

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

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HOUSE BILL 162

Short Title: Unpaid Debts Taxed as Income.

(Public)

Sponsors: Representative Gamble.

Referred to: Finance.

February 9, 1995

A BILL TO BE ENTITLED

AN ACT TO PROVIDE THAT DEBTS THAT REMAIN UNPAID ONE HUNDRED
TWENTY DAYS AFTER THEY ARE DUE ARE TAXABLE AS INCOME TO
THE DEBTOR.

The General Assembly of North Carolina enacts:

Section 1. Division I of Article 4 of Chapter 105 of the General Statutes is amended by adding a new section to read:

"§ 105-130.12A. Certain debts taxable as income.

(a) Definitions. – As used in this section, the term 'debt' means a liquidated sum due a creditor, minus the value of any real or tangible personal property by which the sum due is secured. The term does not include a sum due under a home loan, as defined in G.S. 24-1.1A, or a manufactured home loan, as defined in G.S. 24-1.1C.

(b) Creditors May Report Debts. – A creditor who complies with the requirements of this section may report to the Secretary pursuant to G.S. 105-130.21(c) a debt owed to the creditor that became 120 days overdue during the calendar year. Before reporting the debt, the creditor must send the debtor a letter by mail to the debtor's last known address advising the debtor that (i) unless the debtor contests or pays the debt within 30 days, the creditor will report the amount of the debt to the Secretary and (ii) unless the debtor contests or pays the debt, the amount of the debt will be taxable to the debtor as income. If the debtor does not contest or pay the debt within 35 days after the creditor mails the

1 letter required by this subsection, the creditor may report the debt to the Secretary
2 pursuant to G.S. 105-130.21(c).

3 (c) Debts Taxable as Income. – Uncontested debts that become 120 days overdue
4 during the taxable year are taxable as income of the debtor. A debt is uncontested if the
5 debtor does not dispute the amount or the due date of the debt. The debtor shall include
6 an uncontested debt in taxable income as provided in G.S. 105-130.5(a)(14) unless the
7 debt is (i) includable in gross income under the Code for the taxable year because it has
8 been discharged or (ii) not includable in gross income for the taxable year pursuant to
9 section 108(a) of the Code. If the debtor later repays the debt, the debtor may deduct the
10 amount repaid as provided in G.S. 105-130.5(b)(17). If the debt later becomes (i)
11 includable in gross income under the Code for the taxable year because it has been
12 discharged or (ii) not includable in gross income for the taxable year pursuant to section
13 108(a) of the Code, the debtor may deduct the debt as provided in G.S. 105-
14 130.5(b)(17)."

15 Sec. 2. G.S. 105-130.5 reads as rewritten:

16 **"§ 105-130.5. Adjustments to federal taxable income in determining State net**
17 **income.**

18 (a) The following additions to federal taxable income shall be made in
19 determining State net income:

- 20 (1) Taxes based on or measured by net income by whatever name called
21 and excess profits ~~taxes;~~ taxes.
- 22 (2) Interest paid in connection with income exempt from taxation under this
23 ~~Division;~~ Division.
- 24 (3) The contributions deduction allowed by the ~~Code;~~ Code.
- 25 (4) Interest income earned on bonds and other obligations of other states or
26 their political subdivisions, less allowable amortization on any bond
27 acquired on or after January 1, ~~1963;~~ 1963.
- 28 (5) The amount by which gains have been offset by the capital loss
29 carryover allowed under the Code. All gains recognized on the sale or
30 other disposition of assets must be included in determining State net
31 income or loss in the year of ~~disposition;~~ disposition.
- 32 (6) The net operating loss deduction allowed by the ~~Code;~~ and Code.
- 33 (7) Special deductions allowable under sections 241 to 247, inclusive, of
34 the Code.
- 35 (8) Repealed by Session Laws 1987, c. 778, s. 2.
- 36 (9) Payments to or charges by a parent, subsidiary or affiliated corporation
37 in excess of fair compensation in all intercompany transactions of any
38 kind whatsoever pursuant to the Revenue Laws of this State.
- 39 (10) The total amounts allowed under this Article during the taxable year as
40 a credit against the taxpayer's income tax. A corporation that apportions
41 part of its income to this State shall make the addition required by this
42 subdivision after it determines the amount of its income that is
43 apportioned and allocated to this State and shall not apply to a credit

1 taken under this Article the apportionment factor used by it in
2 determining the amount of its apportioned income.

