

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

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HOUSE BILL 2070*

Short Title: Revenue Laws Tech. Changes.

(Public)

Sponsors: Representatives Lilley, Abernethy, Brawley, Craven, Hasty, and Wisser.

Referred to: Finance.

May 24, 1990

A BILL TO BE ENTITLED

AN ACT TO MAKE TECHNICAL CHANGES TO THE REVENUE LAWS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-33(d) reads as rewritten:

"(d) The State license issued under G.S. 105-41, 105-42, 105-45, 105-53, 105-54, 105-55, ~~105-57~~, 105-58, and 105-91 shall be and constitute a personal privilege to conduct the profession or business named in the State license, shall not be transferable to any other person, firm or corporation and shall be construed to limit the person, firm or corporation named in the license to conducting the profession or business and exercising the privilege named in the State license to the county and/or city and location specified in the State license, unless otherwise provided in this Article or schedule. Other license issued for a tax year for the conduct of a business at a specified location shall upon a sale or transfer of the business be deemed a sufficient license for the succeeding purchaser for the conduct of the business specified at such location for the balance of the tax year: Provided, that if the holder of a license under this schedule moves the business for which a license has been paid to another location, a new license may be issued to the licensee at a new location for the balance of the license year, upon surrender of the original license for cancellation and the payment of a fee of five dollars (\$5.00) for each license certificate reissued."

Sec. 2. G.S. 105-38(h) reads as rewritten:

"(h) Counties, cities, and towns may levy a license tax on the business taxed under this section not in excess of one half of the license tax levied by the State, but shall not levy a parade tax or a tax under ~~subsection (h)~~ ~~[subsection (g)]~~ subsection (g) of this section."

1 Sec. 3. G.S. 105-53(i) reads as rewritten:

2 "(i) Display and Possession of Licenses and Identification. – An itinerant merchant
3 shall keep both the license required by this section and the retail sales tax license
4 conspicuously and prominently displayed, so as to be visible for inspection by patrons
5 of the itinerant merchant at the places or locations at which the goods are to be sold or
6 offered for sale. A peddler shall have the license required by this section and the retail
7 sales tax license with him at all times he offers goods for sale and must produce them
8 upon the request of any customer, State ~~and/or~~ or local revenue agent, or law
9 enforcement agent. A specialty market vendor shall keep the retail sales tax license
10 conspicuously and prominently displayed, so as to be visible for inspection by patrons
11 of the specialty market vendor at the places or locations at which the goods are to be
12 sold or offered for sale. A specialty market operator shall have the license required by
13 this section available for inspection during all times that the specialty market is open
14 and must produce it upon the request of any customer, State ~~and/or~~ or local revenue
15 agent, or law enforcement agent.

16 Upon the request of any customer, State ~~and/or~~ or local revenue agent, or law
17 enforcement agent, a peddler, itinerant merchant, specialty market operator, or specialty
18 market vendor shall provide its name and permanent address. If the peddler, itinerant
19 merchant, specialty market operator, or specialty market vendor is not a corporation, he
20 shall, upon the request of any customer, State ~~and/or~~ or local revenue agent, or law
21 enforcement agent, provide a valid driver's license, a special identification card issued
22 under G.S. 20-37.7, military identification, or a passport bearing a physical description
23 of the person named reasonably describing the peddler, itinerant merchant, specialty
24 market operator, or specialty market vendor. If the peddler, itinerant merchant,
25 specialty market operator, or specialty market vendor is a corporation, it shall, upon the
26 request of any customer, State ~~and/or~~ or local revenue agent, or law enforcement agent,
27 give the name and registered agent of the corporation and the address of the registered
28 office of the corporation, as filed with the North Carolina Secretary of State."

29 Sec. 4. G.S. 105-90.1 is repealed.

30 Sec. 5. G.S. 105-109.1 reads as rewritten:

31 **"§ 105-109.1. Interest.**

32 With respect to the taxes on gross receipts levied in G.S. 105-37.1(a), ~~105-38(7), 105-~~
33 ~~39(e)-105-38(f),~~ and 105-65.1(b)(2), and the tax on installment paper dealers levied in
34 G.S. 105-83(b), all such taxes, including assessments of taxes or additional taxes, shall
35 bear interest from the time such taxes were due to have been paid until paid, at rates
36 established pursuant to G.S. 105-241.1(i)."

37 Sec. 6. G.S. 105-113.110 reads as rewritten:

38 **"§ 105-113.110. Violations of Article a felony.**

39 (a) A dealer who ~~violates this Article~~ possesses marijuana or any other controlled
40 substance or counterfeit controlled substance upon which the tax due under this Article
41 has not been paid, as evidenced by a stamp, is guilty of a Class I felony, and is subject to
42 an additional penalty of one hundred percent (100%) of any tax due from the dealer. ~~felony.~~

1 (b) Notwithstanding any other provision of law, no prosecution for a violation of
2 this Article shall be barred before the expiration of six years after the date of the
3 violation."

4 Sec. 7. Article 2D of Chapter 105 of the General Statutes is amended by
5 adding a new section to read:

6 "**§ 105-113.110A. Interest and penalty.**

7 The tax due under this Article shall bear interest at the rate established pursuant to
8 G.S. 105-241.1(i) from the date due until paid. In addition, a dealer who neglects,
9 fails, or refuses to pay the tax due under this Article is liable for a penalty equal to one
10 hundred percent (100%) of the tax."

