

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

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HOUSE BILL 1324

Short Title: Tax Return/Extension Changes.

(Public)

Sponsors: Representatives Gamble, Colton, Jarrell, Justus, Kerr, Lilley, Luebke, and Tallent.

Referred to: Finance.

May 27, 1992

A BILL TO BE ENTITLED

AN ACT TO CLARIFY THE STATUTES GOVERNING INCOME TAX RETURNS AND TAX FILING EXTENSIONS AND TO AUTHORIZE THE SECRETARY OF REVENUE TO ALLOW PAPERLESS TAX FILING EXTENSIONS AND ELECTRONIC FILING OF INCOME TAX RETURNS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-152 reads as rewritten:

"§ 105-152. ~~Returns.~~ Income tax returns.

(a) Who Must File. – The following ~~persons—individuals~~ shall file with the Secretary an income tax return under ~~affirmation, showing specifically the taxable income and the adjustments required by this Division, and such other facts as the Secretary may require for the purpose of making any computation required by this Division: affirmation:~~

(1) Every resident required to file an income tax return for the taxable year under the Code and every nonresident who (i) derived gross income from North Carolina sources during the taxable year attributable to the ownership of any interest in real or tangible personal property in this State or derived from a business, trade, profession, or occupation carried on in this State and (ii) is required to file an income tax return for the taxable year under the Code.

(2) ~~Every partnership doing business in this State as provided in G.S. 105-154.~~

1 (3) Any ~~person~~ individual whom the Secretary believes to be liable for a
2 tax under this Division, when so notified by the Secretary and
3 requested to file a return.

4 (b) Taxpayer Deceased or Unable to Make Return. – If the taxpayer is unable to
5 ~~make his own file the income tax return~~, the return shall be ~~made~~ filed by a duly
6 authorized agent or by a guardian or other person charged with the care of the person or
7 property of the ~~taxpayer.~~ ~~(c) taxpayer.~~ The return of an ~~If an~~ individual who was required
8 to file ~~a~~ an income tax return for the taxable year while living ~~and who~~ has died before
9 making the return, ~~shall be made in his name and behalf by the administrator or executor of~~
10 ~~the estate~~ the administrator or executor of the estate shall file the return in the decedent's
11 name and behalf, and the tax shall be levied upon and collected from the estate.

12 (c) Information Required With Return. – The income tax return shall show the
13 taxable income and adjustments required by this Division and any other information the
14 Secretary requires. The Secretary may require some or all individuals required to file an
15 income tax return to attach to the return a copy of their federal income tax return for the
16 taxable year. The Secretary may require a taxpayer to provide the Department with
17 copies of any other return the taxpayer has filed with the Internal Revenue Service and
18 to verify any information in the return.

19 (d) Secretary May Require Additional Information. – When the Secretary has
20 reason to believe that any taxpayer ~~so~~ conducts a trade or business as ~~either directly or~~
21 ~~indirectly to distort~~ in a way that directly or indirectly distorts the taxpayer's taxable
22 income or North Carolina taxable income ~~whether by the arbitrary shifting of income,~~
23 ~~through price fixing, charges for service, or otherwise, whereby the net income is arbitrarily~~
24 assigned to one or another unit in a group of taxpayers carrying on business under a
25 substantially common control, income, the Secretary may require such facts as he deems
26 necessary any additional information for the proper computation of the taxpayer's
27 taxable income and the North Carolina taxable income. income, and in determining the
28 same the Secretary shall have regard to In computing the taxpayer's taxable income and
29 North Carolina taxable income, the Secretary shall consider the fair profit that would
30 normally arise from the conduct of the trade or business.

