

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

S

1

SENATE BILL 8

Short Title: Intangibles Repeal/Hold Harmless.

(Public)

Sponsors: Senators Kerr; Albertson, Perdue, Soles, Speed, Edwards, Warren, Dannelly, Hoyle, Martin of Guilford, Odom, Plyler, Rand, Cooper, Gulley, Lucas, and Plexico.

Referred to: Finance.

January 26, 1995

A BILL TO BE ENTITLED

AN ACT TO REPEAL THE INTANGIBLES TAX AND TO REIMBURSE LOCAL GOVERNMENTS FOR THEIR RESULTING REVENUE LOSS.

The General Assembly of North Carolina enacts:

Section 1. (a) Effective July 1, 1995, G.S. 105-213.1 is recodified as G.S. 105-275.2 and G.S. 105-213 is repealed.

(b) Effective January 1, 1995, the remainder of Article 7 of Chapter 105 of the General Statutes is repealed. The Secretary of Revenue shall retain from collections under Division II of Article 4 of Chapter 105 of the General Statutes the cost for the 1995-96 fiscal year of collecting, administering, and refunding the taxes levied in Article 7 of Chapter 105 of the General Statutes.

Sec. 2. G.S. 105-275 is amended by adding the following new subdivisions:

(31a) Accounts receivable.

(31b) Bonds, notes, and other evidences of debt.

(31c) Shares of stock, including shares and units of ownership of mutual funds, investment trusts, and investment funds.

(31d) The beneficial or equitable interest in a trust, trust fund, or trust account, including custodial accounts, held by a foreign fiduciary."

1 Sec. 3. G.S. 105-213.1, as recodified as G.S. 105-275.2 by Section 1 of this
2 act, reads as rewritten:

3 **"§ 105-275.2. Reimbursement to counties and municipalities for ~~partial~~ repeal of**
4 **State tax on intangible personal property.**

5 (a) Reimbursement for Repeal of Tax on Money on Deposit, Money on Hand, and
6 Funds on Deposit with Insurance Companies. – On or before August 30 of each year, the
7 Secretary of Revenue shall allocate for distribution to each county and the municipalities
8 in the county the amount allocated to the county under this subsection in 1990.

9 ~~Amounts allocated to a county under this subsection shall in turn be divided and~~
10 ~~distributed between the county and the municipalities located in the county in accordance~~
11 ~~with the method of allocating intangible tax revenue between a county and the~~
12 ~~municipalities located in the county provided in G.S. 105-213.~~

13 (a1) Reimbursement for Partial Repeal of Tax on Accounts Receivable. – On or
14 before August 30 of each year, the Secretary of Revenue shall distribute to counties and
15 municipalities an amount equal to forty percent (40%) of the tax collected on accounts
16 receivable under former Article 7 of this Chapter (repealed) during the 1989-90 fiscal
17 year. ~~The Secretary of Revenue shall first allocate the amount to be distributed in this subsection~~
18 ~~to the counties in the same manner as the amount allocated in G.S. 105-213. The amount~~
19 ~~allocated to each county shall in turn be divided and distributed between the county and the~~
20 ~~municipalities located in the county in accordance with the method of allocating intangible tax~~
21 ~~revenue between a county and the municipalities located in the county provided in G.S. 105-213.~~
22 The Secretary shall allocate this amount among the counties in proportion to the amount
23 allocated to each county under former G.S. 105-213 (repealed) in August 1994.

24 (a2) Reimbursement for Repeal of Tax on Accounts Receivable, Bonds, Stocks, and
25 Foreign Trust Interests. – On or before August 30 of each year, the Secretary shall
26 distribute the sum of ninety-five million three hundred thirty-one thousand nine hundred
27 twenty-seven dollars (\$95,331,927) to counties and municipalities. The Secretary shall
28 allocate this among the counties in proportion to the amount allocated to each county
29 under former G.S. 105-213 (repealed) in August 1994.

30 (a3) Distribution Between County and Its Municipalities. – The amounts allocated
31 to each county under this section shall be allocated between the county and the
32 municipalities in the county in proportion to the total amount of ad valorem taxes levied
33 by each during the fiscal year preceding the distribution. In dividing these amounts
34 between each county and its municipalities, the Secretary of Revenue shall treat taxes
35 levied by a merged school administrative unit described in G.S. 115C-513 in a part of the
36 unit located in a county as taxes levied by the county in which that part is located.

37 After making these allocations, the Secretary shall certify to the State Controller and
38 to the State Treasurer the amount to be distributed to each county and municipality in the
39 State. The State Controller shall then issue a warrant on the State Treasurer to each
40 county and municipality in the amount certified.

41 For the purpose of computing the distribution to any county and the municipalities
42 located in the county for any year with respect to which the property valuation of a public
43 service company is the subject of an appeal and the Department of Revenue is restrained

1 by law from certifying the valuation to the county and the municipalities in the county,
2 the Department shall use the last property valuation of the public service company that
3 has been certified.

