

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

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HOUSE BILL 1750

Short Title: Disability Tax Exemption Change.

(Public)

Sponsors: Representatives Hurley; Gibson and Bowman.

Referred to: Finance.

May 5, 1989

A BILL TO BE ENTITLED

AN ACT TO CLARIFY AND SIMPLIFY THE LAW PROVIDING TAX EXEMPTIONS FOR PERSONS WITH CERTAIN DISABILITIES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-149(a) reads as rewritten:

"(a) There shall be deducted from the net income the following exemptions:

(1) In the case of a single individual who is not a head of household as defined in G.S. 105-135(8), a personal exemption of one thousand one hundred dollars (\$1,100). In the case of a single individual who is a head of household, as defined in G.S. 105-135(8), a personal exemption of two thousand two hundred dollars (\$2,200).

(2) In the case of a married couple living together, two thousand two hundred dollar (\$2,200) exemption to the spouse having the larger adjusted gross income and one thousand one hundred dollar (\$1,100) exemption to the other spouse; provided that the spouse having the larger income may by agreement with the other spouse allow that spouse to claim the two thousand two hundred dollar (\$2,200) exemption in which case the spouse having the larger adjusted gross income must file a return and claim only the one thousand one hundred dollar (\$1,100) exemption.

(2a) In the case of an individual who qualifies as 'head of household' as defined in subdivision (8) of G.S. 105-135, two thousand two hundred dollars (\$2,200), but the 'head of household'

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1 exemption shall not be allowable to a married individual living with
2 his or her spouse except as provided in subsection (c)(2) of this
3 section. The 'head of household' exemption shall be in lieu of and
4 not in addition to the exemptions established in subdivisions (1), (2),
5 (4), (6) and (7) of subsection (a). Only one "head of
6 household" exemption shall be allowable with respect to any one
7 household, as the term 'household' is defined in subdivision (8) of
8 G.S. 105-135, and no individual shall be entitled to more than one
9 'head of household' exemption.

10 (3) In the case of a married couple living together, the spouse
11 who does not claim the two thousand two hundred dollar (\$2,200)
12 exemption as provided in (a)(2), one thousand one hundred dollars
13 (\$1,100).

14 (4) In the case of a widow or widower having minor child or
15 children, natural or adopted, two thousand two hundred dollars
16 (\$2,200).

17 (5) For taxable years, beginning on or between January 1, 1980,
18 and December 31, 1980, seven hundred dollars (\$700.00) for each
19 dependent (as defined below) whose gross income for the calendar
20 year in which the taxable year of the taxpayer begins is less than one
21 thousand dollars (\$1,000), or who is a child of the taxpayer either
22 under 19 years of age or a student regularly enrolled for full-time
23 study in a school, college, or other institution of learning. For
24 taxable years beginning on and after January 1, 1981, eight hundred
25 dollars (\$800.00) for each dependent (as defined below) whose gross
26 income for the calendar year in which the taxable year of the
27 taxpayer begins is less than one thousand dollars (\$1,000), or who is
28 a child of the taxpayer either under 19 years of age or a student
29 regularly enrolled for full-time study in a school, college, or other
30 institution of learning. For the purpose of the preceding sentence, the
31 term 'child' means an individual who is a son or daughter (natural or
32 adopted), or a stepson or stepdaughter of the taxpayer.

33 An additional exemption of six hundred sixty dollars (\$660.00) for
34 a dependent (as defined in this subdivision) who is a full-time student
35 at an accredited college or university or other institution of higher
36 learning under such rules or regulations as may be prescribed by the
37 Secretary of Revenue. For the purposes of this paragraph, the words
38 'full-time student' shall mean a dependent enrolled in full-time study
39 on the last day of the income year or enrolled for full-time study for a
40 period of at least five months (whether or not consecutive) during the
41 income year.

42 For the purposes of this subsection, the term 'dependent' means any
43 of the following individuals over half of whose support, for the

1 calendar year in which the taxable year of the taxpayer begins, was
2 received from the taxpayer:

3 a. Any of the following relatives, whether natural or adopted: a son or
4 daughter (or a descendant of either), a stepson, or stepdaughter, a
5 brother or sister (including a brother or sister of the half blood), a
6 stepbrother, stepsister, father or mother (or an ancestor of either), a
7 stepfather, a stepmother, a son or daughter of a brother or sister, a
8 brother or sister of the father or mother, a son-in-law, a daughter-in-
9 law, a father-in-law, a mother-in-law, a brother-in-law, or a sister-in-
10 law of the taxpayer;

11 b. An individual who was a member of the same household as the
12 taxpayer and was related to the taxpayer, whether by blood, affinity, or
13 adoption, a foster child of the taxpayer, or an individual of whom the
14 taxpayer had legal custody during the taxable year;

15 c. A former member of the same household as the
16 taxpayer who otherwise qualifies as a dependent of the
17 taxpayer under subdivision b of this subsection or an
18 individual who otherwise qualifies as a dependent of the
19 taxpayer, who for the taxable year of such taxpayer receives
20 institutional care required by reason of a physical or mental
21 disability.

