

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

S

6

SENATE BILL 1241

Finance Committee Substitute Adopted 6/4/98

Finance Committee Substitute #2 Adopted 7/23/98

Fourth Edition Engrossed 8/5/98

House Committee Substitute Favorable 8/24/98

Sixth Edition Engrossed 10/7/98

Short Title: Amendments to the Revenue Laws.

(Public)

Sponsors:

Referred to:

May 21, 1998

1 A BILL TO BE ENTITLED
2 AN ACT TO MAKE THE REVENUE ACT PENALTIES UNIFORM, TO DELETE
3 OBSOLETE AND INEFFECTIVE PENALTIES, TO GIVE NONPROFIT
4 ENTITIES THREE YEARS TO FILE APPLICATIONS FOR REFUND OF TAXES
5 PAID, TO EXTEND THE SUNSET ON THE QUALIFIED BUSINESS
6 INVESTMENT TAX CREDIT, TO AMEND THE QUALIFIED BUSINESS
7 INVESTMENT TAX CREDIT TO PROVIDE AN INCENTIVE FOR
8 INVESTMENT IN SMALL FILM PRODUCTION BUSINESSES, TO DIRECT
9 THE REVENUE LAWS STUDY COMMITTEE TO STUDY WHETHER A
10 TAXPAYER WHO PREVAILS IN AN ADMINISTRATIVE APPEAL OR A
11 LAWSUIT SHOULD RECEIVE REIMBURSEMENT OF EXPENSES IN
12 CERTAIN CIRCUMSTANCES, TO INCREASE THE PROPERTY TAX
13 HOMESTEAD EXEMPTION AMOUNT AND INCOME ELIGIBILITY AMOUNT
14 AND REIMBURSE LOCAL GOVERNMENTS FOR THE RESULTING

1 REVENUE LOSS, TO TEMPORARILY REINSTATE A PROPERTY TAX
2 EXEMPTION FOR CERTAIN NONPROFIT RETIREMENT FACILITIES, AND
3 TO DIRECT THE LEGISLATIVE RESEARCH COMMISSION TO STUDY
4 PROPERTY TAX EXEMPTIONS FOR NONPROFIT ENTITIES.

5 The General Assembly of North Carolina enacts:

6 Section 1. G.S. 105-16 reads as rewritten:

7 "**§ 105-16. Interest and penalty. When tax must be paid.**

8 ~~All taxes~~ Taxes imposed by this Article are due within nine months after the death of
9 the decedent, shall be due and payable at the death of the testator, intestate, grantor, donor
10 ~~or vendor; if not paid within nine months from date of death of the testator, intestate,~~
11 ~~grantor, donor or vendor, such tax shall bear interest at the rate established pursuant to~~
12 ~~G.S. 105-241.1(i), to be computed from the expiration of nine months from the date of~~
13 ~~the death of such testator, intestate, grantor, donor or vendor until paid: Provided, that if~~
14 ~~the taxes herein levied shall not be paid in full within nine months from the later of the~~
15 ~~date of death of the testator, intestate, grantor, donor or vendor, or from the qualification~~
16 ~~of the executor or administrator, then and in such case a penalty of ten per centum (10%)~~
17 ~~upon the amount of taxes remaining due and unpaid shall be added: Provided further,~~
18 ~~that the penalty of ten per centum (10%) herein imposed may be remitted by the~~
19 ~~Secretary of Revenue in case of unavoidable delay in settlement of estate or of pending~~
20 ~~litigation, and the Secretary of Revenue is further authorized, in case of protracted~~
21 ~~litigation or other delay in settlement not attributable to laches of the party liable for the~~
22 ~~tax, to remit all or any portion of the interest charges accruing under this schedule, with~~
23 ~~respect to so much of the estate as was involved in such litigation or other unavoidable~~
24 ~~cause of delay. Provided, that the time for payment and collection of such tax may be~~
25 ~~extended by the Secretary of Revenue for reasonable cause shown."~~

26 Section 2. G.S. 105-22 reads as rewritten:

27 "**§ 105-22. Duties of clerks of superior court.**

28 ~~It shall be the duty of the~~ The clerk of the superior court ~~to~~ must obtain from ~~any an~~
29 executor or administrator, at the time of the qualification of ~~such~~ the executor or
30 administrator, the address of the personal representative qualifying, the names and
31 addresses of the heirs-at-law, legatees, distributees, devisees, etc., as far as practical, the
32 approximate value and character of the property or estate, both real and personal, the
33 relationship of the heirs-at-law, legatees, devisees, etc., to the decedents, and forward the
34 same to the Secretary of Revenue on or before the tenth day of each month. The clerk
35 shall make no report of a death if no inheritance tax return is required to be filed for the
36 decedent's estate under G.S. 105-23 because the estate meets the requirements of
37 subsection (b) of that section. ~~Any clerk of the superior court who shall fail, neglect, or~~
38 ~~refuse to file such monthly reports as required by this section shall be liable to a penalty in the~~
39 ~~sum of one hundred dollars (\$100.00) to be recovered by the Secretary of Revenue in an action~~
40 ~~to be brought by the Secretary of Revenue."~~

41 Section 3. G.S. 105-29 reads as rewritten:

42 "**§ 105-29. Uniform valuation.**

1 When filing an inheritance tax return, the personal representative of an estate must
2 report as the value of the estate the value that is reported on an estate tax return filed for
3 the estate under the Code. If the federal government does not correct or otherwise
4 determine the value of an estate reported on an estate tax return, the Secretary may
5 determine the value based on evidence of any kind that becomes available to the
6 Secretary from any source.

7 If the federal government corrects or otherwise determines the value of an estate
8 reported on an estate tax return, the personal representative must, within two years after
9 being notified of the correction or final determination by the federal government, file an
10 inheritance tax return with the Secretary reflecting the corrected or determined value. The
11 Secretary must adopt the value as corrected or determined by the federal government for
12 federal estate tax purposes. The Secretary shall assess and collect any additional tax due
13 on the transfer of property in the estate as provided in Article 9 of this Chapter and shall
14 refund any overpayment of tax as provided in Article 9 of this Chapter. A personal
15 representative who fails to report a federal correction or determination is subject to the
16 penalties in G.S. 105-236 and forfeits the right of the estate to any refund due by reason of
17 the determination."

18 Section 4. G.S. 105-109 reads as rewritten:

19 "**§ 105-109. ~~Engaging in business without a license.~~ Obtaining license and paying tax.**

20 (a) When Tax Due. – All State license taxes under this Article or schedule, unless
21 otherwise provided for, shall be due and payable annually on or before the first day of
22 July of each year, or at the date of engaging in such business, trade, employment and/or
23 profession, or doing the act.