11 Sec. 8. G.S. 114-18.1(a) reads as rewritten:

12 "(a) Every local law enforcement agency and every State law enforcement agency
13 shall, within 48 hours after making an arrest of an individual in possession of a
14 ~~controlled substance or a counterfeit controlled substance,~~ more than 42.5 grams of
15 marijuana, seven or more grams of any other controlled substance or counterfeit
16 controlled substance that is sold by weight, or 10 or more dosage units of any other
17 controlled substance or counterfeit controlled substance that is not sold by weight, upon
18 which a North Carolina controlled substance tax stamp is not affixed, report the arrest to
19 the State Bureau of Investigation. Every local law enforcement agency and every State
20 law enforcement agency shall, within 48 hours after seizing any of the above specified
21 quantities of a non-tax-paid controlled substance or a counterfeit controlled substance,
22 report the seizure to the State Bureau of Investigation. The report, to be in the
23 form prescribed by the Secretary of Revenue, shall include the time and place of the
24 arrest or seizure, the amount and location amount, location, and kind of the substance, and
25 the identification-identification, including the social security number, of any individual in
26 possession of the substance-substance, and any other information prescribed by the
27 Secretary of Revenue."

28 Sec. 9. G.S. 114-19(b) reads as rewritten:

29 ♦ "(b) The State Bureau of Investigation shall, on a daily basis, notify the
30 Department of Revenue of all reports it receives pursuant to G.S. 114-18.1 of arrests
31 and seizures involving non-tax-paid controlled substances and counterfeit controlled
32 substances. The Bureau shall also, as soon as practicable, provide the Department with
33 any additional information it receives regarding such arrests and seizures."

34 Sec. 10. G.S. 105-116(g) reads as rewritten:

35 "(g) The Secretary of Revenue shall determine the total gross receipts derived
36 from the sale within each municipality of the commodities or services described in this
37 section, except water and sewerage services, and shall distribute to each municipality an
38 amount equal to a tax of three and nine hundredths percent (3.09%) of the gross receipts
39 from sales within the municipality. ~~In determining the amount to be distributed to a~~
40 ~~municipality pursuant to this subsection, gross receipts from sales within a municipality do not~~
41 ~~include receipts from sales of piped gas to a manufacturer for use as an ingredient or~~
42 ~~component part of a manufactured product.~~

43 As soon as practicable after the date on which each quarterly payment of taxes is due
44 under this section, the Secretary of Revenue shall certify to the State Disbursing Officer

1 and to the State Treasurer the amount distributable to each municipality under this
2 section. The State Disbursing Officer shall thereupon issue a warrant on the State
3 Treasurer to each municipality in the amount so certified.

4 So long as there is a distribution to municipalities of the amount herein provided
5 from the tax imposed by this section, no municipality shall impose or collect any greater
6 franchise, privilege or license taxes, in the aggregate, on the businesses taxed under this
7 section, than was imposed and collected on or before January 1, 1947. If any
8 municipality shall have collected any privilege, license or franchise tax between January
9 1, 1947, and April 1, 1949, in excess of the tax collected by it prior to January 1, 1947,
10 then upon distribution of the taxes imposed by this section to municipalities, the amount
11 distributable to any municipality shall be credited with such excess payment."

12 Sec. 11. G.S. 105-120(d) reads as rewritten:

13 "(d) The Secretary of Revenue shall ascertain the total gross receipts derived from
14 local business conducted within each municipality in this State by persons, firms or
15 corporations taxed under this section, and out of the tax levied by this section, an
16 amount equal to a tax of three and nine hundredths percent (3.09%) of the gross receipts
17 from local business conducted within any municipality shall be distributed to such
18 municipality. ~~When a person, firm or corporation taxed under this section properly receives a~~
19 ~~credit on said taxes under the proviso in subsection (b) because of payments made to a~~
20 ~~municipality, such municipality's distributive share of the taxes levied by this section shall be~~
21 ~~reduced by the amount of the credit properly received by said person, firm or corporation. If the~~
22 ~~credit received under the proviso is greater than the municipality's distributive share of the~~
23 ~~taxes levied under this section, no distribution to such municipality shall be made.~~

24 As soon as practicable after the date on which each quarterly payment of taxes is due
25 under this section, the Secretary of Revenue shall certify to the State Disbursing Officer
26 and to the State Treasurer the amount distributable to each municipality under this
27 section. The State Disbursing Officer shall thereupon issue a warrant on the State
28 Treasurer to each municipality in the amount so certified.

29 In determining what constitutes local business conducted within a municipality for
30 the purposes of this subsection, all business originating within a municipality, except
31 long-distance calls, shall be construed as local business.

32 The Department of Revenue is hereby authorized and empowered to require any and
33 all persons, firms or corporations taxed under this section to file additional reports
34 disclosing the gross receipts derived from local business as herein defined and the gross
35 receipts from long-distance business.

36 If the records of the corporation taxed under this section do not readily disclose
37 allocation to municipalities of revenues from local business as above defined, the
38 Secretary of Revenue shall prescribe some practicable method of allocating such local
39 revenues."