31 (e) Joint Returns. – A husband and wife shall file a single income tax return jointly if
32 (i) their federal taxable income is determined on a joint federal return and (ii) both
33 spouses are residents of this State or both spouses have North Carolina taxable income.
34 A joint return may be filed by a husband and wife as provided in G.S. 105-152.1. Except as
35 otherwise provided in this Division, a wife and husband filing jointly are treated as one
36 taxpayer for the purpose of determining the tax imposed by this Division. A husband
37 and wife filing jointly are jointly and severally liable for the tax imposed by this
38 Division reduced by the sum of all credits allowable under this Division including tax
39 payments made by or on behalf of the husband and wife. However, if a spouse has been
40 relieved of liability for federal tax attributable to a substantial understatement by the
41 other spouse pursuant to section 6013 of the Code, that spouse is not liable for the
42 corresponding tax imposed by this Division attributable to the same substantial
43 understatement by the other spouse. A wife and husband filing jointly ~~shall be deemed to~~
44 have expressly agreed that if the amount of the payments made by them with respect to

1 the taxes for which they are liable, including withheld and estimated taxes, exceeds the
2 total of the taxes due, refund of the excess may be made payable to both spouses jointly
3 or, if either is deceased, to the survivor alone.

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

9 Sec. 2. G.S. 105-154 reads as rewritten:

10 **"§ 105-154. Information at the source. source returns.**

11 (a) 'Person' Defined. – Notwithstanding G.S. 105-134.1, as used in this section,
12 the term 'person' means an individual, a fiduciary, a firm, a partnership, an association, a
13 corporation, a unit of government, or another group acting as a unit.

14 (b) Information Returns of Payers. – A person who is a resident of this State, has
15 a place of business in this State, or has an employee, an agent, or another representative
16 in any capacity in this State shall file an information return as required by the Secretary
17 if the person directly or indirectly pays or controls the payment of any income to any
18 taxpayer. The return shall contain all information required by the Secretary. The filing
19 of any return in compliance with this section by a foreign corporation is not evidence
20 that the corporation is doing business in this State.

21 (c) Information Returns of Partnerships. – A partnership doing business in this
22 State and required to file a return under the Code shall file an information return with
23 the Secretary. A partnership that the Secretary believes to be doing business in this
24 State and to be required to file a return under the Code shall file an information return
25 when requested to do so by the Secretary. The information return shall contain all
26 information required by the Secretary. It shall state specifically the items of the
27 partnership's gross income, the deductions allowed under the Code, and the adjustments
28 required by this Division. The information return shall also include the name and
29 address of each person who would be entitled to share in the partnership's net income, if
30 distributable, and the amount each person's distributive share would be. The
31 information return shall specify the part of each person's distributive share of the net
32 income that represents corporation dividends. The information return shall be signed by
33 one of the partners under affirmation in the form prescribed in G.S. 105-155.

34 (d) Payment of Tax on Behalf of Nonresident Owner or Partner. – If a business
35 conducted in this State is owned by a nonresident individual or by a partnership having
36 one or more nonresident members, the manager of the business shall report the earnings
37 of the business in this State, the distributive share of the income of each nonresident
38 owner or partner, and any other information required by the Secretary. The manager of
39 the business shall pay with the return the tax on each nonresident owner or partner's
40 share of the income computed at the rate levied on individuals under G.S. 105-
41 134.2(a)(3). The business may deduct the payment for each nonresident owner or
42 partner from the owner or partner's distributive share of the profits of the business in
43 this State. If the nonresident partner is not an individual and the partner has executed an
44 agreement with the Department that the partner will pay the tax with its corporate

