

GENERAL ASSEMBLY OF NORTH CAROLINA
1997 SESSION

SESSION LAW 1997-499
HOUSE BILL 537

AN ACT TO PROVIDE RELIEF FOR FEDERAL RETIREES AND THE
SURVIVING SPOUSES OF FEDERAL RETIREES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-151.20 reads as rewritten:

"§ 105-151.20. Credit or partial refund for tax paid on certain federal retirement benefits.

(a) Purpose; Definitions. – The purpose of this section is to benefit certain retired federal government workers on account of their public service. The following definitions apply in this section:

- (1) Federal retirement benefits. – Retirement benefits received from one or more federal government retirement plans.
- (2) Net pension tax. – The amount of tax a taxpayer paid under this Division for the 1985, 1986, 1987, and 1988 tax years on federal retirement benefits, without interest, less any part of the tax for which the taxpayer received a credit under this section before 1997 and any part of the tax refunded to the taxpayer before 1997.
- (3) Tax year. – The taxpayer's taxable year beginning on a day in the applicable calendar year.

(b) Credit. – A taxpayer who received federal retirement benefits during the 1985, 1986, 1987, or 1988 tax year may claim a credit against the tax imposed by this Division equal to the net pension tax on those benefits. The credit allowed under this section shall be taken in equal installments over the taxpayer's first three taxable years beginning on or after January 1, 1996. The credit allowed under this section may not exceed the amount of tax imposed by this Division reduced by the sum of all credits allowed against the tax, except payments of tax made by or on behalf of the ~~taxpayer~~ taxpayer; any unused portion of a credit installment may be carried forward to the 1999 and 2000 tax years.

(c) Partial Refund Alternative. – If the amount of tax imposed by this Division on the taxpayer for the taxpayer's 1996 tax year, reduced by the sum of all credits allowed against the tax except payments of tax made by or on behalf of the taxpayer, is less than five percent (5%) of the taxpayer's net pension tax for which credit is allowed, the taxpayer is eligible to elect a partial refund under this subsection in lieu of claiming the credit. The partial refund allowed under this subsection is equal to the lesser of eighty-five percent (85%) of the taxpayer's net pension tax or the reduced amount determined

by the Secretary as provided in this subsection. To elect the partial refund, an eligible taxpayer must file with the Secretary on or before April 15, 1997, a written request for a partial refund of the taxpayer's net pension. The Secretary shall calculate from these requests eighty-five percent (85%) of the total amount of net pension tax for which partial refunds have been claimed and, if this sum exceeds the amount in the Federal Retiree Refund Account created in this section, shall allocate the amount in the Account among the eligible taxpayers claiming partial refunds by reducing each taxpayer's claimed refund in proportion to the size of the claimed refund. The Secretary shall remit these partial refunds before January 1, 1998.

(d) Substantiation; Deceased Taxpayers. – In order to claim a refund or credit under this section, a taxpayer must provide any information required by the Secretary to establish the taxpayer's eligibility for tax benefit and the amount of the tax benefit. In the case of a taxpayer who is deceased, the representative of the taxpayer's estate may claim the refund ~~or credit~~ in the name of the deceased ~~taxpayer~~ taxpayer and, if the taxpayer does not qualify for a refund, the surviving spouse may claim the deceased taxpayer's credit. If there is no surviving spouse, the representative of the taxpayer's estate may claim the credit in the name of the taxpayer but may not carry forward any unused portion of the credit to the 1999 or 2000 tax year.

(e) Federal Retiree Accounts. – There are created in the Department of Revenue two special accounts to be known as the Federal Retiree Refund Account and the Federal Retiree Administration Account. Funds in the Federal Retiree Refund Account shall be spent only for partial refunds pursuant to subsection (c) of this section. The Department of Revenue may use funds in the Federal Retiree Administration Account only for the costs of administering this section. Funds in the Federal Retiree Refund Account and the Federal Retiree Administration Account shall not revert to the General Fund until the Director of the Budget certifies that the Department of Revenue has completed all duties necessary to implement this section, including processing the escheat of refund checks that have not been cashed."

Section 2. Section 2 of Chapter 19 of the Session Laws, Second Extra Session 1996, is repealed.

Section 3. The Secretary of Revenue shall transfer the sum of eight million dollars (\$8,000,000) from the Federal Retiree Refund Account to the General Fund to reimburse the General Fund for the additional loss resulting from this act.

Section 4. Section 3 of this act is effective when it becomes law. The remainder of this act is effective for taxable years beginning on or after January 1, 1996.

In the General Assembly read three times and ratified this the 28th day of August, 1997.

Approved 4:28 p.m. this 11th day of September, 1997