

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 1999

HOUSE BILL 1559  
RATIFIED BILL

AN ACT TO UPDATE THE REFERENCE TO THE INTERNAL REVENUE CODE USED IN DEFINING AND DETERMINING CERTAIN STATE TAX PROVISIONS, TO CONFORM TO FEDERAL LAW REGARDING PENSION TAX WITHHOLDING AND DEADLINES FOR PAYMENTS OF CERTAIN ESTIMATED INCOME TAXES, TO CLARIFY THE SALES FACTOR FOR DETERMINATION OF STATE CORPORATE INCOME AND FRANCHISE TAX, AND TO ENABLE THE COLLECTION OF TAX DEBT OWED TO NORTH CAROLINA THROUGH THE FEDERAL TREASURY OFFSET PROGRAM.

The General Assembly of North Carolina enacts:

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

"(b) Definitions. – The following definitions apply in this Article:

.. (1a) Code. – The Internal Revenue Code as enacted as of ~~June 1, 1999,~~ January 1, 2000, including any provisions enacted as of that date which become effective either before or after that date."

Section 2. G.S. 105-163.1(11b) reads as rewritten:

"(11b) **(Effective January 1, 2001)** Pension payment. – A periodic payment or a nonperiodic distribution ~~that is not an eligible rollover distribution,~~ as those terms are defined in section 3405 of the Code."

Section 3. G.S. 105-163.2A(d) reads as rewritten:

"(d) Election of No Withholding. – The recipient may elect not to have taxes withheld under this ~~section~~ section to the extent permitted by section 3405 of the Code. The election must be in the form required by the Secretary. In the case of periodic payments, the election remains in effect until revoked by the recipient. In the case of a nonperiodic distribution, the election applies on a distribution-by-distribution basis unless it meets conditions prescribed by the Secretary for it to apply to subsequent nonperiodic distributions by the pension payer.

A pension payer must notify each recipient of the right to elect not to have taxes withheld under this section. The notice must comply with the requirements of section 3405 of the Code and any additional requirements prescribed by the Secretary.

A recipient's election not to have taxes withheld under this section is void if the recipient fails to furnish the recipient's tax identification number to the pension payer, or the Secretary has notified the pension payer that the tax identification number furnished by the recipient is incorrect."

Section 4. G.S. 105-163.15(i) reads as rewritten:

"(i) Notwithstanding ~~the other provisions~~ subsections (c), (d), (e), and (h) of this section, an individual who is a farmer or fisherman for a taxable year is subject to the provisions of this subsection.

(1) One installment. – The individual is required to make only one installment payment of tax for that taxable year. This installment is due on or before January 15 of the following taxable year ~~but may be paid without penalty or interest on or before March 1 of that year.~~ The amount of the installment payment ~~shall~~ must be the lesser of:

- (1) a. Sixty-six and two-thirds percent (66 2/3%) of the tax shown on the return for the taxable year, or, if no return is filed, sixty-six and two-thirds percent (66 2/3%) of the tax for that year; or
- (2) b. One hundred percent (100%) of the tax shown on the return of the individual for the preceding taxable year, if the preceding taxable year was a taxable year of 12 months and the individual filed a return for that year.
- (2) Exception. – If, on or before March 1 of the following taxable year, the taxpayer files a return for the taxable year and pays in full the amount computed on the return as payable, no addition to tax is imposed under subsection (a) of this section with respect to any underpayment of the required installment for the taxable year.
- (3) Eligibility. – An individual is a farmer or fisherman for any taxable year if the individual's gross income from farming or fishing, including oyster farming, for the taxable year is at least sixty-six and two-thirds percent (66 2/3%) of the total gross income from all sources for the taxable year, or the individual's gross income from farming or fishing, including oyster farming, shown on the return of the individual for the preceding taxable year is at least sixty-six and two-thirds percent (66 2/3%) of the total gross income from all sources shown on the return."

Section 5. G.S. 105-130.4(a)(7) reads as rewritten:

"(a) As used in this section, unless the context otherwise requires:

- (7) " Sales" means all gross receipts of the corporation except ~~receipts for the following receipts:~~
- a. Receipts from any a casual sale of property and except receipts property.
- b. Receipts allocated under subsections (c) through (h) of this section.
- c. Receipts exempt from taxation.
- d. The portion of receipts realized from the sale or maturity of securities or other obligations that represents a return of principal."

Section 6. G.S. 105A-13 reads as rewritten:

**"§ 105A-13. Collection assistance fees.**

(a) State Setoff. – To recover the costs incurred by the Department in collecting debts under this Chapter, a collection assistance fee of no more than fifteen dollars (\$15.00) is imposed on each debt collected through setoff. The Department must collect this fee as part of the debt and retain it. The Department must set the amount of the collection assistance fee based on its actual cost of collection under this Chapter for the immediately preceding year. If the Department is able to collect only part of a debt through setoff, the collection assistance fee has priority over the remainder of the debt. The collection assistance fee shall not be added to child support debts or collected as part of child support debts. Instead, the Department shall retain from collections under Division II of Article 4 of Chapter 105 of the General Statutes the cost of collecting child support debts under this Chapter.

(b) Federal Setoff. – A collection assistance fee of fifteen dollars (\$15.00) applies to a setoff made by the United States Department of the Treasury to recover tax owed to North Carolina. The Department of Revenue must add the fee to the amount of the tax liability submitted to the United States Department of the Treasury for setoff. The Department of Revenue must collect the fee as part of the debt and retain it. If a federal setoff covers only part of the tax due, the collection assistance fee has priority over the tax due."

Section 7. Notwithstanding Section 1 of this bill, any amendments to the Internal Revenue Code enacted in 1999 that increase North Carolina taxable income for

the 1999 taxable year become effective for taxable years beginning on or after January 1, 2000.

Section 8. Sections 2 and 3 of this act become effective January 1, 2001. The remainder of this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 7th day of July, 2000.

---

Marc Basnight  
President Pro Tempore of the Senate

---

James B. Black  
Speaker of the House of Representatives

---

James B. Hunt, Jr.  
Governor

Approved \_\_\_\_\_ .m. this \_\_\_\_\_ day of \_\_\_\_\_ , 2000