

NORTH CAROLINA GENERAL ASSEMBLY  
1973 SESSION

CHAPTER 1287  
HOUSE BILL 1262

AN ACT TO MAKE TECHNICAL REVISIONS TO CHAPTERS 66 AND 105 OF THE  
GENERAL STATUTES PERTAINING TO TAXATION.

The General Assembly of North Carolina enacts:

**Section 1.** Article 3 of Chapter 66 of the General Statutes is hereby amended by rewriting G.S. 66-20 to read as follows:

"§ 66-20. **Secretary of Revenue may require reports.** — The Secretary of Revenue shall have authority to require a report, at such times as he may determine, from every person, firm or corporation manufacturing candy or similar products, or from the agent of any such manufacturer, of the names and addresses of all consignees, other than licensed merchants, to whom consignment of such merchandise is made."

**Sec. 2.** The Inheritance Tax Article of The Revenue Act, being Article 1 of Subchapter I of Chapter 105 of the General Statutes, as the same appears in 1972 Replacement Volume 2D thereof, is hereby amended by:

(a) Rewriting subsection (1) of G.S. 105-2 to read as follows:

"(1) When the transfer is by will or by the intestate laws of this State from any person dying seized or possessed of the property while a resident of the State, or when the transfer is made pursuant to a final judgment entered in a proceeding to caveat a will executed by any person dying seized of the property while a resident of this State."

(b) Deleting from G.S. 105-4(b) the number "21" appearing in lines 2, 3 and 23 thereof, and substituting therefor the number "18" and deleting the word "widows" appearing in line 2 thereof, and substituting therefor the words, "surviving spouse".

(c) Rewriting the first sentence in G.S. 105-11(a) to read as follows:

"Property taxable within the meaning of this Article shall include bonds or shares of stock in any corporation incorporated or domesticated in this State, regardless of whether or not such corporation shall have any or all of its capital stock invested in property outside of this State, and doing business outside of this State, and the tax on the transfer of any bonds and/or shares of stock in any such corporation owning property and doing business outside of the State shall be paid before waivers are issued for the transfer of such shares of stock."

(d) Rewriting G.S. 105-22 in its entirety, to read as follows:

"§ 105-22. **Duties of the clerks of the superior court.** — It shall be the duty of the clerk of the superior court to obtain from any executor or administrator, at the time of the qualification of such executor or administrator, the address of the personal representative qualifying, the names and addresses of the heirs-at-law, legatees, distributees, devisees, etc., as far as practical, the approximate value and character of the property or estate, both real and personal, the relationship of the heirs-at-law, legatees, devisees, etc., to the decedents, and forward the same to the Secretary of Revenue on or before the tenth day of each month. The clerk shall make no report of a death where the estate of a decedent is less than two thousand dollars (\$2,000) in value, when the beneficiary is husband or wife or child or grandchild of the decedent. Any clerk of the superior court who shall fail, neglect, or refuse to file such monthly reports as required by this section shall be liable to a penalty in the sum of one hundred dollars

(\$100.00) to be recovered by the Secretary of Revenue in an action to be brought by the Secretary of Revenue."

(e) Rewriting the second paragraph of G.S. 105-24 to read as follows:

"Notwithstanding any of the provisions of this section, in any case where a bank deposit has been heretofore made or is hereafter made, or where savings and loan stock has heretofore been issued or is hereafter issued, in the names of two or more persons and payable to either or the survivor or survivors of them, such bank or savings and loan association may, upon the death of either of such persons, allow the person or persons entitled thereto under the provisions of G.S. 41-2.1 to withdraw as much as fifty percent (50%) of such deposit or stock, and the balance thereof shall be retained by the bank or savings and loan association to cover any taxes that may thereafter be assessed against such deposit or stock under this Article. When such taxes as may be due on such deposit or stock are paid, or when it is ascertained that there is no liability of such deposit or stock for taxes under this Article, the Secretary of Revenue shall furnish the bank or savings and loan association his written consent for the payment of the retained percentage to the person or persons entitled thereto by law; and the Secretary of Revenue may furnish such written consent to the bank or savings and loan association upon the qualification of a personal representative of the deceased."

**Sec. 3.** Article 3 of Subchapter I of Chapter 105 of the General Statutes is hereby amended by:

(a) Rewriting the last sentence of the last paragraph of G.S. 105-114 to read as follows:

"For purposes of this Article, the words 'income year' shall mean an income year as defined in G.S. 105-130.2(5)."

(b) Deleting from G.S. 105-116 subsection (d) in its entirety, and redesignating subsections (e), (f) and (g) as (d), (e) and (f), respectively.