3 (11) The amount by which the percentage depletion allowance allowed by
4 sections 613 and 613A of the Code for mines, oil and gas wells, and
5 other natural deposits exceeds the cost depletion allowance for these
6 items under the Code, except as otherwise provided herein. This
7 subdivision does not apply to depletion deductions for clay, gravel,
8 phosphate rock, lime, shells, stone, sand, feldspar, gemstones, mica,
9 talc, lithium compounds, tungsten, coal, peat, olivine, pyrophyllite, and
10 other solid minerals or rare earths extracted from the soil or waters of
11 this State. Corporations required to apportion income to North Carolina
12 shall first add to federal taxable income the amount of all percentage
13 depletion in excess of cost depletion that was subtracted from the
14 corporation's gross income in computing its federal income taxes and
15 shall then subtract from the taxable income apportioned to North
16 Carolina the amount by which the percentage depletion allowance
17 allowed by sections 613 and 613A of the Code for solid minerals or rare
18 earths extracted from the soil or waters of this State exceeds the cost
19 depletion allowance for these items.

20 (12) The amount allowed under the Code for depreciation or as an expense in
21 lieu of depreciation for a utility plant acquired by a natural gas local
22 distribution company, to the extent the plant is included in the
23 company's rate base at zero cost in accordance with G.S. 62-158.

24 (13) The amount of income the Code allowed the taxpayer to exclude
25 because the income was attributed under section 925 of the Code to a
26 foreign sales corporation, to the extent the Code required the amount to
27 be included in the federal taxable income of the foreign sales
28 corporation to which it was attributed.

29 (14) The total amount of all uncontested debts owed by the taxpayer at the
30 end of the taxable year that became 120 days overdue during the taxable
31 year, as provided in G.S. 105-130.12A, other than a debt (i) includable
32 in gross income under the Code for the taxable year because it has been
33 discharged or (ii) not includable in gross income for the taxable year
34 pursuant to section 108(a) of the Code.

35 (b) The following deductions from federal taxable income shall be made in
36 determining State net income:

37 (1) Interest upon the obligations of the United States or its possessions, to
38 the extent included in federal taxable income: Provided, interest upon
39 the obligations of the United States shall not be an allowable deduction
40 unless interest upon obligations of the State of North Carolina or any of
41 its political subdivisions is exempt from income taxes imposed by the
42 United States; ~~States.~~

- 1 (2) Payments received from a parent, subsidiary or affiliated corporation in
2 excess of fair compensation in intercompany transactions which in the
3 determination of the net income or net loss of such corporation were not
4 allowed as a deduction under the Revenue Laws of this ~~State;~~ State.
- 5 (3) The deductible portion of dividends from stock issued by any
6 corporation as provided under G.S. ~~405-130.7;~~ 105-130.7.
- 7 (4) Losses in the nature of net economic losses sustained by the corporation
8 in any or all of the five preceding years pursuant to the provisions of
9 G.S. 105-130.8. Provided, a corporation required to allocate and
10 apportion its net income under the provisions of G.S. 105-130.4 shall
11 deduct its allocable net economic loss only from total income allocable
12 to this State pursuant to the provisions of G.S. ~~405-130.8;~~ 105-130.8.
- 13 (5) Contributions or gifts made by any corporation within the income year
14 to the extent provided under G.S. ~~405-130.9;~~ 105-130.9.
- 15 (6) Amortization in excess of depreciation allowed under the Code on the
16 cost of any sewage or waste treatment plant, and facilities or equipment
17 used for purposes of recycling or resource recovery of or from solid
18 waste, or for purposes of reducing the volume of hazardous waste
19 generated as provided in G.S. 105-130.10.
- 20 (7) Depreciation of emergency facilities acquired prior to January 1, 1955.
21 Any corporation shall be permitted to depreciate any emergency facility,
22 as such is defined in section 168 of the Code, over its useful life,
23 provided such facility was acquired prior to January 1, 1955, and no
24 amortization has been claimed on such facility for State income tax
25 ~~purposes;~~ and purposes.
- 26 (8) The amount of losses realized on the sale or other disposition of assets
27 not allowed under section 1211(a) of the Code. All losses recognized on
28 the sale or other disposition of assets must be included in determining
29 State net income or loss in the year of disposition.
- 30 (9) With respect to a shareholder of a regulated investment company, the
31 portion of undistributed capital gains of such regulated investment
32 company included in such shareholder's federal taxable income and on
33 which the federal tax paid by the regulated investment company is
34 allowed as a credit or refund to the shareholder under section 852 of the
35 Code.
- 36 (10) Repealed by Session Laws 1987, c. 778, s. 2.
- 37 (11) If a deduction for an ordinary and necessary business expense was
38 required to be reduced or was not allowed under the Code because the
39 corporation claimed a federal tax credit against its federal income tax
40 liability for the income year in lieu of a deduction, the amount by which
41 the deduction was reduced and the amount of the deduction that was
42 disallowed.