40 Sec. 12. G.S. 105-130.7(1) reads as rewritten:

41 "(1) As soon as may be practicable after ~~the close~~ September 30 of each ~~calendar~~
42 year, the Secretary of Revenue shall determine from ~~each~~ the corporate income tax
43 return filed ~~with him~~ during such year, and due from the filing corporation the year ending
44 September 30 by each corporation required to file a return during ~~such year, that period~~

1 the proportion of the entire net income or loss of the corporation allocable to this State
 2 under the provisions of G.S. 105-130.4, except as provided ~~herein; if herein.~~ If a
 3 corporation has a net income in North Carolina and a net loss from all sources wherever
 4 located, or if a corporation has a net loss in North Carolina and a net income from all
 5 sources wherever located, the Secretary shall require the use of the allocation fraction
 6 determined under the provisions of G.S. 105-130.4. A corporation which is a
 7 stockholder in any such corporation shall be allowed to deduct the same proportion of
 8 the dividends received by it from such corporation during its income year ending ~~at-on~~
 9 or after ~~the end of such calendar year.~~ September 30. No deduction shall be allowed for
 10 any part of any dividend received by such corporation from any corporation which filed no
 11 that was required to file an income tax return with the Secretary of Revenue during such
 12 calendar year. the year ending September 30 but failed to file the return. In the case of
 13 dividends received from a corporation that was not required to file a return during the
 14 year ending September 30, the proportion of dividends deductible by the stockholder
 15 shall be determined by the Secretary from the best information available."

16 Sec. 13. G.S. 105-130.27(g) reads as rewritten:

17 "(g) Expiration. This section applies only to costs incurred during taxable years
 18 beginning prior to January 1, ~~1993.~~ 1994."

19 Sec. 14. G.S. 105-130.40(b1) reads as rewritten:

20 "(b1) Eligibility. – A corporation is eligible for the tax credit allowed by this section
 21 only if it obtained a credit under this section for taxable year 1988 or the Department of
 22 ~~Commerce~~ Economic and Community Development determines that it engages in the
 23 manufacturing of goods, or that it engages in an industrial activity such as the
 24 processing of foods, raw materials, chemicals and process agents, goods in process, or
 25 ~~of~~ finished products."

26 Sec. 15. G.S. 105-134.1(11) reads as rewritten:

27 "(11) Person. An individual, a fiduciary, ~~a partnership, or a corporation.~~ or
 28 a partnership. The term includes an officer or employee of a
 29 corporation or a member or employee of a partnership who, as
 30 officer, employee, or member, is under a duty to perform an act in
 31 meeting the requirements of this Division."

32 Sec. 16. G.S. 105-134.2 reads as rewritten:

33 **"§ 105-134.2. Individual income tax imposed.**

34 (a) A tax is imposed upon the North Carolina taxable income of every individual.
 35 The tax shall be levied, collected, and paid annually and shall be computed at the
 36 following percentages of the taxpayer's North Carolina taxable income.

37 (1) For married individuals who file a joint return under G.S. 105-152.1
 38 and for surviving spouses, as defined in section 2(a) of the Code:

39 On the North Carolina taxable income up to twenty-one thousand
 40 two hundred fifty dollars (\$21,250), six percent (6%); and

41 On the excess over twenty-one thousand two hundred fifty dollars
 42 (\$21,250), seven percent (7%).

43 (2) For heads of households, as defined in section 2(b) of the Code:

1 On the North Carolina taxable income up to seventeen thousand
2 dollars (\$17,000), six percent (6%); and

3 On the excess over seventeen thousand dollars (\$17,000), seven
4 percent (7%).

- 5 (3) For unmarried individuals other than surviving spouses and heads of
6 households:

7 On the North Carolina taxable income up to twelve thousand seven
8 hundred fifty dollars (\$12,750), six percent (6%); and

9 On the excess over twelve thousand seven hundred fifty dollars
10 (\$12,750), seven percent (7%).

- 11 (4) For married individuals who do not file a joint return under G.S. 105-
12 152.1:

13 On the North Carolina taxable income up to ten thousand six
14 hundred twenty-five dollars (\$10,625), six percent (6%); and

15 On the excess over ten thousand six hundred twenty-five dollars
16 (\$10,625), seven percent (7%).

17 **(b) In lieu of the tax imposed by subsection (a) of this section, there is imposed**
18 **for each taxable year upon the North Carolina taxable income of every individual a tax**
19 **determined under tables, applicable to the taxable year, which may be prescribed by the**
20 **Secretary of Revenue. The tables prescribed under this subsection shall be in the form**
21 **the Secretary deems appropriate, and the amounts of the tax shall be computed on the**
22 **basis of the rates prescribed by subsection (a) of this section. This subsection does not**
23 **apply to an individual making a return under section 443(a)(1) of the Code for a period**
24 **of less than 12 months on account of a change in the individual's annual accounting**
25 **period, or to an estate or trust. The tax imposed by this subsection shall be treated as the**
26 **tax imposed by subsection (a) of this section.**"

27 Sec. 17. G.S. 105-151(a)(3) reads as rewritten:

- 28 "(3) Receipts showing the payment of income taxes to another state or
29 country and a true copy of a return or returns upon the basis of which
30 ~~such the~~ taxes are assessed ~~must shall~~ be filed with the Secretary at, or
31 prior to, the time credit is claimed. If credit is claimed on account of a
32 deficiency assessment, a true copy of the notice assessing or proposing
33 to assess the deficiency, as well as a receipt showing the payment of
34 the deficiency, shall be filed."

35 Sec. 18. G.S. 105-151.8(b) reads as rewritten:

36 "(b) In the case of property owned by the entirety, where both spouses are
37 required to file North Carolina income tax returns, the credit allowed by this section
38 may be claimed only if the spouses file a joint return under G.S. ~~105-152.2~~ ~~[105-152.1]~~
39 105-151.1. Where only one spouse is required to file a North Carolina income tax
40 return, that spouse may claim the credit allowed by this section."