22 The exemption provided in this subdivision for children of
23 taxpayers shall be allowed only to the person claiming the two
24 thousand two hundred dollar (\$2,200) exemption provided in
25 subdivision (2) of this subsection except, however, that where husband
26 and wife are divorced and have children of their marriage for which
27 they would otherwise be entitled to an exemption hereunder, the parent
28 furnishing the chief support of his (or her) child during the income
29 year shall be entitled to said exemption, irrespective of whether said
30 parent has custody of said child or children or is head of the household
31 during said year.

32 For the purpose of determining the chief support of an individual
33 other than a son or daughter (natural or adopted) or a stepson or
34 stepdaughter of the taxpayer, over one half of the support of the
35 individual for the calendar year shall be treated as received from the
36 taxpayer if:

37 a. No one individual contributed over half of such support;

38 b. Over half of such support was received from individuals each of
39 whom, but for the fact that he did not contribute over half of such
40 support, would have been entitled to claim such individual as a
41 dependent for a taxable year beginning in such calendar year;

42 c. The taxpayer contributed over ten percent (10%) of such support;
43 and

1 d. Each individual in paragraph b (other than the taxpayer) who
2 contributed over ten percent (10%) of such support files a written
3 declaration (in such manner and form as the Secretary of Revenue may
4 prescribe) that he will not claim such individual as a dependent for any
5 taxable year beginning in such calendar year.

6 Nothing in this subdivision shall be construed to allow one spouse
7 to claim an exemption for the other spouse under this subdivision.

8 (6) In the case of an individual who has died during the income
9 year, the same exemptions which would have been allowable to such
10 individual under this subsection had the individual lived the entire
11 income year.

12 (7) In the case of a divorced person having the sole custody of a
13 minor child or children and receiving no alimony for the support of
14 himself or herself, nor support for a child, or children, two thousand
15 two hundred dollars (\$2,200).

16 (8) In the case of any person who is blind, such person shall be
17 entitled to an additional exemption of one thousand one hundred
18 dollars (\$1,100) in addition to all other exemptions allowed by law.
19 Provided, such person shall submit to the Department of Revenue a
20 certificate from a physician, an optometrist or from the Department
21 of Human Resources certifying that such condition exists.

22 ~~(8a) In the case of hemophiliacs meeting the criteria herein~~
23 ~~contained, such persons shall be entitled to an additional exemption~~
24 ~~of one thousand one hundred dollars (\$1,100) in addition to all other~~
25 ~~exemptions provided by law. Eligible hemophiliacs shall be those~~
26 ~~who submit to the Division of Health Services of the Department of~~
27 ~~Human Resources a certificate from a physician or local health~~
28 ~~department, certifying that their condition is medically characterized~~
29 ~~as moderate or severe in the case of deficiencies of Factor VII or~~
30 ~~Factor IX, or in the case of deficiencies in Factors I—VIII or Factors~~
31 ~~X—XIII certifying that their condition causes physical or financial~~
32 ~~conditions similar to those resulting from Factor VIII or Factor IX~~
33 ~~deficiencies; and who attach a supporting statement to their North~~
34 ~~Carolina income tax return, including verification that said~~
35 ~~certificate has been obtained and submitted to the Division of Health~~
36 ~~Services of the Department of Human Resources.~~

37 ~~An additional exemption of one thousand one hundred dollars~~
38 ~~(\$1,100) is allowed in addition to all other exemptions provided by~~
39 ~~law, for each dependent (as defined in subdivision (a)(5) above), who~~
40 ~~is a hemophiliac meeting the criteria set out in the above paragraph.~~
41 ~~The Division of Health Services of the Department of Human~~
42 ~~Resources is directed to develop said certificate and inform physicians~~
43 ~~and local health departments of its availability.~~

1 In the case of an individual who has a moderate or severe coagulation
2 (bleeding) disorder or whose dependent has a moderate or severe
3 coagulation disorder, an additional exemption of one thousand one
4 hundred dollars (\$1,100) for that individual or dependent. This
5 exemption is in addition to all other exemptions allowed by this
6 subsection. To claim this exemption, a taxpayer must attach to the tax
7 return on which the exemption is claimed a statement from a physician
8 or local health department certifying that the individual or dependent
9 for whom the exemption is claimed has a moderate or severe
10 coagulation disorder.