- 1 (12) Reasonable expenses, in excess of deductions allowed under the Code,
2 paid for reforestation and cultivation of commercially grown trees;
3 provided, that this deduction shall be allowed only to those corporations
4 in which the real owners of all the shares of such corporation are natural
5 persons actively engaged in the commercial growing of trees, or the
6 spouse, siblings, or parents of such persons. Provided, further, that in no
7 case shall a corporation be allowed a deduction for the same
8 reforestation or cultivation expenditure more than once.
- 9 (13) The eligible income of an international banking facility to the extent
10 included in determining federal taxable income, determined as follows:
- 11 a. 'International banking facility' shall have the same meaning as is
12 set forth in the laws of the United States or regulations of the
13 board of governors of the federal reserve system.
- 14 b. The eligible income of an international banking facility for the
15 taxable year shall be an amount obtained by multiplying State
16 taxable income as determined under G.S. 105-130.3 (determined
17 without regard to eligible income of an international banking
18 facility and allocation and apportionment, if applicable) for such
19 year by a fraction, the denominator of which shall be the gross
20 receipts for such year derived by the bank from all sources, and
21 the numerator of which shall be the adjusted gross receipts for
22 such year derived by the international banking facility from:
- 23 1. Making, arranging for, placing or servicing loans to
24 foreign persons substantially all the proceeds of which are
25 for use outside the United States;
- 26 2. Making or placing deposits with foreign persons which
27 are banks or foreign branches of banks (including foreign
28 subsidiaries or foreign branches of the taxpayer) or with
29 other international banking facilities; or
- 30 3. Entering into foreign exchange trading or hedging
31 transactions related to any of the transactions described in
32 this paragraph.
- 33 c. The adjusted gross receipts shall be determined by multiplying
34 the gross receipts of the international banking facility by a
35 fraction the numerator of which is the average amount for the
36 taxable year of all assets of the international banking facility
37 which are employed outside the United States and the
38 denominator of which is the average amount for the taxable year
39 of all assets of the international banking facility.
- 40 d. For the purposes of this subsection the term 'foreign person'
41 ~~means:~~ means any of the following:
- 42 1. An individual who is not a resident of the United States;
43 States.

2. A foreign corporation, a foreign partnership or a foreign trust, as defined in section 7701 of the Code, other than a domestic branch ~~thereof~~; thereof.
3. A foreign branch of a domestic corporation (including the ~~taxpayer~~); taxpayer).
4. A foreign government or an international organization or an agency of ~~either~~, or either.
5. An international banking facility.

For purposes of this paragraph, the terms 'foreign' and 'domestic' shall have the same meaning as set forth in section 7701 of the Code.

- (14) The amount by which the basis of a depreciable asset is required to be reduced under the Code for federal tax purposes because of a tax credit allowed against the corporation's federal income tax liability. This deduction may be claimed only in the year in which the Code requires that the asset's basis be reduced. In computing gain or loss on the asset's disposition, this deduction shall be considered as depreciation.
 - (15) The amount paid during the income year, pursuant to 7 U.S.C. § 1445-2, as marketing assessments on tobacco grown by the corporation in North Carolina.
 - (16) The amount of natural gas expansion surcharges collected by a natural gas local distribution company under G.S. 62-158.
 - (17) The total amount of all debts that were included in State net income in an earlier taxable year pursuant to subdivision (a)(14) of this section and (i) were repaid by the taxpayer during the taxable year, (ii) are includable in gross income under the Code for the taxable year because they have been discharged, or (iii) are not includable in gross income for the taxable year pursuant to section 108(a) of the Code.
- (c) The following other adjustments to federal taxable income shall be made in determining State net income:
- (1) In determining State net income, no deduction shall be allowed for annual amortization of bond premiums applicable to any bond acquired prior to January 1, 1963. The amount of premium paid on any such bond shall be deductible only in the year of sale or other disposition.
 - (2) Federal taxable income must be increased or decreased to account for any difference in the amount of depreciation, amortization, or gains or losses applicable to property which has been depreciated or amortized by use of a different basis or rate for State income tax purposes than used for federal income tax purposes prior to the effective date of this division.
 - (3) No deduction is allowed for any direct or indirect expenses related to income not taxed under this Division; provided, no adjustment shall be

