources Commission for the support of management and protection programs  
2 primarily for nongame wildlife and endangered and threatened species and to match  
3 federal funds which may become available for ~~such~~ these purposes.

4 (f) Any taxpayer who ~~shall be~~ is entitled to a refund of taxes withheld or  
5 estimated taxes paid as provided by this section may elect to contribute all or any part of  
6 ~~such~~ the refund to the North Carolina Candidates Financing Fund for the use of political  
7 campaigns as provided in Article 22C of Chapter 163 of the General Statutes. The  
8 Secretary shall provide appropriate language and space on the individual income tax  
9 form in which to make ~~such election~~ the election, and ~~shall note the same in his instructions~~  
10 ~~as a contribution qualifying as a deduction under G.S. 105-147(16).~~ Any ~~such~~ The election  
11 shall become irrevocable upon filing the taxpayer's income tax return for the taxable  
12 year. The Secretary shall, on a quarterly basis, transmit the ~~remainder of such~~ the  
13 contributions made pursuant to this subsection to the State Treasurer for deposit in the  
14 North Carolina Candidates Financing Fund. Any interest earned on funds so deposited  
15 shall be credited to that Fund."

16 Sec. 1.46. G.S. 105-203 reads as rewritten:

17 "**§ 105-203. Shares of stock.**

18 All shares of stock (including shares and units of ownership of mutual funds,  
19 investment ~~trusts~~ trusts, and investment funds) owned by residents of this State or  
20 having a business, ~~commercial~~ commercial, or taxable situs in this State on December 31  
21 of each year, with the exception herein provided, shall be subject to an annual tax,  
22 which is hereby levied, of twenty-five cents (25¢) on every one hundred dollars  
23 (\$100.00) of the total fair market value of ~~such~~ the stock on December 31 of each year  
24 less ~~such~~ the proportion of ~~such~~ the value as ~~that~~ is equal to the proportion of the dividends  
25 ~~upon such stock deductible by such taxpayer in computing his income tax liability under the~~  
26 ~~provisions of G.S. 105-130.7 and 105-147(7) without regard to the fifteen thousand dollar~~  
27 ~~(\$15,000) limitation under subdivision (7) of G.S. 105-147 and 105-130.7. to:~~

- 28 (1) In the case of a taxpayer that is a corporation, the proportion of the  
29 dividends upon the stock deductible by the taxpayer in computing its  
30 income tax liability under G.S. 105-130.7 without regard to the fifteen  
31 thousand dollar (\$15,000) limitation under G.S. 105-130.7; and  
32 (2) In the case of a taxpayer that is not a corporation, the proportion of the  
33 dividends upon the stock that would be deductible by the taxpayer, if  
34 the taxpayer were a corporation, in computing its income tax liability  
35 under the provisions of G.S. 105-130.7(1),(2),(3), and (3a), without  
36 regard to the fifteen thousand dollar (\$15,000) limitation under G.S.  
37 105-130.7.

38 The tax herein levied shall not apply to shares of stock in building and loan  
39 associations or savings and loan associations which pay a tax as levied under Article 8D  
40 of Chapter 105 of the General Statutes, nor to shares of stock owned by any corporation  
41 which has its commercial domicile in North Carolina, where ~~such~~ the corporation owns  
42 more than fifty percent (50%) of the outstanding voting stock.

43 The tax herein levied shall not apply to units of ownership in an investment trust, the  
44 corpus of which is composed (i) entirely of obligations of this State or (ii) entirely of

1 obligations of the United States and of this State, at least eighty percent (80%) of the  
2 fair market value of which represents obligations of this State. For the purpose of this  
3 paragraph, 'State' includes the State of North Carolina, political subdivisions of this  
4 State, and agencies of such governmental units; 'United States' includes the United  
5 States and its possessions, and the District of Columbia; 'obligations' includes bonds,  
6 notes and other evidences of debt. In order for the exemption provided for in this  
7 paragraph to apply, it shall be the duty of the trustees of an investment trust to provide  
8 to the Secretary of Revenue, in form satisfactory to him and not later than December 31  
9 of the year with respect to which the exemption applies, information sufficient to  
10 establish the applicability of this exemption.

11 Indebtedness incurred directly for the purchase of shares of stock may be deducted  
12 from the total value of ~~such~~those shares; provided, the specific shares of stock so  
13 purchased are pledged as collateral to secure ~~said~~the indebtedness; provided further,  
14 that only so much of ~~said~~the indebtedness may be deducted as is in the same proportion  
15 as the taxable value of ~~said~~the shares of stock is to the total value of ~~said~~the shares of  
16 stock."

