

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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HOUSE BILL 450

Short Title: Unemployment Ins. Tax Change/AB.

(Public)

Sponsors: Representatives Redwine; Baddour, Jeffus, Luebke, and Miller.

Referred to: Commerce, if favorable, Insurance.

March 10, 1997

A BILL TO BE ENTITLED

AN ACT TO MODIFY THE CALCULATION AND COLLECTION OF
UNEMPLOYMENT INSURANCE TAXES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 96-10(a) reads as rewritten:

"(a) Interest on Past-Due Contributions. – Contributions unpaid on the date on which they are due and payable, as prescribed by the Commission, shall bear interest at the rate of ~~one-half of one percent (0.5%)~~ one and one-half percent (1.5%) per month from and after ~~such~~ that date until payment plus accrued interest is received by the Commission. An additional penalty in the amount of ten percent (10%) of the taxes due shall be added, but ~~said~~ that penalty shall in no event be less than five dollars (\$5.00). Penalties and interest collected pursuant to this subsection shall be paid into the Special Employment Security Administration Fund. If any employer, in good faith, pays contributions to another state or to the United States under the Federal Unemployment Tax Act, prior to a determination of liability by this Commission, ~~which~~ and the contributions were legally payable to this State, ~~such~~ the contributions, when paid to this State, shall be deemed to have been paid by the due date under the law of this State if they were paid by the due date of ~~such~~ the other state or the United States."

Section 2. G.S. 96-10(i) reads as rewritten:

1 "(i) ~~No~~ Except as otherwise provided in this subsection, no suit or proceedings for
2 the collection of unpaid contributions may be begun under this ~~chapter~~ Chapter after five
3 years from the date on which ~~such~~ the contributions become due, and no suit or
4 proceeding for the purpose of establishing liability and/or status may be begun with
5 respect to any period occurring more than five years prior to the first day of January of
6 the year within which ~~such~~ the suit or proceeding is ~~instituted~~; ~~provided, that this~~ instituted.
7 This subsection shall not apply in any case of willful attempt in any manner to defeat or
8 evade the payment of any contributions becoming due under this Chapter. ~~Provided,~~
9 ~~further, that a Chapter.~~ A proceeding shall be deemed to have been instituted or begun
10 upon the date of issuance of an order by the chairman of the Commission directing a
11 hearing to be held to determine liability or nonliability, and/or status under this Chapter
12 of an employing unit, or upon the date notice and demand for payment is mailed by
13 ~~registered-certified mail~~ to the last known address of the employing ~~unit~~. ~~Provided, further,~~
14 ~~that the order mentioned herein-unit.~~ The order shall be deemed to have been issued on the
15 date ~~such~~ the order is mailed by ~~registered-certified mail~~ to the last known address of the
16 employing unit. The running of the period of limitations provided in this subsection for
17 the making of assessments or collection shall, in a case under Title II of the United States
18 Code, be suspended for the period during which the Commission is prohibited by reason
19 of the case from making the assessment or collection and for a period of one year after
20 the prohibition is removed."

21 Section 3. G. S. 96-9(b)(2) reads as rewritten:

22 "(2) Experience Rating. –

- 23 a. Waiting Period for Rate Reduction. – No employer's contribution
24 rate shall be reduced below the standard rate for any calendar
25 year until its account has been chargeable with benefits for at
26 least 12 calendar months ending July 31 immediately preceding
27 the computation date. An employer's account has been
28 chargeable with benefits for at least 12 calendar months if the
29 employer has reported wages paid in four completed calendar
30 quarters pursuant to G.S. 96-9(a).
- 31 b. Credit Ratio. – The Commission shall, for each year, compute a
32 credit reserve ratio for each employer whose account has a credit
33 balance. An employer's credit reserve ratio shall be the quotient
34 obtained by dividing the credit balance of the employer's account
35 as of July 31 of each year by the total taxable payroll of the
36 employer for the 36 calendar-month period ending June 30
37 preceding the computation date. Credit balance as used in this
38 section means the total of all contributions paid and credited for
39 all past periods in accordance with the provisions of G.S. 96-
40 9(c)(1) together with all other lawful credits to the account of the
41 employer less the total benefits charged to the account of the
42 employer for all past periods.

1 c. Debit Ratio. – The Commission shall for each year compute a
2 debit ratio for each employer whose account shows that the total
3 of all its contributions paid and credited for all past periods in
4 accordance with G.S. 96-9(c)(1) together with all other lawful
5 credits is less than the total benefits charged to its account for all
6 past periods. An employer's debit ratio shall be the quotient
7 obtained by dividing the debit balance of the employer's account
8 as of July 31 of each year by the total taxable payroll of the
9 employer for the 36 calendar-month period ending June 30
10 preceding the computation date. The amount arrived at by
11 subtracting the total amount of all contributions paid and credited
12 for all past periods in accordance with the provisions of G.S. 96-
13 9(c)(1) together with all other lawful credits of the employer
14 from the total amount of all benefits charged to the account of the
15 employer for such periods is the employer's debit balance.

16 d. Other Provisions. – ~~For purposes of this subsection, the first date~~
17 ~~on which an account shall be chargeable with benefits shall be~~
18 ~~the first date with respect to which a benefit year as defined in~~
19 ~~G.S. 96-8 can be established, based in whole or in part on wages~~
20 ~~paid by that employer.~~

21 No employer's contribution rate shall be reduced below the
22 standard rate for any calendar year unless its liability extends
23 over a period of all or part of two consecutive calendar years and,
24 as of August 1 of the second year, its credit reserve ratio meets
25 the requirements of that schedule used in computing rates for the
26 following calendar year, unless the employer's liability was
27 established under G.S. 96-8(5)b and its predecessor's account
28 was transferred as provided by G.S. 96-9(c)(4)a.

29 Whenever contributions are erroneously paid into one account
30 which should have been paid into another account or which
31 should have been paid into a new account, that erroneous
32 payment can be adjusted only by refunding the erroneously paid
33 amounts to the paying entity. No pro rata adjustment to an
34 existing account may be made, nor can a new account be created
35 by transferring any portion of the erroneously paid amount,
36 notwithstanding that the entities involved may be owned,
37 operated, or controlled by the same person or organization. No
38 adjustment of a contribution rate can be made reducing the rate
39 below the standard rate for any period in which the account was
40 not in actual existence and in which it was not actually
41 chargeable for benefits. Whenever payments are found to have
42 been made to the wrong account, refunds can be made to the
43 entity making the wrongful payment for a period not exceeding

1 five years from the last day of the calendar year in which it is
2 determined that wrongful payments were made. Notwithstanding
3 payment into the wrong account, if an entity is determined to
4 have met the requirements to be a covered employer, whether or
5 not the entity has had paid on the account of its employees any
6 sum into another account, the Commission shall collect
7 contributions at the standard rate or the assigned rate, whichever
8 is higher, for the five years preceding the determination of
9 erroneous payments, which five years shall run from the last day
10 of the calendar year in which the determination of liability for
11 contributions or additional contributions is made. This
12 requirement applies regardless of whether the employer acted in
13 good faith."

14 Section 4. Section 1 of this act becomes effective January 1, 1998, and applies
15 to contributions due on or after that date. The remainder of this act is effective when it
16 becomes law.