1 income tax return, the manager of the business is not required to pay the tax on the
2 partner's share. In this case, the manager shall include a copy of the agreement with the
3 report required by this subsection. Every individual, partnership, corporation, joint stock
4 company or association, or insurance company, being a resident or having a place of business
5 or having one or more employees, agents, or other representatives in this State, in whatever
6 capacity acting, including lessors or mortgagors of real or personal property, fiduciaries,
7 employers, and all officers and employees of the State or of any political subdivision of the
8 State and all officers and employees of the United States or of any political subdivision or
9 agency thereof having the control, receipt, custody, disposal, or payment of interest (other than
10 interest coupons payable to bearer), rent, salaries, wages, dividends, premiums, annuities,
11 compensations, remunerations, emoluments, or other fixed or determinable annual or periodical
12 gains, profits, and incomes paid or payable during any year to any taxpayer, shall make
13 complete return thereof to the Secretary under such regulations and in such form and manner
14 and to such extent as may be prescribed by the Secretary. The filing of any report in
15 compliance with the provisions of this section by a foreign corporation shall not constitute an
16 act in evidence of and shall not be deemed to be evidence that the corporation is doing business
17 in this State.

18 (b) ~~Every partnership doing business in the State required to file a return under~~
19 ~~the Code shall make a return stating specifically the items of its gross income and the~~
20 ~~deductions allowed under the Code and the adjustments required by this Division, and~~
21 ~~shall include in the return the names and addresses of the individuals who would be~~
22 ~~entitled to share in the net income if distributable, and the amount of the distributive~~
23 ~~share of each individual, together with the distributive shares of corporation dividends.~~
24 ~~The return shall be signed by one of the partners under affirmation in the form~~
25 ~~prescribed in G.S. 105-155 of this Division, and the same penalties prescribed in G.S.~~
26 ~~105-236 shall apply in the event of a willful misstatement. If a business established in~~
27 ~~this State is owned by a nonresident individual or by a partnership having one or more~~
28 ~~nonresident members, the manager of the business shall report the earnings of the~~
29 ~~business in this State and the distributive share of the income of each nonresident owner~~
30 ~~or partner, and shall pay the tax as levied on individuals under G.S. 105-134.2(a)(3) for~~
31 ~~each nonresident owner or partner. The business may deduct the payment for each~~
32 ~~nonresident owner or partner from the owner or partner's distributive share of the profits~~
33 ~~of the business in this State."~~

34 Sec. 3. G.S. 105-155 reads as rewritten:

35 "**§ 105-155. Time and place of filing ~~returns.~~ returns; extensions; affirmation.**

36 (a) Where and When to File. ~~Returns shall be in the forms prescribed by the~~
37 ~~Secretary and~~ An income tax return shall be filed with ~~as prescribed by the Secretary at~~
38 ~~the Secretary's main office or at any branch office.~~ place prescribed by the Secretary. The
39 income tax return of every taxpayer reporting on a calendar year basis shall be filed on
40 or before the fifteenth day of April in each year, and the income tax return of every
41 taxpayer reporting on a fiscal year basis shall be filed on or before the fifteenth day of
42 the fourth month following the close of the fiscal year. An information return shall be
43 filed at the times prescribed by the Secretary. A taxpayer may ask the Secretary for an
44 extension of time to file a return under G.S. 105-263.

1 (b) ~~The Secretary may, for good cause, allow further time for filing returns. A~~
2 ~~taxpayer requesting an extension of time for filing shall, on or before the date the return~~
3 ~~is due, submit an application for an extension of time for filing on a form prescribed by~~
4 ~~the Secretary and pay the full amount of the tax anticipated to be due.~~

5 (c) Affirmation. ~~There shall be annexed to the return the affirmation of the taxpayer~~
6 ~~making the return in the following form: Each taxpayer filing an income tax return and~~
7 ~~each partnership filing an information return under G.S. 105-154(c) shall furnish the~~
8 ~~following affirmation: 'Under penalties prescribed by law, I hereby affirm that to the~~
9 ~~best of my knowledge and belief this return, including any accompanying schedules and~~
10 ~~statements, is true and complete.' If the return was prepared by a person other than the~~
11 ~~taxpayer, the preparer's affirmation shall state that it is based on all information of~~
12 ~~which the preparer has any knowledge.~~