11 (8b) In the case of any person who is deaf, such person shall be entitled to
12 an additional exemption of one thousand one hundred dollars (\$1,100)
13 in addition to all other exemptions provided by law. For purposes of
14 this subdivision, an individual is deaf only if his average loss in the
15 speech frequencies (500 to 2000 Hertz) in the better ear is 86 decibels
16 (I.S.O.) or worse. Provided, such person shall submit to the
17 Department of Revenue a certificate from a physician certifying that
18 such condition exists.

19 ~~(8c) In the case of persons suffering from chronic irreversible~~
20 ~~renal disease, whose condition requires that they utilize dialysis in~~
21 ~~connection with the amelioration of that condition, such persons~~
22 ~~shall be entitled to an additional exemption of one thousand one~~
23 ~~hundred dollars (\$1,100) in addition to all other exemptions~~
24 ~~provided by law. Persons eligible for this exemption shall be those~~
25 ~~who submit to the Division of Health Services of the Department of~~
26 ~~Human Resources a certificate from a physician or local health~~
27 ~~department certifying that their condition is such that dialysis is~~
28 ~~required, as above provided, and who attach a supporting statement~~
29 ~~to their North Carolina income tax return, including verification that~~
30 ~~said certificate has been obtained and submitted to the Division of~~
31 ~~Health Services of the Department of Human Resources.~~

32 ~~An additional exemption of one thousand one hundred dollars~~
33 ~~(\$1,100) is allowed in addition to all other exemptions provided by~~
34 ~~law, for each dependent (as defined in subdivision (a) above) who~~
35 ~~suffers from chronic irreversible renal disease and who meets the~~
36 ~~criteria set out in the above paragraph. The Division of Health Services~~
37 ~~of the Department of Human Resources is directed to develop said~~
38 ~~certificate and inform physicians and local health departments of its~~
39 ~~availability.~~

40 In the case of an individual who has chronic irreversible renal disease
41 and who requires dialysis in connection with the amelioration of that
42 condition, or whose dependent has chronic irreversible renal disease
43 and requires dialysis, an additional exemption of one thousand one
44 hundred dollars (\$1,100) for that individual or dependent. This

1 exemption is in addition to all other exemptions allowed by this
2 subsection. To claim this exemption, a taxpayer must attach to the tax
3 return on which the exemption is claimed a statement from a physician
4 or local health department certifying that the individual or dependent
5 for whom the exemption is claimed has chronic irreversible renal
6 disease and requires dialysis.

7 (8d) An exemption of one thousand one hundred dollars (\$1,100)
8 for an individual who has one of the following conditions or whose
9 dependent has one of these conditions:

- 10 a. Paraplegia;
11 b. Amputation of both legs above the ankle; or
12 c. A disability that requires the person to use a wheelchair to
13 move about and to function effectively.

14 This exemption is in addition to all other exemptions allowed by
15 this subsection. To claim this exemption, a taxpayer must attach to his
16 tax return on which he claims the exemption a statement from a
17 physician certifying that the individual or dependent for whom the
18 exemption is claimed has one of the conditions listed above.

19 ~~(8e) In the case of persons with cystic fibrosis meeting the~~
20 ~~criteria herein contained, such persons shall be entitled to an~~
21 ~~additional exemption of one thousand one hundred dollars (\$1,100)~~
22 ~~in addition to all other exemptions provided by law. Eligible persons~~
23 ~~with cystic fibrosis shall be those who submit to the Division of~~
24 ~~Health Services of the Department of Human Resources a certificate~~
25 ~~from a physician or local health department certifying that such~~
26 ~~condition exists.~~

27 ~~An additional exemption of one thousand one hundred dollars~~
28 ~~(\$1,100) is allowed in addition to all other exemptions provided by law~~
29 ~~for each dependent as defined above, who has cystic fibrosis and meets~~
30 ~~the criteria as set out above.~~

31 In the case of an individual who has cystic fibrosis or whose dependent has
32 cystic fibrosis, an additional exemption of one thousand one hundred
33 dollars (\$1,100) for that individual or dependent. This exemption is in
34 addition to all other exemptions allowed by this subsection. To claim
35 this exemption, a taxpayer must attach to the tax return on which the
36 exemption is claimed a statement from a physician or local health
37 department certifying that the individual or dependent for whom the
38 exemption is claimed has cystic fibrosis.

39 (8f) ~~In the case of an individual who has an open neural tube defect or~~
40 ~~whose dependent has an open neural tube defect, an additional~~
41 ~~exemption of one thousand one hundred dollars (\$1,100) for that~~
42 ~~individual or dependent. This exemption is in addition to all other~~
43 ~~exemptions allowed by this subsection. To claim this exemption, a~~
44 ~~taxpayer must submit to the Division of Health Services of the~~

1 Department of Human Resources a certificate from a physician or
2 local health department certifying that the individual or dependent for
3 whom the exemption is claimed has an open neural tube defect. Upon
4 receipt of a valid certificate, the Division will send the taxpayer a
5 verification form which the taxpayer must attach to the tax return on
6 which the exemption is claimed. The Division shall develop the
7 certificate and verification form and shall inform physicians and local
8 health departments of the availability of the certificate.