1 made under this subsection for adjustments addressed in G.S. 105-
2 130.5(a) and (b).

3 (d) Repealed by Session Laws 1987, c. 778, s. 3.

4 (e) Notwithstanding any other provision of this section, any recapture of
5 depreciation required under the Code must be included in a corporation's State net
6 income to the extent required for federal income tax purposes.

7 (f) Expired. "

8 Sec. 3. G.S. 105-130.21 reads as rewritten:

9 **"§ 105-130.21. Information at the source.**

10 (a) Every corporation having a place of business or having one or more
11 employees, agents or other representatives in this State, in whatever capacity acting,
12 including lessors or mortgagors of real or personal property, or having the control,
13 receipt, custody, disposal, or payment of interest (other than interest coupons payable to
14 the bearer), rent, salaries, wages, premiums, annuities, compensations, remunerations,
15 emoluments or other fixed or determinable annual or periodical gains or profits paid or
16 payable during any year to any taxpayer, shall make complete return thereof to the
17 Secretary of Revenue ~~under such regulations and in such form and manner and to such extent as~~
18 ~~may be prescribed by him.~~ in accordance with requirements prescribed by the Secretary.
19 The filing of any report in compliance with the provisions of this section by a foreign
20 corporation shall not constitute an act in evidence of and shall not be deemed to be
21 evidence that such corporation is doing business in this State.

22 (b) Every corporation doing business or having a place of business in this State
23 shall file with the Secretary of Revenue, ~~on such form and in such manner as he may~~
24 ~~prescribe,~~ in accordance with requirements prescribed by the Secretary the names and
25 addresses of all taxpayers, residents of North Carolina, to whom dividends have been
26 paid and the amount of such dividends during the income year.

27 (c) A creditor who has complied with the provisions of G.S. 105-130.12A may file
28 with the Secretary in accordance with requirements prescribed by the Secretary (i) the
29 name, address, and social security number of every individual residing in this State who
30 owes a debt to the creditor that became 120 days overdue during the year, (ii) the name,
31 address, and taxpayer identification number of every corporation doing business in this
32 State who owes a debt to the creditor that became 120 days overdue during the year, and
33 (iii) the amount of each debt."

34 Sec. 4. Division II of Article 4 of Chapter 105 of the General Statutes is
35 amended by adding a new section to read:

36 **"§ 105-134.9. Certain debts taxable as income.**

37 (a) Definitions. – As used in this section, the term 'debt' means a liquidated sum
38 due a creditor, minus the value of any real or tangible personal property by which the
39 sum due is secured. The term does not include a sum due under a home loan, as defined
40 in G.S. 24-1.1A, or a manufactured home loan, as defined in G.S. 24-1.1C.

41 (b) Creditors May Report Debts. – A creditor who complies with the requirements
42 of this section may report to the Secretary pursuant to G.S. 105-154(e) a debt owed to the
43 creditor that became 120 days overdue during the calendar year. Before reporting the

1 debt, the creditor must send the debtor a letter by mail to the debtor's last known address
2 advising the debtor that (i) unless the debtor contests or pays the debt within 30 days, the
3 creditor will report the amount of the debt to the Secretary, and (ii) unless the debtor
4 contests or pays the debt, the amount of the debt will be taxable to the debtor as income.
5 If the debtor does not contest or pay the debt within 35 days after the creditor mails the
6 letter required by this subsection, the creditor may report the debt to the Secretary
7 pursuant to G.S. 105-154(e).

