

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

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HOUSE BILL 1466  
Committee Substitute Favorable 7/7/99

Short Title: Pension Tax Withholding.

(Public)

Sponsors:

Referred to:

May 12, 1999

A BILL TO BE ENTITLED  
AN ACT TO PROVIDE FOR WITHHOLDING OF NORTH CAROLINA INCOME  
TAXES FROM TAXABLE PENSIONS, ANNUITIES, AND DEFERRED  
COMPENSATION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-163.1 is amended by adding two new subdivisions to read:

"(11a) Pension payer. – A payor or a plan administrator with respect to a pension payment under section 3405 of the Code.

(11b) Pension payment. – A periodic payment or a nonperiodic distribution that is not an eligible rollover distribution, as defined in section 3405 of the Code."

Section 2. G.S. 105-163.1(14) reads as rewritten:

"(14) Withholding agent. – An ~~employer~~ employer, a pension payer, or a payer."

Section 3. Article 4A of Chapter 105 of the General Statutes is amended by adding a new section to read:

**"§ 105-163.2A. Pension payers must withhold taxes.**

(a) Definitions. – The definitions provided in section 3405 of the Code apply in this section.

1        (b) Withholding Required. – A pension payer required to withhold federal taxes  
2 under section 3405 of the Code on a pension payment to a resident of this State must  
3 deduct and withhold from the payment the State income taxes payable on the payment.  
4 Liability for withholding and paying taxes under this section on a pension payment falls  
5 on the person who would be liable under section 3405 of the Code for withholding  
6 federal taxes on the payment.

7        Except as otherwise provided in this section, the provisions of this Article apply to a  
8 pension payer's pension payment to a resident of this State as if it were an employer's  
9 payment of wages to an employee. If a pension payer has more than one arrangement  
10 under which it may make pension payments to a resident of this State, each arrangement  
11 must be treated separately under this section.

12        (c) Amount. – In the case of a periodic payment, the pension payer must withhold  
13 the amount that would be required to be withheld under this Article if the payment were a  
14 payment of wages by an employer to an employee for the appropriate payroll period. If  
15 the recipient of periodic payments fails to file an exemption certificate under G.S. 105-  
16 163.5, the pension payer must compute the amount to be withheld as if the recipient were  
17 a married individual claiming three withholding exemptions.

18        In the case of a nonperiodic distribution, the pension payer must withhold taxes equal  
19 to four percent (4%) of the nonperiodic distribution.

20        (d) Election of No Withholding. – The recipient may elect not to have taxes  
21 withheld under this section. The election must be in the form required by the Secretary.  
22 In the case of periodic payments, the election remains in effect until revoked by the  
23 recipient. In the case of a nonperiodic distribution, the election applies on a distribution-  
24 by-distribution basis unless it meets conditions prescribed by the Secretary for it to apply  
25 to subsequent nonperiodic distributions by the pension payer.

26        A pension payer must notify each recipient of the right to elect not to have taxes  
27 withheld under this section. The notice must comply with the requirements of section  
28 3405 of the Code and any additional requirements prescribed by the Secretary.

29        A recipient's election not to have taxes withheld under this section is void if the  
30 recipient fails to furnish the recipient's tax identification number to the pension payer, or  
31 the Secretary has notified the pension payer that the tax identification number furnished  
32 by the recipient is incorrect.

33        (e) Exemptions. – This section does not apply to the following pension payments:

34            (1) A pension payment that is wages under this Article.

35            (2) Any portion of a pension payment that meets both of the following  
36 conditions:

37            a. It is not a distribution or payment from an individual retirement  
38 plan as defined in section 7701 of the Code.

39            b. The pension payer reasonably believes it is not taxable to the  
40 recipient under Article 4 of this Chapter.

41            (3) A distribution described in section 404(k)(2) of the Code, relating  
42 to dividends on corporate securities.

- 1           (4)       A pension payment that consists only of securities of the recipient's  
2                   employer corporation plus cash not in excess of two hundred  
3                   dollars (\$200.00) in lieu of securities of the employer corporation."  
4       Section 4. This act becomes effective January 1, 2001.