24 (b) License Required. – Before a person may engage in a business, trade, or
25 profession for which a license is required under this Article, the person must be licensed
26 by the Department pursuant to G.S. 105-104. A license must be displayed conspicuously
27 at the location of the licensed business, trade, or profession. ~~If any person, firm, or~~
28 ~~corporation shall continue the business, trade, employment, or profession, or to do the act, after~~
29 ~~the expiration of a license previously issued, without obtaining a new license, he or it shall be~~
30 ~~guilty of a Class 1 misdemeanor, which may include a fine which shall not be less than twenty~~
31 ~~percent (20%) of the tax in addition to the tax and the costs; and if such failure to apply for and~~
32 ~~obtain a new license be continued, such person, firm, or corporation shall pay additional tax of~~
33 ~~five per centum (5%) of the amount of the State license tax which was due and payable on the~~
34 ~~first day of July of the current year, in addition to the State license tax imposed by this Article,~~
35 ~~for each and every 30 days, or fraction thereof, that such State license tax remains unpaid from~~
36 ~~the date that same was due and payable, and such additional tax shall be assessed by the~~
37 ~~Secretary of Revenue and paid with the State license tax, and shall become a part of the State~~
38 ~~license tax. The penalties for delayed payment hereinbefore provided shall not impair the~~
39 ~~obligation to procure a license in advance or modify any of the pains and penalties for failure to~~
40 ~~do so.~~

41 ~~The provisions of this section shall apply to taxes levied by the counties of the State~~
42 ~~under authority of this Article in the same manner and to the same extent as they apply to~~
43 ~~taxes levied by the State.~~

1 (c) If any person, firm, or corporation shall commence to exercise any privilege or
2 to promote any business, trade, employment, or profession, or to do any act requiring a
3 State license under this Article without such State license, he or it shall be guilty of a
4 Class 1 misdemeanor; and if such failure, neglect, or refusal to apply for and obtain such
5 State license be continued, such person, firm, or corporation shall pay an additional tax of
6 five per centum (5%) of the amount of such State license tax which was due and payable
7 at the commencement of the business, trade, employment or profession, or doing the act,
8 in addition to the State license tax imposed by this Article, for each and every 30 days, or
9 fraction thereof, that such State license tax remains unpaid from the date that same was
10 due and payable, and such additional tax shall be assessed by the Secretary of Revenue
11 and paid with the State license tax and shall become a part of the State license tax.

12 (d) Penalties. – The penalties in G.S. 105-236 apply to this Article. The Secretary
13 may collect a tax due under this Article in any manner allowed under Article 9 of this
14 Chapter. If any person, firm, or corporation shall fail, refuse, or neglect to make immediate
15 payment of any taxes due and payable under this Article, additional taxes, and/or any penalties
16 imposed pursuant thereto, upon demand, the Secretary of Revenue shall certify the same to the
17 sheriff of the county in which such delinquent lives or has his place of business, and such sheriff
18 shall have the power and shall levy upon any personal or real property owned by such delinquent
19 person, firm, or corporation, and sell the same for the payment of the said tax or taxes, penalty
20 and costs, in the same manner as provided by law for the levy and sale of property for the
21 collection of other taxes, and if sufficient property is not found, the said sheriff or deputy
22 commissioner shall swear out a warrant for the violation of the provisions of this Article and as
23 provided in this Article.

24 (e) Local License Taxes. – The penalty and collection provisions of this section
25 apply to taxes levied by counties of the State under the authority of this Article in the
26 same manner and to the same extent as they apply to taxes levied by the State. The
27 provisions of this section for the collection of delinquent license taxes shall apply to
28 license taxes levied by the cities and towns of this State under authority of this Article, or
29 any other provision of law, in the same manner and to the same extent as they apply to
30 taxes levied by the State and counties of this State: ~~Provided, the municipal officer charged~~
31 ~~with the duty of collecting municipal taxes may exercise the powers vested in the sheriff by this~~
32 ~~section.~~ State."

33 Section 5. G.S. 105-110 is repealed.

34 Section 6. G.S. 105-112 is repealed.

35 Section 7. G.S. 105-113.3(b) reads as rewritten:

36 "(b) Administration. – ~~Except as provided in this section,~~ Article 9 of this Chapter
37 applies to this Article. ~~If a person fails or refuses to pay a tax due under this Article, a~~
38 ~~penalty shall be added to the tax due in an amount equal to fifty percent (50%) of the tax~~
39 ~~due."~~

40 Section 8. G.S. 105-113.87 reads as rewritten:

41 "**§ 105-113.87. Refund for excise tax paid on sacramental wine.**

42 (a) Refund Allowed. – A person who purchases wine for the purpose stated in G.S.
43 18B-103(8) may obtain a refund from the Secretary for the amount of the excise tax
44 levied under this Article. The Secretary shall make refunds annually.

1 (b) Application. – An applicant for a refund authorized by this section shall file a
2 written request with the Secretary for the refund due for the prior calendar year on or
3 before April 15. The Secretary may by rule prescribe what information and records shall
4 be supplied by the applicant to qualify for the refund. No refund may be made if the
5 application is filed more than three years after the date it is due.

6 (e) ~~Late Application.~~— ~~An application for a refund filed later than required in~~
7 ~~subsection (b) shall be accepted by the Secretary but shall be subject to the following late~~
8 ~~penalties: an application filed by May 15, twenty five percent (25%); an application filed~~
9 ~~after May 15 but no later than October 15, fifty percent (50%). No refund may be made~~
10 ~~if the application is filed after October 15."~~

11 Section 9. G.S. 105-130.6, as amended by S.L. 1998-98, reads as rewritten:

12 **"§ 105-130.6. Subsidiary and affiliated corporations.**

13 The net income of a corporation doing business in this State ~~which that~~ is a parent,
14 ~~subsidiary—subsidiary,~~ or affiliate of another corporation shall be determined by
15 eliminating all payments to or charges by ~~a—the~~ parent, ~~subsidiary—subsidiary,~~ or affiliated
16 corporation in excess of fair compensation in all intercompany transactions of any kind
17 whatsoever. If the Secretary ~~of Revenue shall find—finds~~ as a fact that a report by ~~such—a~~
18 corporation does not disclose the true earnings of ~~such—the~~ corporation on its business
19 carried on in this State, the Secretary may require ~~that such—the~~ corporation to file a
20 consolidated return of the entire operations of the parent corporation and of its
21 subsidiaries and affiliates, including its own operations and ~~income, and shall income.~~ The
22 Secretary shall determine the true amount of net income earned by ~~such—the~~ corporation in
23 this State as provided herein—State. The combined net income of ~~such—the~~ corporation and
24 of its parent, ~~subsidiaries—subsidiaries,~~ and affiliates shall be apportioned to this State by
25 use of the applicable apportionment formula required to be used by ~~such—the~~ corporation
26 under G.S. 105-130.4. ~~In such cases there shall be included—The return shall include~~ in the
27 apportionment formula the property, ~~payrolls—payrolls,~~ and sales of all corporations for
28 which the return is made. For the purposes of this section, a corporation ~~shall be deemed is~~
29 considered a subsidiary of another corporation ~~hereby designated the parent corporation,~~
30 when, directly or indirectly, it is subject to control by ~~such—the~~ other corporation by stock
31 ownership, interlocking directors, or by any other means whatsoever exercised by the
32 same or associated financial interests, whether ~~such—the~~ control is direct or through one or
33 more subsidiary, affiliated, or controlled ~~corporations, and a—corporations.~~ A corporation
34 ~~shall be deemed is~~ considered an affiliate of another corporation when both are directly or
35 indirectly controlled by the same parent corporation or by the same or associated
36 financial interests by stock ownership, interlocking directors, or by any other means
37 whatsoever, whether ~~such—the~~ control be direct or through one or more subsidiary,
38 ~~affiliated—affiliated,~~ or controlled corporations. ~~Upon such a finding by the Secretary of~~
39 ~~Revenue,—The Secretary may require a—the~~ consolidated return ~~authorized by—under~~ this
40 section ~~may be required—regardless of~~ whether the parent or controlling corporation or
41 interests or its subsidiaries or affiliates, other than the taxpayer, are or are not doing
42 business in this State.

