

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

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HOUSE BILL 1093

Short Title: 1996 Tax Reform Act.

(Public)

Sponsors: Representatives Neely, Blue, Cansler, Capps, Church, G. Robinson, Shaw, Shubert; Allred, Crawford, Hill, Justus, McComas, McMahan, Sexton, and Thompson.

Referred to: Finance.

May 14, 1996

A BILL TO BE ENTITLED

AN ACT TO PROVIDE TAX REFORM AND TAX RELIEF FOR THE CITIZENS OF NORTH CAROLINA.

The General Assembly of North Carolina enacts:

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PART I. REFORM UNCONSTITUTIONAL TAX PROVISIONS

Section 1. G.S. 105-130.38, 105-151.15, and 105-151.19 are repealed.

Sec. 2. G.S. 105-130.7 reads as rewritten:

"§ 105-130.7. Deductible portion of dividends.

Dividends from stock issued by any a corporation ~~shall be deducted to the extent herein provided.~~ are deductible to the extent provided in this section.

- 1 ~~(1) As soon as may be practicable after September 30 of each year, the~~
2 ~~Secretary of Revenue shall determine from the corporate income tax~~
3 ~~return filed during the year ending September 30 by each corporation~~
4 ~~required to file a return during that period the proportion of the entire~~
5 ~~net income or loss of the corporation allocable to this State under the~~
6 ~~provisions of G.S. 105-130.4, except as provided herein. If a~~
7 ~~corporation has a net income in North Carolina and a net loss from all~~
8 ~~sources wherever located, or if a corporation has a net loss in North~~
9 ~~Carolina and a net income from all sources wherever located, the~~
10 ~~Secretary shall require the use of the allocation fraction determined~~
11 ~~under the provisions of G.S. 105-130.4. A corporation which is a~~
12 ~~stockholder in any such corporation shall be allowed to deduct the same~~
13 ~~proportion of the dividends received by it from such corporation during~~
14 ~~its income year ending on or after September 30. No deduction shall be~~
15 ~~allowed for any part of any dividend received from any corporation that~~
16 ~~was required to file an income tax return during the year ending~~
17 ~~September 30 but failed to file the return. In the case of dividends~~
18 ~~received from a corporation that was not required to file a return during~~
19 ~~the year ending September 30, the proportion of dividends deductible by~~
20 ~~the stockholder shall be determined by the Secretary from the best~~
21 ~~information available.~~
- 22 ~~(2) Dividends received by a corporation from stock in any insurance~~
23 ~~company of this State taxed under the provisions of G.S. 105-228.5~~
24 ~~shall be deductible by such corporation, and a proportionate part of any~~
25 ~~dividends received from stock in any foreign insurance corporation shall~~
26 ~~be deductible, such part to be determined on the basis of the ratio of~~
27 ~~premiums reported for taxation in this State to total premiums collected~~
28 ~~both in and out of this State.~~
- 29 ~~(3) A corporation shall be allowed to~~ may ~~deduct~~ such proportionate part of
30 dividends received by it from a regulated investment company or a real
31 estate investment trust, as defined in G.S. 105-130.12, as represents and
32 corresponds to income received by such regulated investment company
33 or real estate investment trust which would not be taxed by this State if
34 received directly by the corporation.
- 35 ~~(3a) Dividends received on shares of capital stock owned in a stock-owned~~
36 ~~savings and loan association taxed under Article 8D of this Chapter~~
37 ~~shall be deductible.~~
- 38 (4) Notwithstanding the provisions of subdivisions (1) through (3a) of this
39 section, a corporation which, at the close of its taxable year, has its
40 commercial domicile within North Carolina shall be allowed to deduct
41 all dividends received from corporations in which it owns more than
42 fifty percent (50%) of the outstanding voting stock.

- 1 (5) ~~Notwithstanding any other provisions of this Division, a corporation~~
2 ~~which is a shareholder in a holding company shall be allowed as a~~
3 ~~deduction an amount equal to those dividends received by it from such~~
4 ~~holding company, multiplied by a fraction, the numerator of which shall~~
5 ~~be the dividends received by such holding company attributable to~~
6 ~~North Carolina, and the denominator of which shall be the gross~~
7 ~~dividends received by such holding company; provided, however, that~~
8 ~~no deduction shall be allowed where the fraction is smaller than one-~~
9 ~~third (1/3). For purposes of this section, "dividends attributable to~~
10 ~~North Carolina" shall be the amount of dividend income received by the~~
11 ~~holding company on stock owned in other corporations equal to the total~~
12 ~~of the proportion of each of such corporation's dividends as shall be~~
13 ~~determined deductible by the Secretary under subdivisions (1) through~~
14 ~~(3a) of this section; provided that a holding company which owns more~~
15 ~~than fifty percent (50%) of the outstanding voting stock of one or more~~
16 ~~holding companies as defined in this subdivision shall be permitted a~~
17 ~~deduction for all dividends received from such holding companies and~~
18 ~~all other corporations in which it owns more than fifty percent (50%) of~~
19 ~~the outstanding voting stock except that no deduction shall be allowed if~~
20 ~~less than one third (1/3) of the dividends received by the holding~~
21 ~~company are attributable to North Carolina. A shareholder of such a~~
22 ~~holding company shall determine the deductible portion of its dividends~~
23 ~~received from such holding company as hereinabove provided except~~
24 ~~that the amounts received from a subsidiary holding company as~~
25 ~~"dividends attributable to North Carolina" shall be determined as though~~
26 ~~the subsidiary corporation of the subsidiary holding company had paid~~
27 ~~the dividends directly to the parent holding company. For the purposes~~
28 ~~of this section and unless the context clearly requires a different~~
29 ~~meaning, "holding company" shall mean any corporation subject to the~~
30 ~~tax imposed by G.S. 105-130.3 whose ordinary gross income consists of~~
31 ~~fifty percent (50%) or more of dividend income received from~~
32 ~~corporations in which it owns more than fifty percent (50%) of the~~
33 ~~outstanding voting stock, and "subsidiary" shall mean any corporation,~~
34 ~~more than fifty percent (50%) of whose outstanding voting stock is~~
35 ~~owned by another corporation. For the purposes of this subsection, the~~
36 ~~term "dividend" includes, in addition to corporate dividends,~~
37 ~~distributions received from a partnership by a corporation owning more~~
38 ~~than a fifty percent (50%) interest in the partnership.~~
- 39 (6) ~~In no case shall the total amount of dividends that are allowed as a~~
40 ~~deduction to a corporation as a result of the application of subdivisions (1)~~
41 ~~through (3a) under subdivision (3) of this section be in excess of exceed~~
42 ~~fifteen thousand dollars (\$15,000) for the taxable year."~~

43 Sec. 3. G.S. 105-130.5(b)(3) reads as rewritten:

1 "(3) The deductible portion of dividends from stock issued by any corporation
2 as provided under G.S. 105-130.7."

3 Sec. 4. G.S. 105-130.4(f) reads as rewritten:

4 "(f) Interest and net dividends are allocable to this State if the corporation's
5 commercial domicile is in this State subject to the following limitations: State. For

6 (1) ~~Net dividends received by a corporation from another corporation in~~
7 ~~which the recipient corporation owns fifty (50%) or more per centum of~~
8 ~~the paying corporation's voting stock, shall be allocated to this State if~~
9 ~~the paying corporation is subject to income tax in this State. In such~~
10 ~~case, the net amount of such dividends received by the recipient~~
11 ~~corporation from the paying corporation is allocable to this State by use~~
12 ~~of the same percentage figure used in determining the portion of the~~
13 ~~paying corporation's dividends deductible under the provisions of G.S.~~
14 ~~105-130.7.~~

15 (2) ~~For purposes of this section, the net amount of dividends shall mean term~~
16 ~~'net dividends' means gross dividend income received less related~~
17 ~~expenses and less that portion of such the dividends deductible under the~~
18 ~~provisions of G.S. 105-130.7."~~

19 Sec. 5. G.S. 105-163.012(b) reads as rewritten:

20 "(b) The total amount of all tax credits allowed to taxpayers under G.S. 105-
21 163.011 for investments made in a calendar year may not exceed ~~twelve million dollars~~
22 ~~(\$12,000,000)~~ six million dollars (\$6,000,000). The Secretary of Revenue shall calculate
23 the total amount of tax credits claimed from the applications filed pursuant to G.S. 105-
24 163.011(c). If the total amount of tax credits claimed for investments made in a calendar
25 year exceeds ~~twelve million dollars (\$12,000,000)~~, six million dollars (\$6,000,000), the
26 Secretary shall allow a portion of the credits claimed ~~on the following basis:~~ by allocating a
27 total of six million dollars (\$6,000,000) in tax credits in proportion to the size of the
28 credit claimed by each taxpayer.

29 (1) ~~A total of six million dollars (\$6,000,000) in tax credits for investments~~
30 ~~in North Carolina Enterprise Corporations shall be allocated among all~~
31 ~~taxpayers claiming the credits in proportion to the size of the credit~~
32 ~~claimed by each taxpayer.~~

33 (2) ~~A total of six million dollars (\$6,000,000) in tax credits for investments~~
34 ~~in qualified business ventures and qualified grantee businesses shall be~~
35 ~~allocated among all taxpayers claiming the credits in proportion to the~~
36 ~~size of the credit claimed by each taxpayer.~~

37 (3) ~~If the total amount of the credits claimed by taxpayers for the~~
38 ~~investments described in either subdivision (1) or (2) is less than six~~
39 ~~million dollars (\$6,000,000), the Secretary shall allow additional credits~~
40 ~~for the investments described in the other subdivision until the total~~
41 ~~amount of all tax credits allowed equals twelve million dollars~~
42 ~~(\$12,000,000)."~~

43 Sec. 6. G.S. 105-130.7(4) reads as rewritten:

1 "(4) ~~Notwithstanding the provisions of subdivisions (1) through (3a) of this~~
2 ~~section, a corporation which, at the close of its taxable year, has its~~
3 ~~commercial domicile within North Carolina shall be allowed to~~ A
4 ~~corporation may deduct all dividends~~ corporation may deduct all dividends, less related expenses,
5 received from corporations in which it owns more than fifty percent
6 (50%) of the outstanding voting stock. The amount of direct or indirect
7 expenses related to dividends deductible under this subdivision is
8 presumed to be fifteen percent (15%) of the amount of the dividends. A
9 taxpayer who claims a smaller amount of related expenses must
10 maintain and make available for inspection by the Secretary all records
11 necessary to determine and verify the amount claimed."

