

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

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SENATE BILL 1377

Short Title: Tax Withholding Penalty & Information.

(Public)

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Sponsors: Senators Winner of Buncombe, Cochrane, Hoyle, Kerr, and Marshall.

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Referred to: Finance.

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May 25, 1994

A BILL TO BE ENTITLED

1 AN ACT TO CONFORM THE THRESHOLD FOR DETERMINING IF A PENALTY  
2 APPLIES TO AN UNDERPAYMENT OF WITHHELD STATE INCOME TAXES  
3 TO THAT USED UNDER THE INTERNAL REVENUE CODE FOR  
4 DETERMINING IF A PENALTY APPLIES TO AN UNDERPAYMENT OF  
5 WITHHELD FEDERAL INCOME TAXES, AND TO CLARIFY THE TYPE OF  
6 INFORMATION A TAXPAYER MUST PROVIDE TO THE SECRETARY OF  
7 REVENUE.  
8

9 The General Assembly of North Carolina enacts:

10 Section 1. G.S. 105-163.6 reads as rewritten:

11 "**§ 105-163.6. When employer must file returns and pay withheld taxes.**

12 (a) General. – A return is due quarterly or monthly as specified in this section. A  
13 return shall be filed with the Secretary on a form prepared by the Secretary, shall report  
14 any payments of withheld taxes made during the period covered by the return, and shall  
15 contain any other information required by the Secretary.

16 Withheld taxes are payable quarterly, monthly, or ~~within three banking days,~~  
17 semiweekly, as specified in this section. If the Secretary finds that collection of the  
18 amount of taxes this Article requires an employer to withhold is in jeopardy, the  
19 Secretary may require the employer to file a return or pay withheld taxes at a time other  
20 than that specified in this section.

21 (b) Quarterly. – An employer who withholds an average of less than five hundred  
22 dollars (\$500.00) of State income taxes from wages each month shall file a return and  
23 pay the withheld taxes on a quarterly basis. A quarterly return covers a calendar quarter  
24 and is due by the last day of the month following the end of the quarter.

1 (c) Monthly. – An employer who withholds an average of at least five hundred  
2 dollars (\$500.00) but less than two thousand dollars (\$2,000) from wages each month  
3 shall file a return and pay the withheld taxes on a monthly basis. A return for the  
4 months of January through November is due by the 15th day of the month following the  
5 end of the month covered by the return. A return for the month of December is due the  
6 following January 31.

7 (d) ~~Three Banking Days.~~ Semiweekly. – An employer who withholds an average of  
8 at least two thousand dollars (\$2,000) of State income taxes from wages each month  
9 shall file a return by the date set under the Code for filing a return for federal ~~income~~  
10 employment taxes withheld from attributable to the same wages and shall pay the  
11 withheld State taxes by the date set under the Code for depositing or paying federal  
12 ~~income-employment taxes withheld from attributable to~~ the same wages. The date set by  
13 the Code for depositing or paying federal ~~income-employment taxes withheld from wages~~  
14 shall be determined without regard to § 6302(g) of the Code.

15 An extension of time granted to file a return for federal ~~income-employment taxes~~  
16 withheld from attributable to wages is an automatic extension of time for filing a return  
17 for State income taxes withheld from the same wages, and an extension of time granted  
18 to pay federal ~~income-employment taxes withheld from attributable to~~ wages is an  
19 automatic extension of time for paying State income taxes withheld from the same  
20 wages. An employer who pays withheld State income taxes under this subsection is not  
21 subject to interest on or penalties for ~~an underpayment of an a shortfall in the~~ amount due  
22 if the ~~employer timely pays at least ninety five percent (95%) of the amount due and includes~~  
23 ~~the underpayment with the next return the employer files.~~ employer would not be subject to  
24 a failure-to-deposit penalty had the shortfall occurred in a deposit of federal  
25 employment taxes attributable to the same wages and the employer pays the shortfall by  
26 the date the employer would have to deposit a shortfall in the federal employment taxes.

27 (e) Category. – The Secretary shall monitor the amount of taxes withheld by an  
28 employer or estimate the amount of taxes to be withheld by a new employer and shall  
29 direct each employer to pay withheld taxes in accordance with the appropriate schedule.  
30 An employer shall file a return and pay withheld taxes in accordance with the  
31 Secretary's direction until notified in writing to file and pay under a different schedule."

32 Sec. 2. G.S. 105-251 reads as rewritten:

33 "**§ 105-251. Information-Type of information a taxpayer must be furnished. provide.**

34 ~~Each company, firm, corporation, person, association, copartnership, or public utility~~  
35 ~~shall furnish the Secretary of Revenue in the form of returns prescribed by him, all~~  
36 ~~information required by law and all other facts and information in addition to the facts~~  
37 ~~and information in this act specifically required to be given, which the Secretary of~~  
38 ~~Revenue may require to enable him to carry into effect the provisions of the laws which~~  
39 ~~the said Secretary is required to administer, and shall make specific answers to all~~  
40 ~~questions submitted by the Secretary of Revenue.~~

41 A taxpayer must give information to the Secretary when the Secretary requests the  
42 information. The Secretary may request a taxpayer to provide only the following kinds  
43 of information on a return, a report, or otherwise:

44 (1) Information that identifies the taxpayer.

- 1           (2)   Information needed to determine the liability of the taxpayer for a tax.
- 2           (3)   Information needed to determine whether an item is subject to a tax.
- 3           (4)   Information that enables the Secretary to collect a tax.
- 4           (5)   Other information the law requires a taxpayer to provide or the
- 5           Secretary needs to perform a duty a law requires the Secretary to
- 6           perform."

7           Sec. 3. Section 1 of this act becomes effective January 1, 1995, and applies  
8 to payments of withheld income taxes made on or after that date. The remaining  
9 sections of this act are effective upon ratification.