17 Sec. 1.47. G.S. 105-259 reads as rewritten:

18 **"§ 105-259. Secrecy required of officials; penalty for violation.**

19 With respect to any one of the following persons: (i) the Secretary of Revenue  
20 and all other officers or employees, and former officers and employees, of the  
21 Department of Revenue; (ii) local tax officials, as defined in G.S. 105-273, and former  
22 local tax officials; (iii) members and former members of the Property Tax Commission;  
23 (iv) any other person authorized in this section to receive information concerning any  
24 item contained in any report or return, or authorized to inspect any report or return; and  
25 (v) the Commissioner of Insurance and all other officers or employees and former  
26 officers and employees of the Department of Insurance with respect to State and federal  
27 income tax returns filed with the Commissioner of Insurance by domestic insurance  
28 companies; and except in accordance with proper judicial order or as otherwise  
29 provided by law, it shall be unlawful for any of ~~said~~these persons to divulge or make  
30 known in any manner the amount of income, income tax or other taxes of any taxpayer,  
31 or information relating thereto or from which the amount of income, income tax or other  
32 taxes or any part thereof might be determined, deduced or estimated, whether ~~the same~~  
33 ~~be it is~~ set forth or disclosed in or by means of any report or return required to be filed  
34 or furnished under this Subchapter, or in or by means of any audit, assessment,  
35 application, correspondence, schedule or other document relating to ~~such~~the taxpayer,  
36 notwithstanding the provisions of Chapter 132 of the General Statutes or of any other  
37 law or laws relating to public records. It shall likewise be unlawful to reveal whether or  
38 not any taxpayer has filed a return, and to abstract, compile or furnish to any person,  
39 firm or corporation not otherwise entitled to information relating to the amount of  
40 income, income tax or other taxes of a taxpayer, any list of names, addresses, social  
41 security numbers or other personal information concerning ~~such~~the taxpayer, whether  
42 or not ~~such~~the list discloses a taxpayer's income, income tax or other taxes, or any part  
43 thereof, except that when an election is made by a husband and wife ~~under G.S. 105-~~  
44 ~~152(e) to file their separate returns on a single form, or in order to determine an exemption~~

1 allowable ~~under G.S. 105-149(a)(2)~~ under G.S. 105-152.1 to file a joint return, any  
2 information given to one spouse concerning the income or income tax of the other  
3 spouse reported or reportable on ~~such single~~ the joint return ~~or on separate returns~~ shall not  
4 be a violation of the provisions of this section.

5 Nothing in this section shall be construed to prohibit the publication of statistics, so  
6 classified as to prevent the identification of particular reports or returns, and the items  
7 thereof; the inspection of ~~such~~ these reports or returns by the Governor, Attorney  
8 General, or their duly authorized representative; or the inspection by a legal  
9 representative of the State of the report or return of any taxpayer who shall bring an  
10 action to set aside or review the tax based thereon, or against whom an action or  
11 proceeding has been instituted to recover any tax or penalty imposed by this  
12 Subchapter; nor shall the provisions of this section prohibit the Department of Revenue  
13 furnishing information to other governmental agencies of persons and firms properly  
14 licensed under Schedule B, G.S. 105-33 to 105-113. The Department of Revenue may  
15 exchange information with the officers of organized associations of taxpayers under  
16 Schedule B, G.S. 105-33 to 105-113, with respect to parties liable for ~~such~~ these taxes  
17 and as to parties who have paid ~~such~~ these license taxes.

18 When any record of the Department of Revenue ~~shall have~~ has been photographed,  
19 ~~photocopied~~ photocopied, or microphotocopied pursuant to the authority contained in  
20 G.S. 8-45.3, the original of ~~said~~ that record may thereafter be destroyed at any time upon  
21 the order of the Secretary of Revenue, notwithstanding the provisions of G.S. 121-5,  
22 ~~G.S. 132-3~~ G.S. 132-2, or any other law ~~or laws~~ relating to the preservation of public  
23 records. Any record ~~which shall not have~~ that has not been so photographed, ~~photocopied~~  
24 photocopied, or microphotocopied shall be preserved for three years, and thereafter until  
25 the Secretary of Revenue ~~shall order the same to be~~ orders it destroyed.

26 Any person, officer, agent, clerk, employee, or local tax official ~~or former officer,~~  
27 ~~employee or any former officer, employee, or local tax official~~ violating who violates the  
28 provisions of this section shall be guilty of a misdemeanor and fined not less than two  
29 hundred dollars (\$200.00) nor more than one thousand dollars (\$1,000) and/or  
30 imprisoned, in the discretion of the court; and if ~~such offending person be~~ the person  
31 committing the violation is a public officer or employee, ~~he~~ that person shall be  
32 dismissed from such office or employment, and ~~shall~~ may not hold any public office or  
33 employment in this State for a period of five years thereafter.