1 If ~~such a consolidated return is required and by this section is not filed within 60 days~~
2 ~~after demand, it is demanded, said parent, subsidiary or affiliated corporation shall be~~
3 ~~subject to the penalty provided in this act for failure to file return and, in addition, shall~~
4 ~~be subject to the penalty provided in G.S. 105-230, and in such event the provisions of~~
5 ~~G.S. 105-236 shall apply. then the corporation is subject to the penalties provided in G.S.~~
6 ~~105-230 and G.S. 105-236.~~

7 ~~Such~~ The parent, subsidiary, or affiliated corporation shall must incorporate
8 in its return required under this section ~~such information as the Secretary of Revenue may~~
9 ~~reasonably require for the determination of information needed to determine the net income~~
10 ~~taxable under this Part, and shall must furnish such any additional information as the~~
11 ~~Secretary may reasonably require. requires.~~ If the return does not contain the information
12 ~~therein required or such the additional information requested is not furnished within 30~~
13 ~~days after demand, it is demanded, the corporation shall be subject to a penalty of one~~
14 ~~hundred dollars (\$100.00) for each day's omission, in addition is subject to the penalty~~
15 ~~penalties provided in G.S. 105-230. G.S. 105-230 and G.S. 105-236.~~

16 If the Secretary finds that the determination of the income of a parent, ~~subsidiary~~
17 ~~subsidiary, or affiliated corporation under a consolidated return as herein provided will~~
18 ~~produce a greater or lesser figure than the amount of income earned in this State, he the~~
19 ~~Secretary may readjust the determination by reasonable methods of computation to make~~
20 ~~it conform to the amount of income earned in this State; and if State. If the corporation~~
21 ~~contends the figure produced is greater than the earnings in this State, it shall must file~~
22 ~~with the Secretary within 30 days after notice of such determination, file with the Secretary~~
23 ~~the determination a statement of its objections and of an alternative method of~~
24 ~~determination with such detail and proof as the Secretary may require, and the determination.~~
25 The Secretary shall must consider the same statement in determining the income earned in
26 this State. In making such determination, the The findings and conclusions of the Secretary
27 shall be presumed to be correct and shall not be set aside unless shown to be plainly
28 wrong."

29 Section 10. G.S. 105-163.8 reads as rewritten:

30 "**§ 105-163.8. Liability of withholding agents and others. agents.**

31 (a) ~~Withholding Agents.~~—A withholding agent who withholds the proper amount
32 of income taxes under this Article and pays the withheld amount to the Secretary is not
33 liable to any person for the amount paid. A withholding agent who fails to withhold the
34 proper amount of income taxes or pay the amount withheld to the Secretary is liable for
35 the amount of tax not withheld or not paid. A withholding agent who fails to withhold
36 the amount of income taxes required by this Article or who fails to pay withheld taxes by
37 the due date for paying the taxes is subject to the penalties provided in Article 9 of this
38 Chapter.

39 (b) ~~Others.~~—A person who has a duty to deduct, account for, or pay taxes required
40 ~~to be withheld under this Article and who fails to do so is liable for the amount of tax not~~
41 ~~deducted, not accounted for, or not paid."~~

42 Section 11. G.S. 105-163.15(a) reads as rewritten:

1 "(a) In the case of any underpayment of the estimated tax by an individual, ~~there~~
2 ~~shall be added to the tax imposed under Article 4 for the taxable year~~ the Secretary shall assess
3 a penalty in an amount determined by applying the applicable annual rate established
4 under G.S. 105-241.1(i) to the amount of the underpayment for the period of the
5 underpayment."

6 Section 12. G.S. 105-164.14(d) reads as rewritten:

7 "~~(d) Penalties for Late Applications. Refunds made pursuant to applications filed~~
8 ~~after the dates specified in subsections (b) and (c) above are subject to the following~~
9 ~~penalties for late filing: applications filed within 30 days after the due date, twenty five~~
10 ~~percent (25%); applications filed after 30 days but within three years after the due date,~~
11 ~~fifty percent (50%). Refunds applied for more than three years after the due date are~~
12 ~~barred."~~

13 Section 13. G.S. 105-228.2(i) reads as rewritten:

14 "~~(i) If any such freight line company or railroad company shall fail to pay the tax~~
15 ~~levied herein when due a penalty of ten percent (10%) thereof shall immediately accrue~~
16 ~~and thereafter one percent (1%) per month shall be added to such tax and penalty while~~
17 ~~such tax remains unpaid. All provisions of laws for enforcing payment of taxes levied in~~
18 ~~this Article shall be applicable to the gross earnings taxes of freight line companies. Any~~
19 ~~freight line company against which a tax is assessed under the provisions of this Article~~
20 ~~may appear and defend in any action brought for the collection of such tax. The~~
21 ~~provisions of Article 9 of this Chapter apply to this Article."~~

22 Section 14. G.S. 105-231 is recodified as G.S. 105-230(b).

23 Section 15. G.S. 105-230, as amended by this act, reads as rewritten:

24 "**§ 105-230. Charter suspended for failure to report.**

25 If a corporation or a limited liability company fails to file any report or return or to
26 pay any tax or fee required by this Subchapter for 90 days after it is due, the Secretary
27 shall inform the Secretary of State of this failure. The Secretary of State shall suspend the
28 articles of incorporation, articles of organization, or certificate of authority, as
29 appropriate, of the corporation or limited liability company. The Secretary of State shall
30 immediately notify by mail every domestic or foreign corporation or limited liability
31 company so suspended of its suspension. ~~The powers, privileges, and franchises~~
32 ~~conferred upon the corporation or limited liability company by the articles of~~
33 ~~incorporation, the articles of organization, or the certificate of authority terminate upon~~
34 ~~suspension. The Secretary of State shall immediately notify by mail every domestic or foreign~~
35 ~~corporation or limited liability company of the suspension.~~

36 ~~(b) Penalty for exercising functions after suspension of articles or certificate.~~

37 ~~A person who exercises or by any act attempts to exercise any powers, privileges, or~~
38 ~~franchises under articles of incorporation, articles of organization, or a certificate of~~
39 ~~authority after it has been suspended under G.S. 105-230 shall pay a penalty of not less~~
40 ~~than one hundred dollars (\$100.00) nor more than one thousand dollars (\$1,000), to be~~
41 ~~recovered in an action to be brought by the Secretary in the Superior Court of Wake~~
42 ~~County.—Any act performed or attempted to be performed during the period of~~
43 ~~suspension is invalid and of no effect."~~

1 Section 16. G.S. 105-236 reads as rewritten:

2 **"§ 105-236. Penalties.**

3 Penalties assessed by the Secretary under this Subchapter are assessed as an additional
4 tax. Except as otherwise provided by law, and subject to the provisions of G.S. 105-237,
5 the following penalties shall be applicable:

6 (1) Penalty for Bad Checks. – When the bank upon which any uncertified
7 check tendered to the Department of Revenue in payment of any
8 obligation due to the Department returns the check because of
9 insufficient funds or the nonexistence of an account of the drawer, the
10 Secretary shall assess an additional tax a penalty equal to ten percent
11 (10%) of the ~~check shall be imposed, check,~~ subject to a minimum of one
12 dollar (\$1.00) and a maximum of one thousand dollars (\$1,000). This
13 penalty does not apply if the Secretary finds that, when the check was
14 presented for payment, the drawer of the check had sufficient funds in
15 an account at a financial institution in this State to pay the check and, by
16 inadvertence, the drawer of the check failed to draw the check on the
17 account that had sufficient funds. The additional tax penalty imposed
18 may not be waived or diminished by the Secretary.

