

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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HOUSE BILL 295*
Committee Substitute Favorable 3/12/97
Senate Finance Committee Substitute Adopted 4/2/97

Short Title: No Tax on Intangible Property.

(Public)

Sponsors:

Referred to:

February 24, 1997

1 A BILL TO BE ENTITLED
2 AN ACT TO EXEMPT MOST INTANGIBLE PERSONAL PROPERTY FROM
3 PROPERTY TAX.

4 The General Assembly of North Carolina enacts:

5 Section 1. G.S. 105-275(31) reads as rewritten:

6 "(31) ~~Money, whether on hand or on deposit at a bank, a credit union, a savings~~
7 ~~and loan association, or an insurance company. —~~Intangible personal
8 property other than leasehold interests in exempted real property.
9 This subdivision does not affect the taxation of software not
10 otherwise excluded by subdivision (40) of this section."

11 Section 2. G.S. 105-276 reads as rewritten:

12 "**§ 105-276. Taxation of intangible personal property.**

13 Intangible personal property that is not excluded from taxation under G.S. 105-275 is
14 subject to this Subchapter. The exclusion of a class of intangible personal property from
15 taxation under G.S. 105-275 does not affect the appraisal or assessment of real property
16 and tangible personal property."

17 Section 3. G.S. 105-275(31a), (31b), (31c), and (31d) are repealed.

18 Section 4. G.S. 105-282.1(a)(2) reads as rewritten:

1 "(2) Owners of the special classes of property excluded from taxation
2 under G.S. 105-275(5), (15), (16), (26), (31), ~~(31a), (31b), (31e),~~
3 ~~(31d),~~(32a), (33), (34), or (40), or exempted under G.S. 105-278.2
4 are not required to file applications for the exclusion or exemption of
5 that property."

6 Section 5. G.S. 105-294(b)(3) reads as rewritten:

7 "(3) Within two years of the date of appointment, achieve a passing score
8 in courses of instruction approved by the Department of Revenue
9 covering the following topics:

10 a. The laws of North Carolina governing the listing,
11 appraisal, and assessment of property for taxation;

12 b. The theory and practice of estimating the fair market
13 value of real property for ad valorem tax purposes;

14 c. The theory and practice of estimating the fair market
15 value of ~~tangible and intangible~~ personal property for ad valorem
16 tax purposes; and

17 d. Property assessment administration."

18 Section 6. G.S. 105-333(3) reads as rewritten:

19 "(3) Distributable system property. – All real property and ~~tangible and~~
20 ~~intangible~~ personal property owned or used by a railroad company
21 other than nondistributable system property."

22 Section 7. G.S. 105-333(17) reads as rewritten:

23 "(17) System property. – The real property and ~~tangible and intangible~~
24 personal property used by a public service company in its public
25 service activities. The term also includes public service company
26 property under construction on the day as of which property is
27 assessed which when completed will be used by the owner in its
28 public service activities."

29 Section 8. G.S. 105-275.2 is amended by adding a new subsection to read:

30 "(e) Reduction. – Each year, on or before July 15, the governing body of each
31 county and each municipality shall notify the Secretary of the amount of taxes it collected
32 in the preceding fiscal year from taxes on intangible personal property discovered on or
33 after January 1, 1997, for taxable years beginning on or after July 1, 1991. The Secretary
34 shall reduce the amount allocated to each county and municipality for distribution the
35 following August by the amount the county or municipality reports pursuant to this
36 subsection. If the Secretary discovers that a county or municipality failed to report any
37 taxes as required by this subsection, the Secretary shall reduce the county or
38 municipality's next distribution under this section by ten percent (10 %)."

39 Section 9. G.S. 105-275(40) reads as rewritten:

40 "(40) Computer software and any documentation related to the computer
41 software. As used in this subdivision, the term 'computer software'
42 means any program or routine used to cause a computer to perform a
43 specific task or set of tasks. The term includes system and

1 application programs and database storage and management
2 programs.

3 The exclusion established by this subdivision does not apply to
4 computer software and its related documentation if the computer
5 software meets one or more of the following descriptions:

- 6 a. It is embedded software. 'Embedded software' means computer
7 instructions, known as microcode, that reside permanently in the
8 internal memory of a computer system or other equipment and
9 are not intended to be removed without terminating the operation
10 of the computer system or equipment and removing a computer
11 chip, a circuit, or another mechanical device.
- 12 b. It is purchased or licensed from a person who is unrelated to the
13 taxpayer and it is capitalized on the books of the taxpayer in
14 accordance with generally accepted accounting principles,
15 including financial accounting standards issued by the Financial
16 Accounting Standards Board. A person is unrelated to a taxpayer
17 if (i) the taxpayer and the person are not subject to any common
18 ownership, either directly or indirectly, and (ii) neither the
19 taxpayer nor the person has any ownership interest, either
20 directly or indirectly, in the other.

21 This subdivision does not affect the value or taxable status of
22 any property that is otherwise subject to taxation under this
23 Subchapter.

24 The provisions of the exclusion established by this
25 subdivision are not severable. If any provision of this
26 subdivision or its application is held invalid, the entire
27 subdivision is repealed."

28 Section 10. Section 8 of this act becomes effective July 1, 1997, and expires
29 September 1, 2002. The remainder of this act is effective for taxes imposed for taxable
30 years beginning on or after July 1, 1997.