12 Sec. 7. Division V of Article 4 of Chapter 105 of the General Statutes, as
13 amended by this act, reads as rewritten:

14 **"DIVISION V. TAX CREDITS FOR QUALIFIED BUSINESS INVESTMENTS.**

15
16 **"§ 105-163.010. (Repealed effective for investments made on or after January 1,**
17 **1999) Definitions.**

18 The following definitions apply in this Division:

- 19 (1) Affiliate. – An individual or business that controls, is controlled by, or
20 is under common control with another individual or business.
- 21 (2) Business. – A corporation, partnership, association, or sole
22 proprietorship operated for profit.
- 23 (3) Control. – A person controls an entity if the person owns, directly or
24 indirectly, more than ten percent (10%) of the voting securities of that
25 entity. As used in this subdivision, the term 'voting security' means a
26 security that (i) confers upon the holder the right to vote for the election
27 of members of the board of directors or similar governing body of the
28 business or (ii) is convertible into, or entitles the holder to receive upon
29 its exercise, a security that confers such a right to vote. A general
30 partnership interest is a voting security.
- 31 (4) Equity security. – Common stock, preferred stock, or an interest in a
32 partnership, or subordinated debt that is convertible into, or entitles the
33 holder to receive upon its exercise, common stock, preferred stock, or
34 an interest in a partnership.
- 35 (5) Financial institution. – A business that is (i) a bank holding company, as
36 defined in the Bank Holding Company Act of 1956, 12 U.S.C. §§ 1841
37 et seq., or its wholly-owned subsidiary, (ii) registered as a broker-dealer
38 under the Securities Exchange Act of 1934, 15 U.S.C. §§ 78a et seq., or
39 its wholly-owned subsidiary, (iii) an investment company as defined in
40 the Investment Company Act of 1940, 15 U.S.C. §§ 80a-1 et seq.,
41 whether or not it is required to register under that act, (iv) a small
42 business investment company as defined in the Small Business
43 Investment Act of 1958, 15 U.S.C. §§ 661 et seq., (v) a pension or

1 profit-sharing fund or trust, or (vi) a bank, savings institution, trust
2 company, financial services company, or insurance company; provided,
3 however, that a business, other than a small business investment
4 company, is not a financial institution if its net worth, when added to the
5 net worth of all of its affiliates, is less than ten million dollars
6 (\$10,000,000); provided further, however, that a business is not a
7 financial institution if it does not generally market its services to the
8 public and it is controlled by a business that is not a financial institution.

9 (6) Repealed by Session Laws 1991, c. 637.

10 ~~(6a) North Carolina Enterprise Corporation. — A corporation established in~~
11 ~~accordance with Article 3 of Chapter 53A of the General Statutes or a~~
12 ~~limited partnership in which a North Carolina Enterprise Corporation is~~
13 ~~the only general partner.~~

14 (6b) Pass-through entity. — An entity or business, including a limited
15 partnership, a general partnership, a joint venture, a Subchapter S
16 Corporation, or a limited liability company, all of which is treated as
17 owned by individuals or other entities under the federal tax laws, in
18 which the owners report their share of the income, losses, and credits
19 from the entity or business on their income tax returns filed with this
20 State. For the purpose of this Division, an owner of a pass-through
21 entity is an individual or entity who is treated as an owner under the
22 federal tax laws.

23 (7) Qualified business venture. — A ~~North Carolina~~ business that (i) engages
24 primarily in manufacturing, processing, warehousing, wholesaling,
25 research and development, or a service-related industry, and (ii) is
26 registered with the Secretary of State under G.S. 105-163.013.

27 (8) Qualified grantee business. — A ~~North Carolina~~ business that (i) has
28 received during the preceding three years a grant or other funding from
29 the North Carolina Technological Development Authority, the North
30 Carolina Technological Development Authority, Inc., North Carolina
31 First Flight, Inc., the North Carolina Biotechnology Center, the
32 Microelectronics Center of North Carolina, the Kenan Institute for
33 Engineering, Technology and Science, or the Federal Small Business
34 Innovation Research Program, and (ii) is registered with the Secretary of
35 State under G.S. 105-163.013.

36 (9) Repealed by Session Laws 1993, c. 443, s. 1.

37 (9a) Real estate-related business. — A business that is involved in or related
38 to the brokerage, selling, purchasing, leasing, operating, or managing of
39 hotels, motels, nursing homes or other lodging facilities, golf courses,
40 sports or social clubs, restaurants, storage facilities, or commercial or
41 residential lots or buildings is a real estate-related business, except that a
42 real estate-related business does not include (i) a business that purchases
43 or leases real estate from others for the purpose of providing itself with

1 facilities from which to conduct a business that is not itself a real estate-
2 related business or (ii) a business that is not otherwise a real estate-
3 related business but that leases, subleases, or otherwise provides to one
4 or more other persons a number of square feet of space which in the
5 aggregate does not exceed fifty percent (50%) of the number of square
6 feet of space occupied by the business for its other activities.

7 (9b) Selling or leasing at retail. – A business is selling or leasing at retail if
8 the business either (i) sells or leases any product or service of any nature
9 from a store or other location open to the public generally or (ii) sells or
10 leases products or services of any nature by means other than to or
11 through one or more other businesses.

12 (9c) Service-related industry. – A business is engaged in a service-related
13 industry, whether or not it also sells a product, if it provides services to
14 customers or clients and does not as a substantial part of its business
15 engage in a business described in G.S. 105-163.013(b)(4). A business is
16 engaged as a substantial part of its business in an activity described in
17 G.S. 105-163.013(b)(4) if (i) its gross revenues derived from all
18 activities described in that subdivision exceed twenty-five percent
19 (25%) of its gross revenues in any fiscal year or (ii) it is established as
20 one of its primary purposes to engage in any activities described in that
21 subdivision, whether or not its purposes were stated in its articles of
22 incorporation or similar organization documents.

23 (10) Security. – A security as defined in Section 2(1) of the Securities Act of
24 1933, 15 U.S.C. § 77b(1).

25 (11) Subordinated debt. – Indebtedness that (i) by its terms matures five or
26 more years after its issuance, (ii) is not secured, and (iii) is subordinated
27 to all other indebtedness of the issuer issued or to be issued to a
28 financial institution other than a financial institution described in
29 subdivisions (5)(ii) through (5)(v) of this section. Any portion of
30 indebtedness that matures earlier than five years after its issuance is not
31 subordinated debt.

32 **"§ 105-163.011. (Repealed effective for investments made on or after January 1,**
33 **1999) Tax credits allowed.**

34 (a) No Credit for Brokered Investments. – No credit is allowed under this section
35 for a purchase of equity securities or subordinated debt if a broker's fee or commission or
36 other similar remuneration is paid or given directly or indirectly for soliciting the
37 purchase.

38 ~~Corporations.— Subject to the limitations contained in G.S. 105-163.012, a corporation~~
39 ~~that purchases the equity securities of a North Carolina Enterprise Corporation directly~~
40 ~~from the Enterprise Corporation is allowed as a credit for the taxable year an amount~~
41 ~~equal to twenty-five percent (25%) of the amount invested. The aggregate amount of~~
42 ~~credit allowed a corporation for one or more investments in a single taxable year under~~
43 ~~this Division, whether directly or indirectly as owner of a pass-through entity, may not~~

1 exceed seven hundred fifty thousand dollars (\$750,000). The credit is allowed against one
2 or more of the following taxes:

- 3 (1) The income tax imposed by Division I of this Article.
- 4 (2) The franchise tax imposed by G.S. 105-116, 105-120.2, and 105-122.
- 5 (3) The gross premiums tax imposed by G.S. 105-228.5 and G.S. 105-
6 228.8.

7 The credit may not be taken for the year in which the investment is made but shall be
8 taken for the taxable year beginning during the calendar year in which the application for
9 the credit becomes effective as provided in subsection (c) of this section. This
10 subsection does not apply to a corporation that is also a pass-through entity.

11 (b) Individuals. – Subject to the limitations contained in G.S. 105-163.012, an
12 individual who purchases the equity securities or subordinated debt of ~~(i) a qualified~~
13 ~~business venture, (ii) a qualified grantee business, or (iii) a North Carolina Enterprise~~
14 ~~Corporation~~ a qualified business venture or a qualified grantee business directly from that
15 ~~entity~~ business is allowed as a credit against the tax imposed by Division II of this Article
16 for the taxable year an amount equal to twenty-five percent (25%) of the amount
17 invested. The aggregate amount of credit allowed an individual for one or more
18 investments in a single taxable year under this Division, whether directly or indirectly as
19 owner of a pass-through entity, may not exceed fifty thousand dollars (\$50,000). The
20 credit may not be taken for the year in which the investment is made but shall be taken
21 for the taxable year beginning during the calendar year in which the application for the
22 credit becomes effective as provided in subsection (c) of this section.

23 (b1) Pass-Through Entities. – This subsection does not apply to a pass-through
24 entity that has committed capital under management in excess of five million dollars
25 (\$5,000,000) or to a pass-through entity that is a qualified grantee business, a qualified
26 business venture, or a North Carolina Enterprise Corporation. Subject to the limitations
27 provided in G.S. 105-163.012, a pass-through entity that purchases the equity securities
28 or subordinated debt of a qualified grantee ~~business, business or a qualified business~~
29 ~~venture, or a North Carolina Enterprise Corporation~~ venture directly from the business or
30 ~~Corporation~~ is eligible for a tax credit equal to twenty-five percent (25%) of the amount
31 invested. The aggregate amount of credit allowed a pass-through entity for one or more
32 investments in a single taxable year under this Division, whether directly or indirectly as
33 owner of another pass-through entity, may not exceed seven hundred fifty thousand
34 dollars (\$750,000). The pass-through entity is not eligible for the credit for the year in
35 which the investment by the pass-through entity is made but shall be eligible for the
36 credit for the taxable year beginning during the calendar year in which the application for
37 the credit becomes effective as provided in subsection (c) of this section.