19 (1a) Penalty for Bad Electronic Funds Transfer. – When an electronic funds
20 transfer cannot be completed due to insufficient funds or the
21 nonexistence of an account of the transferor, the Secretary shall assess a
22 penalty equal to ten percent (10%) of the amount of the transfer, subject
23 to a minimum of one dollar (\$1.00) and a maximum of one thousand
24 dollars (\$1,000). This penalty may be waived by the Secretary in
25 accordance with G.S. 105-237.

26 (1b) Making Payment in Wrong Form. – For making a payment of tax in a
27 form other than the form required by the Secretary pursuant to G.S. 105-
28 241(a), the Secretary shall assess a penalty equal to five percent (5%) of
29 the amount of the tax, subject to a minimum of one dollar (\$1.00) and a
30 maximum of one thousand dollars (\$1,000). This penalty may be
31 waived by the Secretary in accordance with G.S. 105-237.

32 (2) Failure to Obtain a License. – For failure to obtain a license before
33 engaging in a business, trade or profession for which a license is
34 required, ~~there shall be assessed an additional tax~~ the Secretary shall assess
35 a penalty equal to five percent (5%) of the amount prescribed for the
36 license per month or fraction thereof until paid, ~~which additional tax shall~~
37 ~~not not to~~ not to exceed twenty-five percent (25%) of the amount so
38 prescribed, but in any event shall not be less than five dollars (\$5.00).

39 (3) Failure to File Return. – In case of failure to file any return on the date
40 ~~prescribed therefor (determined it is due, determined~~ determined with regard to any
41 extension of time for filing), ~~unless it is shown that the failure is due to~~
42 ~~reasonable cause, there shall be added to the amount required to be shown as~~
43 ~~tax on the return, as a penalty,~~ filing, the Secretary shall assess a penalty

1 equal to five percent (5%) of the amount of the tax if the failure is for
2 not more than one month, with an additional five percent (5%) for each
3 additional month, or fraction thereof, during which the failure continues,
4 not exceeding twenty-five percent (25%) in the aggregate, or five
5 dollars (\$5.00), whichever is the greater.

6 (4) Failure to Pay Tax When Due. – In the case of failure to pay any tax
7 when due, without intent to evade the tax, ~~there shall be an additional tax,~~
8 ~~as a penalty, of~~ the Secretary shall assess a penalty equal to ten percent
9 (10%) of the tax; provided, that such the penalty shall in no event be less
10 than five dollars (\$5.00). This penalty does not apply in any of the
11 following circumstances:

12 a. When the amount of tax shown as due on an amended return is
13 paid when the return is filed.

14 b. When a tax due but not shown on a return is assessed by the
15 Secretary and is paid within 30 days after the date of the
16 proposed notice of assessment of the tax.

17 (5) Negligence. –

18 a. ~~Most cases.~~ Finding of negligence. – For negligent failure to
19 comply with any of the provisions to which this Article applies,
20 or rules issued pursuant thereto, without intent to defraud, ~~there~~
21 ~~shall be assessed, as a penalty, an additional tax of the Secretary shall~~
22 assess a penalty equal to ten percent (10%) of the deficiency due
23 to the negligence.

24 b. Large income tax deficiency. – In the case of income tax, if a
25 taxpayer understates ~~gross income, overstates deductions from~~
26 ~~gross income, other than personal exemptions, makes erroneous~~
27 ~~adjustments to federal taxable income, or does any combination~~
28 ~~of these, and the combined errors equal or exceed taxable~~
29 income, by any means, by an amount equal to twenty-five
30 percent (25%) or more of gross income, the penalty assessed
31 shall be the Secretary shall assess a penalty equal to twenty-five
32 percent (25%) of the deficiency. For purposes of this subdivision,
33 'gross income' means gross income as defined in section 61 of the
34 Code. Code and "deductions" means deductions allowed in
35 arriving at federal taxable income.

36 c. ~~Large sales~~ Other large tax deficiency. – In the case of a tax other
37 than income tax, sales and use taxes, if a taxpayer understates total
38 tax liability by twenty-five percent (25%) or more as a result of
39 one or more of the following reasons, ~~the penalty assessed shall be~~
40 more, the Secretary shall assess a penalty equal to twenty-five
41 percent (25%) of the deficiency. total deficiency:

42 1. ~~Omission or understatement of gross sales, gross receipts,~~
43 ~~or gross purchases.~~

- 1 2. ~~Overstatement of exemptions or deductions.~~
2 3. ~~Incorrect application of a lesser rate of tax.~~
- 3 d. ~~No double penalty-double penalty.~~ – If a penalty is assessed under
4 subdivision (6) of this section, no additional penalty for
5 negligence shall be assessed with respect to the same deficiency.
6 e. Inheritance and gift tax deficiencies. – This subdivision does not
7 apply to inheritance and gift tax deficiencies that are the result of
8 valuation understatements.
- 9 (5a) Misuse of Certificate of Resale. – For misuse of a certificate of resale by
10 a purchaser, the Secretary shall assess ~~an additional tax, as a penalty, of~~
11 penalty equal to two hundred fifty dollars (\$250.00).
- 12 (5b) Road Tax Understatement. – If a motor carrier understates its liability
13 for the road tax imposed by Article 36B of this Chapter by twenty-five
14 percent (25%) or more, the Secretary shall assess the motor carrier a
15 penalty in an amount equal to two times the amount of the deficiency.
- 16 (6) Fraud. – If there is a deficiency or delinquency in payment of any tax
17 because of fraud with intent to evade the tax, ~~there shall be assessed, as a~~
18 ~~penalty, an additional tax~~ the Secretary shall assess a penalty equal to fifty
19 percent (50%) of the total deficiency.
- 20 (7) Attempt to Evade or Defeat Tax. – Any person who willfully attempts,
21 or any person who aids or abets any person to attempt in any manner to
22 evade or defeat a tax or its payment, shall, in addition to other penalties
23 provided by law, be guilty of a Class I felony which may include a fine
24 up to twenty-five thousand dollars (\$25,000).
- 25 (8) Willful Failure to Collect, Withhold, or Pay Over Tax. – Any person
26 required to collect, withhold, account for, and pay over any tax who
27 willfully fails to collect or truthfully account for and pay over the tax
28 shall, in addition to other penalties provided by law, be guilty of a Class
29 1 misdemeanor. Notwithstanding any other provision of law, no
30 prosecution for a violation brought under this subdivision shall be
31 barred before the expiration of three years after the date of the violation.
- 32 (9) Willful Failure to File Return, Supply Information, or Pay Tax. – Any
33 person required to pay any tax, to make a return, to keep any records, or
34 to supply any information, who willfully fails to pay the tax, make the
35 return, keep the records, or supply the information, at the time or times
36 required by law, or rules issued pursuant thereto, shall, in addition to
37 other penalties provided by law, be guilty of a Class 1 misdemeanor.
38 Notwithstanding any other provision of law, no prosecution for a
39 violation brought under this subdivision shall be barred before the
40 expiration of three years after the date of the violation.
- 41 (9a) Aid or Assistance. – Any person, pursuant to or in connection with the
42 revenue laws, who willfully aids, assists in, procures, counsels, or
43 advises the preparation, presentation, or filing of a return, affidavit,

1 claim, or any other document that the person knows is fraudulent or
2 false as to any material matter, whether or not the falsity or fraud is with
3 the knowledge or consent of the person authorized or required to present
4 or file the return, affidavit, claim, or other document, shall be guilty of a
5 Class I felony which may include a fine up to ten thousand dollars
6 (\$10,000).

