GENERAL ASSEMBLY OF NORTH CAROLINA
1993 SESSION

CHAPTER 459
SENATE BILL 658

AN ACT TO EXPAND THE PROPERTY TAX EXEMPTION FOR COMPUTER SOFTWARE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-273(8a) reads as rewritten:

"(8a) 'Inventories' means (i) goods held for sale in the regular course of business by manufacturers, retail and wholesale merchants, and contractors, and (ii) goods held by contractors to be furnished in the course of building, installing, repairing, or improving real property. As to manufacturers, the term includes raw materials, goods in process, and finished goods, as well as other materials or supplies that are consumed in manufacturing or processing, or that accompany and become a part of the sale of the property being sold. The term also includes crops, livestock, poultry, feed used in the production of livestock and poultry, and other agricultural or horticultural products held for sale, whether in process or ready for sale. The term does not include fuel used in manufacturing or processing, nor does it include materials or supplies not used directly in manufacturing or processing. As to retail and wholesale merchants and contractors, the term includes, in addition to articles held for sale, packaging materials that accompany and become a part of the sale of the property being sold.

As to manufacturers and retail and wholesale merchants the term also includes the following computer software, as long as the software is not treated as a capital asset by the taxpayer for income tax purposes:

a.   Computer software developed or modified by the owner or licensee for its own use.

b.   Computer software developed or modified to the special order of or to meet the particular needs of the owner or licensee.

c.   Computer software developed, acquired, or used to develop or enhance computer software for license or sale to ultimate consumers.

For the purpose of this paragraph, the term 'computer software' means a program or routine used to cause a computer to perform a specific task or set of tasks; it includes both system and application programs and any documentation related to the computer software."

Sec. 2. G.S. 105-275 is amended by adding a new subdivision to read:

"(40)   Computer software and any documentation related to the computer software. As used in this subdivision, the term 'computer software' means any program or routine used to cause a computer to perform a specific task or set of tasks. The term includes system and application programs and database storage and management programs.

The exclusion established by this subdivision does not apply to computer software and its related documentation if the computer software meets one or more of the following descriptions:

a.   It is embedded software. 'Embedded software' means computer instructions, known as microcode, that reside permanently in the internal memory of a computer system or other equipment and are not intended to be removed without terminating the operation of the computer system or equipment and removing a computer chip, a circuit, or another mechanical device.

b.   It is purchased or licensed from a person who is unrelated to the taxpayer and it is capitalized on the books of the taxpayer in accordance with generally accepted accounting principles, including financial accounting standards issued by the Financial Accounting Standards Board. A person is unrelated to a taxpayer if (i) the taxpayer and the person are not subject to any common ownership, either directly or indirectly, and (ii) neither the taxpayer nor the person has any ownership interest, either directly or indirectly, in the other.

This subdivision does not affect the value or taxable status of any property that is otherwise subject to taxation under this Subchapter."

Sec. 3. G.S. 105-282.1(a)(2) reads as rewritten:

"(2)   Owners of the special classes of property excluded from taxation under G.S. 105-275(5), (15), (16), (26), (31), (32a), (33), or (34), or (40), or exempted under G.S. 105-278.2 are not required to file applications for the exclusion or exemption of that property."

Sec. 4. This act is effective for taxes imposed for taxable years beginning on or after July 1, 1994.

In the General Assembly read three times and ratified this the 23rd day of July, 1993.

Dennis A. Wicker
President of the Senate

Daniel Blue, Jr.
Speaker of the House of Representatives