41 Sec. 19. G.S. 105-154(b) reads as rewritten:

42 "(b) Every partnership doing business in the State required to file a return under
43 the Code shall make a return stating specifically the items of its gross income and the
44 deductions allowed under the Code and the adjustments required by this Division, and

1 shall include in the return the names and addresses of the individuals who would be
2 entitled to share in the net income if distributable, and the amount of the distributive
3 share of each individual, together with the distributive shares of corporation dividends.
4 The return shall be signed by one of the partners under affirmation in the form
5 prescribed in G.S. 105-155 of this Division, and the same penalties prescribed in G.S.
6 105-236 shall apply in the event of a willful misstatement. If a business established in
7 this State is owned by a nonresident individual or by a partnership having one or more
8 nonresident members, the manager of the business shall report the earnings of the
9 business in this State and the distributive share of the income of each nonresident owner
10 or partner, and shall pay the tax as levied on individuals under ~~G.S. 105-134.2~~ G.S. 105-
11 134.2(a)(3) for each nonresident owner or partner. The business may deduct the
12 payment for each nonresident owner or partner from the owner or partner's distributive
13 share of the profits of the business in this State."

14 Sec. 20. G.S. 105-156 reads as rewritten:

15 **"§ 105-156. Failure to file returns; supplementary returns.**

16 If the Secretary is of the opinion that any taxpayer has failed to file a return or to
17 include in a return filed, either intentionally or through error, taxable income, the
18 Secretary may require from the taxpayer a return or supplementary return, under oath, in
19 such form as the Secretary shall prescribe, of all the items of gross income the taxpayer
20 received during the year for which the return is made, whether or not taxable under the
21 provisions of this Division. If from a supplementary return or otherwise the Secretary
22 finds that any taxable income has been omitted from the original return, ~~if~~ he may
23 require the taxable income so omitted to be disclosed to him under oath of the taxpayer,
24 and to be added to the original return. The supplementary return and the correction of
25 the original return shall not relieve the taxpayer from any of the penalties under G.S.
26 105-236. The Secretary may proceed under the provisions of G.S. 105-241.1 whether
27 or not he requires a return or a supplementary return under this section."

28 Sec. 21. G.S. 105-160.2 reads as rewritten:

29 **"§ 105-160.2. Imposition of tax.**

30 The tax imposed by this Division shall apply to the taxable income of estates and
31 trusts as determined under the provisions of the Code except as otherwise provided in
32 this Division. The taxable income of an estate or trust shall be the same as taxable
33 income for such an estate or trust under the provisions of the Code, adjusted as provided
34 in G.S. 105-134.6 and G.S. 105-134.7, except that the adjustments provided in G.S.
35 105-134.6 and G.S. 105-134.7 shall be apportioned between the estate or trust and the
36 beneficiaries based on the distributions made during the taxable year. The tax shall be
37 computed at the following percentages of ~~an the amount equal to~~ of the taxable income
38 multiplied by a fraction, the numerator of which is the of an estate or trust's gross income
39 from North Carolina sources, plus the gross income from sources outside of the State and from
40 intangible sources—trust which is for the benefit of a resident of this State, and the
41 denominator of which is the estate or trust's gross income as calculated under the Code—
42 or for the benefit of a nonresident to the extent that the income (i) is derived from North
43 Carolina sources and is attributable to the ownership of any interest in real or tangible
44 personal property in this State or (ii) is derived from a business, trade, profession, or

1 occupation carried on in this State. For purposes of the preceding sentence, taxable
2 income and gross income shall be computed subject to the adjustments provided in G.S.
3 105-134.6 and G.S. 105-134.7. The tax shall be at six percent (6%) on the first twelve
4 thousand seven hundred fifty dollars (\$12,750) of the amount computed above; and at
5 seven percent (7%) of the excess of the amount computed above over twelve thousand
6 seven hundred fifty dollars (\$12,750). The tax computed under the provisions of this
7 Division shall be paid by the fiduciary responsible for administering the estate or trust."

8 Sec. 22. The title of Article 4A of Chapter 105 of the General Statutes reads
9 as rewritten:

10 **"ARTICLE 4A.**
11 **WITHHOLDING OF INCOME TAXES FROM WAGES AND**
12 **~~FILING OF DECLARATIONS OF ESTIMATED~~**
13 **~~INCOME AND PAYMENT OF INCOME~~**
14 **TAX BY INDIVIDUALS."**

15 Sec. 23. G.S. 105-163.16(c) reads as rewritten:

16 "(c) Where there has been an overpayment (as specified in subsections (a) and (b)
17 of this section) of any tax imposed under Article 4 of this Chapter, as disclosed by the
18 taxpayer's annual return required to be filed by Article 4, the amount of such
19 overpayment shall be refunded to the taxpayer; except that overpayments of less than
20 one dollar (\$1.00) shall be refunded only upon receipt by the Secretary of a written
21 demand for such refund from the taxpayer and except that there shall be no refund to the
22 taxpayer of any sum set-off under the provisions of Chapter 105A, the Set-off Debt
23 Collection Act. Every refund authorized by this section shall be made as expeditiously
24 as possible, and within six months from the date on which the annual return is filed or
25 due to be filed, whichever is later, insofar as the same is practicable; except that no
26 refunds for overpayment of estimated tax shall be made by the Secretary prior to the
27 date on which the final return is filed by the taxpayer. No interest shall be paid with
28 respect to any such refund if the refund is made within the six months' period above
29 referred to. Interest computed at the rate established in G.S. 105-241.1(i) for
30 assessments shall be paid on refunds made after the expiration of said six months'
31 period, such interest to be computed from the time of the expiration of said six months'
32 period until paid. It shall not be necessary for the Attorney General or any member of
33 his staff to approve such refund. The making of such refund does not absolve any
34 taxpayer of any income tax liability which may in fact exist and the Secretary may make
35 any assessment for any deficiency in the manner provided in ~~Article 4~~ Article 9 of this
36 Chapter. No overpayment of tax by the taxpayer shall be refunded irrespective of
37 whether upon discovery or receipt of written demand if such discovery is not made or
38 such demand is not received within three years from the date set by the statute for the
39 filing of the annual return by the taxpayer or within six months of the payment of the
40 tax alleged to be an overpayment, whichever date is the later."