38 Each individual who is an owner of a pass-through entity is allowed as a credit against
39 the tax imposed by Division II of this Article for the taxable year an amount equal to the
40 owner's allocated share of the credits for which the pass-through entity is eligible under
41 this subsection. The aggregate amount of credit allowed an individual for one or more
42 investments in a single taxable year under this Division, whether directly or indirectly as
43 owner of a pass-through entity, may not exceed fifty thousand dollars (\$50,000).

1 Each corporation that is an owner of a pass-through entity is allowed as a credit for
2 the taxable year an amount equal to the corporation's allocated share of the tax credits for
3 which the pass-through entity is eligible under this subsection as a result of the pass-
4 through entity's investment in equity securities of a North Carolina Enterprise
5 Corporation. The credit is allowed against one or more of the following taxes:

- 6 (1) The income tax imposed by Division I of this Article.
- 7 (2) The franchise tax imposed by G.S. 105-116, 105-120.2, and 105-122.
- 8 (3) The gross premiums tax imposed by G.S. 105-228.5 and G.S. 105-
9 228.8.

10 The aggregate amount of credit allowed a corporation for one or more investments in
11 a single taxable year under this Division, whether directly or indirectly as owner of a
12 pass-through entity, may not exceed seven hundred fifty thousand dollars (\$750,000).

13 If an owner's share of the pass-through entity's credit is limited due to the maximum
14 allowable credit under this section for a taxable year or if a corporate owner is not eligible
15 for the credit because the investment was not made in a North Carolina Enterprise Corporation,
16 year, the pass-through entity and its owners may not reallocate the unused credit among
17 the other owners.

18 (c) Application. – To be eligible for the tax credit provided in this section, the
19 taxpayer must file an application for the credit with the Secretary on or before April 15 of
20 the year following the calendar year in which the investment was made. The Secretary
21 may grant extensions of this deadline, as the Secretary finds appropriate, upon the request
22 of the taxpayer, except that the application may not be filed after September 15 of the
23 year following the calendar year in which the investment was made. An application is
24 effective for the year in which it is timely filed. The application shall be on a form
25 prescribed by the Secretary and shall include any supporting documentation that the
26 Secretary may require. If an investment for which a credit is applied for was paid for
27 other than in money, the taxpayer shall include with the application a certified appraisal
28 of the value of the property used to pay for the investment. The application for a credit
29 for an investment made by a pass-through entity must be filed by the pass-through entity.

30 (d) Penalties. – The penalties provided in G.S. 105-236 apply in this Division.

31 **"§ 105-163.012. (Repealed effective for investments made on or after January 1,
32 1999) Limit; carry-over; ceiling; reduction in basis.**

33 (a) The credit allowed a taxpayer under G.S. 105-163.011 may not exceed the
34 amount of income tax imposed by Division I or II of this Article, the amount of franchise
35 tax imposed by Article 3 of this Chapter, or the amount of gross premiums tax imposed by
36 Article 8B of this Chapter, as appropriate, Article for the taxable year reduced by the sum of
37 all other credits allowable except tax payments made by or on behalf of the taxpayer. The
38 amount of unused credit allowed under G.S. 105-163.011 may be carried forward for the
39 next five succeeding years. The fifty thousand dollar (\$50,000) and seven hundred fifty
40 thousand dollar (\$750,000) limitations limitation on the amount of credit allowed a taxpayer
41 under G.S. 105-163.011 ~~do~~ does not apply to unused amounts carried forward under this
42 subsection.

1 (b) The total amount of all tax credits allowed to taxpayers under G.S. 105-
2 163.011 for investments made in a calendar year may not exceed six million dollars
3 (\$6,000,000). The Secretary of Revenue shall calculate the total amount of tax credits
4 claimed from the applications filed pursuant to G.S. 105-163.011(c). If the total amount
5 of tax credits claimed for investments made in a calendar year exceeds six million dollars
6 (\$6,000,000), the Secretary shall allow a portion of the credits claimed by allocating a
7 total of six million dollars (\$6,000,000) in tax credits in proportion to the size of the
8 credit claimed by each taxpayer.

9 (c) If a credit claimed under G.S. 105-163.011 is reduced as provided in this
10 section, the Secretary shall notify the taxpayer of the amount of the reduction of the credit
11 on or before December 31 of the year following the calendar year in which the
12 investment was made. The Secretary's allocations based on applications filed pursuant to
13 G.S. 105-163.011(c) are final and shall not be adjusted to account for credits applied for
14 but not claimed.

15 (d) ~~Unless the taxpayer is required to add the amount of allowable credit to federal~~
16 ~~taxable income under G.S. 105-130.5(a)(10), the~~ The taxpayer's basis in the equity
17 securities or subordinated debt acquired as a result of an investment in a ~~North Carolina~~
18 ~~Enterprise Corporation, qualified business venture, venture or qualified grantee business~~
19 shall be reduced for the purposes of this Article by the amount of allowable credit.
20 'Allowable credit' means the amount of credit allowed under G.S. 105-163.011 reduced as
21 provided in subsection (c) of this section.

22 **"§ 105-163.013. (Repealed effective for investments made on or after January 1,**
23 **1999) Registration.**

24 (a) Repealed by Session Laws 1993, c. 443, s. 4.

25 (b) Qualified Business Ventures. – In order to qualify as a qualified business
26 venture under this Division, a business must be registered with the Securities Division of
27 the Department of the Secretary of State. To register, the business must file with the
28 Secretary of State an application and any supporting documents the Secretary of State
29 may require from time to time to determine that the business meets the requirements for
30 registration as a qualified business venture. A business meets the requirements for
31 registration as a qualified business venture if all of the following are true as of the date
32 the business files the required application:

33 ~~(1) Its headquarters and principal business operations are in North Carolina~~
34 ~~or it has, as a condition to approval of the registration, agreed to~~
35 ~~establish its headquarters and principal business operations in North~~
36 ~~Carolina within three months after the date the first investment eligible~~
37 ~~for a credit under this Division is made.~~

38 (1b) Either (i) it was organized after January 1 of the calendar year in which
39 its application is filed or (ii) during its most recent fiscal year before
40 filing the application, it had gross revenues, as determined in
41 accordance with generally accepted accounting principles, of five
42 million dollars (\$5,000,000) or less on a consolidated basis.

- 1 (2) ~~It has, as a condition to approval of the registration, agreed to retain its~~
2 ~~headquarters and principal business operations in North Carolina for at~~
3 ~~least three years after the date the last investment eligible for credit~~
4 ~~under this Division is made.~~
- 5 (3) It is organized to engage primarily in manufacturing, processing,
6 warehousing, wholesaling, research and development, or a service-
7 related industry.
- 8 (4) It does not engage as a substantial part of its business in any of the
9 following:
- 10 a. Providing a professional service as defined in Chapter 55B of the
11 General Statutes.
- 12 b. Construction or contracting.
- 13 c. Selling or leasing at retail.
- 14 d. The purchase, sale, or development, or purchasing, selling, or
15 holding for investment of commercial paper, notes, other
16 indebtedness, financial instruments, securities, or real property,
17 or otherwise make investments.
- 18 e. Providing personal grooming or cosmetics services.
- 19 f. Offering any form of entertainment, amusement, recreation, or
20 athletic or fitness activity for which an admission or a
21 membership is charged.
- 22 (5) It was not formed for the primary purpose of acquiring all or part of the
23 stock or assets of one or more existing businesses.
- 24 (6) It is not a real estate-related business.

25 The effective date of registration for a qualified business venture whose application is
26 accepted for registration is the filing date of its application. No credit is allowed under
27 this Division for an investment made before the effective date of the registration or after
28 the registration is revoked.

29 To remain qualified as a qualified business venture, the business must renew its
30 registration annually as prescribed by rule by filing a financial statement for the most
31 recent fiscal year showing gross revenues, as determined in accordance with generally
32 accepted accounting principles, of five million dollars (\$5,000,000) or less on a
33 consolidated basis and an application for renewal in which the business certifies the facts
34 required in the original ~~application and that it has not moved its headquarters or principal~~
35 ~~business operations out of North Carolina.~~ application.

36 Failure of a qualified business venture to renew its registration by the applicable
37 deadline shall result in revocation of its registration effective as of the next day after the
38 renewal deadline, but shall not result in forfeiture of tax credits previously allowed to
39 taxpayers who invested in the business except as provided in G.S. 105-163.014. The
40 Secretary of State shall send the qualified business venture notice of revocation within 60
41 days after the renewal deadline. A qualified business venture may apply to have its
42 registration reinstated by the Secretary of State by filing an application for reinstatement,
43 accompanied by the reinstatement application fee and a late filing penalty of one

1 thousand dollars (\$1,000), within 30 days after receipt of the revocation notice from the
2 Secretary of State. A business that seeks approval of a new application for registration
3 after its registration has been revoked must also pay a penalty of one thousand dollars
4 (\$1,000). A registration that has been reinstated is treated as if it had not been revoked.

5 If the gross revenues of a qualified business venture exceed five million dollars
6 (\$5,000,000) in a fiscal year, the business must notify the Secretary of State in writing of
7 this fact by filing a financial statement showing the revenues of the business for that year.

8 (c) Qualified Grantee Businesses. – In order to qualify as a qualified grantee
9 business under this Division, a business must be registered with the Securities Division of
10 the Department of the Secretary of State. To register, the business must file with the
11 Secretary of State an application and any supporting documents the Secretary of State
12 may require from time to time to determine that the business meets the requirements for
13 registration as a qualified grantee business. A business meets the requirements for
14 registration as a qualified grantee business if ~~all of the following are true as of the date the~~
15 ~~business files the required application:~~

16 (1) ~~Its headquarters and principal business operations are in North Carolina~~
17 ~~or it has, as a condition to approval of the registration, agreed to~~
18 ~~establish its headquarters and principal business operations in North~~
19 ~~Carolina within three months after the date the first investment eligible~~
20 ~~for a credit under this Division is made.~~

21 (2) ~~It has, as a condition to approval of the registration, agreed to retain its~~
22 ~~headquarters and principal business operations in North Carolina for at~~
23 ~~least three years after the date the last investment eligible for a credit~~
24 ~~under this Division is made.~~

25 (3) ~~It~~ it has received during the preceding three years a grant or other
26 funding from the North Carolina Technological Development Authority,
27 the North Carolina Technological Development Authority, Inc., North
28 Carolina First Flight, Inc., the North Carolina Biotechnology Center, the
29 Microelectronics Center of North Carolina, the Kenan Institute for
30 Engineering, Technology and Science, or the Federal Small Business
31 Innovation Research Program.

