

GENERAL ASSEMBLY OF NORTH CAROLINA  
1987 SESSION

CHAPTER 1044  
HOUSE BILL 2171

AN ACT TO MAKE TECHNICAL AMENDMENTS TO THE REVENUE LAWS.

The General Assembly of North Carolina enacts:

**Section 1.** G.S. 105-258 reads as rewritten:

**"§ 105-258. Powers of Secretary of Revenue; who may sign and verify pleadings, legal documents, etc.** – The Secretary of Revenue, for the purpose of ascertaining the correctness of any return, making a return where none has been made, or determining the liability of any person for any tax imposed by this Subchapter, or collecting any such tax, shall have the power to examine, personally, or by an agent designated by him, any books, papers, records, or other data which may be relevant or material to such inquiry, and the Secretary may summon the person liable for the tax or required to perform the act, or any officer or employee of such person, or any person having possession, custody, care or control of books of account containing entries relevant or material to the income and expenditures of the person liable for the tax or required to perform the act, or any other person having knowledge in the premises, to appear before the Secretary, or his agent, at a time and place named in the summons, and to produce such books, papers, records or other data, and to give such testimony under oath as may be relevant or material to such inquiry, and the Secretary or his agent may administer oaths to such person or persons. If any person so summoned refuses to obey such summons or to give testimony when summoned, the Secretary may apply to the Superior Court of Wake County for an order requiring such person or persons to comply with the summons of the Secretary, and the failure to comply with such court order shall be punished as for contempt.

In any action, proceeding, or matter of any kind, to which the Secretary of Revenue is a party or in which he may have an interest, all pleadings, legal notices, proofs of claim, warrants for collection, certificates of tax liability, executions, and other legal documents may be signed and verified on behalf of the Secretary by ~~the assistant commissioner~~ a Deputy or Assistant Secretary or by any director or assistant director of any division of the Department of Revenue or by any other agent or employee of the Department so authorized by the Secretary of Revenue."

**Sec. 2.** G.S. 105-102.4(b) reads as rewritten:

"(b) A retail variety store privilege license replaces the licenses imposed in the following sections and relieves the licensee of liability for the taxes imposed in these sections: G.S. 105-49, 105-51, 105-65.2, ~~105-80(b), 105-82, 105-82,~~ and 105-89(a)."

**Sec. 3.** G.S. 105-164.3(20)b. reads as rewritten:

"b. 'Computer program' means the complete plan for the solution of a problem, such as the complete sequence of automatic data-processing equipment instructions necessary to solve a problem, and includes both systems and application programs and subdivisions, such as assemblers, ~~compilers~~ compilers, routines, generators, and utility programs."

**Sec. 4.** G.S. 105-164.4(1)d. reads as rewritten:

"d. Sales of fuel, other than electricity or piped natural gas, to manufacturing industries and manufacturing plants for use in connection with the operation of such industries and plants other than sales of fuels to be used for residential heating purposes. The quantity of fuel purchased or used at any one time shall not in any manner be a determinative factor as to whether any sale or use of fuel is or is not subject to the one percent (1%) rate of tax imposed herein."

**Sec. 5.** G.S. 105-164.14(b) reads as rewritten:

"(b) The Secretary of Revenue shall make refunds semiannually to hospitals not operated for profit (including hospitals and medical accommodations operated by an authority created under the Hospital Authorities Law, ~~Article 12 of Chapter 131~~, Article 2 of Chapter 131E), educational institutions not operated for profit, churches, orphanages and other charitable or religious institutions and organizations not operated for profit of sales and use taxes paid under this Article, except under G.S. 105-164.4(4a), by such institutions and organizations on direct purchases of tangible personal property for use in carrying on the work of such institutions or organizations. Sales and use tax liability indirectly incurred by such institutions and organizations on building materials, supplies, fixtures and equipment which shall become a part of or annexed to any building or structure being erected, altered or repaired for such institutions and organizations for carrying on their nonprofit activities shall be construed as sales or use tax liability incurred on direct purchases by such institutions and organizations, and such institutions and organizations may obtain refunds of such taxes indirectly paid. The Secretary of Revenue shall also make refunds semiannually to all other hospitals (not specifically excluded herein) of sales and use tax paid by them on medicines and drugs purchased for use in carrying out the work of such hospitals. This subsection does not apply to organizations, corporations, and institutions that are owned and controlled by the United States, the State, or a unit of local government, except hospital facilities created under ~~Article 12 of Chapter 131~~ Article 2 of Chapter 131E of the General Statutes and nonprofit hospitals owned and controlled by a unit of local government that elect to receive semiannual refunds under this subsection instead of annual refunds under subsection (c). In order to receive the refunds herein provided for, such institutions and organizations shall file a written request for refund covering the first six months of the calendar year on or before the fifteenth day of October next following the close of said period, and shall file a written request for refund covering the second six months of the calendar year on or before the fifteenth day of April next following the close of that period. Such requests for refund shall be substantiated by such proof as the Secretary of Revenue may require, and no refund shall be made on applications not filed within the time allowed by this section and in such manner as the Secretary may require."