41 Sec. 24. G.S. 105-188(i) reads as rewritten:

42 "(i) The tax does not apply to tuition payments made on behalf of an individual to
43 an educational institution or to medical payments made on behalf of an individual to a
44 provider of medical care, as defined in ~~G.S. 105-147(11)b1~~, in the Code for the care of

1 that individual. The term 'educational institution' includes only those institutions that
 2 normally maintain a regular faculty and curriculum and normally have a regularly
 3 organized body of students in attendance where the educational activities are
 4 conducted."

5 Sec. 25. G.S. 105-204 reads as rewritten:

6 **"§ 105-204. Beneficial interest in foreign trusts.**

7 The beneficial or equitable interest on December 31 of each year of any resident of
 8 this State, or of a nonresident having a business, commercial or taxable situs in this
 9 State, in any trust, trust fund or trust account (including custodian accounts) held by a
 10 foreign fiduciary, shall be subject to an annual tax, which is hereby levied, of twenty-
 11 five cents (25¢) on every one hundred dollars (\$100.00) of the total actual value thereof
 12 less, however, the proportion of such value as is equal to the proportion of the
 13 beneficiary's income from the trust, trust fund, or trust account (including custodian
 14 accounts) that is attributable to (i) interest received by the fiduciary on bonds, notes or
 15 other evidences of debt of the United States, State of North Carolina, subdivisions of
 16 this State, or agencies of such governmental units and (ii) dividends received by the
 17 fiduciary on shares of stock ~~which, or to the extent that the same, are the dividends would~~
 18 be deductible by the beneficiary in computing his income tax liability under the provisions of
 19 subdivision (7) of G.S. 105-147 without regard to the fifteen thousand dollar (\$15,000)
 20 limitation under subdivision (7) of G.S. 105-147; a corporate shareholder under G.S. 105-
 21 130.7(1), (2), (3), (3a), or (5) except that no deduction shall be allowed for dividends
 22 deemed distributable from earnings for a taxable period during which the corporation is
 23 an S Corporation subject to the provisions of Division I-S of Article 4 of this Chapter;
 24 provided, however, that a resident beneficiary of a foreign trust shall be allowed a credit
 25 against any tax due under this section for any foreign intangibles tax paid on his
 26 beneficial interest in a foreign trust.

27 The value of the corpus of such trust, trust fund or trust account shall not be
 28 considered in computing taxable value hereunder, unless the person subject to the tax:

- 29 (1) Has the right to the present possession of an interest therein, and then
 30 only to the extent of the value of such present interest; or
- 31 (2) Has the present right to receive a part or all of the income realized
 32 from the corpus of such trust, and then only to the extent of the
 33 present value of such income interest; or
- 34 (3) Has created the trust and reserved for himself an income, reversionary
 35 or remainder interest therein, and then only to the extent of the present
 36 value of such interest."

37 Sec. 26. G.S. 105-212(a) reads as rewritten:

38 "(a) None of the taxes levied in this Article or schedule shall apply to religious,
 39 educational, charitable or benevolent organizations not conducted for profit, nor to
 40 trusts established for religious, educational, charitable or benevolent purposes where
 41 none of the property or the income from the property owned by such trust may inure to
 42 the benefit of any individual or any organization conducted for profit, nor to any funds,
 43 evidences of debt, or securities held irrevocably in a charitable remainder trust meeting
 44 the requirements of section 664 of the Code or in a pooled income fund meeting the

1 requirements of section 642(c)(5) of the Code, nor to any funds held irrevocably in trust
2 exclusively for the maintenance and care of places of burial; nor to any funds, evidences
3 of debt, or securities held irrevocably in pension, profit-sharing, stock bonus, or annuity
4 trusts, or combinations thereof, established by employers for the purpose of distributing
5 both the principal and income thereof exclusively to eligible employees, or the
6 beneficiaries of such employees, if such trusts qualify for exemption from income tax
7 under the ~~provisions of G.S. 105-161(f)(1)a; Code;~~ nor to any funds, evidences of debt or
8 securities held irrevocably in a pension, profit-sharing, stock bonus or annuity plan
9 established by an employer for the benefit of his employees or for himself and his
10 employees if such plan qualifies for exemption from income tax under ~~the provisions of~~
11 ~~G.S. 105-141(b)(19); section 401 of the Code;~~ nor to any funds, evidences of debt, or
12 securities held in an individual retirement account described in section 408(a) of the
13 Code, or an individual retirement annuity described in section 408(b) of the Code, if
14 such individual retirement account or individual retirement annuity is exempt from
15 income tax under ~~the provisions of G.S. 105-161(f)(1)e or G.S. 105-141(b)(19); section~~
16 408(e) of the Code."

