

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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SENATE BILL 446

Short Title: Low-Income and Deceased Retirees.

(Public)

Sponsors: Senators Ledbetter; Albertson, Ballantine, Foxx, Kincaid, Kinnaird, McDaniel, Perdue, and Rand.

Referred to: Finance.

March 20, 1997

A BILL TO BE ENTITLED

AN ACT TO PROVIDE RELIEF FOR LOW-INCOME 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

1 beginning on or after January 1, 1996. The credit allowed under this section may not
2 exceed the amount of tax imposed by this Division reduced by the sum of all credits
3 allowed against the tax, except payments of tax made by or on behalf of the ~~taxpayer.~~
4 taxpayer; any unused portion of a credit installment may be carried forward to
5 succeeding tax years until the entire installment has been taken.

6 (c) Partial Refund Alternative. – If the amount of tax imposed by this Division on
7 the taxpayer for the taxpayer's 1996 tax year, reduced by the sum of all credits allowed
8 against the tax except payments of tax made by or on behalf of the taxpayer, is less than
9 five percent (5%) of the taxpayer's net pension tax for which credit is allowed, the
10 taxpayer is eligible to elect a partial refund under this subsection in lieu of claiming the
11 credit. The partial refund allowed under this subsection is equal to the lesser of eighty-
12 five percent (85%) of the taxpayer's net pension tax or the reduced amount determined
13 by the Secretary as provided in this subsection. To elect the partial refund, an eligible
14 taxpayer must file with the Secretary on or before April 15, 1997, a written request for a
15 partial refund of the taxpayer's net pension. The Secretary shall calculate from these
16 requests eighty-five percent (85%) of the total amount of net pension tax for which
17 partial refunds have been claimed and, if this sum exceeds the amount in the Federal
18 Retiree Refund Account created in this section, shall allocate the amount in the Account
19 among the eligible taxpayers claiming partial refunds by reducing each taxpayer's
20 claimed refund in proportion to the size of the claimed refund. The Secretary shall remit
21 these partial refunds before January 1, 1998.

22 (d) Substantiation; Deceased Taxpayers. – In order to claim a refund or credit
23 under this section, a taxpayer must provide any information required by the Secretary to
24 establish the taxpayer's eligibility for tax benefit and the amount of the tax benefit. In
25 the case of a taxpayer who is deceased, the representative of the taxpayer's estate may
26 claim the refund ~~or credit~~ in the name of the deceased ~~taxpayer.~~ taxpayer and, if the
27 taxpayer does not qualify for a refund, the surviving spouse may claim the deceased
28 taxpayer's credit. If there is no surviving spouse, the representative of the taxpayer's
29 estate may claim the credit in the name of the taxpayer.

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

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

42 Section 3. This act is effective for taxable years beginning on or after
43 January 1, 1996.