32 The effective date of registration for a qualified grantee business whose application is
33 accepted for registration is the filing date of its application. No credit is allowed under
34 this Division for an investment made before the effective date of the registration or after
35 the registration is revoked.

36 To remain qualified as a qualified grantee business, the business must renew its
37 registration annually as prescribed by rule by filing an application for renewal in which
38 the business certifies the facts listed in this subsection.

39 (d) Application Forms; Rules; Fees. – Applications for registration, renewal of
40 registration, and reinstatement of registration under this section shall be in the form
41 required by the Secretary of State. The Secretary of State may, by rule, require applicants
42 to furnish supporting information in addition to the information required by subsections
43 (b) and (c) of this section. The Secretary of State may adopt rules in accordance with

1 Chapter 150B of the General Statutes that are needed to carry out the Secretary's
2 responsibilities under this Division. The Secretary of State shall prepare blank forms for
3 the applications and shall distribute them throughout the State and furnish them on
4 request. Each application shall be signed by the owners of the business or, in the case of a
5 corporation, by its president, vice-president, treasurer, or secretary. There shall be
6 annexed to the application the affirmation of the person making the application in the
7 following form: 'Under penalties prescribed by law, I certify and affirm that to the best of
8 my knowledge and belief this application is true and complete.' A person who submits a
9 false application is guilty of a Class 1 misdemeanor.

10 The fee for filing an application for registration under this section is one hundred
11 dollars (\$100.00). The fee for filing an application for renewal of registration under this
12 section is fifty dollars (\$50.00). The fee for filing an application for reinstatement of
13 registration under this section is fifty dollars (\$50.00).

14 An application for renewal of registration under this section shall indicate whether the
15 applicant is a minority business, as defined in G.S. 143-128, and shall include a report of
16 the number of jobs the business created during the preceding year that are attributable to
17 investments that qualify under this section for a tax credit and the average wages paid by
18 each job. An application that does not contain this information is incomplete and the
19 applicant's registration may not be renewed until the information is provided.

20 (e) Revocation of Registration. – If the Securities Division of the Department of
21 the Secretary of State finds that any of the information contained in an application of a
22 business registered under this section is false, it shall revoke the registration of the
23 business. The Secretary of State shall not revoke the registration of a business solely
24 because it ceases business operations for an indefinite period of time, as long as the
25 business renews its registration each year as required under G.S. 105-163.013.

26 (f) Transfer of Registration. – A registration as a qualified business venture or
27 qualified grantee business may not be sold or otherwise transferred, except that if a
28 qualified business venture or qualified grantee business enters into a merger,
29 consolidation, or other similar transaction with another business and the surviving
30 corporation would otherwise meet the criteria for being a qualified business venture or
31 qualified grantee business, the surviving company retains the registration without further
32 application to the Secretary of State. In such a case, the qualified business venture or
33 qualified grantee business shall provide the Secretary of State with written notice of the
34 merger, consolidation, or similar transaction and the name, address, and jurisdiction of
35 incorporation of the surviving company.

36 (g) Report by Secretary of State. – The Secretary of State shall report to the
37 Legislative Research Commission by October 1 of each odd-numbered year and by
38 February 1 of each even-numbered year all of the businesses that have registered with the
39 Secretary of State as qualified business ventures and qualified grantee businesses. The
40 report shall include the name and address of each business, a detailed description of the
41 types of business in which it engages, whether the business is a minority business as
42 defined in G.S. 143-128, the number of jobs created by the business during the period
43 covered by the report, and the average wages paid by these jobs.

1 **"§ 105-163.014. (Repealed effective for investments made on or after January 1,**
2 **1999) Forfeiture of credit.**

3 (a) Participation in Business. – A taxpayer who has received a credit under this
4 Division for an investment in a qualified business venture or qualified grantee business
5 forfeits the credit if, within three years after the investment was made, the taxpayer
6 participates in the operation of the qualified business venture or qualified grantee
7 business. For the purpose of this section, a taxpayer participates in the operation of a
8 qualified business venture or a qualified grantee business if the taxpayer, the taxpayer's
9 spouse, parent, sibling, or child, or an employee of any of these individuals or of a
10 business controlled by any of these individuals, provides services of any nature to the
11 qualified business venture or qualified grantee business for compensation, whether as an
12 employee, a contractor, or otherwise. However, a person who provides services to a
13 qualified business venture or a qualified grantee business, whether as an officer, a
14 member of the board of directors, or otherwise does not participate in its operation if the
15 person receives as compensation only reasonable reimbursement of expenses incurred in
16 providing the services, participation in a stock option or stock bonus plan, or both.

17 (b) False Application. – A taxpayer who has received a credit under this Division
18 for an investment in a qualified business venture or a qualified grantee business forfeits
19 the credit if the registration of the qualified business venture or qualified grantee business
20 is revoked because information in the registration application was false at the time the
21 application was filed with the Secretary of State.

22 ~~(c) Location Out of State. – A taxpayer who has received a credit under this~~
23 ~~Division for an investment in a qualified business venture or a qualified grantee business~~
24 ~~does not forfeit the credit if the business fails to renew its registration, except that a~~
25 ~~taxpayer forfeits the credit if the qualified business venture (i) moves its headquarters or~~
26 ~~its principal business operations outside this State within three years after the date of the~~
27 ~~taxpayer's investment or (ii) in the case of a business that promised to move its~~
28 ~~headquarters and principal business operations to this State as a condition to approval of~~
29 ~~its registration, fails to comply with this condition.~~

30 (d) Transfer or Redemption of Investment. – A taxpayer who has received a credit
31 under this Division for an investment in a ~~North Carolina Enterprise Corporation,~~ a qualified
32 business ~~venture,~~ venture or a qualified grantee business forfeits the credit in the
33 following cases:

- 34 (1) Within one year after the investment was made, the taxpayer transfers
35 any of the securities received in the investment that qualified for the tax
36 credit to another person or entity, other than in a transfer resulting from
37 one of the following:
- 38 a. The death of the taxpayer.
 - 39 b. A final distribution in liquidation to the owners of a taxpayer that
40 is a corporation or other entity.
 - 41 c. A merger, consolidation, or similar transaction requiring
42 approval by the shareholders of the ~~North Carolina Enterprise~~
43 ~~Corporation,~~ qualified business ~~venture,~~ venture or qualified

1 grantee business under applicable State law, to the extent the
2 taxpayer does not receive cash or tangible property in the merger,
3 consolidation, or other similar transaction.

- 4 (2) Within five years after the investment was made, the ~~North Carolina~~
5 ~~Enterprise Corporation~~, ~~qualified business venture~~, venture or qualified
6 grantee business in which the investment was made makes a redemption
7 with respect to the securities received in the investment.

8 In the event the taxpayer transfers fewer than all the securities in a manner that would
9 result in a forfeiture, the amount of the credit that is forfeited is the product obtained by
10 multiplying the aggregate credit attributable to the investment by a fraction whose
11 numerator equals the number of securities transferred and whose denominator equals the
12 number of securities received on account of the investment to which the credit was
13 attributable. In addition, if the redemption amount is less than the amount invested by the
14 taxpayer in the securities to which the redemption is attributable, the amount of the credit
15 that is forfeited is further reduced by multiplying it by a fraction whose numerator equals
16 the redemption amount and whose denominator equals the aggregate amount invested by
17 the taxpayer in the securities involved in the redemption. The term 'redemption amount'
18 means all amounts paid that are treated as a distribution in part or full payment in
19 exchange for securities under section 302(a) of the Code.

20 (e) Effect of Forfeiture. – A taxpayer who forfeits a credit under this section is
21 liable for all past taxes avoided as a result of the credit plus interest at the rate established
22 under G.S. 105-241.1(i), computed from the date the taxes would have been due if the
23 credit had not been allowed. The past taxes and interest are due 30 days after the date the
24 credit is forfeited; a taxpayer who fails to pay the past taxes and interest by the due date is
25 subject to the penalties provided in G.S. 105-236."

26 Sec. 8. G.S. 53A-46 is repealed.

27 **PART II. VOLUNTARY USE TAX COLLECTION**

28 Sec. 9. Article V of Chapter 105 of the General Statutes is amended by adding
29 a new section to read:

30 **"§ 105-164.6A. Voluntary collection of use tax by sellers.**

31 (a) Voluntary Collection Agreements. – The Secretary may enter into agreements
32 with sellers pursuant to which the seller agrees to collect and remit on behalf of its
33 customers State and local use taxes due on items of tangible personal property the seller
34 sells. For the purpose of this section, a seller is a person engaged in the business of
35 selling tangible personal property for use in this State who does not have sufficient nexus
36 with this State to be required to collect use tax on the sales.

37 (b) Mandatory Provisions. – The agreements shall contain the following
38 provisions:

39 (1) The customer may elect to pay the use tax directly to the Secretary in
40 accordance with law rather than to the seller.

41 (2) A customer's payment of a use tax to the seller relieves the customer of
42 liability for the use tax.

- 1 (3) The seller shall remit all use taxes it collects from customers on or
 2 before the due date specified in the agreement, which may not be later
 3 than 31 days after the end of a quarter or other collection period.
- 4 (4) If a seller fails to remit use taxes collected on behalf of its customers by
 5 the due date specified in the agreement, the seller is subject to the
 6 interest and penalties provided in Article 9 of this Chapter with respect
 7 to the taxes to the same extent as if it were a retailer required to collect
 8 use taxes under this Article.
- 9 (c) Optional Provisions. – The agreements may contain the following provisions:
- 10 (1) The seller will collect the use tax only on items that are subject to the
 11 general rate of tax.
- 12 (2) The seller will collect local use taxes only to the extent they are at the
 13 same rate in every unit of local government in the State.
- 14 (3) The seller will remit the tax and file reports in the form prescribed by
 15 the Secretary.
- 16 (4) Other provisions establishing the types of transactions on which the
 17 seller will collect tax and prescribing administrative procedures and
 18 requirements."