4 The chair of each board of county commissioners and the mayor of each municipality
5 shall report to the Secretary of Revenue information requested by the Secretary to enable
6 the Secretary to allocate the amount distributed by this section. If a county or
7 municipality fails to make a requested report within the time allowed, the Secretary may
8 disregard the county or municipality in allocating the amount distributed by this section.

9 (b) ~~Restrictions on Use. — Amounts distributed to a county or a municipality~~
10 ~~under this section are subject to the same restrictions as amounts distributed under G.S.~~
11 ~~105-213. The amount distributed to each county and municipality shall be used by the~~
12 ~~county or municipality in proportion to property tax levies made by it for the various~~
13 ~~funds and activities of the county or municipality, unless the county or municipality has~~
14 ~~pledged the amount to be distributed to it under this section in payment of a loan~~
15 ~~agreement with the North Carolina Solid Waste Management Capital Projects Financing~~
16 ~~Agency. A county or municipality that has pledged amounts distributed under this~~
17 ~~section in payment of a loan agreement with the Agency may apply the amount the loan~~
18 ~~agreement requires.~~

19 (e) ~~Municipality Defined. — As used in this section, the term 'municipality' has the~~
20 ~~same meaning as in G.S. 105-213.~~

21 (d) Source. — Funds distributed under this section shall be drawn from collections
22 received under Division II of Article 4 of this Chapter."

23 Sec. 4. G.S. 105-501 reads as rewritten:

24 "**§ 105-501. Distribution of additional taxes.**

25 The Secretary shall, on a quarterly basis, allocate the net proceeds of the additional
26 one-half percent (1/2%) sales and use taxes levied under this Article to the taxing
27 counties on a per capita basis according to the most recent annual population estimates
28 certified to the Secretary by the State Budget Officer. The Secretary shall then adjust the
29 amount allocated to each county as provided in G.S. 105-486(b). The amount allocated
30 to each taxing county shall then be divided among the county and the municipalities
31 located in the county in accordance with the method by which the one percent (1%) sales
32 and use taxes levied in that county pursuant to Article 39 of this Chapter or Chapter 1096
33 of the 1967 Session Laws are distributed.

34 If any taxes levied under this Article by a county have not been collected in that
35 county for a full quarter because of the levy or repeal of the taxes, the Secretary shall
36 distribute a pro rata share to that county for that quarter based on the number of months
37 the taxes were collected in that county during the quarter.

38 In determining the net proceeds of the tax to be distributed, the Secretary shall deduct
39 from the collections to be allocated an amount equal to one-fourth of the costs during the
40 preceding fiscal year of:

41 (1) The Department of Revenue in performing the duties imposed by
42 Article 15 of this Chapter.

43 (2) The Property Tax Commission.

1 (3) The Institute of Government in operating a training program in property
2 tax appraisal and assessment.

3 (4) The personnel and operations provided by the Department of State
4 Treasurer for the Local Government Commission."

5 Sec. 5. G.S. 105-288(d) reads as rewritten:

6 "(d) Expenses. – The members of the Property Tax Commission shall receive travel
7 and subsistence expenses in accordance with G.S. 138-5 and a salary of two hundred
8 dollars (\$200.00) a day when hearing cases. The Secretary of Revenue shall supply all
9 the clerical and other services required by the Commission. All expenses of the
10 Commission and the Department of Revenue in performing the duties enumerated in this
11 Article shall be paid ~~from funds appropriated out of revenue derived from the tax on intangible~~
12 ~~personal property as provided by G.S. 105-213.~~ as provided in G.S. 105-501."

13 Sec. 6. G.S. 105-276 reads as rewritten:

14 "**§ 105-276. Taxation of intangible personal property.**

15 Intangible personal property that is not excluded from taxation under G.S. 105-
16 275(31) ~~or classified under Schedule H, G.S. 105-198 through G.S. 105-217, 105-275~~
17 is subject to this Subchapter. ~~The classification of such property for taxation under~~
18 ~~Schedule H shall not exclude the property from the system property valuation of public~~
19 ~~service companies under Article 23 provided proper adjustments are made to prevent~~
20 ~~duplicate taxation."~~

21 Sec. 7. G.S. 105-282.1(a)(2) reads as rewritten:

22 "(2) Owners of the special classes of property excluded from taxation under
23 G.S. 105-275(5), (15), (16), (26), (31), (31a), (31b), (31c), (31d), (32a),
24 (33), (34), or (40), or exempted under G.S. 105-278.2 are not required to
25 file applications for the exclusion or exemption of that property."