8 (c) Debts Taxable as Income. – Uncontested debts that become 120 days overdue
9 during the taxable year are taxable as income of the debtor. A debt is uncontested if the
10 debtor does not dispute the amount or the due date of the debt. The debtor shall include
11 an uncontested debt in taxable income as provided in G.S. 105-134.6(c)(7) unless the
12 debt is (i) includable in gross income under the Code for the taxable year because it has
13 been discharged or (ii) not includable in gross income for the taxable year pursuant to
14 section 108(a) of the Code. If the debtor later repays the debt, the debtor may deduct the
15 amount repaid as provided in G.S. 105-134.6(d)(3). If the debt later becomes (i)
16 includable in gross income under the Code for the taxable year because it has been
17 discharged or (ii) not includable in gross income for the taxable year pursuant to section
18 108(a) of the Code, the debtor may deduct the debt as provided in G.S. 105-134.6(d)(3)."

19 Sec. 5. G.S. 105-134.6 reads as rewritten:

20 **"§ 105-134.6. Adjustments to taxable income.**

21 (a) S Corporations. – The pro rata share of each shareholder in the income
22 attributable to the State of an S Corporation shall be adjusted as provided in G.S. 105-
23 130.5. The pro rata share of each resident shareholder in the income not attributable to
24 the State of an S Corporation shall be subject to the adjustments provided in subsections
25 (b), (c), and (d) of this section.

26 (b) Deductions. – The following deductions from taxable income shall be made in
27 calculating North Carolina taxable income, to the extent each item is included in taxable
28 income:

- 29 (1) Interest upon the obligations of (i) the United States or its possessions,
30 (ii) this State or a political subdivision of this State, or (iii) a nonprofit
31 educational institution organized or chartered under the laws of this
32 State.
- 33 (2) Interest upon obligations and gain from the disposition of obligations to
34 the extent the interest or gain is exempt from tax under the laws of this
35 State.
- 36 (3) Benefits received under Title II of the Social Security Act and amounts
37 received from retirement annuities or pensions paid under the provisions
38 of the Railroad Retirement Act of 1937.
- 39 (4) Repealed by Session Laws 1989 (Reg. Sess., 1990), c. 1002, s. 2.
- 40 (5) Refunds of state, local, and foreign income taxes included in the
41 taxpayer's gross income.

- 1 (6) a. An amount, not to exceed four thousand dollars (\$4,000), equal to
2 the sum of the amount calculated in subparagraph b. plus the amount
3 calculated in subparagraph c.
4 b. The amount calculated in this subparagraph is the amount
5 received during the taxable year from one or more state, local, or
6 federal government retirement plans.
7 c. The amount calculated in this subparagraph is the amount
8 received during the taxable year from one or more retirement
9 plans other than state, local, or federal government retirement
10 plans, not to exceed a total of two thousand dollars (\$2,000) in
11 any taxable year.
12 d. In the case of a married couple filing a joint return where both
13 spouses received retirement benefits during the taxable year, the
14 maximum dollar amounts provided in this subdivision for various
15 types of retirement benefits apply separately to each spouse's
16 benefits.
- 17 (7) Recodified as G.S. 105-134.6(d)(1).
18 (8) Recodified as G.S. 105-134.6(d)(2).
19 (9) Income that is (i) earned or received by an enrolled member of a
20 federally recognized Indian tribe and (ii) derived from activities on a
21 federally recognized Indian reservation while the member resides on the
22 reservation. Income from intangibles having a situs on the reservation
23 and retirement income associated with activities on the reservation are
24 considered income derived from activities on the reservation.
25 (10) The amount by which the basis of property under this Article exceeds
26 the basis of the property under the Code, in the year the taxpayer
27 disposes of the property.
- 28 (c) Additions. – The following additions to taxable income shall be made in
29 calculating North Carolina taxable income, to the extent each item is not included in
30 taxable income:
- 31 (1) Interest upon the obligations of states, other than this State, and their
32 political subdivisions.
33 (2) Any amount allowed as a deduction from gross income under the Code
34 that is taxed under the Code by a separate tax other than the tax imposed
35 in section 1 of the Code.
36 (3) Any amount deducted from gross income under section 164 of the Code
37 as state, local, or foreign income tax to the extent that the taxpayer's
38 total itemized deductions deducted under the Code for the taxable year
39 exceed the standard deduction allowable to the taxpayer under the Code
40 reduced by the amount by which the taxpayer's allowable standard
41 deduction has been increased under section 63(c)(4) of the Code.
42 (4) The amount by which the taxpayer's standard deduction has been
43 increased for inflation under section 63(c)(4)(A) of the Code and the

1 amount by which the taxpayer's personal exemptions have been
2 increased for inflation under section 151(d)(4)(A) of the Code. For the
3 purpose of this subdivision, if the taxpayer's personal exemptions have
4 been reduced by the applicable percentage under section 151(d)(3) of
5 the Code, the amount by which the personal exemptions have been
6 increased for inflation is also reduced by the applicable percentage.

