

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

S

3

SENATE BILL 786
House Committee Substitute Favorable 6/30/89
Corrected Copy 7/5/89

Short Title: Use Tax Information for Escheats.

(Public)

Sponsors:

Referred to:

April 5, 1989

A BILL TO BE ENTITLED

AN ACT TO ALLOW THE DEPARTMENT OF REVENUE TO PROVIDE IDENTIFICATION INFORMATION FROM TAX RETURNS TO THE DEPARTMENT OF STATE TREASURER FOR ESCHEATS PURPOSES AND TO CLARIFY THE PURPOSE FOR WHICH THE EMPLOYMENT SECURITY COMMISSION MAY REQUEST IDENTIFICATION INFORMATION FROM THE DEPARTMENT OF REVENUE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-259 reads as rewritten:

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

With respect to any one of the following persons: (i) the Secretary of Revenue and all other officers or employees, and former officers and employees, of the Department of Revenue; (ii) local tax officials, as defined in G.S. 105-273, and former local tax officials; (iii) members and former members of the Property Tax Commission; (iv) any other person authorized in this section to receive information concerning any item contained in any report or return, or authorized to inspect any report or return; and (v) the Commissioner of Insurance and all other officers or employees and former officers and employees of the Department of Insurance with respect to State and federal income tax returns filed with the Commissioner of Insurance by domestic insurance companies; and except in accordance with proper judicial order or as otherwise provided by law, it shall be unlawful for any of said persons to divulge or make known in any manner the amount of income, income tax or other taxes of any taxpayer, or

1 information relating thereto or from which the amount of income, income tax or other
2 taxes or any part thereof might be determined, deduced or estimated, whether the same
3 be set forth or disclosed in or by means of any report or return required to be filed or
4 furnished under this Subchapter, or in or by means of any audit, assessment, application,
5 correspondence, schedule or other document relating to such taxpayer, notwithstanding
6 the provisions of Chapter 132 of the General Statutes or of any other law or laws
7 relating to public records. It shall likewise be unlawful to reveal whether or not any
8 taxpayer has filed a return, and to abstract, compile or furnish to any person, firm or
9 corporation not otherwise entitled to information relating to the amount of income,
10 income tax or other taxes of a taxpayer, any list of names, addresses, social security
11 numbers or other personal information concerning such taxpayer, whether or not such
12 list discloses a taxpayer's income, income tax or other taxes, or any part thereof, except
13 that when an election is made by a husband and wife under G.S. 105-152(e) to file their
14 separate returns on a single form, or in order to determine an exemption allowable under
15 G.S. 105-149(a)(2), any information given to one spouse concerning the income or
16 income tax of the other spouse reported or reportable on such single return or on
17 separate returns shall not be a violation of the provisions of this section.

18 Nothing in this section shall be construed to prohibit the publication of statistics, so
19 classified as to prevent the identification of particular reports or returns, and the items
20 thereof; the inspection of such reports or returns by the Governor, Attorney General, or
21 their duly authorized representative; or the inspection by a legal representative of the
22 State of the report or return of any taxpayer who shall bring an action to set aside or
23 review the tax based thereon, or against whom an action or proceeding has been
24 instituted to recover any tax or penalty imposed by this Subchapter; nor shall the
25 provisions of this section prohibit the Department of Revenue furnishing information to
26 other governmental agencies of persons and firms properly licensed under Schedule B,
27 G.S. 105-33 to 105-113. The Department of Revenue may exchange information with
28 the officers of organized associations of taxpayers under Schedule B, G.S. 105-33 to
29 105-113, with respect to parties liable for such taxes and as to parties who have paid
30 such license taxes.

31 When any record of the Department of Revenue shall have been photographed,
32 photocopied or microphotocopied pursuant to the authority contained in G.S. 8-45.3, the
33 original of said record may thereafter be destroyed at any time upon the order of the
34 Secretary of Revenue, notwithstanding the provisions of G.S. 121-5, G.S. 132-3 or any
35 other law or laws relating to the preservation of public records. Any record which shall
36 not have been so photographed, photocopied or microphotocopied shall be preserved for
37 three years, and thereafter until the Secretary of Revenue shall order the same to be
38 destroyed.

39 Any person, officer, agent, clerk, employee, local tax official or former officer,
40 employee or local tax official violating the provisions of this section shall be guilty of a
41 misdemeanor and fined not less than two hundred dollars (\$200.00) nor more than one
42 thousand dollars (\$1,000) and/or imprisoned, in the discretion of the court; and if such
43 offending person be a public officer or employee, he shall be dismissed from such office

1 or employment, and shall not hold any public office or employment in this State for a
2 period of five years thereafter.

3 Notwithstanding the provisions of this section, the Secretary of Revenue may permit
4 the Commissioner of Internal Revenue of the United States, or the revenue officer of
5 any other state imposing any of the taxes imposed in this Subchapter, or the duly
6 authorized representative of either, to inspect the report or return of any taxpayer; or
7 may furnish such officer or his authorized agent an abstract of the report or return of any
8 taxpayer; or supply such officer with information concerning any item contained in any
9 report or return, or disclosed by the report of any investigation of such report or return
10 of any taxpayer. Such permission, however, shall be granted or such information
11 furnished to such officer, or his duly authorized representatives, only if the statutes of
12 the United States or of such other state grants substantially similar privilege to the
13 Secretary of Revenue of this State or his duly authorized representative. ~~Notwithstanding~~
14 ~~contrary provisions of this section, the Secretary may also furnish to the Employment Security~~
15 ~~Commission account and identification numbers, and names and addresses, of taxpayers when~~
16 ~~said Commission requires such information for the purpose of administering Chapter 96 of the~~
17 ~~General Statutes. Notwithstanding any other provision of law, the Secretary may also~~
18 ~~furnish names, addresses, and account and identification numbers of (a) taxpayers~~
19 ~~who may be entitled to property held in the Escheat Fund to the Department of State~~
20 ~~Treasurer when that Department requests the information for the purpose of~~
21 ~~administering Chapter 116B of the General Statutes, and (b) taxpayers to the~~
22 ~~Employment Security Commission when that Commission requests the information for~~
23 ~~the purpose of administering Article 2 of Chapter 96 of the General Statutes. Neither~~
24 this section nor any other law prevents the exchange of information between the
25 Department of Revenue and the Department of Transportation's Division of Motor
26 Vehicles when the information is needed by either to administer the laws with which
27 they are charged. Notwithstanding any other provision of law, State officers and
28 employees who perform computerized data processing functions pursuant to G.S. 143-
29 341(9) for the Department of Revenue are authorized to receive and process for the
30 Department of Revenue information in reports and returns and are subject to the
31 criminal provisions of this section.

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

38 Sec. 2. This act is effective upon ratification.