7 (10) Failure to File Informational Returns. –

8 a. ~~For failure to file a partnership or a fiduciary informational return~~
9 ~~when the return is due to be filed, there shall be assessed as a tax~~
10 ~~against the delinquent five dollars (\$5.00) per month or fraction~~
11 ~~thereof of the delinquency, this penalty, however, in the~~
12 ~~aggregate not to exceed twenty five dollars (\$25.00). When~~
13 ~~assessed against a fiduciary, the penalty shall be paid by the~~
14 ~~fiduciary and shall not be passed on to the trust or estate. No tax~~
15 ~~may be assessed against the delinquent when it is a partnership as~~
16 ~~defined under Section 6231(a)(1)(B) of the Code and no penalty~~
17 ~~could be assessed as provided by Rev. Proc. 84-35, except that~~
18 ~~for the purpose of Section 3.01 of that procedure "the~~
19 ~~Department of Revenue" is substituted for "the Internal Revenue~~
20 ~~Service".~~

21 b. ~~For failure to file timely statements of payments to another~~
22 ~~person with respect to wages, dividends, rents, or interest paid to~~
23 ~~that person, there shall be assessed as a tax a penalty of one~~
24 ~~dollar (\$1.00) for each statement not filed on time, the aggregate~~
25 ~~of the penalties for each tax year not to exceed one hundred~~
26 ~~dollars (\$100.00), and in addition thereto, if the Secretary~~
27 ~~requests the payer to file the statements and sets a date by which~~
28 ~~the statements must be filed, and The Secretary may request a~~
29 ~~person who fails to file timely statements of payment to another~~
30 ~~person with respect to wages, dividends, rents, or interest paid to~~
31 ~~that person to file the statements by a certain date. If the payer~~
32 ~~fails to file the statements within this time, by that date, the~~
33 ~~amounts claimed on payer's income tax return as deductions for~~
34 ~~salaries and wages, or rents or interest shall be disallowed to the~~
35 ~~extent that the payer failed to comply with the Secretary's request~~
36 ~~with respect to the statements.~~

37 c. For failure to file an informational return required by Article 36C
38 or 36D of this Chapter by the date the return is due, there shall be
39 assessed ~~as a tax~~ a penalty of fifty dollars (\$50.00).

40 (11) Any violation of Subchapter I, V, or VIII of this Chapter or of Article 3
41 of Chapter 119 of the General Statutes is considered an act committed in
42 part at the office of the Secretary in Raleigh. The certificate of the
43 Secretary that a tax has not been paid, a return has not been filed, or

1 information has not been supplied, as required by law, is prima facie
2 evidence that the tax has not been paid, the return has not been filed, or
3 the information has not been supplied.

4 (12) Repealed by Session Laws 1991, c. 45, s. 27, effective April 22, 1991."

5 Section 17. G.S. 105-241.2(c) reads as rewritten:

6 "(c) Frivolous Petitions. – Upon receipt of a petition requesting administrative
7 review as provided in the preceding subsection, the Tax Review Board shall examine the
8 petition and the records and other data transmitted by the Secretary pertaining to the
9 matter for which review is sought, and if it ~~should appear~~ appears from ~~such the~~ the records
10 and data that the petition is frivolous or filed for the purpose of delay, the Tax Review
11 Board shall dismiss the petition for review and, ~~in addition, is authorized, in its discretion, to~~
12 ~~impose a penalty not to exceed one hundred dollars (\$100.00), which penalty shall be in addition~~
13 ~~to the tax, penalties, interests, and costs, and shall be collected in the same manner as the~~
14 ~~principal tax liability.~~ review."

15 Section 18. G.S. 105-244 is repealed.

16 Section 19. G.S. 105-253 reads as rewritten:

17 "**§ 105-253. Personal liability of officers, trustees, or receivers, when certain taxes not**
18 **remitted.**

19 (a) Any officer, trustee, or receiver of any corporation required to file a report with
20 the Secretary of Revenue who has custody of funds of the corporation and who allows the
21 funds to be paid out or distributed to the stockholders of the corporation without having
22 remitted to the Secretary of Revenue any State taxes that are due ~~shall be~~ is personally
23 liable for the payment of the tax, ~~and shall be subject to an additional penalty equal to the~~
24 ~~amount of tax due.~~ tax.

25 (b) Each responsible ~~corporate~~ officer is personally and individually liable for all of
26 the following:

27 (1) All sales and use taxes collected by a corporation or a limited liability
28 company upon its taxable transactions of the corporation. ~~transactions.~~

29 (2) All sales and use taxes due upon taxable transactions of ~~the a~~
30 corporation or a limited liability company but upon which ~~the~~
31 ~~corporation~~ it failed to collect the tax, but only if the ~~responsible officer~~
32 person knew, or in the exercise of reasonable care should have known,
33 that the tax was not being collected.

34 (3) All taxes due from ~~the a~~ corporation or a limited liability company
35 pursuant to the provisions of Articles 36C and 36D of Subchapter V of
36 this Chapter and all taxes payable under those Articles by ~~the corporation~~
37 it to a supplier for remittance to this State or another state.

38 (4) All income taxes required to be withheld from the wages of employees
39 of a corporation or a limited liability company.

40 The liability of the responsible ~~corporate~~ officer is satisfied upon timely remittance of
41 the tax by the ~~corporation.~~ corporation or the limited liability company. If the tax remains
42 unpaid ~~by the corporation~~ after it is due and payable, the Secretary may assess the tax
43 ~~against,~~ against and collect the tax ~~from,~~ from any responsible ~~corporate~~ officer in

1 accordance with the procedures in this Article for assessing and collecting tax from a
2 taxpayer. As used in this section, the term "responsible ~~corporate~~ officer" ~~includes~~ means
3 the president and the treasurer of ~~the corporation~~ a corporation, the manager of a limited
4 liability company, and any other officers assigned the duty of filing tax returns and remitting
5 taxes on behalf of the corporation. officer of a corporation or member of a limited liability
6 company who has a duty to deduct, account for, or pay taxes listed in this subsection.
7 Any penalties that may be imposed under G.S. 105-236 and that apply to a deficiency
8 ~~shall also~~ apply to ~~any an~~ assessment made under this section. The provisions of this
9 Article apply to an assessment made under this section to the extent they are not
10 inconsistent with this section.

11 The period of limitations for assessing a responsible ~~corporate~~ officer for unpaid taxes
12 under this section ~~shall expire~~ expires one year after the expiration of the period of
13 limitations for assessment against the ~~corporation.~~ corporation or limited liability
14 company.

15 (c) Repealed by Session Laws 1991 (Regular Session, 1992), c. 1007, s. 15."

