

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

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SENATE BILL 1172

Short Title: Fair Tax Penalties.

(Public)

Sponsors: Senator Clodfelter.

Referred to: Finance.

May 18, 2010

1 A BILL TO BE ENTITLED
2 AN ACT TO ENSURE THAT TAXPAYERS ARE NOT SUBJECTED TO PENALTIES FOR
3 REQUESTING A HEARING OR FOR FAILING TO FILE A RETURN IN A MANNER
4 THAT IS PROHIBITED BY LAW.

5 The General Assembly of North Carolina enacts:

6 **SECTION 1.** G.S. 105-236(a)(4) reads as rewritten:

7 "(4) Failure to Pay Tax When Due. – In the case of failure to pay any tax when
8 due, without intent to evade the tax, the Secretary shall assess a penalty
9 equal to ten percent (10%) of the tax, subject to a minimum of five dollars
10 (\$5.00). This penalty does not apply in any of the following circumstances:

11 a. When the amount of tax shown as due on an amended return is paid
12 when the return is filed.

13 b. When the Secretary proposes an assessment for tax due but not
14 shown on a return and the tax due is paid within 45 days after the
15 later of the following:

16 1. The date of the notice of proposed assessment of the ~~tax~~ tax,
17 if the taxpayer does not file a timely request for a
18 Departmental review of the proposed assessment.

19 2. The date the proposed assessment becomes collectible under
20 G.S. 105-241.22, if the taxpayer files a timely request for a
21 Departmental review of the proposed assessment.

22 c. When a taxpayer files a consolidated return under G.S. 105-130.6 at
23 the request of the Secretary and the tax due is paid within 45 days
24 after the later of the following:

25 1. The date the consolidated return is filed, if the taxpayer does
26 not file a timely request for a Departmental review of the tax.

27 2. The date the Departmental review of the tax ends as a result
28 of the occurrence of one of the actions listed in
29 G.S. 105-241.22(3) through (6), if the taxpayer files a timely
30 request for a Departmental review."

31 **SECTION 2.** G.S. 105-236(a)(5) is amended by adding a new sub-subdivision to

32 read:

33 "(5) Negligence. –

34 ...

35 f. Consolidated return. – The amount of tax shown as due on a
36 consolidated return requested by the Secretary under G.S. 105-130.6
37 is not considered a deficiency and is not subject to this subdivision."



1 **SECTION 3.** This act is effective when it becomes law and applies to penalties that
2 are assessed and unpaid as of the effective date, penalties that are paid as of the effective date
3 but are based on a tax that is the subject of an administrative or judicial action that is pending
4 on the effective date, and penalties and taxes assessed on or after that date.