GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2007

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SENATE BILL 1417

Short Title:	Prohibit Retrospective Taxation.	(Public)
Sponsors:	Senators Goodall; Apodaca and Berger of Rockingham.	
Referred to:	Ways and Means.	

March 26, 2007

A BILL TO BE ENTITLED

AN ACT TO AMEND THE NORTH CAROLINA CONSTITUTION TO CLARIFY THE PROHIBITION AGAINST RETROSPECTIVE INCOME TAXATION.

Whereas, the Constitutions of 1776, 1868, and 1971, now Article I, Section 16, declare that "no law retrospectively taxing any sales, purchases or other acts previously done shall be enacted;" and

Whereas, not withstanding the long-standing prohibition against back-taxing of Article I, Section 16, a majority of the Supreme Court of North Carolina (Justice Brady dissenting) on June 30, 2006, ruled that the rate of tax on personal or corporate income can be raised retrospectively by a law enacted in a tax year, no matter how late into the tax year, increasing retrospectively even back to January 1 of that tax year; and

Whereas, the Attorney General arguing for the State opined that the rate of income tax could be raised not only late in a current tax year but even as far back as the preceding tax year; and

Whereas, taxpaying citizens of North Carolina have a natural right, a legal right, and a constitutional right to reasonably expect in advance what their tax liability is and will be for at least the current tax year rather than suffer an increase in tax rate on income by a retrospective tax law; Now, therefore,

The General Assembly of North Carolina enacts:

SECTION 1. Section 16 of Article I of the North Carolina Constitution reads as rewritten:

"**Sec. 16. Ex post facto laws.**

Retrospective laws, punishing acts committed before the existence of such laws and by them only declared criminal, are oppressive, unjust, and incompatible with liberty, and therefore no ex post facto law shall be enacted. No law taxing retrospectively sales, purchases, or other acts previously done shall be enacted. <u>Any law which shall have the effect of increasing the taxation of personal or business income for any year or part thereof prior to the date of the enactment thereof, or for any year or years prior to the year in which the law is enacted, shall be void.</u>"

SECTION 2. The amendment set out in Section 1 shall be submitted to the qualified voters of the State at the general election in November of 2008, which election shall be conducted under the laws then governing elections in the State. Ballots, voting systems, or both may be used in accordance with Chapter 163 of the General Statutes. The question to be used in the voting systems and ballots shall be:

"**[ ] FOR [ ] AGAINST**

Constitutional amendment to prohibit laws retrospectively increasing the rate of tax on personal and corporate income during the current tax year."

SECTION 3. If a majority of votes cast on the question are in favor of the amendment set out in Section 1 of this act, the State Board of Elections shall certify the amendment to the Secretary of State. The constitutional amendments shall become effective upon certification. The Secretary of State shall enroll the amendments so certified among the permanent records of that office.

SECTION 4. This act is effective when it becomes law.