16 Section 20. G.S. 105-449.45(d) reads as rewritten:

17 "(d) Penalties. – A motor carrier that fails to file a report under this section by the
18 required date is subject to a penalty of ~~up to fifty dollars (\$50.00) for the first failure and of~~
19 ~~up to one hundred dollars (\$100.00) for a subsequent failure.~~ fifty dollars (\$50.00)."

20 Section 21. G.S. 105-449.108 is amended by adding a new subsection to read:

21 "(d) Late Application. – A refund applied for more than three years after the date
22 the application is due is barred."

23 Section 22. G.S. 105-449.109 is repealed.

24 Section 23. Section 7 of Chapter 443 of the 1993 Session Laws reads as
25 rewritten:

26 "Sec. 7. Division V of Article 4 of Chapter 105 of the General Statutes is repealed
27 effective for investments made on or after January 1, ~~1999~~ 2003. Division V of Article 4
28 of Chapter 105 of the General Statutes will remain in effect for investments made before
29 January 1, ~~1999~~ 2003."

30 Section 24. Section 10 of Chapter 443 of the 1993 Session Laws reads as
31 rewritten:

32 "Sec. 10. Section 6 of this act is effective upon ratification. Section 7 of this act
33 becomes effective for investments made on or after January 1, ~~1999~~ 2003. The
34 remainder of this act becomes effective for taxable years beginning on or after January 1,
35 1994.

36 A business registered as a qualified business venture or a qualified grantee business
37 before January 1, 1994, retains its registration until the renewal date for the registration of
38 that business under Division V of Article 4 of Chapter 105 of the General Statutes as in
39 effect before January 1, 1994. The Secretary of State shall not grant renewal of a
40 registration as a qualified business venture or a qualified grantee business unless at the
41 time of filing the renewal application, the business meets the requirements then in effect
42 for a new registration.

1 Notwithstanding the provisions of G.S. 105-163.014(a), as amended by this act, a
2 credit under Division V of Article 4 of Chapter 105 of the General Statutes for an
3 investment made before January 1, 1994, is not forfeited solely on the grounds that a
4 sibling of the taxpayer provides services for compensation to the business in which the
5 taxpayer invested.

6 Notwithstanding the provisions of G.S. 105-163.014(d), as amended by this act, a
7 credit under Division V of Article 4 of Chapter 105 of the General Statutes for an
8 investment made before January 1, 1994, is not forfeited solely on the grounds that a
9 redemption of the securities received in the investment is made within five years after the
10 investment was made.

11 The Secretary of State may require a qualified business venture or a qualified grantee
12 business that is unable to renew its registration after January 1, 1994, to file reports the
13 Secretary of State considers appropriate to determine the location of the headquarters and
14 principal business operations of the business until three years after the date of the last
15 investment in the business that qualified for the tax credit allowed under Division V of
16 Article 4 of Chapter 105 of the General Statutes."

17 Section 25. G.S. 105-163.014 is amended by adding a new subsection to read:

18 "(d1) Certain Redemptions Allowed. – Forfeiture of a credit does not occur under
19 this section if a qualified business venture that engages primarily in motion picture film
20 production makes a redemption with respect to securities received in an investment and
21 the following conditions are met:

22 (1) The redemption occurred because the qualified business venture
23 completed production of a film, sold the film, and was liquidated.

24 (2) Neither the qualified business venture nor a related person continues to
25 engage in business with respect to the film produced by the qualified
26 business venture."

27 Section 26. G.S. 105-163.014(d)(2) reads as rewritten:

28 "(2) ~~Within~~ Except as provided in subsection (d1) of this section, within five
29 years after the investment was made, the qualified business venture or
30 qualified grantee business in which the investment was made makes a
31 redemption with respect to the securities received in the investment."

32 Section 27. G.S. 105-163.010 is amended by adding a new subdivision to
33 read:

34 "(10a) Related person. – A person described in one of the relationships set
35 forth in section 267(b) or 707(b) of the Code."

36 Section 28. G.S. 105-163.010(14) reads as rewritten:

37 "(14) Subordinated debt. – Indebtedness that ~~(i) by its terms matures five or~~
38 ~~more years after its issuance, (ii) is not secured, and (iii) is not secured and~~
39 is subordinated to all other indebtedness of the issuer issued or to be
40 issued to a financial institution other than a financial institution
41 described in subdivisions (5)(ii) through (5)(v) of this section. ~~Any~~
42 Except as provided in G.S. 105-163.014(d1), any portion of

1 indebtedness that matures earlier than five years after its issuance is not
2 subordinated debt."

3 Section 29. G.S. 105-163.013(b) reads as rewritten:

4 "(b) Qualified Business Ventures. – In order to qualify as a qualified business
5 venture under this Division, a business must be registered with the Securities Division of
6 the Department of the Secretary of State. To register, the business must file with the
7 Secretary of State an application and any supporting documents the Secretary of State
8 may require from time to time to determine that the business meets the requirements for
9 registration as a qualified business venture. A business meets the requirements for
10 registration as a qualified business venture if all of the following are true as of the date
11 the business files the required application:

- 12 (1) Repealed by Session Laws 1996, Second Extra Session, c. 14, s. 7.
13 (1b) Either (i) it was organized after January 1 of the calendar year in which
14 its application is filed or (ii) during its most recent fiscal year before
15 filing the application, it had gross revenues, as determined in
16 accordance with generally accepted accounting principles, of five
17 million dollars (\$5,000,000) or less on a consolidated basis.
18 (2) Repealed by Session Laws 1996, Second Extra Session, c. 14, s. 7.
19 (3) It is organized to engage primarily in manufacturing, processing,
20 warehousing, wholesaling, research and development, or a service-
21 related industry.
22 (4) It does not engage as a substantial part of its business in any of the
23 following:
24 a. Providing a professional service as defined in Chapter 55B of the
25 General Statutes.
26 b. Construction or contracting.
27 c. Selling or leasing at retail.
28 d. The purchase, sale, or development, or purchasing, selling, or
29 holding for investment of commercial paper, notes, other
30 indebtedness, financial instruments, securities, or real property,
31 or otherwise make investments.
32 e. Providing personal grooming or cosmetics services.
33 f. Offering any form of entertainment, amusement, recreation, or
34 athletic or fitness activity for which an admission or a
35 membership is charged.
36 (5) It was not formed for the primary purpose of acquiring all or part of the
37 stock or assets of one or more existing businesses.
38 (6) It is not a real estate-related business.

39 The effective date of registration for a qualified business venture whose application is
40 accepted for registration is ~~the filing date of its application. 60 days before the date its~~
41 application was filed. No credit is allowed under this Division for an investment made
42 before the effective date of the registration or after the registration is revoked. For the
43 purpose of this Article, if a taxpayer's investment is placed initially in escrow conditioned

1 upon other investors' commitment of additional funds, the date of the investment is the
2 date escrowed funds are transferred to the qualified business venture free of the
3 condition.

4 To remain qualified as a qualified business venture, the business must renew its
5 registration annually as prescribed by rule by filing a financial statement for the most
6 recent fiscal year showing gross revenues, as determined in accordance with generally
7 accepted accounting principles, of five million dollars (\$5,000,000) or less on a
8 consolidated basis and an application for renewal in which the business certifies the facts
9 required in the original application.