20 **PART III. PROVIDE AUTOMATIC ANNUAL INCOME TAX REDUCTIONS**

21 Sec. 10. G.S. 105-134.6(c)(4a) is repealed.

22 Sec. 11. The Department of Revenue shall draw from collections under
 23 Division II of Article 4 of Chapter 105 of the General Statutes for the 1996-97 fiscal year
 24 the amount needed to pay for the cost of printing and mailing new withholding tables
 25 required by this act, up to a maximum of one hundred sixteen thousand six hundred
 26 dollars (\$116,600) for the 1996-97 fiscal year.

28 **PART IV. REPEAL STATE PRIVILEGE LICENSE TAXES**

29 Sec. 12. The following sections of Article 2 of Chapter 105 of the General
 30 Statutes are repealed:

- 31 G.S. 105-36 Amusements – Manufacturing, selling, leasing, or distributing
 32 moving picture films.
- 33 G.S. 105-36.1 Amusements – Outdoor theatres.
- 34 G.S. 105-37 Amusements – Moving pictures – Admission.
- 35 G.S. 105-41 Attorneys-at-law and other professionals.
- 36 G.S. 105-42 Private detectives and investigators.
- 37 G.S. 105-45 Collecting agencies.
- 38 G.S. 105-46 Undertakers and retail dealers in coffins.
- 39 G.S. 105-50 Pawnbrokers.
- 40 G.S. 105-51.1 Alarm systems.
- 41 G.S. 105-53 Peddlers, itinerant merchants, and specialty market operators.
- 42 G.S. 105-54 Contractors and construction companies.
- 43 G.S. 105-55 Installing elevators and automatic sprinkler systems.

1	G.S. 105-58	Fortune tellers, palmists, etc.
2	G.S. 105-60	Day-care facilities.
3	G.S. 105-61	Hotels, motels, tourist courts and tourist homes.
4	G.S. 105-62	Restaurants.
5	G.S. 105-65	Music machines.
6	G.S. 105-65.1	Merchandising dispensers and weighing machines.
7	G.S. 105-66.1	Electronic video games.
8	G.S. 105-70	Packinghouses.
9	G.S. 105-72	Persons, firms, or corporations selling certain oils.
10	G.S. 105-74	Pressing clubs, dry cleaning plants, and hat blockers.
11	G.S. 105-75.1	Municipal license tax on barbershops and beauty salons.
12	G.S. 105-77	Tobacco warehouses.
13	G.S. 105-80	Firearms dealers and dealers in other weapons.
14	G.S. 105-85	Laundries.
15	G.S. 105-86	Outdoor advertising.
16	G.S. 105-89	Automobiles, wholesale supply dealers and service stations.
17	G.S. 105-89.1	Motorcycle dealers.
18	G.S. 105-90	Emigrant and employment agents.
19	G.S. 105-91	Plumbers, heating contractors, and electricians.
20	G.S. 105-97	Manufacturers of ice cream.
21	G.S. 105-98	Branch or chain stores.
22	G.S. 105-99	Wholesale distributors of motor fuels.
23	G.S. 105-102.1	Certain cooperative associations.
24	G.S. 105-102.5	General business license.

25 Sec. 13. G.S. 105-33(b) reads as rewritten:

26 "(b) If the business made taxable or the privilege to be exercised under this Article
27 is carried on at two or more separate places, a separate State license for each place is
28 required. ~~For the purpose of this Article, a specialty market is not considered a specialty market~~
29 ~~vendor's place of business."~~

30 Sec. 14. G.S. 105-33(d) reads as rewritten:

31 "~~(d) The State license issued under G.S. 105-41, 105-42, 105-45, 105-53, 105-54,~~
32 ~~105-55, 105-58, and 105-91 shall be and constitute a personal privilege to conduct the~~
33 ~~profession or business named in the State license, shall not be transferable to any other~~
34 ~~person, firm or corporation and shall be construed to limit the person, firm or corporation~~
35 ~~named in the license to conducting the profession or business and exercising the privilege~~
36 ~~named in the State license to the county and/or city and location specified in the State~~
37 ~~license, unless otherwise provided in this Article or schedule. Other A license issued for a~~
38 ~~tax year for the conduct of a business at a specified location shall upon a sale or transfer~~
39 ~~of the business be deemed a sufficient license for the succeeding purchaser for the~~
40 ~~conduct of the business specified at such location for the balance of the tax year:~~
41 ~~Provided, that if the holder of a license under this schedule moves the business for which~~
42 ~~a license has been paid to another location, a new license may be issued to the licensee at~~
43 ~~a new location for the balance of the license year, upon surrender of the original license~~

1 for cancellation and the payment of a fee of five dollars (\$5.00) for each license
2 certificate reissued."

3 Sec. 15. G.S. 105-38(g) is repealed.

4 Sec. 16. G.S. 105-109.1 reads as rewritten:

5 **"§ 105-109.1. Interest.**

6 The taxes on gross receipts levied in G.S. ~~105-37.1(a)~~, ~~105-37.1(a)~~ and G.S. 105-38(f),
7 ~~and 105-65.1(b)(2)~~, the tax on installment paper dealers levied in G.S. 105-83(b), and the
8 tax on publishers of newsprint publications levied in G.S. 105-102.6, shall bear interest at
9 the rate established under G.S. 105-241.1(i) from the time the taxes were due until the
10 taxes are paid."

11 Sec. 17. G.S. 153A-152 reads as rewritten:

12 **"§ 153A-152. Privilege license taxes.**

13 A county may levy privilege license taxes on trades, occupations, professions,
14 businesses, and franchises to the extent authorized by ~~Schedule B of the Revenue Act~~
15 ~~(Chapter 105, Subchapter I, Article 2)~~ Article 2 of Chapter 105 of the General Statutes and
16 any other acts of the General Assembly. A county may levy privilege license taxes to the
17 extent formerly authorized by the following sections of Article 2 of Chapter 105 of the
18 General Statutes before they were repealed:

19	<u>G.S. 105-50</u>	<u>Pawnbrokers.</u>
20	<u>G.S. 105-53</u>	<u>Peddlers, itinerant merchants, and specialty market operators.</u>
21	<u>G.S. 105-55</u>	<u>Installing elevators and automatic sprinkler systems.</u>
22	<u>G.S. 105-58</u>	<u>Fortune tellers, palmists, etc.</u>
23	<u>G.S. 105-65</u>	<u>Music machines.</u>
24	<u>G.S. 105-66.1</u>	<u>Electronic video games.</u>
25	<u>G.S. 105-80</u>	<u>Firearms dealers and dealers in other weapons.</u>
26	<u>G.S. 105-89</u>	<u>Automobiles, wholesale supply dealers and service stations.</u>
27	<u>G.S. 105-89.1</u>	<u>Motorcycle dealers.</u>
28	<u>G.S. 105-90</u>	<u>Emigrant and employment agents.</u>
29	<u>G.S. 105-102.5</u>	<u>General business license."</u>

30 Sec. 18. G.S. 160A-211 reads as rewritten:

31 **"§ 160A-211. Privilege license taxes.**

32 (a) Authority. – Except as otherwise provided by law, a city shall have power to
33 levy privilege license taxes on all trades, occupations, professions, businesses, and
34 franchises carried on within the city. A city may levy privilege license taxes on the
35 businesses that were formerly taxed by the State under the following sections of Article 2
36 of Chapter 105 of the General Statutes only to the extent the sections authorized cities to
37 tax the businesses before the sections were repealed:

38	<u>G.S. 105-36</u>	<u>Amusements – Manufacturing, selling, leasing, or distributing</u> 39 <u>moving picture films.</u>
40	<u>G.S. 105-36.1</u>	<u>Amusements – Outdoor theatres.</u>
41	<u>G.S. 105-37</u>	<u>Amusements – Moving pictures – Admission.</u>
42	<u>G.S. 105-41</u>	<u>Attorneys-at-law and other professionals.</u>
43	<u>G.S. 105-42</u>	<u>Private detectives and investigators.</u>

1	<u>G.S. 105-45</u>	<u>Collecting agencies.</u>
2	<u>G.S. 105-46</u>	<u>Undertakers and retail dealers in coffins.</u>
3	<u>G.S. 105-50</u>	<u>Pawnbrokers.</u>
4	<u>G.S. 105-51.1</u>	<u>Alarm systems.</u>
5	<u>G.S. 105-53</u>	<u>Peddlers, itinerant merchants, and specialty market operators.</u>
6	<u>G.S. 105-54</u>	<u>Contractors and construction companies.</u>
7	<u>G.S. 105-55</u>	<u>Installing elevators and automatic sprinkler systems.</u>
8	<u>G.S. 105-61</u>	<u>Hotels, motels, tourist courts and tourist homes.</u>
9	<u>G.S. 105-62</u>	<u>Restaurants.</u>
10	<u>G.S. 105-65</u>	<u>Music machines.</u>
11	<u>G.S. 105-65.1</u>	<u>Merchandising dispensers and weighing machines.</u>
12	<u>G.S. 105-66.1</u>	<u>Electronic video games.</u>
13	<u>G.S. 105-72</u>	<u>Persons, firms, or corporations selling certain oils.</u>
14	<u>G.S. 105-74</u>	<u>Pressing clubs, dry cleaning plants, and hat blockers.</u>
15	<u>G.S. 105-77</u>	<u>Tobacco warehouses.</u>
16	<u>G.S. 105-80</u>	<u>Firearms dealers and dealers in other weapons.</u>
17	<u>G.S. 105-85</u>	<u>Laundries.</u>
18	<u>G.S. 105-86</u>	<u>Outdoor advertising.</u>
19	<u>G.S. 105-89</u>	<u>Automobiles, wholesale supply dealers and service stations.</u>
20	<u>G.S. 105-89.1</u>	<u>Motorcycle dealers.</u>
21	<u>G.S. 105-90</u>	<u>Emigrant and employment agents.</u>
22	<u>G.S. 105-91</u>	<u>Plumbers, heating contractors, and electricians.</u>
23	<u>G.S. 105-97</u>	<u>Manufacturers of ice cream.</u>
24	<u>G.S. 105-98</u>	<u>Branch or chain stores.</u>
25	<u>G.S. 105-99</u>	<u>Wholesale distributors of motor fuels.</u>
26	<u>G.S. 105-102.1</u>	<u>Certain cooperative associations.</u>
27	<u>G.S. 105-102.5</u>	<u>General business license.</u>

28 (b) Barbershop and Salon Restriction. – A privilege license tax levied by a city on
29 a barbershop or a beauty salon may not exceed two dollars and fifty cents (\$2.50) for
30 each barber, manicurist, cosmetologist, beautician, or other operator employed in the
31 barbershop or beauty salon."