13 (d) Forms. – Returns and affirmations shall be in the form prescribed by the
14 Secretary. ~~The Secretary shall prepare blank forms for the returns, distribute them~~
15 ~~throughout the State, and furnish them upon application; but failure to receive or secure~~
16 ~~the form shall not relieve any taxpayer from the obligation of filing a return required by~~
17 ~~this Division."~~

18 Sec. 4. G.S. 105-157(a) reads as rewritten:

19 "(a) Except as otherwise provided in this section and in Article 4A of this Chapter,
20 the full amount of the tax payable as shown on the face of the return shall be paid to the
21 Secretary at the office where the return is filed at the time fixed by law for filing the
22 return. ~~An extension of time granted for filing the return under G.S. 105-155 is not an~~
23 ~~extension of time for payment of the full amount of the tax payable. If the amount shown to~~
24 ~~be due is less than one dollar (\$1.00), no payment need be made."~~

25 Sec. 5. G.S. 105-252 reads as rewritten:

26 **"§ 105-252. Returns required.**

27 ~~Any company, firm, corporation, person, association, copartnership, or public utility~~
28 ~~receiving A person who receives from the Secretary of Revenue any blanks, form~~
29 ~~requiring information, information shall fill the form out properly and answer each~~
30 ~~question fully and correctly. If unable to answer a question, the person shall explain~~
31 ~~why in writing. cause them to be properly filled out so as to answer fully and correctly each~~
32 ~~question therein propounded, and in case it is unable to answer any question, it shall, in writing,~~
33 ~~give a good and sufficient reason for such failure. The person shall return the form~~

34 ~~The answers to such questions shall be verified under oath by such persons, or by~~
35 ~~the president, secretary, superintendent, general manager, principal accounting officer,~~
36 ~~partner, or agent, and returned to the Secretary of Revenue at his office within the~~
37 ~~period fixed by the Secretary of Revenue. at the time and place required by the~~
38 ~~Secretary. The person shall also furnish an oath or affirmation verifying the return; the~~
39 ~~oath or affirmation shall be in the form required by the Secretary."~~

40 Sec. 6. G.S. 105-254 reads as rewritten:

41 **"§ 105-254. Blanks furnished by Secretary of Revenue. Secretary to furnish forms.**

42 The Secretary shall prepare forms suitable for carrying out the duties delegated to
43 the Secretary. Upon request, the Secretary shall provide forms to any person subject to

1 the laws administered by the Secretary. Failure to receive or secure a form does not
2 relieve a person from a duty to file a return or a report.

3 ~~The Secretary of Revenue shall cause to be prepared suitable blanks for carrying out~~
4 ~~the purposes of the laws which he is required to administer, and, on application, furnish~~
5 ~~such blanks to each company, firm, corporation, person, association, copartnership, or~~
6 ~~public utility subject thereto."~~

7 Sec. 7. G.S. 105-160.6 reads as rewritten:

8 **"§ 105-160.6. Time and place of filing returns.**

9 ~~Returns required under the provisions of G.S. 105-160.5~~ An income tax return of an
10 estate or a trust shall be in such form as the Secretary may prescribe, filed as prescribed by
11 the Secretary at the place prescribed by the Secretary. and shall be filed with the Secretary
12 ~~at the Secretary's main office or at any branch office which the Secretary may establish.~~ The
13 return of every fiduciary reporting on a ~~calendar year~~ calendar year ~~basis shall be filed~~
14 ~~on or before the 15th day of April in each year, and the return of every fiduciary~~
15 ~~reporting on a fiscal year basis shall be filed on or before the 15th day of the fourth~~
16 ~~month following the close of the fiscal year. A fiduciary may ask the Secretary for an~~
17 extension of time to file a return under G.S. 105-263. The Secretary may for good cause
18 allow further time for filing a return. A person requesting an extension of time for filing shall,
19 ~~on or before the date the return is due, submit an application for an extension of time for filing~~
20 ~~on a form prescribed by the Secretary and pay the full amount of the tax anticipated to be due."~~