7 (5) The fair market value, up to a maximum of one hundred thousand
8 dollars (\$100,000), of the donated property interest for which the
9 taxpayer claims a credit for the taxable year under G.S. 105-151.12 and
10 the market price of the gleaned crop for which the taxpayer claims a
11 credit for the taxable year under G.S. 105-151.14.

12 (6) The amount by which the basis of property under the Code exceeds the
13 basis of the property under this Article, in the year the taxpayer disposes
14 of the property.

15 (7) The total amount of all uncontested debts owed by the taxpayer at the
16 end of the taxable year that became 120 days overdue during the taxable
17 year, as provided in G.S. 105-134.9, other than a debt (i) includable in
18 gross income under the Code for the taxable year because it has been
19 discharged or (ii) not includable in gross income for the taxable year
20 pursuant to section 108(a) of the Code.

21 (d) Other Adjustments. – The following adjustments to taxable income shall be
22 made in calculating North Carolina taxable income:

23 (1) The amount of inheritance tax attributable to an item of income in
24 respect of a decedent required to be included in gross income under the
25 Code, adjusted as provided in G.S. 105-134.5, 105-134.6, and 105-
26 134.7, may be deducted in the year the item of income is included. The
27 amount of inheritance tax attributable to an item of income in respect of
28 a decedent is (i) the amount by which the inheritance tax paid under
29 Article 1 of this Chapter on property transferred to a beneficiary by a
30 decedent exceeds the amount of inheritance tax that would have been
31 payable by the beneficiary if the item of income in respect of a decedent
32 had not been included in the property transferred to the beneficiary by
33 the decedent, (ii) multiplied by a fraction, the numerator of which is the
34 amount required to be included in gross income for the taxable year
35 under the Code, adjusted as provided in G.S. 105-134.5, 105-134.6, and
36 105-134.7, and the denominator of which is the total amount of income
37 in respect of a decedent transferred to the beneficiary by the decedent.
38 For an estate or trust, the deduction allowed by this subdivision shall be
39 computed by excluding from the gross income of the estate or trust the
40 portion, if any, of the items of income in respect of a decedent that are
41 properly paid, credited, or to be distributed to the beneficiaries during
42 the taxable year.

1 The Secretary of Revenue may provide to a beneficiary of an item of
2 income in respect of a decedent any information contained on an
3 inheritance tax return that the beneficiary needs to compute the
4 deduction allowed by this subdivision.

5 (2) The taxpayer may deduct the amount by which the taxpayer's
6 deductions allowed under the Code were reduced, and the amount of the
7 taxpayer's deductions that were not allowed, because the taxpayer
8 elected a federal tax credit in lieu of a deduction. This deduction is
9 allowed only to the extent that a similar credit is not allowed by this
10 Division for the amount.

11 (3) The taxpayer may deduct the total amount of all debts that were
12 included in the taxpayer's North Carolina taxable income in an earlier
13 taxable year pursuant to subdivision (c)(7) of this section and (i) were
14 repaid by the taxpayer during the taxable year, (ii) are includable in
15 gross income under the Code for the taxable year because they have
16 been discharged, or (iii) are not includable in gross income for the
17 taxable year pursuant to section 108(a) of the Code."

18 Sec. 6. G.S. 105-154 reads as rewritten:

19 **"§ 105-154. Information at the source returns.**

20 (a) Repealed by Session Laws 1993, c. 354, s. 14.

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

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

41 A partnership that files an information return under this subsection shall furnish to
42 each person who would be entitled to share in the partnership's net income, if
43 distributable, any information necessary for that person to properly file a State income tax

1 return. The information shall be in the form prescribed by the Secretary and must be
2 furnished on or before the due date of the information return.

