

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2005

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SENATE DRS55105-RB-17 (3/9)

Short Title: Allow Payment of Tax by Offset. (Public)

Sponsors: Senator Clodfelter.

Referred to:

A BILL TO BE ENTITLED

AN ACT TO ALLOW THE PAYMENT OF TAXES IN LIMITED CIRCUMSTANCES BY OFFSET OF AN OBLIGATION OWED TO THE TAXPAYER BY THE TAXING UNIT.

The General Assembly of North Carolina enacts:

**SECTION 1.** G.S. 105-357(a) reads as rewritten:

"(a) Medium of Payment. – Taxes shall be payable in existing national currency. Deeds to real property, notes of the taxpayer or others, bonds or notes of the taxing unit, and payments in kind shall not be accepted in payment of taxes, ~~nor shall any taxes.~~ A taxing unit shall not permit the payment of taxes by offset of any bill, claim, judgment, or other obligation owed to the taxpayer by the taxing unit, except under the circumstances listed in this subsection. When the payment of taxes by an offset is permitted by this subsection, the taxing unit may accomplish the offset by seeking appropriate relief from any stay or injunction issued by the applicable federal, State, local, or foreign court or governmental agency, authority, or regulatory body having jurisdiction over the property of the taxpayer.

(1) When a taxpayer commences or consents to one of the following:

- a. A voluntary case under any applicable bankruptcy, insolvency, or other similar law.
- b. The entry of an order for relief in an involuntary case under any applicable bankruptcy, insolvency, or other similar law.
- c. The appointment or taking possession by a receiver, liquidator, assignee, custodian, trustee, sequestrator or similar official for the taxpayer, any substantial part of the taxpayer's property, or any general assignment of the property for the benefit of creditors.

- 1           (2)   When a federal, State, local, or foreign court or governmental agency,  
2           authority, instrumentality, or regulatory body having jurisdiction does  
3           one of the following:
- 4           a.     Enters a decree or order for relief in respect of the taxpayer in  
5           an involuntary case under any applicable bankruptcy,  
6           insolvency, or other similar law.
- 7           b.     Appoints a receiver, liquidator, assignee, custodian, trustee,  
8           sequestrator, or similar official for the taxpayer or any  
9           substantial part of the taxpayer's property.
- 10          c.     Appoints a receiver, liquidator, assignee, custodian, trustee,  
11          sequestrator, or similar official to order the winding up or  
12          liquidation of the taxpayer's affairs.
- 13          (3)   When one of the following involuntary actions is commenced against  
14          the taxpayer and the action remains undismissed, undischarged,  
15          unstayed, or unbonded for a period of 60 consecutive days:
- 16          a.     A case under any applicable bankruptcy, insolvency, or other  
17          similar law.
- 18          b.     A case, proceeding, or other action for the appointment of a  
19          receiver, liquidator, assignee, custodian, trustee, sequestrator, or  
20          similar official for the taxpayer or a substantial part of the  
21          taxpayer's property.
- 22          c.     A case, proceeding, or other action for the appointment of a  
23          receiver, liquidator, assignee, custodian, trustee, sequestrator, or  
24          similar official to order the winding up or liquidation of the  
25          taxpayer's affairs."

26          **SECTION 2.** This act is effective when it becomes law.