32 Sec. 19. Chapter 66 of the General Statutes is amended by adding a new
33 Article to read:

34 **"ARTICLE 31.**

35 **"PEDDLERS, ITINERANT MERCHANTS, AND SPECIALTY MARKETS.**

36 **"§ 66-230. Definitions.**

37 The following definitions apply in this Article:

38 (1) Itinerant merchant. – A person, other than a merchant with an
39 established retail store in the county, who transports an inventory of
40 goods to a building, vacant lot, or other location in a county and who, at
41 that location, displays the goods for sale and sells the goods at retail or
42 offers the goods for sale at retail.

- 1 (2) Peddler. – A person who travels from place to place with an inventory
2 of goods, who sells the goods at retail or offers the goods for sale at
3 retail, and who delivers the identical goods.
- 4 (3) Person. – An individual, a firm, an association, a partnership, a limited
5 liability company, a corporation, a unit of government, or another group
6 acting as a unit.
- 7 (4) Specialty market. – A location, other than a permanent retail store,
8 where space is rented to others for the purpose of selling goods at retail
9 or offering goods for sale at retail.
- 10 (5) Specialty market operator. – A person, other than the State or a unit of
11 local government, who rents space, at a location other than a permanent
12 retail store, to others for the purpose of selling goods at retail or offering
13 goods for sale at retail.
- 14 (6) Specialty market vendor. – A person, other than a merchant with an
15 established retail store in the county, who transports an inventory of
16 goods to a specialty market and, at that location, displays the goods for
17 sale and sells the goods at retail or offers the goods for sale at retail.

18 **"§ 66-231. Itinerant merchant and peddler must have permission of property**
19 **owner.**

20 An itinerant merchant or a peddler who travels from place to place by vehicle must
21 obtain a written statement signed by the owner or lessee of any property upon which the
22 itinerant merchant or peddler offers goods for sale giving the owner's or lessee's
23 permission to offer goods for sale upon the property of the owner or lessee. This
24 statement must clearly state the name of the owner or lessee, the location of the premises
25 for which the permission is granted, and the dates during which the permission is valid.
26 The statement must be conspicuously and prominently displayed, so as to be visible for
27 inspection by patrons of the itinerant merchant or peddler, at the places or locations at
28 which the goods are to be sold or offered for sale.

29 **"§ 66-232. Display and possession of retail sales tax license.**

30 (a) When Required. – An itinerant merchant must keep the merchant's retail sales
31 tax license conspicuously and prominently displayed, so as to be visible for inspection by
32 patrons of the itinerant merchant at the places or locations at which the goods are to be
33 sold or offered for sale. A peddler must carry the peddler's retail sales tax license when
34 the peddler offers goods for sale and must produce the license upon the request of any
35 customer, State or local revenue agent, or law enforcement agent. A specialty market
36 vendor must keep the retail sales tax license conspicuously and prominently displayed, so
37 as to be visible for inspection by patrons of the specialty market vendor at the places or
38 locations at which the goods are to be sold or offered for sale. A specialty market
39 operator must have its retail sales tax license, if any, available for inspection during all
40 times that the specialty market is open and must produce it upon the request of any
41 customer, State or local revenue agent, or law enforcement agent.

42 (b) Compliance. – The requirement that a retail sales tax license be displayed is
43 satisfied if the vendor displays either of the following:

1 (1) A copy of the license.

2 (2) Evidence that the license has been applied for and the applicable license
3 fee has been paid within 30 days before the date the license was
4 required to be displayed.

5 **"§ 66-233. Display of identification upon request.**

6 Upon the request of any customer, State or local revenue agent, or law enforcement
7 agent, a peddler, an itinerant merchant, a specialty market operator, or a specialty market
8 vendor must provide its name and permanent address. If the peddler, itinerant merchant,
9 specialty market operator, or specialty market vendor is not a corporation, he or she must,
10 upon the request of any customer, State or local revenue agent, or law enforcement agent,
11 provide a valid drivers license, a special identification card issued under G.S. 20-37.7,
12 military identification, or a passport bearing a physical description of the person named
13 reasonably describing the peddler, itinerant merchant, specialty market operator, or
14 specialty market vendor. If the peddler, itinerant merchant, specialty market operator, or
15 specialty market vendor is a corporation, it must, upon the request of any customer, State
16 or local revenue agent, or law enforcement agent, give the name and registered agent of
17 the corporation and the address of the registered office of the corporation, as filed with
18 the Secretary of State.

19 **"§ 66-234. Records of source of new merchandise.**

20 (a) Record Required. – Each peddler, itinerant merchant, and specialty market
21 vendor must keep a written record of the source of new merchandise the merchant offers
22 for sale. The record must be a receipt or an invoice from the person who sold the
23 merchandise to the merchant. The invoice or receipt must specifically identify the
24 product being sold by product name and quantity purchased and must contain the
25 complete business name of the seller and a description of the type of business. If the
26 seller was an individual, the receipt or invoice must contain the seller's drivers license
27 number, its state of issuance and expiration date, and the seller's date of birth. The
28 merchant must verify this information by comparing the seller's drivers license to the
29 invoice or receipt and signing the invoice or receipt. A special identification card issued
30 by the Division of Motor Vehicles may be used in place of the seller's drivers license for
31 the purposes of providing and verifying information required under this section. If the
32 seller was a corporation, the receipt or invoice must contain the corporation's federal tax
33 identification number, the state of incorporation, the name and address of the
34 corporation's registered agent in this State, if any, and the corporation's principal office
35 address.

36 (b) Keeping the Record. – Each peddler, itinerant merchant, and specialty market
37 vendor must keep the record required by subsection (a) of this section with the new
38 merchandise being offered for sale. Once the new merchandise is sold, the merchant
39 must keep the record for a period of three years after the date of the sale.

40 (c) Displaying Record or Affidavit. – Upon the request of a law enforcement
41 agent, a peddler, an itinerant merchant, or a specialty market vendor must produce either
42 of the following:

1 (1) The record required by subsection (a) of this section of the source of
2 new merchandise the merchant offers for sale.

3 (2) An affidavit under oath or affirmation identifying the source of new
4 merchandise the merchant offers for sale, including the name and
5 address of the seller, the license number of any auctioneer seller, and the
6 date and place of purchase of the merchandise.

7 A merchant's failure to produce the requested record or an affidavit within a
8 reasonable time of request by a law enforcement agent is prima facie evidence of
9 possession of stolen property. Pending the production of the requested record or
10 affidavit, the agent may take the merchandise into custody as evidence at the time the
11 request is made. Merchandise impounded under this subsection must be disposed of in
12 accordance with G.S. 15-11.1.

13 (d) Posted Notice. – A specialty market operator must conspicuously post in plain
14 view of all specialty market vendors a sign informing all vendors that failure to produce,
15 upon the request of a law enforcement agent, either the records or affidavit required
16 under this section is prima facie evidence of possession of stolen property.

17 **"§ 66-235. Specialty market registration list.**

18 A specialty market operator must maintain a daily registration list of all specialty
19 market vendors selling or offering goods for sale at the specialty market. The registration
20 list must clearly and legibly show each specialty market vendor's name, permanent
21 address, and retail sales and use tax registration number. The specialty market operator
22 must require each specialty market vendor to exhibit a valid retail sales tax license for
23 visual inspection by the specialty market operator at the time of registration, and must
24 require each specialty market vendor to keep the retail sales tax license conspicuously
25 and prominently displayed, so as to be visible for inspection by patrons of the specialty
26 market vendor at the places or locations at which the goods are offered for sale. Each
27 daily registration list maintained pursuant to this section must be retained by the specialty
28 market operator for no less than two years and must at any time be made available upon
29 request to any law enforcement officer.

30 **"§ 66-236. Exemptions from Article.**

31 This Article does not apply to the following:

32 (1) A peddler or an itinerant merchant who meets any of the following
33 descriptions:

34 a. Sells farm or nursery products produced by the merchant.

35 b. Sells crafts or goods made by the merchant or the merchant's
36 own household personal property.

37 c. Is a nonprofit charitable, educational, religious, scientific, or
38 civic organization.

39 d. Sells printed material, wood for fuel, ice, seafood, meat, poultry,
40 livestock, eggs, dairy products, bread, cakes, or pies.

41 e. Is an authorized automobile dealer licensed pursuant to Chapter
42 20 of the General Statutes.

1 (2) A peddler who maintains a fixed permanent location from which at least
2 ninety percent (90%) of the peddler's sales are made but who sells some
3 goods in the county of the fixed location by peddling.

4 (3) An itinerant merchant who meets any of the following descriptions:

5 a. Locates at a farmer's market.

6 b. Is part of the State Fair or an agriculture fair that is licensed by
7 the Commissioner of Agriculture pursuant to G.S. 106-520.3.

8 c. Sells goods at an auction conducted by an auctioneer licensed
9 pursuant to Chapter 85B of the General Statutes.

10 (4) A peddler who complies with the requirements of G.S. 25A-38 through
11 G.S. 25A-42, or who complies with the requirements of G.S. 14-401.13.

12 **"§ 66-237. Misdemeanor violations.**

13 (a) Class 1 Misdemeanors. – A person who does any of the following commits a
14 Class 1 misdemeanor:

15 (1) Fails to keep a record of new merchandise offered for sale as required
16 by G.S. 66-234.

17 (2) Fails to produce a record or an affidavit pursuant to G.S. 66-234.

18 (3) Falsifies a record of new merchandise required by G.S. 66-234.

19 (b) Class 3 Misdemeanors. – A person who does any of the following commits a
20 Class 3 misdemeanor:

21 (1) Knowingly gives false information when registering pursuant to G.S.
22 66-235.