21 Sec. 8. G.S. 105-160.7(a) reads as rewritten:

22 "(a) The full amount of the tax payable as shown on the face of the return shall be
23 paid to the Secretary at the office where the return is filed at the time fixed by law for
24 filing the return. However, if the amount shown to be due after all credits is less than
25 one dollar (\$1.00), no payment need be made. ~~An extension of time granted for filing the~~
26 ~~return under G.S. 105-160.6 is not an extension of time for payment of the full amount of the~~
27 ~~tax payable."~~

28 Sec. 9. G.S. 105-163.10 reads as rewritten:

29 **"§ 105-163.10. Withheld amounts credited to individual for calendar year.**

30 The amount deducted and withheld under G.S. 105-163.2 during any calendar year
31 from the wages of any individual shall be allowed as a credit to that individual against
32 the tax imposed by G.S. 105-134.2 for taxable years beginning in that calendar year. If
33 more than one taxable year begins in that calendar year the amount shall be allowed as a
34 credit against the tax for the last taxable year so beginning. ~~As a prerequisite to obtaining~~
35 To obtain the credit allowed in this section, the individual ~~taxpayer~~ must file with the
36 Secretary one copy, and such other copies and information as may be required by regulation,
37 copy of the withholding statement provided for by G.S.105-163.7, and the withholding
38 ~~statement must accompany the annual income tax return required by G.S. 105-152. required~~
39 by G.S. 105-163.7 and any other information the Secretary requires."

40 Sec. 10. G.S. 105-197 reads as rewritten:

41 **"§ 105-197. When return required; due date of return.**

42 Anyone who, during the calendar year, gives to a donee a gift of a future interest or
43 one or more gifts whose total value exceeds the amount of the annual exclusion set in
44 G.S. 105-188(d) ~~shall~~ must file a gift tax return, under oath or affirmation, with the

1 Secretary of Revenue on a form prescribed by the Secretary. A return is due on or
2 before April 15th following the end of the calendar year. A taxpayer may ask the
3 Secretary of Revenue for an extension of time for filing a return under G.S. 105-263."

4 Sec. 11. G.S. 105-263 reads as rewritten:

5 "**§ 105-263. Time for filing reports extended. Extensions of time for filing a report or**
6 **return.**

7 The Secretary may extend the time in which a person must file a report or return
8 with the Secretary. To obtain an extension of time for filing a report or return, a person
9 must comply with any application requirement set by the Secretary. In addition, if the
10 extension is for a franchise tax return, an income tax return, or a gift tax return, the
11 person must pay the amount of tax expected to be due with the return by the original
12 due date of the return; an extension of time for filing one of these returns does not
13 extend the time for paying the tax due or the time when a penalty attaches for failure to
14 pay the tax.

15 If the extension is for a report or any return other than a franchise tax return, an
16 income tax return, or a gift tax return, the person is not required to pay the amount of
17 tax expected to be due with the report or return by the original due date of the report or
18 return; an extension of time for filing a report or one of these other returns extends the
19 time for paying the tax due and the time when a penalty attaches for failure to pay the
20 tax. When an extension of time for filing a report or return extends the time for paying
21 the tax expected to be due with the report or return, interest, at the rate established
22 pursuant to G.S. 105-241.1(i), accrues on the tax due from the original due date of the
23 report or return to the date the tax is paid.

