

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

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HOUSE BILL 372\*

Short Title: Tangible Personal Property Definition.

(Public)

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Sponsors: Representatives Payne, Barnes, Colton, B. Ethridge, Grimmer, Jack Hunt, Redwine; Hall and Bowman.

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Referred to: Commerce.

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February 27, 1989

A BILL TO BE ENTITLED

1 AN ACT TO AMEND THE DEFINITION OF "TANGIBLE PERSONAL  
2 PROPERTY" FOR PURPOSES OF APPLICATION OF THE SALES AND USE  
3 TAX TO POST-PRODUCTION TRANSACTIONS.  
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5 The General Assembly of North Carolina enacts:

6 Section 1. G.S. 105-164.3(20) reads as rewritten:

7 "(20) 'Tangible personal property' means and includes personal property which  
8 may be seen, weighed, measured, felt or touched or is in any other manner perceptible  
9 to the senses. The term 'tangible personal property' shall not include stocks, bonds,  
10 notes, insurance or other obligations or securities, nor shall it include water delivered by  
11 or through main lines or pipes either for commercial or domestic use or consumption.  
12 The term includes all 'canned' or prewritten computer programs, either in the form of  
13 written procedures or in the form of storage media on which or in which the program is  
14 recorded, held, or existing for general or repeated sale, lease, or license to use or  
15 consume. The term does not include the design, development, writing, translation,  
16 fabrication, lease, license to use or consume, or transfer for a consideration of title or  
17 possession of a custom computer program, other than a basic operational program,  
18 either in the form of written procedures or in the form of storage media on which or in  
19 which the program is recorded, or any required documentation or manuals designed to  
20 facilitate the use of the custom computer program. The term does not include the  
21 design, development, writing, translation, fabrication, lease, license to use or consume,  
22 or transfer for a consideration of title or possession of a master film or master video  
23 tape.

1 As used in this subdivision:

- 2 a. 'Basic operational program' or 'control program' means a computer  
3 program that is fundamental and necessary to the functioning of a  
4 computer. A basic operational program is that part of an operating  
5 system, including supervisors, monitors, executives, and control or  
6 master programs, which consists of the control program elements of  
7 that system. A control or master program, as opposed to a processing  
8 program, controls the operation of a computer by managing the  
9 allocation of all system resources, including the central processing  
10 unit, main storage, input/output devices, and processing programs. A  
11 processing program is used to develop and implement the specific  
12 applications the computer is to perform.
- 13 b. 'Computer program' means the complete plan for the solution of a  
14 problem, such as the complete sequence of automatic data-processing  
15 equipment instructions necessary to solve a problem, and includes both  
16 systems and application programs and subdivisions, such as  
17 assemblers, compilers, routines, generators, and utility programs.
- 18 c. 'Custom computer program' means a computer program prepared to  
19 the special order of the customer. Custom computer programs include  
20 one of the following elements:
- 21 1. Preparation or selection of the programs for the customer's use  
22 requires an analysis of the customer's requirements by the  
23 vendor; or
  - 24 2. The program requires adaptation by the vendor to be used in a  
25 particular make and model of computer utilizing a specified  
26 output device.
- 27 d. 'Storage media' means punched cards, tapes, disks, diskettes, or drums.
- 28 e. 'Master film or Master video tape' means films or video tapes utilized  
29 by the motion picture and television production industries in making  
30 visual images for reproduction.
- 31 f. 'Motion picture or Television production industry' means any person  
32 engaged in an occupation or business for a livelihood or for profit of  
33 making visual motion picture or television visual images for showing  
34 on screen or television for theatrical, commercial, advertising, or  
35 educational purposes."

36 Sec. 2. This act shall become effective July 1, 1989, and applies to  
37 transactions made on or after that date.