9 In the case of an individual who has an open neural tube defect or a
10 closed neural tube defect causing neurological impairment of the same
11 magnitude or a dependent who has an open neural tube defect or a
12 closed neural tube defect causing neurological impairment of the same
13 magnitude, an additional exemption of one thousand one hundred
14 dollars (\$1,100) for that individual or dependent. This exemption is in
15 addition to all other exemptions allowed by this subsection. To claim
16 this exemption, a taxpayer must attach to the tax return on which the
17 exemption is claimed a statement from a physician or local health
18 department certifying that the individual or dependent for whom the
19 exemption is claimed has an open neural tube defect or a closed neural
20 tube defect causing comparable impairment.

21 (8g) In the case of an individual who has multiple sclerosis or whose
22 dependent has multiple sclerosis, an additional exemption of one
23 thousand one hundred dollars (\$1,100) for that individual or
24 dependent. This exemption is in addition to all other exemptions
25 allowed by this subsection. To claim this exemption, a taxpayer must
26 attach to his tax return on which he claims the exemption a statement
27 from a physician or local health department certifying that the
28 individual or dependent for whom the exemption is claimed has
29 multiple sclerosis.

30 (8h) In the case of an individual whose dependent has a severe
31 head injury and is in either a persistent vegetative state or in a
32 severely disabled condition as assessed by the Glasgow Outcome
33 Scale, an exemption on one thousand one hundred dollars (\$1,100)
34 for that dependent. This exemption is in addition to all other
35 exemptions allowed by this subsection. To claim this exemption, the
36 taxpayer must attach to his tax return on which he claims the
37 exemption a statement from a physician certifying that the dependent
38 for whom the exemption is claimed has a severe head injury and is in
39 either a persistent vegetative state or in a severely disabled condition
40 as assessed by the Glasgow Outcome Scale.

41 (8i) In the case of an individual who has muscular dystrophy or whose
42 dependent has muscular dystrophy, an additional exemption of one
43 thousand one hundred dollars (\$1,100) for that individual or
44 dependent. This exemption is in addition to all other exemptions

1 allowed by this subsection. To claim this exemption, a taxpayer must
2 attach to the tax return on which he claims the exemption a statement
3 from a physician or county health department certifying that the
4 individual or dependent for whom the exemption is claimed has
5 muscular dystrophy.

6 (8j) In the case of an individual who has, or whose dependent has, received
7 an organ or tissue transplant because of which he is required, of
8 medical necessity, to take immunosuppressant medications for the
9 remainder of his life to suppress organ or tissue rejection and potential
10 resulting loss of life or health, an additional exemption of one
11 thousand one hundred dollars (\$1,100) for that individual or
12 dependent. This exemption is in addition to all other exemptions
13 allowed by this subsection. To claim this exemption, a taxpayer must
14 attach to the tax return on which he claims the exemption a certificate
15 from a physician or county health department certifying that the
16 individual or dependent for whom the exemption is claimed is the
17 recipient of an organ or tissue transplant and is required to take
18 immunosuppressant medications to suppress rejection of the
19 transplanted organ or tissue.

20 (9) In the case of an individual who has reached the age of 65
21 years on or before the last day of the taxable year, an exemption of
22 one thousand one hundred dollars (\$1,100) in addition to all other
23 exemptions allowed by this section.

24 (10) In the case of each severely retarded person over half of
25 whose support for the taxable year has been provided by a parent or
26 guardian, there shall be allowed an exemption of two thousand two
27 hundred dollars (\$2,200) in addition to all other exemptions allowed
28 by this subsection. For the purposes of this subdivision, 'severely
29 retarded' shall mean a person whose intelligence quotient falls below
30 40.

31 In order to qualify for ~~such~~ this exemption the parents or guardian
32 of ~~said persons~~ the severely retarded person shall provide the
33 Department of Revenue with a statement verifying the condition of
34 ~~said persons~~ that person from any medical doctor licensed to practice in
35 North Carolina or any medical doctor who has graduated from a
36 medical college approved by the Board of Medical Examiners of the
37 State of North Carolina and holds a license granted by any state of the
38 United States or the District of Columbia or practicing psychologist or
39 psychological examiner licensed to practice in North Carolina or any
40 practicing psychologist or psychological examiner licensed or certified
41 as a psychologist or psychological examiner by another state of the
42 United States or the District of Columbia."

43 Sec. 2. This act is effective for taxable years beginning on or after January 1,

44 1989.