23 (2) If the person is an itinerant merchant or a specialty market vendor, fails
24 to display the retail sales tax license as required by G.S. 66-232.

25 (3) If the person is a peddler or specialty market operator, fails to produce
26 the retail sales tax license as required by G.S. 66-232.

27 (4) Fails to obtain the permission of the property owner as required by G.S.
28 66-231.

29 (5) Fails to provide name, address, or identification upon request as
30 required by G.S. 66-233 or provides false information in response to the
31 request.

32 (6) If the person is a specialty market operator, fails to maintain the daily
33 registration list as required by G.S. 66-235.

34 (c) Defense. – Whenever satisfactory evidence is presented in any court of the fact
35 that a retail sales tax license was not displayed or produced as required by G.S. 66-232 or
36 that permission to use property was not displayed as required by G.S. 66-231, the person
37 charged may not be found guilty of that violation if the person produces in court a valid
38 retail sales tax license or valid permission, respectively, that had been issued prior to the
39 time the person was charged.

40 **"§ 66-238. Local regulation not affected.**

41 This Article does not affect the authority of a county or city to impose additional
42 requirements on peddlers, itinerant merchants, specialty market vendors, or specialty
43 market operators by an ordinance adopted under G.S. 153A-125 or G.S. 160A-178."

**PART V. SIMPLIFY AND REDUCE INHERITANCE TAXES;
REPEAL GIFT TAXES**

Sec. 20. Article 1 of Chapter 105 of the General Statutes is amended by adding a new section to read:

"§ 105-6.1. Phaseout of inheritance tax.

When this Article imposes an inheritance tax on property transferred by a decedent but no state death tax credit is allowed under section 2011 of the Code against federal estate tax due on the transfer of the decedent's estate, the amount of inheritance tax is reduced by the appropriate percentage in the phaseout table set out below. When this Article imposes an inheritance tax on property transferred by a decedent and a state death tax credit is allowed under section 2011 of the Code against federal estate tax due on the transfer of the decedent's estate, the amount of inheritance tax that exceeds the maximum credit for state death taxes is reduced by the appropriate percentage in the following phaseout table:

<u>Calendar Year of Decedent's Death</u>	<u>Percentage Reduction</u>
<u>1997</u>	<u>20%</u>
<u>1998</u>	<u>40%</u>
<u>1999</u>	<u>60%</u>
<u>2000</u>	<u>80%</u>
<u>2001 and after</u>	<u>100%."</u>

Sec. 21. G.S. 105-3 is amended by adding a new subdivision to read:

"(11) Property transferred to another when the transfer of the property is exempt from federal estate and gift taxes under section 2056(b)(7) of the Code because it is considered qualified terminable interest property."

Sec. 22. G.S. 105-188 is amended by adding a new subsection to read:

"(j) The tax does not apply to property transferred to another when the transfer of the property is exempt from federal estate and gift taxes under section 2523(f) of the Code because it is considered qualified terminable interest property."

Sec. 23. G.S. 105-2(a) reads as rewritten:

"(a) A tax shall be and is hereby imposed upon the transfer of any property, real or personal, or of any interest therein or income therefrom, in trust or otherwise, to persons or corporations, in the following cases:

(1) When the transfer is from a person who dies seized of the property while a resident of the State and it is made:

- a. By will or by intestacy;
- b. Pursuant to a final judgment entered in a proceeding to caveat a will; or
- c. Pursuant to a settlement agreement, to which the personal representative is a party, that, in the determination of the Secretary of Revenue in his sole discretion based on evidence

1 presented by the personal representative, reflects the good faith,
2 arm's-length compromise of an actual dispute between
3 beneficiaries, heirs, or personal representatives and does not have
4 the primary purpose of avoiding inheritance tax.

- 5 (2) When the transfer is by will or intestate laws of this or any other state of
6 real property or goods, wares, and merchandise within this State, or of
7 any property, real, personal, or mixed, tangible or intangible, over which
8 the State of North Carolina has a taxing jurisdiction, including State and
9 municipal bonds, and the decedent was a resident of the State at the time
10 of death; when the transfer is of real property or tangible personal
11 property within the State, or intangible personal property that has
12 acquired a situs in this State, and the decedent was a nonresident of the
13 State at the time of death.

14 (3) When the transfer of property made by a resident, or
15 nonresident, is of real property within this State, or of goods, wares
16 and merchandise within this State, or of any other property, real,
17 personal, or mixed, tangible or intangible, over which the State of
18 North Carolina has taxing jurisdiction, including State and municipal
19 bonds, by deed, grant, bargain, sale, or gift made in contemplation of
20 the death of the grantor, vendor, or donor, or intended to take effect in
21 possession or enjoyment at or after such death, including a transfer
22 under which the transferor has retained for his life or any period not
23 ending before his death (i) the possession or enjoyment of, or the
24 income from, the property or (ii) the right to designate the persons
25 who shall possess or enjoy the property or the income therefrom. The
26 aggregate value exceeding ten thousand dollars (\$10,000) of transfers
27 to any one donee within a tax year by deed, grant, bargain, sale, gift,
28 or combination thereof, made within three years prior to the death of
29 the grantor, vendor, or donor, without an adequate valuable
30 consideration, shall be presumed, subject to rebuttal, to have been
31 made in contemplation of death within the meaning of this section; the
32 first ten thousand dollars (\$10,000) in value shall be deemed not made
33 in contemplation of death.

34 (4) When any person or corporation comes into possession or
35 enjoyment, by a transfer from a resident, or from a nonresident
36 decedent when such nonresident decedent's property consists of real
37 property within this State or tangible personal property within the
38 State, or intangible personal property that has acquired a situs in this
39 State, of an estate in expectancy of any kind or character which is
40 contingent or defeasible, transferred by any instrument taking effect
41 after March 24, 1939.

42 (5) a. For purposes of this Article, the term 'general
43 power of appointment' means a power which is exercisable in

1 favor of the decedent, his estate, his creditors, or the creditors
2 of his estate; except that:

3 1. A power to consume, invade or appropriate
4 property for the benefit of the decedent which is limited
5 by an ascertainable standard relating to the health,
6 education, support or maintenance of the decedent shall
7 not be deemed a general power of appointment.

8 2. A power of appointment which is exercisable
9 by the decedent only in conjunction with another
10 person:

11 I. If the power is not exercisable by the decedent
12 except in conjunction with the creator of the power,
13 such power shall not be deemed a general power of
14 appointment.

15 II. If the power is not exercisable by the decedent
16 except in conjunction with a person having a
17 substantial interest in the property, subject to the
18 power, which is adverse to exercise of the power in
19 favor of the decedent, such power shall not be
20 deemed a general power of appointment. For the
21 purposes of this clause a person who, after the
22 death of the decedent, may be possessed of a power
23 of appointment (with respect to the property subject
24 to the decedent's power) which he may exercise in
25 his own favor shall be deemed as having an interest
26 in the property and such interest shall be deemed
27 adverse to such exercise of the decedent's power.

28 III. If (after the application of clauses I and II) the
29 power is a general power of appointment and is
30 exercisable in favor of such other person, such
31 power shall be deemed a general power of
32 appointment only in respect of a fractional part of
33 the property subject to such power, such part to be
34 determined by dividing the value of such property
35 by the number of such persons (including the
36 decedent) in favor of whom such power is
37 exercisable.

38 IV. For purposes of clauses II and III, a power shall be
39 deemed to be exercisable in favor of a person if it is
40 exercisable in favor of such person, his estate, his
41 creditors, or the creditors of his estate.

42 b. Whenever any person shall have a general power of appointment
43 with respect to any interest in property, such person shall, for the

1 purposes of this Article, be deemed the owner of such interest
2 and accordingly:

3 1. If in connection with any transfer of property
4 taxable under this Article the transferor shall give to any
5 person a general power of appointment with respect to
6 any interest in such property, the transferor shall be
7 deemed to have given such interest in such property to
8 such person.

9 2. If any person holding a general power of
10 appointment with respect to any interest in property
11 shall exercise such power in favor of any other person
12 or persons, either by will or by an appointment made in
13 contemplation of the death of such person, or by an
14 appointment intended to take effect in possession or
15 enjoyment at or after such death, he shall be deemed to
16 have made a transfer of such interest to such person or
17 persons.

18 3. If any person holding a general power of
19 appointment with respect to any interest in property
20 shall relinquish such power by any action taken in
21 contemplation of death or intended to take effect at or
22 after his death, or shall die without fully exercising such
23 power, he shall be deemed, to the extent of such
24 relinquishment or nonexercise, to have made a transfer
25 of such interest to the person or persons who shall
26 benefit thereby.

27 (6) Neither the exercise nor the relinquishment of a special power
28 of appointment (which shall mean any power other than a general
29 power) with respect to an interest in property shall be deemed to
30 constitute a transfer of such interest within the meaning of this
31 Article. If in connection with any transfer taxable under this Article
32 the transferor shall give to any person a special power of appointment
33 with respect to any interest in property, he shall be deemed, for the
34 purpose of computing the tax applicable thereto, to have given such
35 interest in equal shares to those persons, not more than two, among
36 the possible appointees and takers in default of appointment whom the
37 transferor's executor or administrator may designate as transferees in
38 the inheritance tax return, except that:

39 a. If a gift tax return is filed with respect to such transfer,
40 the persons designated therein shall also be designated in the
41 inheritance tax return, and

42 b. The tax shall be computed according to the
43 relationship of the donee of the power to the persons

1 designated if the possible appointees and takers in default of
2 appointment include any persons more closely related to the
3 donee of the power than to the donor, and if such computation
4 would produce a higher tax.

5 (7), (7a) Repealed by Session Laws, 1985, c. 656, s. 1.

6 (8) Where the proceeds of life insurance policies are payable as
7 provided in G.S. 105-13.

8 (9) Whenever any person or corporation comes into possession or
9 enjoyment of any real or personal property, including bonds of the
10 United States and bonds of a state or subdivision or agency thereof, at
11 or after the death of an individual and by reason of said individual's
12 having entered into a contract or other arrangement with the United
13 States, a state or any person or corporation to pay, transfer or deliver
14 said real or personal property, including bonds of the United States
15 and bonds of a state, to the person or corporation receiving the same,
16 whether said person or corporation is named in the contract or other
17 arrangement or not: Provided, that no tax shall be due or collected on
18 that portion of the real or personal property received under the
19 conditions outlined herein which the person or corporation receiving
20 the same purchased or otherwise acquired by funds or property of the
21 person or corporation receiving the same, or had acquired by a
22 completed inter vivos gift.