17 Sec. 27. G.S. 105-228.5 reads as rewritten:

18 **"§ 105-228.5. Taxes measured by gross premiums.**

19 Every insurance company and every Articles 65 and 66 of Chapter 58 corporation
20 shall pay to the Commissioner of Insurance, at the time and rates provided in this
21 section, a tax measured by gross premiums from business done in this State during the
22 preceding calendar year, or, for Articles 65 and 66 of Chapter 58 corporations, a tax
23 measured by gross collections from membership dues, exclusive of receipts from cost
24 plus plans, received by such corporations during the preceding calendar year.

25 Gross premiums from business done in this State in the case of life insurance and
26 annuity contracts, including any supplemental contracts thereto providing for disability
27 benefits, accidental death benefits, or other special benefits, shall for the purposes of the
28 taxes levied in this section mean any and all premiums collected in the calendar year
29 (other than for contracts for reinsurance) for policies the premiums on which are paid by
30 or credited to persons, firms or corporations resident in this State, or in the case of group
31 policies for any contracts of insurance covering persons resident within this State, with
32 no deduction for considerations paid for annuity contracts which are subsequently
33 returned except as below specified, and with no other deduction whatsoever except for
34 premiums returned under one or more of the following conditions: premiums refunded
35 on policies rescinded for fraud or other breach of contract; premiums which were paid
36 in advance on life insurance contracts and subsequently refunded to the insured,
37 premium payer, beneficiary or estate; and in the case of group annuity contracts the
38 premiums returned by reason of a change in the composition of the group covered. Said
39 gross premiums shall be deemed to have been collected for the amounts as provided in
40 the policy contracts for the time in force during the year, whether satisfied by cash
41 payment, notes, loans, automatic premium loans, applied dividend or in any other
42 manner whatsoever, except in the case of premiums waived by any of said companies
43 pursuant to a contract for waiver of premium in case of disability.

1 An insurer, in computing its premium taxes, shall pay premium taxes on a premium
2 for the purchase of annuities at the time the contract holder elects to commence annuity
3 benefits, instead of at the time the premium is collected.

4 Every insurer, in computing the premium tax, shall exclude from the gross amount
5 of premiums all premiums received on or after July 1, 1973, from policies or contracts,
6 issued in connection with the funding of a pension, annuity or profit-sharing plan,
7 qualified or exempt under sections 401, 403, 404, 408, 457 or 501 of the Code as
8 defined in ~~G.S. 105-135(15)~~ G.S. 105-134.1(1) and the gross amount of all such
9 premiums shall be exempt from the tax levied by this section.

10 Gross premiums from business done in this State in the case of contracts for fire
11 insurance, casualty insurance, and any other type of insurance except life and annuity
12 contracts as above specified, including contracts of insurance required to be carried by
13 the Workers' Compensation Act, shall for the purposes of the taxes levied in this section
14 mean any and all premiums written during the calendar year, or the equivalent thereof in
15 the case of self-insurers under the Workers' Compensation Act, for contracts covering
16 property or risks in this State, other than for contracts of reinsurance, whether such
17 premiums are designated as premiums, deposits, premium deposits, policy fees,
18 membership fees, or assessments. Gross premiums shall be deemed to have been written
19 for the amounts as provided in the policy contracts, new and renewal, becoming
20 effective during the year irrespective of the time or method of making payment or
21 settlement for such premiums, and with no deduction for dividends whether returned in
22 cash or allowed in payment or reduction of premiums or for additional insurance, and
23 without any other deduction except for return of premiums, deposits, fees or
24 assessments for adjustment of policy rates or for cancellation or surrender of policies.

25 In determining the amount of gross premiums from business in this State all gross
26 premiums received in this State, or credited to policies written or procured in this State,
27 or derived from business written in this State shall be deemed to be for contracts
28 covering persons, property or risks resident or located in this State except for such
29 premiums as are properly reported and properly allocated as being received from
30 business done in some other nation, territory, state or states, and except for premiums
31 from policies written in federal areas for persons in military service who pay premiums
32 by assignment of service pay.

33 The tax rate to be applied to gross premiums collected on contracts applicable to
34 liabilities under the Workers' Compensation Act shall be two and five-tenths percent
35 (2.5%). The tax rate to be applied to gross premiums collected on annuities and all other
36 insurance contracts issued by insurers shall be one and seventy-five hundredths percent
37 (1.75%). The tax rate to be applied to amounts collected on contracts of insurance
38 applicable to fire and lightning coverage (except marine and automobile policies) shall
39 be one and thirty-three hundredths percent (1.33%) in addition to the one and seventy-
40 five hundredths percent (1.75%) tax. Twenty-five percent (25%) of the net proceeds of
41 the one and thirty-three hundredths percent (1.33%) tax on amounts collected on
42 contracts of insurance applicable to fire and lightning coverage shall be deposited in the
43 Rural Volunteer Fire Department Fund established in Articles 84 through 88 of Chapter
44 58 of the General Statutes. Effective July 1, 1988, the tax rate to be applied to gross

1 premiums and/or gross collections from membership dues, exclusive of receipts from
2 cost plus plans, received by Articles 65 and 66 of Chapter 58 corporations shall be one-
3 half of one percent (1/2 of 1%).