24 ~~The Secretary of Revenue may, in his discretion, extend to any person, firm,~~
25 ~~corporation, or public utility a further specified time within which to file any report~~
26 ~~required by law to be filed with the Secretary of Revenue. An extension of time for~~
27 ~~filing a report granted under G.S. 105-129, 105-130.17, 105-155, or 105-160.6 is not an~~
28 ~~extension of time for payment of the full amount of the tax payable or for the~~
29 ~~attachment of any penalty for failure to pay the tax. Any other extension of time for~~
30 ~~filing a report is also an extension of time for attachment of any penalty for failure to~~
31 ~~file a report or to pay any tax or fee. Interest, at the rate established pursuant to G.S.~~
32 ~~105-241.1(i), from the time the report or return was originally required to be filed to the~~
33 ~~time of payment shall be added to and paid with any tax that might be due on returns so~~
34 ~~extended."~~

35 Sec. 12. G.S. 105-152.1 is repealed.

36 Sec. 13. Article 9 of Chapter 105 of the General Statutes is amended by
37 adding at the beginning a new section to read:

38 "**§ 105-228.90. Scope and definitions.**

39 (a) Scope. – This Article applies to Subchapters I, V, and VIII of this Chapter
40 and to inspection fees levied under Article 3 of Chapter 119 of the General Statutes.

41 (b) Definitions. – The following definitions apply in this Article:

42 (1) Code. – The Internal Revenue Code as enacted as of January 1, 1992,
43 including any provisions enacted as of that date which become
44 effective either before or after that date.

1 (2) through (4) Reserved.

2 (5) Person. – An individual, a fiduciary, a firm, a partnership, an
3 association, a corporation, a unit of government, or another group
4 acting as a unit.

5 (6) Secretary. – The Secretary of Revenue.

6 (7) Tax. – A tax levied under Subchapter I, V, or VIII of this Chapter or
7 an inspection fee levied under Article 3 of Chapter 119 of the General
8 Statutes. Unless the context clearly requires otherwise, the terms 'tax'
9 and 'additional tax' include penalties and interest as well as the
10 principal amount.

11 (8) Taxpayer. – A person subject to the tax or reporting requirements of
12 Subchapter I, V, or VIII of this Chapter or of Article 3 of Chapter 119
13 of the General Statutes."

14 Sec. 14. G.S. 105-130.19(a) reads as rewritten:

15 "(a) Except as provided in Article 4C of this Chapter, the full amount of the tax
16 payable as shown on the face of the return shall be paid to the Secretary of Revenue at
17 the office where the return is filed and within the time fixed by law for filing the return.
18 ~~An extension of time granted for filing the return under G.S. 105-130.17(d) is not an extension~~
19 ~~of time for payment of the full amount of the tax payable."~~

20 Sec. 15. G.S. 105-134.2(a) reads as rewritten:

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

24 (1) For married individuals who file a joint return under ~~G.S. 105-152.1~~
25 G.S. 105-152 and for surviving spouses, as defined in section 2(a) of
26 the Code:

27 On the North Carolina taxable income up to twenty-one thousand
28 two hundred fifty dollars (\$21,250), six percent (6%).

29 On the amount over twenty-one thousand two hundred fifty dollars
30 (\$21,250) and up to one hundred thousand dollars (\$100,000), seven
31 percent (7%).

32 On the amount over one hundred thousand dollars (\$100,000),
33 seven and seventy-five one-hundredths percent (7.75%).

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

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

37 On the amount over seventeen thousand dollars (\$17,000) and up to
38 eighty thousand dollars (\$80,000), seven percent (7%).

39 On the amount over eighty thousand dollars (\$80,000), seven and
40 seventy-five one-hundredths percent (7.75%).

41 (3) For unmarried individuals other than surviving spouses and heads of
42 households:

43 On the North Carolina taxable income up to twelve thousand seven
44 hundred fifty dollars (\$12,750), six percent (6%).

1 On the amount over twelve thousand seven hundred fifty dollars
2 (\$12,750) and up to sixty thousand dollars (\$60,000), seven percent
3 (7%).

4 On the amount over sixty thousand dollars (\$60,000), seven and
5 seventy-five one-hundredths percent (7.75%).

6 (4) For married individuals who do not file a joint return under ~~G.S. 105-~~
7 ~~152.1~~; G.S. 105-152:

8 On the North Carolina taxable income up to ten thousand six
9 hundred twenty-five dollars (\$10,625), six percent (6%).