34 Notwithstanding the provisions of this section, the Secretary of Revenue may permit  
35 the Commissioner of Internal Revenue of the United States, or the revenue officer of  
36 any other state imposing any of the taxes imposed in this Subchapter, or the duly  
37 authorized representative of either, to inspect the report or return of any taxpayer; or  
38 may furnish ~~such officer or his authorized agent~~ that person an abstract of the report or  
39 return of any taxpayer; or supply ~~such officer~~ that person with information concerning  
40 any item contained in any report or return, or disclosed by the report of any  
41 investigation of ~~such any report~~ or return of any taxpayer. ~~Such~~ The permission,  
42 however, ~~shall~~ may be granted or ~~such the~~ information furnished to ~~such officer, or his~~  
43 ~~duly authorized representatives,~~ the officer or agent only if the statutes of the United States  
44 or of ~~such the~~ other state ~~grants~~ grant substantially similar privilege to the Secretary of

1 Revenue of this State or ~~his~~ the Secretary's duly authorized representative.  
2 Notwithstanding any other provision of law, the Secretary may also furnish names,  
3 addresses, and account and identification numbers of ~~(a)~~ (i) taxpayers who may be  
4 entitled to property held in the Escheat Fund to the Department of State Treasurer when  
5 that Department requests the information for the purpose of administering Chapter 116B  
6 of the General Statutes, and ~~(b)~~ (ii) taxpayers to the Employment Security Commission  
7 when that Commission requests the information for the purpose of administering Article  
8 2 of Chapter 96 of the General Statutes. Neither this section nor any other law prevents  
9 the exchange of information between the Department of Revenue and the Department of  
10 Transportation's Division of Motor Vehicles when the information is needed by either to  
11 administer the laws with which they are charged. Notwithstanding any other provision  
12 of law, State officers and employees who perform computerized data processing  
13 functions pursuant to G.S. 143-341(9) for the Department of Revenue are authorized to  
14 receive and process for the Department of Revenue information in reports and returns  
15 and are subject to the criminal provisions of this section.

16 Notwithstanding the provisions of this section, the Secretary of Revenue may  
17 contract with any person, firm or corporation to receive and address, sort, bag, or deliver  
18 to the United States Postal Service any bulk mailing originated by the Department of  
19 Revenue, and may deliver the mail to the contractor pursuant to the contract. To ensure  
20 performance of the contract, the contractor shall furnish a bond in a form and amount  
21 acceptable to the Secretary."

22 Sec. 1.48. G.S. 105-266 reads as rewritten:

23 **"§ 105-266. Overpayment of taxes to be refunded with interest.**

24 If the Secretary of Revenue discovers from the examination of any return, or  
25 otherwise, that any taxpayer has overpaid the correct amount of tax (including penalties,  
26 interest and costs if any), ~~such that~~ overpayment if the amount of three dollars (\$3.00) or  
27 more, shall be refunded to the taxpayer within 60 days after it is ascertained together  
28 with interest ~~thereon~~ at the rate established in G.S. 105-241.1(i) for assessments;  
29 provided, that interest on ~~any such the~~ refund shall be computed from a date 90 days  
30 after the date the tax was originally paid by the taxpayer; except that there shall be no  
31 refund to the taxpayer of any sum set off under the provisions of Chapter 105A, the Set-  
32 off Debt Collection Act. If ~~said the~~ overpayment is less than three dollars (\$3.00) ~~said~~  
33 the overpayment shall be refunded ~~as aforesaid but~~ only upon receipt by the Secretary of  
34 Revenue of a written demand for ~~such the~~ refund from the taxpayer. Provided, however,  
35 that no overpayment shall be refunded irrespective of whether upon discovery or receipt  
36 of written demand if ~~such the~~ discovery is not made or ~~such the~~ demand is not received  
37 within three years from the date set by the statute for the filing of the return or within  
38 six months of the payment of the tax alleged to be an overpayment, whichever date is  
39 the later. The provisions of this paragraph shall not apply to interest required under  
40 G.S. 105-267. When a husband and wife have elected ~~under G.S. 105-152(e) to file their~~  
41 separate income tax returns on a single form under G.S. 105-152.1 to file a joint return and  
42 a refund for overpayment of tax is made payable to both spouses as provided in that  
43 subsection, the provisions of this section shall apply to ~~such the~~ refund."

44 **PART II.**

**SAVINGS CLAUSE AND EFFECTIVE DATE.**

1   **SAVINGS CLAUSE AND EFFECTIVE DATE.**  
2                   Sec. 2.1. This act does not affect the rights or liabilities of the State, a  
3 taxpayer, or other person arising under a statute amended or repealed by this act before  
4 its amendment or repeal; nor does it affect the right to any refund or credit of a tax that  
5 would otherwise have been available under the amended or repealed statute before its  
6 amendment or repeal.

7                   Sec. 2.2. Notwithstanding the provisions of G.S. 105-163.15, no addition to  
8 tax shall be made under G.S. 105-163.15 for a taxable year beginning on or after  
9 January 1, 1989, and before January 1, 1990, with respect to any underpayment to the  
10 extent the underpayment was created or increased by any provision of Part I of this act.

11                   Sec. 2.3. This act is effective for taxable years beginning on or after January  
12 1, 1989.