4 The taxes levied herein measured by premiums and/or membership dues shall be in
5 lieu of all other taxes upon insurance companies except: fees and licenses under this
6 Article, or as specified in Articles 1 through 64 of Chapter 58 of the General Statutes of
7 North Carolina as amended; taxes imposed by Articles 84 through 88 of Chapter 58 of
8 the General Statutes of North Carolina; taxes imposed by Article 5 of Chapter 105 of
9 the General Statutes of North Carolina as amended; and ad valorem taxes upon real
10 property and personal property owned in this State.

11 For the tax above levied as measured by gross premiums and/or gross collections
12 from membership dues exclusive of receipts from cost plus plans the president,
13 secretary, or other executive officer of each insurance company and Articles 65 and 66
14 of Chapter 58 corporation doing business in this State shall within the first 15 days of
15 March file with the Commissioner of Insurance a full and accurate report of the total
16 gross premiums as above defined or the total gross collections from membership dues
17 exclusive of receipts from cost plus plans collected in this State during the preceding
18 calendar year. The report shall be in such form and contain such information as the
19 Commissioner of Insurance may specify, and the report shall be verified by the oath of
20 the company official transmitting the same or by some principal officer at the home or
21 head office of the company or association in this country. At the time of making such
22 report the taxes above levied with respect to the gross premiums or the gross collections
23 from membership dues shall be paid to the Commissioner of Insurance. The provisions
24 above shall likewise apply as to reports and taxes for any firm, corporation, or
25 association exchanging reciprocal or interinsurance contracts, and said reports and taxes
26 shall be transmitted by their attorneys-in-fact.

27 Insurance companies and Articles 65 and 66 of Chapter 58 corporations subject to
28 the tax imposed by this section with a premium tax liability of ten thousand dollars
29 (\$10,000) or more for business done in North Carolina during the immediately
30 preceding year shall remit three equal quarterly installments with each installment equal
31 to at least twenty-seven and one-half percent (27 1/2%) of the premium tax liability
32 incurred in the immediately preceding taxable year. The quarterly installment payments
33 shall be made on or before April 15, June 15, and October 15 of each taxable year. The
34 company shall remit the balance by the following March 15 in the same manner
35 provided in this section for annual returns. For taxable years beginning on or after
36 January 1, 1989, each of the three quarterly installments shall be equal to at least thirty-
37 three and one-third percent (33 1/3%) and payment of these installments shall be made
38 on or before April 15, June 15, and October 15 of each taxable year. The balance shall
39 be remitted by the following March 15 in the same manner provided in this section for
40 annual returns.

41 The Commissioner of Insurance may, by regulation, permit an insurance company to
42 pay less than the required estimated payment when the insurer reasonably believes that
43 the total estimated payments made for the current year will exceed the total anticipated
44 tax liability for the year.

1 If a company does not meet the installment payment requirement of this section, the
2 Commissioner of Insurance shall assess a penalty on underpayments that is equal to the
3 interest rate adopted by the Secretary of Revenue under G.S. 105-241.1(i). Any
4 overpayment shall be credited to the company and applied against the taxes imposed
5 upon the company under this Article.

6 The provisions as to reports and taxes as measured by gross premiums shall not
7 apply to farmers' mutual assessment fire insurance companies or to fraternal orders or
8 societies that do not operate for a profit and do not issue policies on any person except
9 members.

10 With respect to the taxes levied in this section on the equivalent of premiums of self-
11 insurers under the provisions of the Workers' Compensation Act, the reports required
12 herein shall be transmitted to and the taxes collected by the Insurance Commissioner as
13 provided in G.S. 97-100(j)."

14 Sec. 28. G.S. 105-269.4 reads as rewritten:

15 **"§ 105-269.4. Election to apply income tax refund to following year's tax.**

16 Any ~~person-taxpayer~~ required to file an income tax return under Article 4 of this
17 Subchapter whose return shows that the ~~person-taxpayer~~ is entitled to a refund may elect
18 to apply part or all of the refund to that ~~person's-taxpayer's~~ estimated income tax liability
19 for the following year. The Secretary of Revenue shall amend the income tax returns to
20 permit the election authorized by this section."

21 Sec. 29. G.S. 105-277.3(a) reads as rewritten:

22 "(a) The following classes of property are hereby designated special classes of
23 property under authority of Article V, Sec. 2(2) of the North Carolina Constitution and
24 shall be appraised, assessed and taxed as hereinafter provided:

25 (1) Individually owned agricultural land consisting of one or more tracts,
26 one of which consists of at least 10 acres that are in actual production
27 and that, for the three years preceding January 1 of the year for which
28 the benefit of this section is claimed, have produced an average gross
29 income of at least one thousand dollars (\$1,000). Gross income
30 includes income from the sale of the agricultural products produced
31 from the land and any payments received under a governmental soil
32 conservation or land retirement program. Land in actual production
33 includes land under improvements used in the commercial production
34 or growing of crops, plants, or animals.

35 (2) Individually owned horticultural land consisting of one or more tracts,
36 one of which consists of at least five acres that are in actual production
37 and that, for the three years preceding January 1 of the year for which
38 the benefit of this section is claimed, ~~which~~ have either:

39 a. Been used to produce evergreens intended for use as Christmas
40 trees and met the qualifying or gross income requirements
41 established by the Department of Revenue for the land; or

42 b. Produced an average gross income of at least one thousand
43 dollars (\$1,000).

1 Gross income includes income from the sale of the horticultural
2 products produced from the land and any payments received under a
3 governmental soil conservation or land retirement program. Land in
4 actual production includes land under improvements used in the
5 commercial production or growing of fruits or vegetables or nursery or
6 floral products.