**Sec. 6.** G.S. 105-164.12 reads as rewritten:

**"§ 105-164.12. Freight or delivery transportation charges.** ~~Freight~~ Freight, delivery, or other like transportation charges connected with the sale of tangible personal property are subject to the sales and use tax if title to the tangible personal property being transported passes to the purchaser at the destination point. Where title to the tangible personal property being transported passes to the purchaser at the point of origin, the freight or other transportation charges are not subject to the sales tax. For the purposes of this section it is immaterial whether the retailer or purchaser actually pays for any charges made for transportation, whether the charges were actually paid by one for the other, or whether a credit or allowance is made or given for such charges. Nothing in this section shall operate to exclude from the use tax any ~~freight~~ freight, delivery or other like transportation charges. Such charges shall be included as a portion of the cost price and subject to the use tax."

**Sec. 7.** G.S. 105-141(a)(20) reads as rewritten:

"(20) Subject to the provisions of G.S. 105-141(b)(4), amounts received or made available from:

- a. Individual retirement accounts described in section 408(a) of the Code; and
- b. Individual retirement annuities described in section 408(b) of the ~~Code~~; and Code.
- ~~e. Retirement bonds described in section 409 of the Code to the extent such amounts are includible in the recipient's gross income under the internal revenue laws of the United States."~~

**Sec. 8.** G.S. 105-142(d) reads as rewritten:

"(d) The amount actually distributed to any employee or the beneficiary of an employee by an employees' trust, which qualifies under subsection (f)(1)a of G.S. 105-161 as an exempt organization, or qualified plan which meets the requirements of section 401(a) of the Code shall be taxable to the employee or his beneficiary in the year in which distributed except to the extent such distribution is a rollover amount which is not includable in federal gross income under section 402(a) of the Code; provided, that if such employee has made contributions to such trust or such qualified plan, and the benefits are received as periodic payments, the amounts annually received shall be taxed as an annuity as provided in G.S. 105-141.1. The amount actually received by the employee or his beneficiary which consists of corporate shares or other securities shall be taken into account in determining the amount distributed at their fair market value, except that the net unrealized appreciation in the corporation shares or other securities of the employer corporation shall not be included in determining such amount distributed for purposes of this subsection.

The amount paid or distributed out of an individual retirement account described in section 408(a) of the Code, or individual retirement annuity described in section 408(b) of the Code, shall be includable in the gross income of the payee or distributee to the extent such amounts are includable in the payee's or distributee's gross income for federal income tax purposes.

~~Subject to the provisions of G.S. 105-141(b)(4) the amount received from a retirement bond described in section 409 of the Code, shall be included in the gross~~

~~income of the payee or distributee to the extent such amounts are includable in the payee's or distributee's gross income for federal income tax purposes.~~

In the case of a pension, profit-sharing, or stock bonus plan or trust established by an employer for the benefit of his employees which does not meet the requirements of G.S. 105-161(f)(1)a or section 401(a) of the Code, any contributions to such plan or trust made by an employer during a taxable year shall be reportable as income in such taxable year by employees in whose names such contributions are credited only to the extent that such employees shall have acquired a nonforfeitable right to such contributions in such taxable year."

**Sec. 9.** G.S. 105-147(20) reads as rewritten:

"(20) Reasonable amounts paid by employers to trusts which qualify for exemption under subsection (f)(1)a of G.S. 105-161 and plans established by employers for the benefit of their employees which meet the requirements of section 401(a) of the Code; deductible employee contributions as described in subsection 72(o)(5) of the Code; reasonable amounts paid by a self-employed individual or owner-employee to a retirement program pursuant to a plan adopted by such individual and approved by the Internal Revenue Service, to the extent allowed under the Code; reasonable amounts paid by or on behalf of an individual for his benefit or for the benefit of himself and his spouse to an individual retirement account described in section 408(a) of the Code, for an individual retirement annuity described in section 408(b) of the Code; ~~Code, or for a retirement bond described in section 409 of the Code (but only if the bond is not redeemed within 12 months of the date of its issuance);~~ and reasonable amounts paid by employers to nonqualified plans or trusts established by employers for the benefit of their employees, but only to the extent that such amounts contributed by such employers shall be required under the provisions of this Division to be included in the gross income of such employees. The deductions allowed by this subsection shall be allowed to the extent allowable under the Code unless contrary to the context and intent of this Division."