26 Sec. 8. G.S. 105-305 reads as rewritten:

27 "**§ 105-305. Place for listing intangible personal property.**

28 (a) Listing Instructions. – This section ~~shall apply~~ applies to all taxable intangible
29 personal property that has a tax situs in this State, ~~that State and~~ is not required by this
30 Subchapter to be appraised originally by the Department of Revenue, ~~and that is not subject~~
31 ~~to taxation under the provisions of Schedule H, G.S. 105-198 through 105-217.~~ Revenue. The
32 place in this State at which such this property is taxable shall be determined according to
33 ~~the rules prescribed in subsections (b) through (e), below.~~ as provided in this section. The
34 person whose duty it is to list property shall list it in the county in which the place of
35 taxation is located, indicating on the abstract the information required by G.S. 105-
36 309(d). If the place of taxation lies within a city or town that requires separate listing
37 under G.S. 105-326(a), the person whose duty it is to list shall also list the property for
38 taxation in the city or town.

39 (b) General Rule. – Except as otherwise provided in subsections (c) through ~~(e),~~
40 ~~below,~~ (e) of this section, intangible personal property shall be taxable at the residence of
41 the owner. For the purposes of this section:

42 (1) The residence of a person who has two or more places in this State at
43 which ~~he~~ the person occasionally dwells shall be the place ~~at which he~~

1 the person dwelt for the longest period of time during the calendar year
2 immediately preceding the date as of which property is to be listed for
3 taxation.

4 (2) The residence of a domestic or foreign taxpayer other than an individual
5 person shall be the place at which its principal North Carolina office is
6 located.

7 (c) Intangible personal property representing an interest or interests in real
8 property that is situated in this State shall be taxable in the place in which the represented
9 real property is located.

10 (d) The intangible personal property of a decedent whose estate is in the process of
11 administration or has not been distributed shall be taxable in the place at which it would
12 be taxable if the decedent were still alive and still residing in the place at which ~~he~~the
13 decedent resided at the time of ~~his~~ death.

14 (e) Intangible personal property within the jurisdiction of the State held by a
15 resident or nonresident trustee, guardian, or other fiduciary having legal title to the
16 property shall be taxable in accordance with the following rules:

17 (1) If ~~any~~a beneficiary is a resident of the State, an amount representing ~~his~~
18 the beneficiary's portion of the property shall be taxable in the place at
19 which it would be taxable if ~~he~~the beneficiary were the owner of ~~his~~
20 that portion.

21 (2) If ~~any~~a beneficiary is a nonresident of the State, an amount representing
22 ~~his~~the beneficiary's portion of the property shall be taxable in the place
23 at which it would be taxable if the fiduciary were the beneficial owner
24 of the property."

25 Sec. 9. G.S. 108A-93 reads as rewritten:

26 "**§ 108A-93. Withholding of State moneys from counties failing to pay public**
27 **assistance costs.**

28 The Director of the Budget ~~is authorized to~~may withhold from any county that does
29 not pay its full share of public assistance costs to the State and has not ~~arranged for~~
30 ~~payment pursuant to G.S. 108-54.1 or~~ obtained a loan for repayment under G.S. 108A-89,
31 any State moneys appropriated from the General Fund for public assistance and related
32 administrative costs, or ~~to~~may direct the Secretary of Revenue and State ~~Treasurer~~
33 ~~Controller~~ to withhold any tax owed to a county under ~~Article 7 of Chapter 105 of the~~
34 ~~General Statutes, G.S. 105-113.82, Article 39 of Chapter 105 of the General Statutes~~
35 ~~Subchapter VIII of Chapter 105 of the General Statutes,~~ or Chapter 1096 of the Session
36 Laws of 1967. The Director of the Budget shall notify the ~~chairman~~chair of the board of
37 county commissioners of the proposed action prior to the withholding of funds."

38 Sec. 10. G.S. 142-12.1(c) reads as rewritten:

39 "(c) The interest on any ~~such~~of these bonds or obligations shall maintain its
40 existing exemption from State income taxation, or other taxation, if any, ~~including, but not~~
41 ~~limited to, the tax on intangible personal property now imposed by the State,~~ notwithstanding
42 that ~~such~~the interest may be or become subject to federal income taxation as a result of
43 legislative action by the federal government."

1 Sec. 11. Section 1(a) of this act becomes effective July 1, 1995. Section 1(b)
2 of this act is effective for taxable years beginning on or after January 1, 1995. Sections 3,
3 4, 5, and 9 of this act become effective July 1, 1995, and apply to distributions made on
4 or after that date. The remainder of this act is effective for taxable years beginning on or
5 after January 1, 1995.

6 This act does not affect the rights or liabilities of the State, a taxpayer, or
7 another person arising under a statute amended or repealed by this act before its
8 amendment or repeal; nor does it affect the right to any refund or credit of a tax that
9 would otherwise have been available under the amended or repealed statute before its
10 amendment or repeal.