23 Nothing in subdivision (9) shall apply to the proceeds of life
24 insurance policies.

25 (10) Upon the death of a decedent who had a qualifying income interest for
26 life in qualified terminable interest property whose previous transfer
27 was exempt from inheritance or gift taxes under G.S. 105-3(11) or G.S.
28 105-188(j), the qualified terminable interest property that was
29 previously exempt is considered to pass from the decedent to the person
30 who is entitled to the property upon the termination of the decedent's
31 qualifying income interest for life. This subdivision does not apply to
32 an interest in qualified terminable interest property that the decedent
33 transferred to another and was not part of the decedent's qualifying
34 income interest for life.

35 However, nothing in this Article shall be construed as imposing a tax upon any
36 transfer of intangibles not having a commercial or business situs in this State, by a
37 person, or by reason of the death of a person, who was not a resident of this State at the
38 time of his death, and, if held or transferred in trust, such intangibles shall not be deemed
39 to have a commercial or business situs in this State merely because the trustee is a
40 resident or, if a corporation, is doing business in this State, unless the same be employed
41 in or held or used in connection with some business carried on in whole or in part in this
42 State."

43 Sec. 24. G.S. 105-9(8) reads as rewritten:

1 (b) Amount. – The amount of the estate tax imposed by this section is the
2 maximum credit for state death taxes allowed under section 2011 of the Code. If
3 property in the estate is located in a state other than North Carolina, the amount of tax
4 payable is the North Carolina percentage of the credit.

5 If the decedent was a resident of this State at death, the North Carolina percentage is
6 the net value of real property in the estate that is located in North Carolina plus the net
7 value of all personal property in the estate that does not have a tax situs in another state,
8 divided by the net value of all the property in the estate. If the decedent was not a
9 resident of this State at death, the North Carolina percentage is the net value of real
10 property in the estate that is located in North Carolina plus the net value of any personal
11 property in the estate that has a tax situs in North Carolina, divided by the net value of all
12 property in the estate, unless the decedent's state of residence uses a different formula to
13 determine the North Carolina percentage. In that circumstance, the North Carolina
14 percentage is the amount determined by the formula used by the decedent's state of
15 residence.

16 The net value of property that is located in or has a tax situs in this State is its gross
17 value reduced by any debt secured by that property. The net value of all the property in
18 the estate is its gross value reduced by any debts of the estate.

19 **"§ 105-32.3. Liability for estate tax.**

20 (a) Primary. – The tax imposed by this Article is payable from the assets of the
21 estate. A person who receives property from an estate is liable for the amount of estate
22 tax attributable to that property.

23 (b) Personal Representative. – The personal representative of an estate is liable for
24 an estate tax that is not paid within two years after it was due. This liability is limited to
25 the value of the assets of the estate that were under the control of the personal
26 representative. The amount for which the personal representative is liable may be
27 recovered from the personal representative or from the surety on any bond filed by the
28 personal representative under Article 8 of Chapter 28A of the General Statutes.

29 (c) Clerk of Court. – A clerk of court who allows a personal representative to
30 make a final settlement of an estate without presenting one of the following is liable on
31 the clerk's bond for any estate tax due:

32 (1) An affirmation by the personal representative certifying that no tax is
33 due on the estate because this Article does not require an estate tax
34 return to be filed for that estate.

35 (2) A certificate issued by the Secretary stating that the tax liability of the
36 estate has been satisfied.

37 **"§ 105-32.4. Payment of estate tax.**

38 (a) Due Date. – The estate tax imposed by this Article is due when an estate tax
39 return is due. An estate tax return is due on the date a federal estate tax return is due.

40 (b) Filing Return. – An estate tax return must be filed under this Article if a federal
41 estate tax return is required. The return must be filed by the personal representative of
42 the estate on a form provided by the Secretary.

1 (c) Extension. – An extension of time to file a federal estate tax return is an
2 automatic extension of the time to file an estate tax return under this Article. The
3 Secretary may, in accordance with G.S. 105-263, extend the time for paying the estate
4 tax imposed by this Article or for filing an estate tax return.

5 (d) Interest and Penalties. – The penalties in G.S. 105-236 apply to the failure to
6 file an estate tax return or to pay an estate tax when due. Interest at the rate set in G.S.
7 105-241.1 accrues on estate taxes paid after the date they are due.

8 (e) Obtaining Amount Due. – The personal representative of an estate may sell
9 assets in the estate to obtain money to pay the tax imposed by this Article.

10 **"§ 105-32.5. Making installment payments of tax due when federal estate tax is**
11 **payable in installments.**

12 A personal representative who elects under section 6166 of the Code to make
13 installment payments of federal estate tax may elect to make installment payments of the
14 tax imposed by this Article. An election under this section extends the time for payment
15 of the tax due in accordance with the extension elected under section 6166 of the Code.
16 Payments of tax are due under this section at the same time and in the same proportion to
17 the total amount of tax due as payments of federal estate tax under section 6166 of the
18 Code. Acceleration of payments under section 6166 of the Code accelerates the
19 payments due under this section.

20 **"§ 105-32.6. Estate tax is a lien on property in the estate.**

21 The tax imposed by this Article on an estate is a lien on the real property in the estate
22 and on the proceeds of the sale of the real property in the estate. The lien is extinguished
23 when one of the following occurs:

24 (1) The personal representative certifies to the clerk of court that no tax is
25 due on the estate because this Article does not require an estate tax
26 return to be filed for that estate.

27 (2) The Secretary issues a certificate stating that the tax liability of the
28 estate has been satisfied.

29 (3) For specific real property, when the Secretary issues a tax waiver for
30 that property.

31 (4) Ten years have elapsed since the date of the decedent's death.

32 **"§ 105-32.7. Federal determination that changes the maximum state death tax**
33 **credit allowed.**

34 If the federal government corrects or otherwise determines the amount of the
35 maximum state death tax credit allowed an estate under section 6166 of the Code, the
36 personal representative must, within two years after being notified of the correction or
37 final determination by the federal government, file an estate tax return with the Secretary
38 reflecting the correct amount of tax payable under this Article. The Secretary must assess
39 and collect any additional tax due on the estate as provided in Article 9 of this Chapter
40 and must refund any overpayment of tax as provided in Article 9 of this Chapter. A
41 personal representative who fails to report a federal correction or determination is subject
42 to the penalties in G.S. 105-236 and forfeits the right of the estate to any refund due by
43 reason of the determination.

1 **"§ 105-32.8. Generation-skipping transfer tax.**

2 (a) Tax. – A tax is imposed on a generation skipping transfer that is subject to the
3 tax imposed by Chapter 13 of Subtitle B of the Code in the following circumstances:

4 (1) When the original transferor is a resident of this State at the date of the
5 original transfer. In this circumstance, the tax is the amount of the
6 credit for State generation-skipping transfer taxes allowed under section
7 2604 of the Code that exceeds the amount of taxes paid on the transfer
8 to all states other than this State.

9 (2) When the original transferor is not a resident of this State at the date of
10 the original transfer and the transfer includes real or personal property
11 with a situs in this State. In this circumstance, the tax is the amount of
12 the credit for State generation-skipping transfer taxes allowed under
13 section 2604 of the Code, reduced by an amount that bears the same
14 ratio to the federal credit as the value of the transferred property taxable
15 by all states other than this State bears to the gross value of the
16 generation-skipping transfer.

17 (b) Payment. – The tax imposed by this section is due when a return is due. A
18 return is due the same date as the federal return for payment of the federal generation-
19 skipping transfer tax. The tax is payable by the person who is liable for the federal
20 generation-skipping transfer tax."

21
22 **PART VI. EFFECTIVE DATES**

23 Sec. 29. Notwithstanding G.S. 105-163.15 and G.S. 105-163.41, no addition to
24 tax may be made under either of those statutes for a taxable year beginning on or after
25 January 1, 1996, and before January 1, 1997, with respect to an underpayment of
26 individual or corporation income tax to the extent the underpayment was created or
27 increased by this act.

28 Sec. 30. This act does not affect the rights or liabilities of the State, a taxpayer,
29 or another person arising under a statute amended or repealed by this act before its
30 amendment or repeal; nor does it affect the right to any refund or credit of a tax that
31 would otherwise have been available under the amended or repealed statute before its
32 amendment or repeal.

33 Sec. 31. This act becomes effective as follows:

34 (1) Unconstitutional Tax Preferences. – Sections 1 through 4 of Part I of
35 this act are effective for taxable years beginning on or after January 1,
36 1996.

37 (2) Cap on Qualified Investments. – Section 5 of Part I of this act is
38 effective for investments made on or after January 1, 1996.

39 (3) Subsidiary Dividend Deduction. – Section 6 of this act is effective for
40 taxable years beginning on or after January 1, 1997.

41 (4) Modify Qualified Business Investment Credits. – Sections 7 through 8
42 of Part I of this act become effective for investments made on or after
43 January 1, 1997.

- 1 (5) Voluntary Use Tax Collection. – Part II of this act is effective upon
2 ratification.
- 3 (6) Automatic Annual Income Tax Reductions. – Part III of this act is
4 effective for taxable years beginning on or after January 1, 1997.
- 5 (7) Repeal Privilege License Taxes. – Part IV of this act becomes effective
6 July 1, 1997.
- 7 (8) Inheritance and Gift Tax Changes. – Sections 20 through 23 of Part V
8 become effective January 1, 1997, and apply to the estates of decedents
9 dying on or after that date. Sections 24 and 25 of Part V become
10 effective July 1, 1996, and apply to the estates of decedents dying on or
11 after that date. Section 26 of Part V becomes effective January 1, 1999,
12 and applies to gifts made on or after that date. Sections 27 and 28 of
13 Part V become effective January 1, 2001, and apply to the estates of
14 decedents dying on or after that date.
- 15 (9) Remainder. – The remainder of this act is effective upon ratification.