

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

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SENATE BILL 959

Short Title: Extend Protest Period.

(Public)

Sponsors: Senators Webster; Ballantine, Carpenter, Cochrane, Foxx, and Shaw of Guilford.

Referred to: Finance.

April 15, 1999

A BILL TO BE ENTITLED

AN ACT TO EXTEND THE TIME PERIOD FOR DEMANDING A REFUND OF AN ILLEGAL TAX.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-267 reads as rewritten:

"§ 105-267. Taxes to be paid; suits for recovery of taxes.

No court of this State shall entertain a suit of any kind brought for the purpose of preventing the collection of any tax imposed in this Subchapter. Whenever a person has a valid defense to the enforcement of the collection of a tax, the person shall pay the tax to the proper officer, and that payment shall be without prejudice to any defense of rights the person may have regarding the tax. At any time within the applicable protest period, the taxpayer may demand a refund of the tax paid in writing from the Secretary and if the tax is not refunded within 90 days thereafter, may sue the Secretary in the courts of the State for the amount demanded. The protest period for a tax levied in Article 2A, 2C, or 2D of this Chapter is 30 days after payment. The protest period for all other taxes is ~~one year after payment.~~ the period set in G.S. 105-266(c).

The suit may be brought in the Superior Court of Wake County, or in the county in which the taxpayer resides at any time within three years after the expiration of the 90-day period allowed for making the refund. If upon the trial it is determined that all or part

1 of the tax was levied or assessed for an illegal or unauthorized purpose, or was for any
2 reason invalid or excessive, judgment shall be rendered therefor, with interest, and the
3 judgment shall be collected as in other cases. The amount of taxes for which judgment is
4 rendered in such an action shall be refunded by the State. G.S. 105-241.2 provides an
5 alternate procedure for a taxpayer to contest a tax and is not in conflict with or
6 superseded by this section."

7 Section 2. This act becomes effective October 1, 1999, and applies to taxes
8 paid on or after that date.