10 Failure of a qualified business venture to renew its registration by the applicable
11 deadline shall result in revocation of its registration effective as of the next day after the
12 renewal deadline, but shall not result in forfeiture of tax credits previously allowed to
13 taxpayers who invested in the business except as provided in G.S. 105-163.014. The
14 Secretary of State shall send the qualified business venture notice of revocation within 60
15 days after the renewal deadline. A qualified business venture may apply to have its
16 registration reinstated by the Secretary of State by filing an application for reinstatement,
17 accompanied by the reinstatement application fee and a late filing penalty of one
18 thousand dollars (\$1,000), within 30 days after receipt of the revocation notice from the
19 Secretary of State. A business that seeks approval of a new application for registration
20 after its registration has been revoked must also pay a penalty of one thousand dollars
21 (\$1,000). A registration that has been reinstated is treated as if it had not been revoked.

22 If the gross revenues of a qualified business venture exceed five million dollars
23 (\$5,000,000) in a fiscal year, the business must notify the Secretary of State in writing of
24 this fact by filing a financial statement showing the revenues of the business for that
25 year."

26 Section 30. The Revenue Laws Study Committee shall study whether a
27 taxpayer should receive reimbursement of legal costs, including reasonable attorney fees,
28 from the State when the taxpayer substantially prevails in an administrative appeal or a
29 lawsuit with respect to the amount in controversy or with respect to the most significant
30 issue or set of issues presented. The Committee may report its findings and
31 recommendations on this issue to the 1999 Regular Session of the 1999 General
32 Assembly.

33 Section 31. G.S. 105-275(32) is recodified as G.S. 105-278.6A and reads as
34 rewritten:

35 "**§ 105-278.6A. Qualified retirement facility.**

36 (a) Classification. – Real and personal property owned by a ~~home for the aged, sick,~~
37 ~~or infirm, that is exempt from tax under Article 4 of this Chapter,~~ qualified retirement facility
38 and used in the operation of that home-facility is designated a special class of property
39 under Section 2(2) of Article V of the North Carolina Constitution and shall not be listed,
40 assessed, or taxed.

41 (b) Facility Defined. – As used in this section, the term 'retirement facility' means
42 a ~~The term "home for the aged, sick, or infirm" means a self-contained community that meets~~
43 all of the following conditions:

1 (1) Its grounds and buildings are at a single site.
2 (2) It ~~(i)~~ is designed for elderly residents; ~~(ii)~~ residents.
3 (3) It includes independent living units for elderly residents.
4 (4) ~~operates~~ It includes a skilled nursing facility, an intermediate care
5 facility, or a home for the aged; ~~(iii)~~ facility or an adult care facility.
6 ~~includes residential dwelling units, recreational facilities, and service facilities; ~~(iv)~~ the~~
7 ~~charter of which~~

8 (c) Qualification. – A retirement facility qualifies for the benefits of this section if
9 it meets all of the following conditions:

10 (1) It is exempt from tax under Article 4 of this Chapter and private
11 shareholders do not benefit from its operations.
12 (2) All of its revenues, less operating and capital expenses, are applied to
13 providing uncompensated goods and services to the elderly and to the
14 local community, or are applied to an endowment or a reserve for these
15 purposes.
16 (3) Its charter provides that in the event of dissolution, its assets will revert
17 or be conveyed to an entity that is organized exclusively for charitable,
18 educational, scientific, or religious purposes, and which qualifies as is an
19 exempt organization under Section 501(e)(3) of the Internal Revenue Code
20 of 1986; section 501(c)(3) of the Code.

21 ~~(v) is owned, operated, and managed by one of the following entities:~~

22 a. ~~A congregation, parish, mission, synagogue, temple, or similar local unit of a~~
23 ~~church or religious body;~~

24 b. ~~A conference, association, division, presbytery, diocese, district, synod, or~~
25 ~~similar unit of a church or religious body;~~

26 c. ~~A Masonic organization whose property is excluded from taxation pursuant to~~
27 ~~G.S. 105-275(18); or~~

28 d. ~~A nonprofit corporation~~

29 (4) Its charter or bylaws, as it existed on August 15, 1998, provide that it is
30 governed by a board of directors or trustees at least a majority of whose
31 members elected for terms commencing on or before December 31, 1987,
32 shall have been elected or confirmed by, and all of whose members elected for
33 terms commencing after December 31, 1987, shall be are selected by, by one
34 or more entities described in A., B., or C. of this subdivision, or organized for
35 a religious purpose as defined in G.S. 105-278.3(d)(1); and nonprofit
36 corporations that meet all of the following conditions:

37 a. It is exempt under section 501(c)(3) of the Code.

38 b. It is organized for a charitable purpose as defined in G.S. 105-
39 278.6.

40 c. It is not a private foundation as defined in section 509 of the
41 Code.

42 (5) ~~(vi)~~ It has an active program to generate funds through one or more
43 sources, such as gifts, grants, trusts, bequests, endowment, or an annual

1 giving program, to assist the ~~home~~ retirement facility in serving persons
2 who might not be able to reside ~~at the home there~~ without financial
3 assistance or subsidy."

4 Section 32. G.S. 105-164.14(b)(4) reads as rewritten:

5 "(4) ~~Homes for the aged, sick, or infirm~~ Qualified retirement facilities whose
6 property is excluded from property tax under G.S. ~~105-275(32)~~ 105-
7 278.6A."

8 Section 33. G.S. 105-273 is amended by adding a new subdivision to read:

9 "(4a) Code. – Defined in G.S. 105-228.90."

10 Section 34. The Legislative Research Commission shall conduct a
11 comprehensive study of property tax exemptions for nonprofit institutions, including the
12 history and evolution of such exemptions in North Carolina, the policy reasons for
13 property tax exemptions, the effect of the exemptions on local governments and on other
14 taxpayers, the extent to which other states provide property tax exemptions for nonprofit
15 institutions, and any other issues it considers relevant. The Legislative Research
16 Commission may make an interim report of its findings and recommendations on this
17 issue to the 1999 Regular Session of the 1999 General Assembly and shall make a final
18 report of its findings and recommendations to the 2000 Regular Session of the 1999
19 General Assembly. The temporary property tax exemption provided in Section 31 of this
20 act shall not be considered a precedent or guideline for the purpose of the Legislative
21 Research Commission's study or recommendations.

22 Section 35. G.S. 105-277.1(a) reads as rewritten:

23 "(a) Exclusion. – The following class of property is designated a special class of
24 property under Article V, Sec. 2(2) of the North Carolina Constitution and shall be
25 assessed for taxation in accordance with this section. The first ~~twenty thousand dollars~~
26 ~~(\$20,000)~~ twenty-five thousand dollars (\$25,000) in appraised value of a permanent
27 residence owned and occupied by a qualifying owner is excluded from taxation. A
28 qualifying owner is an owner who meets all of the following requirements as of January 1
29 preceding the taxable year for which the benefit is claimed:

- 30 (1) Is at least 65 years of age or totally and permanently disabled.
- 31 (2) Has an income for the preceding calendar year of not more than ~~fifteen~~
32 ~~thousand dollars (\$15,000)~~ twenty-five thousand dollars (\$25,000).
- 33 (3) Is a North Carolina resident.

34 An otherwise qualifying owner does not lose the benefit of this exclusion because of a
35 temporary absence from his or her permanent residence for reasons of health, or because
36 of an extended absence while confined to a rest home or nursing home, so long as the
37 residence is unoccupied or occupied by the owner's spouse or other dependent."

