

GENERAL ASSEMBLY OF NORTH CAROLINA
1993 SESSION

CHAPTER 662
SENATE BILL 1619

AN ACT TO UPDATE THE REFERENCE TO THE INTERNAL REVENUE CODE USED IN DETERMINING CERTAIN TAXABLE INCOME AND TAX EXEMPTIONS AND TO RESOLVE AN UNINTENDED CONFLICT BETWEEN THE STATUTE OF LIMITATIONS FOR CERTAIN TAX REFUNDS AND THE LAW ALLOWING DEDUCTIONS FOR CARRYBACKS, BAD DEBTS, AND WORTHLESS SECURITIES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-228.90(b)(1) reads as rewritten:

"(1) Code. – The Internal Revenue Code as enacted as of January 1, ~~1993~~, 1994, including any provisions enacted as of that date which become effective either before or after that date."

Sec. 2. G.S. 105-266(c) reads as rewritten:

"(c) Statute of Limitations. – The period in which a refund must be demanded or discovered under this section is determined as follows:

- (1) General Rule. – No overpayment shall be refunded, whether upon discovery or receipt of written demand, if the discovery is not made or the demand is not received within three years after the date set by the statute for the filing of the return or within six months after the payment of the tax alleged to be an overpayment, whichever is later.
- (2) Worthless Debts or Securities. – Section 6511(d)(1) of the Code applies to an overpayment of the tax levied in Division II or III of Article 4 of this Chapter to the extent the overpayment is attributable to either of the following:
 - a. The deductibility by the taxpayer under section 166 of the Code of a debt that becomes worthless, or under section 165(g) of the Code of a loss from a security that becomes worthless.
 - b. The effect of the deductibility of a debt or loss described in subpart a. of this subdivision on the application of a carryover to the taxpayer.
- (3) Capital Loss and Net Operating Loss Carrybacks. – Section 6511(d)(2) of the Code applies to an overpayment of the tax levied in Division II or III of Article 4 of this Chapter to the extent the overpayment is attributable to a capital loss carryback under section 1212(c) of the Code or to a net operating loss carryback under section 172 of the Code."

Sec. 3. In order to receive a refund that would be barred if not for the provisions of Section 2 of this act, the taxpayer must make or renew a demand for the refund on or after the date this act is ratified. For the purpose of determining the interest on a refund demanded on or after the date this act is ratified, G.S. 105-266(b), as rewritten by Chapter 315 of the 1993 Session Laws, is effective retroactively for taxable years beginning on or after January 1, 1989.

Sec. 4. Section 1 of this act is effective for taxable years beginning on or after January 1, 1994. The remainder of this act is effective retroactively for taxable years beginning on or after January 1, 1989.

In the General Assembly read three times and ratified this the 5th day of July, 1994.

Dennis A. Wicker
President of the Senate

Daniel Blue, Jr.
Speaker of the House of Representatives