

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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HOUSE BILL 660

Short Title: Refund Intangibles Tax.

(Public)

Sponsors: Committee on Ways and Means; Representatives Allred, Berry, Capps, Gardner, Goodwin, Hardy, Hill, Morgan, Morris, Rayfield, Sexton, Smith, and Wood.

Referred to: Finance.

March 27, 1997

A BILL TO BE ENTITLED

1 AN ACT TO REPEAL THE INTANGIBLES TAX ON STOCK FOR THE 1990
2 THROUGH 1994 TAX YEARS AND TO REFUND THE TAX WITH INTEREST
3 FROM THE RAINY DAY FUND.
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5 The General Assembly of North Carolina enacts:

6 Section 1. Effective retroactively for the 1990, 1991, 1992, 1993, and 1994 tax
7 years, G.S. 105-203 is repealed.

8 Section 2. G.S. 105-266(c) is amended by adding a new subdivision to read:

9 "(5) Repealed Tax. – If an act of the General Assembly repeals a tax
10 retroactively, each taxpayer's payment of the repealed tax is an
11 overpayment for the purpose of this section. On the date the act
12 becomes law, the Secretary shall discover these overpayments of the
13 repealed tax; the Secretary's discoveries are timely for the purposes of
14 this section."

15 Section 3. (a) Upon enactment of a law prohibiting the Secretary of Revenue
16 from collecting intangibles tax liability arising from a taxpayer's use of the taxable
17 percentage deductions in former G.S. 105-203 (repealed) for any of the tax years from
18 1990 through 1994, G.S. 105-267 as it applies to those tax years entitles a taxpayer to a

1 refund for one or more of those tax years to the extent the taxpayer meets all of the
2 following requirements with respect to the applicable tax year:

- 3 (1) The taxpayer paid intangibles tax on shares of stock for the tax year.
- 4 (2) The taxpayer protested payment of the tax within 30 days of payment
5 and met the other requirements of G.S. 105-267, as it then existed, to
6 establish and preserve the taxpayer's refund claim for the tax year.
- 7 (3) The taxpayer's established and preserved refund claim was pending on
8 February 21, 1996, the date the United States Supreme Court held the
9 taxable percentage deduction in former G.S. 105-203 unconstitutional.

10 (b) The Secretary of Revenue shall make these refunds in accordance with
11 G.S. 105-267. The Secretary of Revenue shall draw the amount of the refunds and the
12 cost of making the refunds from the Savings Reserve Account established in G.S. 143-
13 15.3.

14 Section 4. (a) For all overpayments of the tax repealed by Section 1 of this act, other
15 than overpayments refunded as provided in Section 3 of this act, notwithstanding the
16 provisions of G.S. 105-266(a), refund of the overpayment and interest shall be made in
17 three equal installments as follows:

- 18 (1) The first installment shall be paid within six months after this act
19 becomes law.
- 20 (2) The second installment shall be paid as soon as practicable after July 1,
21 1998.
- 22 (3) The third installment shall be paid as soon as practicable after July 1,
23 1999.

24 (b) The Department of Revenue shall draw the amount of the refunds of
25 taxpayers' overpayments of the tax repealed by Section 1 of this act as well as the cost of
26 making the refunds from the Savings Reserve Account established in G.S. 143-15.3.

27 Section 5. This act does not affect the rights or liabilities of the State, a
28 taxpayer, or another person arising under a statute amended or repealed by this act before
29 the effective date of its amendment or repeal; nor does it affect the right to any refund or
30 credit of a tax that accrued under the amended or repealed statute before the effective
31 date of its amendment or repeal.

32 Section 6. Section 1 of this act is effective retroactively for the 1990, 1991,
33 1992, 1993, and 1994 tax years. The remainder of this act is effective when this act
34 becomes law.