

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

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HOUSE BILL 75

Short Title: Intangibles Tax Filing Extension.

(Public)

Sponsors: Representatives Gamble, Jarrell, Justus, Luebke, and Tallent.

Referred to: Finance.

February 9, 1993

A BILL TO BE ENTITLED

AN ACT TO MAKE THE RULES FOR AN INTANGIBLES TAX FILING
EXTENSION THE SAME AS FOR AN INDIVIDUAL INCOME TAX FILING
EXTENSION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-206 reads as rewritten:

"§ 105-206. ~~When taxes due and payable; date lien attaches; nonresidents; forms for
returns; extensions.~~ returns; tax situs.

(a) 'Person' Defined. – As used in this section, the term 'person' has the meaning
provided in G.S. 105-228.90.

(b) When Taxes Due. – The ~~All~~ taxes levied in this Article ~~or schedule shall~~
become due and payable on ~~the fifteenth day of April of each year,~~ April 15 of each year.

(c) Lien. – The lien of a tax levied in this Article attaches to all real property of
the taxpayer on December 31 preceding the date the tax becomes due. The lien
continues until the tax and any interest, penalty, and costs associated with the tax are
paid. and the lien of such taxes shall attach annually to all real estate of the taxpayer within this
State as of December 31 next preceding the date that such taxes become due and payable,
regardless of the time at which liability for the tax may arise or the exact amount thereof be
determined; and said lien shall continue until such taxes, with any interest, penalty and costs
which shall accrue thereon, shall have been paid.

(d) Returns. – Every person who owns, or handles on behalf of the owner,
intangible personal property that has a tax situs in this State and is taxable under this
Article shall file an intangibles tax return with the Secretary. The return shall be in the
form required by the Secretary and shall contain any information the Secretary requires.

1 The return shall be filed on or before April 15 of each year. A taxpayer may ask the
2 Secretary for an extension of time to file a return under G.S. 105-263.

3 ~~Every person, firm, association, corporation, clerk of court, guardian, trustee,
4 executor, administrator, receiver, assignee for creditors, trustee in bankruptcy or other
5 fiduciary owning or holding any intangible personal properties defined and classified
6 and/or liable for or required to pay any tax levied in this Article or schedule, either as
7 principal or agent, shall make and deliver to the Secretary of Revenue in such form as
8 he may prescribe a full, accurate and complete return of such tax liability; such return,
9 together with the total amount of tax due, shall be filed on or before the fifteenth day of
10 April in each year. In case of sickness, absence or other disability or whenever in his
11 judgment good cause exists, the Secretary of Revenue may allow further time for filing
12 returns.~~

13 (e) Tax Situs. – Intangible personal property owned or held by a resident of this
14 State has a taxable situs in this State. Intangible personal property acquired in the
15 conduct of business in this State and held by a person doing business in this State has a
16 taxable situs in this State, regardless whether it is kept inside the State or it is transferred
17 to a related person. Intangible personal property of the estate of a resident of this State
18 has a taxable situs in this State.

19 A person engaged in this State, as principal or agent or on behalf of another, in
20 dealing in or handling intangible personal property is considered to be doing business in
21 this State for the purpose of this Article. The person on whose behalf the business is
22 conducted is also considered to be doing business in this State for the purpose of this
23 Article. If the person doing business in this State is a corporation, the corporation that
24 substantially owns or controls it is also considered to be doing business in this State.

25 ~~For the purpose of protecting the revenue of this State and to avoid discrimination
26 and prevent evasion of the tax imposed by this Article, every resident or nonresident
27 person, firm, association, trustee or corporation, foreign or domestic, engaged in this
28 State, either as principal or as agent or representative of or on behalf of another, in
29 buying, selling, collecting, discounting, negotiating or otherwise dealing in or handling
30 any of the intangible property defined in this Article, shall be deemed to be doing
31 business in this State for the purposes of this Article, and the principal, superior or
32 person on whose behalf such business is carried on in this State shall likewise be
33 deemed to be doing business in this State, for the purpose of this Article, and where
34 such business is carried on in this State by a corporation, foreign or domestic, it and its
35 parent corporation or the corporation which substantially owns or controls it, by stock
36 ownership or otherwise, shall be deemed to be doing business in this State for the
37 purpose of this Article, and in all such cases the said intangible property acquired in the
38 conduct of such business in this State, and outstanding on December 31 of each year or
39 on any other taxable date, shall be deemed to have a situs in this State and subject to the
40 tax imposed by this Article, notwithstanding any transfer between any of such parties
41 and notwithstanding that the same may be kept or may then be outside of this State, and
42 any of the intangible property defined in this Article and acquired in the conduct of any
43 business carried on in this State, and/or having a business, commercial or taxable situs
44 in this State, shall be subject to said tax and returned for taxation by the owner thereof~~

1 or by the agent, person, or corporation in this State employed by such owner to handle
2 or collect the same. Furthermore, the intangible personal property of the estate of any
3 resident of North Carolina shall be deemed to have a taxable situs in this State, and a
4 nonresident administrator or executor of such an estate shall be subject to the
5 requirements of this Article or schedule in the same manner and to the same extent as a
6 resident administrator or executor.

7 The Secretary of Revenue shall cause to be prepared blank forms for said returns and
8 shall cause them to be distributed throughout the State, and to be furnished upon
9 application; but failure to receive or secure forms shall not relieve any taxpayer from the
10 obligation of making full and complete return of intangible personal properties as
11 provided in this Article or schedule."

12 Sec. 2. G.S. 105-263 reads as rewritten:

13 **"§ 105-263. Extensions of time for filing a report or return.**

14 The Secretary may extend the time in which a person must file a report or return
15 with the Secretary. To obtain an extension of time for filing a report or return, a person
16 must comply with any application requirement set by the Secretary. In addition, if the
17 extension is for a franchise tax return, an income tax return, ~~or a gift tax return,~~ or an
18 intangible personal property tax return, the person must pay the amount of tax expected
19 to be due with the return by the original due date of the return; an extension of time for
20 filing one of these returns does not extend the time for paying the tax due or the time
21 when a penalty attaches for failure to pay the tax.

22 If the extension is for a report or any return other than a franchise tax return, an
23 income tax return, ~~or a gift tax return,~~ or an intangible personal property tax return, the
24 person is not required to pay the amount of tax expected to be due with the report or
25 return by the original due date of the report or return; an extension of time for filing a
26 report or one of these other returns extends the time for paying the tax due and the time
27 when a penalty attaches for failure to pay the tax. When an extension of time for filing
28 a report or return extends the time for paying the tax expected to be due with the report
29 or return, interest, at the rate established pursuant to G.S. 105-241.1(i), accrues on the
30 tax due from the original due date of the report or return to the date the tax is paid."

31 Sec. 3. This act is effective upon ratification.