

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

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HOUSE DRH80133-SV-12A (02/05)

Short Title: Taxpayer Standing Act. (Public)

Sponsors: Representatives Blackwell, McGrady, Schaffer, and Stam (Primary Sponsors).

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO ENFORCE CONSTITUTIONAL OR STATUTORY LIMITATIONS ON
3 GOVERNMENT.

4 The General Assembly of North Carolina enacts:

5 SECTION 1. Chapter 1 of the General Statutes is amended by adding a new
6 Subchapter and Article to read:

7 **"SUBCHAPTER XVI. STANDING.**

8 "Article 53.

9 "Taxpayer Standing Act.

10 **"§ 1-635. Standing to challenge unlawful taxation or expenditure; remedies.**

11 (a) Standing. – An individual or corporation that pays taxes to a taxing jurisdiction of
12 this State has standing to sue the taxing jurisdiction in the General Court of Justice on the
13 grounds that the taxing jurisdiction has violated a constitutional provision or statute concerning
14 appropriate methods, purposes, and amounts of taxation or expenditure by:

15 (1) Misusing or misappropriating public funds; or

16 (2) Authorizing an unlawful tax exemption, deduction, or credit.

17 (b) Remedies. – A plaintiff who brings an action under this Article is entitled to seek
18 any appropriate equitable remedy, including, but not limited to, injunctive and declaratory
19 relief. In addition, the plaintiff may obtain a judgment for the return to the jurisdiction of any
20 money that was misused or misappropriated or a judgment for the collection of revenues
21 owed."

22 SECTION 2. G.S. 105-241.17 reads as rewritten:

23 **"§ 105-241.17. Civil action challenging statute as unconstitutional.**

24 A taxpayer who claims that a tax statute imposing a tax is unconstitutional may bring a civil
25 action in the Superior Court of Wake County to determine the taxpayer's liability under that
26 statute if all of the conditions in this section are met. In filing an action under this section, a
27 taxpayer must follow the procedures for a mandatory business case set forth in G.S. 7A-45.4(b)
28 through (f). The conditions for filing a civil action are:

29 (1) The taxpayer exhausted the prehearing remedy by receiving a final
30 determination after a review and a conference.

31 (2) The taxpayer commenced a contested case at the Office of Administrative
32 Hearings.

33 (3) The Office of Administrative Hearings dismissed the contested case petition
34 for lack of jurisdiction because the sole issue is the constitutionality of a
35 statute and not the application of a statute.



1 (4) The taxpayer has paid the amount of tax, penalties, and interest the final
2 determination states is due.

3 (5) The civil action is filed within two years of the dismissal."

4 **SECTION 3.** G.S. 105-241.19 reads as rewritten:

5 **"§ 105-241.19. Declaratory judgments, injunctions, and other actions prohibited.**

6 The remedies in G.S. 105-241.11 through G.S. 105-241.18 set out the exclusive remedies
7 for disputing the denial of a requested refund, a taxpayer's liability for a tax, or the
8 constitutionality of a ~~tax statute.~~ statute imposing a tax. Any other action is barred. Neither an
9 action for declaratory judgment, an action for an injunction to prevent the collection of a tax,
10 nor any other action is allowed."

11 **SECTION 4.** Section 1 of this act becomes effective October 1, 2013, and applies
12 to actions filed on or after that date. The remainder of this act is effective when it becomes law.