**Sec. 10.** G.S. 105-251.1(c)(2) reads as rewritten:

"(2) The reporting requirements set out in subsection (1) above may be fulfilled by providing to the Department a true and exact copy of all reports of currency transactions in excess of ten thousand dollars (\$10,000) reported to the Commissioner of the Internal Revenue Service pursuant to ~~31 U.S.C. § 1081~~ 31 U.S.C. § 5313(a) and ~~31 C.F.R. § 103~~, 31 C.F.R. § 103.22(a)(1), as those various statutes and regulations were in effect on ~~January 1, 1983~~. January 1, 1988."

**Sec. 12.** G.S. 105-141(b)(5) reads as rewritten:

"(5) Any amounts received as compensation for personal injuries or sickness (i) through accident or health insurance, (ii) through health or accident plans financed by profit-sharing trusts or pension trusts, (iii) under ~~workmen's~~ workers' compensation acts or similar acts ~~acts, (which have been judicially declared to provide benefits in the nature of workmen's compensation benefits, by whatever name called),~~ and (iv) for damages (whether by suit or agreement); and any amounts received through self-funded reimbursement plans adopted by an employer for the benefit of his employees, reimbursing them for expenses incurred for their medical care or for the medical care of

their spouses or their dependents; provided, that any amounts received from sources mentioned in this subdivision as reimbursement for medical care expenses incurred and claimed as a deduction in a prior year or in prior years shall be excluded only to the extent that such amounts exceed the deduction claimed under subdivision (11) of G.S. 105-147, except that nothing in this subdivision shall be construed as preventing a taxpayer from filing an amended return for a taxable year in which a medical deduction was claimed and allowed for the purpose of reducing the amount of the medical expense deduction claimed in such year by any reimbursement for such medical expenses received in a later year when a change in the prior year is not barred by the provisions of this Division."

**Sec. 13.** G.S. 105-296 is amended by adding after subsection (h) a new subsection (i) to read:

"(i) Prior to the first meeting of the board of equalization and review, the assessor may, for good cause, change the appraisal of any property subject to assessment for the current year. Written notice of a change in assessment shall be given to the taxpayer at his last known address prior to the first meeting of the board of equalization and review."

**Sec. 13.1.** G.S. 105-277.3 is amended by adding a new subsection (d) to read:

"(d) Enrollment in the federal Conservation Reserve Program authorized by Title XII of the Food Security Act of 1985 (Pub. L. 99-198), as amended, shall not preclude eligibility of land for present use value treatment solely on the grounds that the land is no longer in actual production, and income derived from participation in the federal Conservation Reserve Program may be used in meeting the minimum income requirements of this section either separately or in combination with income from actual production. Land enrolled in the federal Conservation Reserve Program shall be assessed as agricultural land if it is planted in vegetation other than trees, or as forest land if it is planted in trees."

**Sec. 13.2.** G.S. 105-277.4 is amended by adding a new subsection (d) to read:

"(d) Notwithstanding the provisions of subsection (c), if a farm unit loses eligibility for present use value treatment solely due to a change in income caused by enrollment of land in the federal Conservation Reserve Program authorized by Title XII of the Food Security Act of 1985 (Pub. L. 99-198), as amended, no deferred taxes shall be owed and all present use value tax liens shall be extinguished.

**Sec. 13.3.** Notwithstanding any other provision of law, the Committee to Elect Julian Pierce, Superior Court Judge may expend any of its funds for a purpose allowed by Section 527(d)(2) of the Internal Revenue Code of 1986; provided that expenditure must be reported as if it were an expenditure as defined by G.S. 163-278.6(9).

**Sec. 14.** Sections 7, 8, 9, and 12 of this act are effective for taxable years beginning on or after January 1, 1988; Sections 13.1 and 13.2 are effective for taxable years beginning on or after January 1, 1986; the remainder of this act is effective upon ratification.

In the General Assembly read three times and ratified this the 5th day of July,  
1988.