- 7 (3) Individually owned forestland consisting of one or more tracts, one of
8 which consists of at least 20 acres that are in actual production and are
9 not included in a farm unit."

10 Sec. 30. G.S. 20-80.1(a) reads as rewritten:

11 "(a) The Commissioner shall cause to be made a sufficient number of distinctive
12 motor vehicle license plates, in the form hereafter provided, for issuance to eligible
13 members of the reserve components of the armed forces of the United States, upon
14 proper application and under such regulations as he deems appropriate. Upon
15 satisfactory proof of eligibility, the commissioner shall collect a fee in an amount equal
16 to the applicable fee under G.S. 20-87 plus ten dollars (\$10.00). ~~Fees collected under The~~
17 additional fee imposed by this section shall be deposited in credited to the Personalized
18 Registration Plate Fund."

19 Sec. 31. G.S. 20-81.3(c) reads as rewritten:

20 "(c) One-half of the revenue derived from the additional fee shall be ~~deposited in~~
21 credited to the Recreation and Natural Heritage Trust Fund established under G.S. 113-
22 77.7. The remaining one-half of the revenue derived from the additional fee for the
23 special personalized registration plates shall be ~~placed in credited to~~ a separate fund
24 designated the 'Personalized Registration Plate Fund'. After deducting the cost of the
25 plates, plus budgetary requirements for advertising, handling, and issuance to be
26 determined by the Commissioner, the revenue in the Personalized Registration Plate
27 Fund shall be transferred quarterly as follows:

- 28 (1) Thirty-three percent (33%) to the account of the Department of
29 Economic and Community Development to aid in financing out-of-
30 state print and other media advertising under the program for the
31 promotion of travel and industrial development in this State.
32 (2) Fifty percent (50%) to the Department of Transportation to be used
33 solely for the purpose of beautification of highways other than those
34 designated as interstate. These funds shall be administered by the
35 Department of Transportation for beautification purposes not
36 inconsistent with good landscaping and engineering principles.
37 (3) Seventeen percent (17%) to the account of the Department of Human
38 Resources to promote travel accessibility for disabled persons in this
39 State. These funds shall be used: to collect and update site information
40 on travel attractions designated by the Department of Economic and
41 Community Development in ~~their~~ its publications; to provide technical
42 assistance to travel ~~attraction~~ attractions concerning accommodation of
43 disabled tourists; and to develop, print, and promote the publication
44 ACCESS NORTH CAROLINA. The Department of Human

1 Resources shall make copies of ACCESS NORTH CAROLINA
2 available to the Department of Economic and Community
3 Development for ~~their~~its use in Welcome Centers and other
4 appropriate Department of Economic and Community Development
5 offices.

6 (4) The Department of Economic and Community Development shall
7 promote ACCESS NORTH CAROLINA in ~~their~~its publications
8 (including providing a toll-free telephone line and an address for
9 requesting copies of the publication) and provide technical assistance
10 to the Department of Human Resources on travel attractions to be
11 included in ACCESS NORTH CAROLINA. The Department of
12 Economic and Community Development shall forward all requests for
13 mailing ACCESS NORTH CAROLINA to the Department of Human
14 Resources.

15 (5) Funds allocated by this ~~section~~subsection for promotion of travel
16 accessibility and ACCESS NORTH CAROLINA which are not spent
17 and are not obligated at the end of the fiscal year shall not revert but
18 shall be transferred to the Department of Administration for removal
19 of man-made barriers to disabled travelers at State-funded travel
20 attractions. Guidelines for the removal of man-made barriers shall be
21 developed in consultation with the Department of Human Resources."

22 Sec. 32. G.S. 20-81.5(b) reads as rewritten:

23 "(b) ~~Fees collected under~~The additional fee imposed by this section shall be
24 ~~deposited in~~credited to the Personalized Registration Plate Fund."

25 Sec. 33. G.S. 20-81.10(a) reads as rewritten:

26 "(a) The Commissioner shall cause to be made a sufficient number of distinctive
27 motor vehicle license plates for issuance to eligible persons who make application on a
28 form designed by the Division and supply documentation that they were members of the
29 U.S. Military Service and were present at the attack on Pearl Harbor on December 7,
30 1941. Upon satisfactory proof of eligibility, the Commissioner shall collect a fee in an
31 amount equal to the applicable fee under G.S. 20-87 plus ten dollars (\$10.00). ~~Fees~~
32 ~~collected under~~The additional fee imposed by this section shall be ~~deposited in~~credited to
33 the Personalized Registration Plate Fund."

34 Sec. 34. G.S. 20-81.11(a) reads as rewritten:

35 "(a) The Commissioner shall cause to be made a sufficient number of distinctive
36 motor vehicle license plates for issuance to eligible persons who make application on a
37 form designed by the Division and supply documentation that they were members of the
38 U.S. Military Service and were recipients of the Purple Heart Award. Upon satisfactory
39 proof of eligibility, the Commissioner shall collect a fee in an amount equal to the
40 applicable fee under G.S. 20-87 plus ten dollars (\$10.00). ~~Fees collected under~~The
41 additional fee imposed by this section shall be ~~deposited in~~credited to the Personalized
42 Registration Plate Fund."

43 Sec. 35. Section 4 of this act shall become effective July 1, 1990. Sections
44 16 and 21 of this act are effective for taxable years beginning on or after January 1,

1 1990. Sections 25 and 26 of this act are effective retroactively for taxable years
2 beginning on or after January 1, 1989. The remainder of this act is effective upon
3 ratification.