38 Section 36. G.S. 105-309(f) reads as rewritten:

39 "(f) The following information shall appear on each abstract or on an information
40 sheet distributed with the abstract. The abstract or sheet must include the address and
41 telephone number of the assessor below the notice required by this subsection. The notice
42 shall read as follows:

43

1 **'PROPERTY TAX RELIEF FOR ELDERLY AND**
2 **PERMANENTLY DISABLED PERSONS.**

3
4 North Carolina excludes from property taxes the first ~~twenty thousand dollars (\$20,000)~~
5 twenty-five thousand dollars (\$25,000) in appraised value of a permanent residence
6 owned and occupied by North Carolina residents aged 65 or older or totally and
7 permanently disabled whose income does not exceed ~~fifteen thousand dollars (\$15,000).~~
8 twenty-five thousand dollars (\$25,000). Income means the owner's adjusted gross income
9 as determined for federal income tax purposes, plus all moneys received other than gifts
10 or inheritances received from a spouse, lineal ancestor or lineal descendant.

11 If you received this exclusion in (assessor insert previous year), you do not need to
12 apply again unless you have changed your permanent residence. If you received the
13 exclusion in (assessor insert previous year) and your income in (assessor insert previous
14 year) was above ~~fifteen thousand dollars (\$15,000),~~ twenty-five thousand dollars (\$25,000),
15 you must notify the assessor. If you received the exclusion in (assessor insert previous
16 year) because you were totally and permanently disabled and you are no longer totally
17 and permanently disabled, you must notify the assessor. If the person receiving the
18 exclusion in (assessor insert previous year) has died, the person required by law to list the
19 property must notify the assessor. Failure to make any of the notices required by this
20 paragraph before April 15 will result in penalties and interest.

21 If you did not receive the exclusion in (assessor insert previous year) but are now
22 eligible, you may obtain a copy of an application from the assessor. It must be filed by
23 April 15."

24 Section 37. G.S. 105-277.1A, as amended by S.L. 1998-98, reads as rewritten:
25 **"§ 105-277.1A. Property classified for taxation at reduced valuation; duties of tax**
26 **collectors; reimbursement of localities for portion of tax lost.**

27 (a) On September 1, 1990, the tax collector of each county and the tax collector of
28 each city shall furnish to the Secretary of Revenue a list containing the name and address
29 of each person who has qualified in that year for the exemption provided in G.S. 105-
30 277.1. The list shall also contain for each name the total amount of property exempted,
31 the tax rate the property is subject to, and the product obtained by multiplying those two
32 numbers by each other. The lists shall be accompanied by an affidavit attesting to the
33 accuracy of the list and shall all be on a form prescribed by the Secretary of Revenue.

34 (a1) On December 1, 1997, the tax collector of each county and the tax collector of
35 each city shall furnish to the Secretary of Revenue two lists containing the name and
36 address of each taxpayer who has qualified in that year for the exemption provided in
37 G.S. 105-277.1. The first list shall include those taxpayers whose income was above
38 eleven thousand dollars (\$11,000) and the second list shall include those taxpayers whose
39 income was eleven thousand dollars (\$11,000) or less. On the first list, the tax collector
40 shall provide for each name the total amount of property exempted and on the second list,
41 the tax collector shall provide for each name the amount of property above fifteen
42 thousand dollars (\$15,000) exempted. On both lists, the tax collector shall provide the tax
43 rate the property is subject to and the product obtained by multiplying the tax rate by the

1 amount of property. The lists shall be accompanied by an affidavit attesting to the
2 accuracy of the list and shall be on a form prescribed by the Secretary of Revenue.

3 (a2) On December 1, 1999, the tax collector of each county and the tax collector of
4 each city shall furnish to the Secretary of Revenue two lists containing the name and
5 address of each taxpayer who has qualified in that year for the exemption provided in
6 G.S. 105-277.1. The first list shall include those taxpayers whose income was above
7 fifteen thousand dollars (\$15,000), and the second list shall include those taxpayers
8 whose income was fifteen thousand dollars (\$15,000) or less. On the first list, the tax
9 collector shall provide for each name the total amount of property exempted and on the
10 second list, the tax collector shall provide for each name the amount of property above
11 twenty thousand dollars (\$20,000) exempted. On both lists, the tax collector shall provide
12 the tax rate the property is subject to and the product obtained by multiplying the tax rate
13 by the amount of property. The lists shall be accompanied by an affidavit attesting to the
14 accuracy of the list and shall be on a form prescribed by the Secretary of Revenue.

15 (b) Repealed by Session Laws 1996, Second Extra Session, c. 18, s. 15.1(c).

16 (c) The Secretary of Revenue may, for cause, grant an extension for the
17 submission of a list required by this section.

18 (d) Before May 31, 1991, the Secretary of Revenue shall distribute to the county
19 or city fifty percent (50%) of the total for the entire list provided pursuant to subsection
20 (a) of this section of the product obtained by multiplying the tax exemption for each
21 taxpayer times the applicable tax rate. Each year thereafter, on or before May 31, the
22 Secretary of Revenue shall pay to each county and city that was entitled to receive a
23 distribution under this subsection in 1991 the amount it was entitled to receive in 1991.

24 (d1) Before May 31, 1998, the Secretary of Revenue shall distribute to the county
25 or city fifty percent (50%) of the total for both lists provided the preceding December 1
26 pursuant to subsection (a1) of this section of the product obtained by multiplying the
27 applicable tax rate times the amount listed for each taxpayer. Before May 31, 1999, the
28 Secretary of Revenue shall pay to each county and city the amount it received under this
29 subsection in 1998.

30 (d2) Before May 31, 2000, the Secretary of Revenue shall distribute to the county
31 or city the total for both lists provided the preceding December 1 pursuant to subsection
32 (a2) of this section of the product obtained by multiplying the applicable tax rate times
33 the amount listed for each taxpayer. Each year thereafter, on or before May 31, the
34 Secretary of Revenue shall pay to each county and city the amount it received under this
35 subsection in 2000.

36 (e) Any funds received by any county or city pursuant to this section because the
37 county or city was collecting taxes for another unit of government or special district shall
38 be credited to the funds of that other unit or district in accordance with regulations issued
39 by the Local Government Commission.

40 (f) In order to pay for the reimbursement under this section and the cost to the
41 Department of Revenue of administering the reimbursement, the Secretary of Revenue
42 shall draw from collections received under Part 1 of Article 4 of this Chapter an amount
43 equal to the reimbursement and the cost of administration."

- 1 Section 38. (a) Sections 1 - 22 of this act become effective January 1, 1999.
2 (b) Sections 25 through 29 of this act are effective for taxable years beginning
3 on or after January 1, 1998.
4 (c) Section 31 of this act is effective for taxes imposed for taxable years
5 beginning on or after July 1, 1998. Notwithstanding the provisions of G.S. 105-282.1(a),
6 an application for the benefit provided in Section 31 of this act for the 1998-99 tax year is
7 timely if it is filed on or before November 15, 1998. Section 31 of this act is repealed
8 effective for taxes imposed for taxable years beginning on or after July 1, 2000.
9 (d) Sections 35 through 37 of this act are effective for taxes imposed for
10 taxable years beginning on or after July 1, 1999.
11 (e) Sections 23, 24, 32 through 34, and 38 of this act are effective when this act
12 becomes law.