10 On the amount over ten thousand six hundred twenty-five dollars
11 (\$10,625) and up to fifty thousand dollars (\$50,000), seven percent
12 (7%).

13 On the amount over fifty thousand dollars (\$50,000), seven and
14 seventy-five one-hundredths percent (7.75%)."

15 Sec. 16. G.S. 105-151.2(b) reads as rewritten:

16 "(b) In the case of property owned by the entirety, ~~where-if~~ both spouses
17 are required to file North Carolina income tax returns, the credit allowed by this section
18 may be claimed only if the spouses file a joint ~~return under G.S. 105-152.1~~. return. ~~Where~~
19 If only one spouse is required to file a North Carolina income tax return, that spouse
20 may claim the credit allowed by this ~~section~~. section on a separate return."

21 Sec. 17. G.S. 105-151.7(b) reads as rewritten:

22 "(b) In the case of property owned by the entirety, ~~where-if~~ both spouses are
23 required to file North Carolina income tax returns, the credit allowed by this section
24 may be claimed only if the spouses file a joint ~~return under G.S. 105-152.1~~. return. ~~Where~~
25 If only one spouse is required to file a North Carolina income tax return, that spouse
26 may claim the credit allowed by this ~~section~~. section on a separate return."

27 Sec. 18. G.S. 105-151.8(b) reads as rewritten:

28 "(b) In the case of property owned by the entirety, ~~where-if~~ both spouses
29 are required to file North Carolina income tax returns, the credit allowed by this section
30 may be claimed only if the spouses file a joint ~~return under G.S. 105-152.1~~. return. ~~Where~~
31 If only one spouse is required to file a North Carolina income tax return, that spouse
32 may claim the credit allowed by this ~~section~~. section on a separate return."

33 Sec. 19. G.S. 105-151.9(b) reads as rewritten:

34 "(b) In the case of property owned by the entirety, ~~where-if~~ both spouses
35 are required to file North Carolina income tax returns, the credit allowed by this section
36 may be claimed only if the spouses file a joint ~~return under G.S. 105-152.1~~. return. ~~Where~~
37 If only one spouse is required to file a North Carolina income tax return, that spouse
38 may claim the credit allowed by this ~~section~~. section on a separate return."

39 Sec. 20. G.S. 105-151.10(b) reads as rewritten:

40 "(b) In the case of property owned by the entirety, ~~where-if~~ both spouses are
41 required to file North Carolina income tax returns, the credit allowed by this section
42 may be claimed only if the spouses file a joint ~~return under G.S. 105-152.1~~. return. ~~Where~~
43 If only one spouse is required to file a North Carolina income tax return, that spouse
44 may claim the credit allowed by this ~~section~~. section on a separate return."

1 Sec. 21. G.S. 105-151.12(d) reads as rewritten:

2 "(d) In the case of property owned by a married couple, ~~where~~if both
3 spouses are required to file North Carolina income tax returns, the credit allowed by this
4 section may be claimed only if the spouses file a joint ~~return under G.S. 105-152.1. Where~~
5 return. If only one spouse is required to file a North Carolina income tax return, that
6 spouse may claim the credit allowed by this section.~~section on a separate return."~~

7 Sec. 22. G.S. 105-151.13(c) reads as rewritten:

8 "(c) In the case of conservation tillage equipment owned jointly by a husband and
9 wife, ~~where~~if both spouses are required to file North Carolina income tax returns, the
10 credit allowed by this section may be claimed only if the spouses file a joint ~~return under~~
11 ~~G.S. 105-152.1. return. Where~~If only one spouse is required to file a North Carolina
12 income tax return, that spouse may claim the credit allowed by this ~~section.~~section on a
13 separate return."

14 Sec. 23. G.S. 105-266 reads as rewritten:

15 **"§ 105-266. Overpayment of taxes to be refunded with interest.**

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

35 Sec. 24. This act is effective upon ratification.