3 (d) Payment of Tax on Behalf of Nonresident Owner or Partner. – If a business
4 conducted in this State is owned by a nonresident individual or by a partnership having
5 one or more nonresident members, the manager of the business shall report the earnings
6 of the business in this State, the distributive share of the income of each nonresident
7 owner or partner, and any other information required by the Secretary. The manager of
8 the business shall pay with the return the tax on each nonresident owner or partner's share
9 of the income computed at the rate levied on individuals under G.S. 105-134.2(a)(3). The
10 business may deduct the payment for each nonresident owner or partner from the owner
11 or partner's distributive share of the profits of the business in this State. If the
12 nonresident partner is not an individual and the partner has executed an affirmation that
13 the partner will pay the tax with its corporate, partnership, trust, or estate income tax
14 return, the manager of the business is not required to pay the tax on the partner's share.
15 In this case, the manager shall include a copy of the affirmation with the report required
16 by this subsection.

17 (e) Information Returns of Creditors. – A creditor who has complied with the
18 provisions of G.S. 105-134.9 may file an information return with the Secretary. The
19 information return shall contain (i) the name, address, and social security number of
20 every individual residing in this State who owes a debt to the creditor that became 120
21 days overdue during the year and (ii) the amount of each debt."

22 Sec. 7. G.S. 105-201 reads as rewritten:

23 "**§ 105-201. Accounts receivable.**

24 All accounts receivable on December 31 of each year, having a business, commercial
25 or taxable situs in this State, other than credit balances on accounts with investment
26 brokers or security dealers, shall be subject to an annual tax, which is hereby levied, of
27 twenty-five cents (25¢) on every one hundred dollars (\$100.00) of the face value of such
28 accounts receivable, except that taxpayers reporting on a fiscal year basis for income tax
29 purposes under the provisions of Article 4 shall report accounts receivable on the last day
30 of such fiscal year ending during the year prior to that December 31 as of which such
31 property would otherwise be reported: Provided, that from the face value of such
32 accounts receivable there may be deducted the accounts payable of the taxpayer as of the
33 valuation date of the accounts receivable: Provided further, that no deduction in any case
34 shall be allowed under this section of any indebtedness of the taxpayer on account of
35 capital outlay, permanent additions to capital or purchase of capital assets.

36 The term 'accounts payable' as used in this section ~~shall not include:~~ does not include
37 any of the following:

- 38 (1) Reserves, secondary liabilities or contingent liabilities except upon
39 satisfactory showing that the taxpayer will actually be compelled to pay
40 the debt or ~~liability;~~ liability.
- 41 (2) Taxes of any kind owing by the ~~taxpayer;~~ taxpayer.
- 42 (3) Debts owed to a corporation of which the taxpayer is parent or
43 subsidiary or with which the taxpayer is closely affiliated by stock

1 ownership or with which the taxpayer is subsidiary of same parent
2 corporation unless the credits created by such debts are listed if so
3 required by law for ad valorem or property taxation, for taxation at the
4 situs of such ~~credits~~, or ~~credits~~.

5 (4) Debts incurred to purchase assets which are not subject to taxation at the
6 situs of such assets.

7 (5) An uncontested debt that is 120 days overdue at the end of the taxable
8 year and is includable in the taxpayer's taxable income under G.S. 105-
9 130.12A or G.S. 105-134.9.

10 From the total face value of accounts receivable returned to this State for taxation by
11 or in behalf of any taxpayer who or which also owns other such accounts receivable as
12 have situs outside of this State, accounts payable of the taxpayer may be deducted only in
13 the proportion which the total face value of accounts receivable taxable under this section
14 bears to the total face value of all accounts receivable of the taxpayer.

15 The term 'accounts payable' as used in this section includes notes payable that are
16 made for a term of one year or less and are not claimed as a deduction under G.S. 105-
17 202.

18 Indebtedness of commercial factors incurred directly for the purchase of accounts
19 receivable may be deducted from the total value of such accounts receivable.

20 Indebtedness of securities brokers directly incurred in connection with the purchase or
21 sale of stocks, bonds or other securities from which such brokers derive accounts
22 receivable taxable under this Article may be deducted from the total value of such
23 accounts receivable."

