

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2007

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SENATE DRS25039-LY-147 (3/7)

Short Title: Rely on Verbal Advice - No Tax Liability. (Public)

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Sponsors: Senator Hoyle.

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Referred to:

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A BILL TO BE ENTITLED

AN ACT TO ALLOW TAXPAYERS TO RELY UPON VERBAL ADVICE FROM  
THE DEPARTMENT OF REVENUE.

The General Assembly of North Carolina enacts:

**SECTION 1.** G.S. 105-264 reads as rewritten:

"§ 105-264. **Effect of Secretary's interpretation of revenue laws.**

(a) Interpretation. – It is the duty of the Secretary to interpret all laws administered by the Secretary. The Secretary's interpretation of these laws shall be consistent with the applicable rules. ~~An~~An interpretation by the Secretary is prima facie correct. When the Secretary interprets a law by adopting a rule or publishing a bulletin or directive on the law, the interpretation is a protection to the officers and taxpayers affected by the interpretation, and taxpayers are entitled to rely upon the interpretation. If the Secretary changes an interpretation, a taxpayer who relied on it before it was changed is not liable for any penalty or additional assessment on any tax that accrued before the interpretation was changed and was not paid by reason of reliance upon the interpretation.

(b) Written Advice. – If a taxpayer requests in writing specific advice from the Department and receives in response erroneous written advice, the taxpayer is not liable for any penalty or additional assessment attributable to the erroneous advice furnished by the Department to the extent the advice was reasonably relied upon by the taxpayer and the penalty or additional assessment did not result from the taxpayer's failure to provide adequate or accurate information.

(c) Verbal Advice. – If a taxpayer verbally requests specific advice from the Department and receives in response erroneous verbal advice, the taxpayer is not liable for any penalty or additional assessment attributable to the erroneous advice furnished by the Department to the extent the advice was reasonably relied upon by the taxpayer and the penalty or additional assessment did not result from the taxpayer's failure to

1 provide adequate or accurate information. In order to receive the protection afforded by  
2 this subsection, a taxpayer must sign an affidavit stating, with as much specificity as  
3 practicable, the advice requested by the taxpayer and the related fact pattern, the content  
4 of advice received by the taxpayer, the date the advice was received, and the identity of  
5 the person furnishing the advice.

6 (d) Revised Interpretations. – This section does not prevent the Secretary from  
7 changing an interpretation and it does not prevent a change in an interpretation from  
8 applying on and after the effective date of the change."

9 **SECTION 2.** This act becomes effective July 1, 2005, and applies to  
10 assessments issued on or after that date.