

GENERAL ASSEMBLY OF NORTH CAROLINA
1993 SESSION

CHAPTER 371
SENATE BILL 158

AN ACT TO PROVIDE THAT THE PENALTY FOR FAILURE TO FILE AN INHERITANCE TAX RETURN WILL BE ASSESSED AND COLLECTED IN THE SAME MANNER AS THE PENALTY FOR FAILURE TO PAY INHERITANCE TAXES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-23 reads as rewritten:

"§ 105-23. ~~Information by administrator and executor.~~ Personal representative to file return.

(a) Return Required. – Every ~~administrator~~ personal representative of a decedent who dies intestate shall prepare a statement-return showing as far as can be ascertained the names of all the heirs-at-large and their relationship to ~~decedent, and every executor~~ the decedent. Every personal representative of a decedent who dies testate shall prepare a like statement, return, accompanied by a copy of the will, showing the relationship to the decedent of all legatees, distributees, and devisees named in the will, and the age at the time of the death of the decedent of all legatees, distributees, ~~devisees, and devisees~~ to whom property is bequeathed or devised for life or for a term of years, and the names of those, if any, who have died before the decedent, together with decedent. Each return shall include the post-office address of executor, administrator, or trustee. ~~the personal representative.~~ If any of the heirs at law, distributees, and devisees are minor children of the decedent, such statement shall also show the age of each of such minor children. The ~~statement~~ return shall also contain a complete inventory of all the real property of the decedent located in and outside the State, and of all personal property, wherever situate, of the estate, and of all insurance policies upon the life of the decedent, together with an appraisal under oath or affirmation of the value of each class of property embraced in the inventory, and the value of the whole, together with any deductions permitted by ~~this statute, law,~~ so far as they may be ascertained at the time of filing such statement; the return; and also the full statement of all gifts or advancements made by deed, grant, or sale to any person or corporation, in trust or otherwise, within three years prior to the death of the decedent. ~~The statement herein provided for~~ This return shall be filed with the Secretary of Revenue at Raleigh, North Carolina, within nine months after the qualification of the executor or administrator, personal representative upon blank forms to be prepared by the Secretary of Revenue. ~~If any administrator or executor~~ A personal representative who fails or refuses to comply with any of the requirements of this section, he shall be personally liable to for a penalty in the sum of five hundred dollars (\$500.00), to be recovered by the Secretary of Revenue in an action to

~~be brought by the Secretary of Revenue to collect such sum in the Superior Court of Wake County against such administrator or executor. (\$500.00). This penalty does not apply, however, if no tax is due on the estate under this Article. The Secretary of Revenue, for good cause shown, may remit all or any portion of the penalty imposed under the provisions of this section. Every executor or administrator personal representative may make a tentative settlement of the inheritance tax with the Secretary of Revenue, based on the inventory supported by oath or affirmation provided in this section. If any executor, administrator, collector, committee, trustee or any personal representative or other fiduciary within or without this State holding or having control of any funds, property, trust or estate, the transfer of which becomes taxable under the provisions of this Article, shall fail to file the statement herein required, within the times herein required, the Secretary of Revenue is authorized and shall be required to secure the information herein required from the best sources available, and therefrom assess the taxes levied hereunder, together with the penalties herein and otherwise provided. fails to file the return required by this section within the time required by this section, the Secretary of Revenue shall obtain the required information from the best sources available and, based on this information, shall assess the tax due and any applicable penalties.~~

(b) Exception. – An inheritance tax return is not required to be filed for an estate ~~(i) whose~~ that meets all of the following conditions:

(1) ~~Its beneficiaries are all either Class A beneficiaries, as described in G.S. 105-4(a), or the surviving spouse, and (ii) whose spouse.~~

(2) ~~Its gross value, including the value of transfers over which the decedent retained an interest and the value of gifts made within three years before the decedent's death, as provided in G.S. 105-2(3), 105-2(a)(3), is less than the amount specified in the following table: two hundred fifty thousand dollars (\$250,000).~~

Estates of Decedents Dying

| <u>On or After</u> | <u>Gross Value of Estates</u> |
|-----------------------|-------------------------------|
| July 1, 1985 | \$100,000 |
| August 1, 1985 | 75,000 |
| July 1, 1986 | 150,000 |
| January 1, 1987 | 250,000" |

Sec. 2. This act becomes effective for estates of decedents dying on or after October 1, 1993.

In the General Assembly read three times and ratified this the 17th day of July, 1993.

Dennis A. Wicker
President of the Senate

Daniel Blue, Jr.
Speaker of the House of Representatives