24 Sec. 8. G.S. 105-202 reads as rewritten:

25 "**§ 105-202. Bonds, notes, and other evidences of debt.**

26 All bonds, notes, and other evidences of debt however evidenced whether secured by
27 mortgage, deed of trust, judgment or otherwise, or not so secured, having a business,
28 commercial or taxable situs in this State on December 31 of each year shall be subject to
29 an annual tax which is hereby levied, of twenty-five cents (25¢) on every one hundred
30 dollars (\$100.00) of the actual value thereof, except that taxpayers reporting on a fiscal
31 year basis for income tax purposes under the provisions of Article 4 shall report
32 evidences of debt on the last day of such fiscal year ending during the year prior to the
33 December 31 as of which such property would otherwise be reported; provided, that from
34 the actual value of such bonds, notes, and other evidences of debt there may be deducted
35 like evidences of debt owed by the taxpayer as of the valuation date of the receivable
36 evidences of debt. The term 'like evidences of debt' deductible under this section shall not
37 include:

38 (1) Accounts payable; provided, however, that accounts payable to security
39 brokers incurred directly for the purchase of bonds, debentures and
40 similar investments taxable under this section shall be deductible;

41 (2) Taxes of any kind owing by the taxpayer;

- 1 (3) Reserves, secondary liabilities or contingent liabilities except upon
2 satisfactory showing that the taxpayer will actually be compelled to pay
3 the debt or liability;
- 4 (4) Evidences of debt owed to a corporation of which the taxpayer is parent
5 or subsidiary or with which the taxpayer is closely affiliated by stock
6 ownership or with which the taxpayer is subsidiary of same parent
7 corporation, unless the credits created by such evidences of debt are
8 listed, if so required by law for ad valorem or property taxation, for
9 taxation at the situs of such credits; or
- 10 (5) Debts incurred to purchase assets which are not subject to taxation at the
11 situs of such ~~assets~~; assets; or
- 12 (6) An uncontested debt that is 120 days overdue at the end of the taxable
13 year and is includable in the taxpayer's taxable income under G.S. 105-
14 130.12A or G.S. 105-134.9.

15 From the total actual value of bonds, notes, and other evidences of debt returned to
16 this State for taxation by or in behalf of any taxpayer who or which also owns other such
17 evidences of debt as have situs outside of this State, like evidences of debt owed by the
18 taxpayer may be deducted only in the proportion which the total actual value of evidences
19 of debt taxable under this section bears to the total actual value of all like evidences of
20 debt owned by the taxpayer.

21 The tax levied in this section shall not apply to bonds, notes and other evidences of
22 debt of the United States, State of North Carolina, political subdivisions of this State or
23 agencies of such governmental units, or of nonprofit educational institutions organized
24 or chartered under the laws of the State of North Carolina, but the tax shall apply to all
25 bonds and other evidences of debt of political subdivisions and governmental units other
26 than those specifically excluded herein.

27 In every action or suit in any court for the collection on any bonds, notes, or other
28 evidences of debt, the plaintiff shall be required to allege in his pleadings or to prove at
29 any time before final judgment is entered

- 30 (1) That such bonds, notes or other evidences of debt have been assessed
31 for taxation for each and every tax year, under the provisions of this
32 Article, during which the plaintiff was owner of same, not exceeding
33 five years prior to that in which the suit or action is brought; or
- 34 (2) That such bonds, notes or other evidences of debt sued upon are not
35 taxable hereunder in the hands of the plaintiff; or
- 36 (3) That the suitor has not paid, or is unable to pay such taxes, penalties and
37 interest as might be due, but is willing for the same to be paid out of the
38 first recovery on the evidence of debt sued upon.

39 When in any action at law or suit in equity it is ascertained that there are unpaid taxes,
40 penalties and interest due on the evidence of debt sought to be enforced, and the suitor
41 makes it appear to the court that he has not paid or is unable to pay said taxes, penalties
42 and interest, but is willing for the same to be paid out of the first recovery on the
43 evidence of debt, the court shall have authority to enter as a part of any judgment or

1 decretal order in said proceedings that the amount of taxes, penalties and interest due and
2 owing shall be paid to the proper officer out of the first collection on said judgment or
3 decree. The title to real estate heretofore or hereafter sold under a deed of trust shall not
4 be drawn in question upon the ground that the holder of the notes secured by such deed of
5 trust did not list and return the same for taxation as required by this Article."

6 Sec. 9. This act is effective for taxable years beginning on or after January 1,
7 1995.