

**GENERAL ASSEMBLY OF NORTH CAROLINA**  
**SESSION 2007**

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**HOUSE BILL 2038**

Short Title: Tax Administration Reform Act of 2007.

(Public)

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Sponsors: Representative Gibson.

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Referred to: Finance.

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May 10, 2007

A BILL TO BE ENTITLED

1 AN ACT TO REFORM THE ADMINISTRATION OF THE TAX SYSTEM IN  
2 NORTH CAROLINA BY EXTENDING THE PERIOD IN WHICH A  
3 TAXPAYER MAY FILE A PROTEST; EXTENDING THE PERIOD OF TIME  
4 THAT A TAXPAYER HAS TO FILE A CORPORATE INCOME TAX RETURN;  
5 PROVIDING FOR AN AUTOMATIC EXTENSION OF THE TIME A  
6 TAXPAYER HAS TO FILE A CORPORATE INCOME TAX RETURN WHEN A  
7 FEDERAL EXTENSION IS GRANTED; MOVING THE TAX HEARINGS  
8 OFFICER OUT OF THE DEPARTMENT OF REVENUE; AND PROVIDING  
9 THAT A FEDERAL AUDIT OPENS ONLY RELATED PROVISIONS OF THE  
10 STATE TAX RETURN UP FOR AUDIT.  
11

12 The General Assembly of North Carolina enacts:

13 **SECTION 1.** G.S. 105-241.1(c) reads as rewritten:

14 "(c) Hearing. – A taxpayer who objects to a proposed assessment of tax is entitled  
15 to a hearing before the Secretary as provided in this subsection. To obtain a hearing, the  
16 taxpayer must file a written request either for a hearing or for a written statement of the  
17 information and evidence upon which the proposed assessment is based. If the notice of  
18 a proposed assessment was mailed, the taxpayer's request must be filed within ~~30~~60  
19 days after the date the notice was mailed; if the notice of a proposed assessment was  
20 delivered in person, the taxpayer's request must be filed within ~~30~~60 days after the date  
21 the notice was delivered.

22 When a taxpayer files a timely request for a written statement of the information and  
23 evidence upon which a proposed assessment is based, the Secretary must give the  
24 written statement to the taxpayer within 45 days after the taxpayer filed the request. A  
25 taxpayer who files a timely request for a written statement concerning a proposed  
26 assessment and who desires to have a hearing on the proposed assessment must file a  
27 written request for a hearing within 30 days after the written statement was mailed.

28 When a taxpayer files a timely request for a hearing, the Secretary must set the time  
29 and place at which the hearing will be conducted and must notify the taxpayer of the

1 designated time and place within 60 days after the taxpayer filed the request for a  
2 hearing and at least 10 days before the date set for the hearing. The date set for the  
3 hearing must be within 90 days after the timely request for a hearing was filed or at a  
4 later date mutually agreed upon by the taxpayer and the Secretary. The date set for the  
5 hearing may be postponed once at the request of the taxpayer and once at the request of  
6 the Secretary for a period of up to 90 days or for a longer period mutually agreed upon  
7 by the taxpayer and the Secretary.

8 The taxpayer may present any objections to the proposed assessment at the hearing.  
9 The rules of evidence do not apply at the hearing.

10 Within 90 days after the Secretary conducts a hearing on a proposed assessment, the  
11 Secretary must make a decision on the proposed assessment and notify the taxpayer of  
12 the decision. The decision must assess the taxpayer for the amount of any tax the  
13 Secretary determined to be due."

14 **SECTION 2.** G.S. 105-130.17 reads as rewritten:

15 "**§ 105-130.17. Time and place of filing returns.**

16 (a) Returns must be filed as prescribed by the Secretary at the place prescribed  
17 by the Secretary. Returns must be in the form prescribed by the Secretary. The Secretary  
18 shall furnish forms in accordance with G.S. 105-254.

19 (b) Except as otherwise provided in this section, the return of a corporation shall  
20 be filed on or before the fifteenth day of the ~~third~~fourth month following the close of its  
21 income year. An income year ending on any day other than the last day of the month  
22 shall be deemed to end on the last day of the calendar month ending nearest to the last  
23 day of a taxpayer's actual income year.

24 (c) In the case of mutual associations formed under G.S. 54-111 through 54-128  
25 to conduct agricultural business on the mutual plan and marketing associations  
26 organized under G.S. 54-129 through 54-158, which are required to file under  
27 subsection (a)(9) of G.S. 105-130.11, a return made on the basis of a calendar year shall  
28 be filed on or before the fifteenth day of the September following the close of the  
29 calendar year, and a return made on the basis of a fiscal year shall be filed on or before  
30 the fifteenth day of the ninth month following the close of the fiscal year.

31 (d) An extension of time to file a federal income tax return is an automatic  
32 extension of the time to file an income tax return under this Part. In addition, a  
33 taxpayer may ask the Secretary for an extension of time to file a return under  
34 G.S. 105-263.

35 (d1) Organizations described in G.S. 105-130.11(a)(1), (3), (4), (5), (6), (7) and  
36 (8) that are required to file a return under G.S. 105-130.11(b) shall file a return made on  
37 the basis of a calendar year on or before the fifteenth day of May following the close of  
38 the calendar year and a return made on the basis of a fiscal year on or before the  
39 fifteenth day of the fifth month following the close of the fiscal year.

40 (e) Any corporation that ceases its operations in this State before the end of its  
41 income year because of its intention to dissolve or to withdraw from this State, or  
42 because of a merger, conversion, or consolidation or for any other reason whatsoever  
43 shall file its return for the then current income year within ~~75~~105 days after the date it  
44 terminates its business in this State.

1 (f) Repealed by Session Laws 1998-217, s. 42, effective October 31, 1998.

2 (g) A corporation that files a federal return pursuant to section 6072(c) of the  
3 Code shall file its return on or before the fifteenth day of the ~~sixth~~seventh month  
4 following the close of its income year."

5 **SECTION 3.** G.S. 105-130.20 reads as rewritten:

6 "**§ 105-130.20. Federal corrections.**

7 If a taxpayer's federal taxable income is corrected or otherwise determined by the  
8 federal government, the taxpayer must, within six months after being notified of the  
9 correction or final determination by the federal government, file an income tax return  
10 with the Secretary reflecting the corrected or determined taxable income. The Secretary  
11 shall determine from ~~all available evidence~~the evidence related to the correction or final  
12 determination the taxpayer's correct tax liability for the income year. ~~As used in this~~  
13 ~~section, the term "all available evidence" means evidence of any kind that becomes~~  
14 ~~available to the Secretary from any source, whether or not the evidence was considered~~  
15 ~~in the federal correction or determination.~~

16 The Secretary shall assess and collect any additional tax due from the taxpayer as  
17 provided in Article 9 of this Chapter. The Secretary shall refund any overpayment of tax  
18 as provided in Article 9 of this Chapter. A taxpayer that fails to comply with this section  
19 is subject to the penalties in G.S. 105-236 and forfeits its rights to any refund due by  
20 reason of the determination."

21 **SECTION 4.** The position of Administrative Hearings Officer and its  
22 associated administrative assistant are transferred from the Department of Revenue to  
23 the Department of Administration.

24 **SECTION 5.** Sections 2 and 3 of this act are effective for taxable years  
25 beginning on or after January 1, 2007. Section 1 of this act becomes effective July 1,  
26 2007, and applies to proposed assessments made on or after that date. The remainder of  
27 this act becomes effective July 1, 2007.