(c) Deleting from G.S. 105-119 subsection (d) in its entirety, and redesignating subsection (e) as subsection (d).

(d) Deleting from G.S. 105-120 subsection (c) in its entirety, and redesignating subsections (d), (e) and (f) as subsections (c), (d) and (e), respectively.

(e) Rewriting G.S. 105-122(e) to read as follows:

"(e) Any corporation which changes its income year, and files a 'short period' income tax return pursuant to G.S. 105-130.15 shall file a franchise tax return in accordance with the provisions of this section in the manner and as of the date specified in subsection (a) of this section. Such corporation shall be entitled to deduct from the total franchise tax computed (on an annual basis) on such return the amount of franchise tax previously paid which is applicable to the period subsequent to the beginning of the new income year."

(f) Rewriting the last paragraph of G.S. 105-125 to read as follows:

"Provided, that any corporation doing business in North Carolina which in the opinion of the Secretary of Revenue of North Carolina, qualifies as a 'regulated investment company' under the provisions of United States Code Annotated Title 26, § 851, or as a 'real estate investment trust' under the provisions of United States Code Annotated Title 26, § 856, and which files with the North Carolina Department of Revenue its election to be treated as a 'regulated investment company' or as a 'real estate investment trust,' shall in determining its basis for franchise tax be allowed to deduct the aggregate market value of its investments in the stocks, bonds, debentures, or other securities or evidences of debt of other corporations, partnerships, individuals, municipalities, governmental agencies or governments."

**Sec. 4.** Division I of Article 4, Subchapter I of Chapter 105 of the General Statutes is hereby amended by:

(a) Deleting the words "the effective date of this Division" which follow the word "on" in line 5 of G.S. 105-130.3, as the same appears in 1972 Replacement Volume 2D of the General Statutes, and which precede the word "subject" in line 6 thereof, and substituting therefor the date "January 1, 1974".

- (b) Rewriting G.S. 105-130.4(a)(4) in its entirety to read as follows:  
"(4) 'Excluded corporation' means any corporation engaged in business as a building or construction contractor, a securities dealer, a loan company or a corporation which receives more than fifty percent (50%) of its ordinary gross income from investments in and/or dealing in intangible property."
- (c) Rewriting G.S. 105-130.4(j)(2) in its entirety to read as follows:  
"(2) Property owned by the corporation is valued at its original cost. Property rented by the corporation is valued at eight times the net annual rental rate. Net annual rental rate is the annual rental rate paid by the corporation less any annual rental rate received by the corporation from sub-rentals except that sub-rentals shall not be deducted when they constitute business income. Any property under construction and any property the income from which constitutes nonbusiness income shall be excluded in the computation of the property factor."
- (d) Rewriting G.S. 105-130.5(a)(2) in its entirety to read as follows:  
"(2) Interest paid in connection with income exempt from taxation under this division;"
- (e) Adding at the end of G.S. 105-130.5(a) a new subdivision (9), to read as follows:  
"(9) Payments to or charges by a parent, subsidiary or affiliated corporation in excess of fair compensation in all inter-company transactions of any kind whatsoever pursuant to the Revenue Laws of this State."
- (f) Rewriting G.S. 105-130.5(b)(2) in its entirety to read as follows:  
"(2) Payments received from a parent, subsidiary or affiliated corporation in excess of fair compensation in inter-company transactions which in the determination of the net income or net loss of such corporation were not allowed as a deduction under the Revenue Laws of this State;"
- (g) Adding at the end of G.S. 105-130.5 a new subsection (e) to read as follows:  
"(e) Notwithstanding any other provision of this section, any recapture of depreciation required under the Internal Revenue Code must be included in a corporation's State net income to the extent required for federal income tax purposes."
- (h) Rewriting G.S. 105-130.9(1) in its entirety, to read as follows:  
"(1) Charitable contributions as defined in Section 170(c) of the Internal Revenue Code, exclusive of contributions allowed in subdivision (2) of this section, shall be allowed as a deduction to the extent provided herein. The amount allowed as a deduction hereunder shall be limited to an amount not in excess of five percent (5%) of the corporation's net income as computed without the benefit of this subdivision or subdivision (2) of this section. Provided, that a carry-over of contributions shall not be allowed and that contributions made to North Carolina donees by corporations allocating a part of their total net income outside this State shall not be allowed under this subdivision, but shall be allowed under subdivision (3) of this section."
- (i) Rewriting G.S. 105-130.17(b) in its entirety, to read as follows:  
"(b) Except as otherwise provided in this section, the return of a corporation shall be filed on or before the fifteenth day of the third month following the close of its income year. An income year ending on any day other than the last day of the month shall be deemed to end on the last day of the calendar month ending nearest to the last day of a taxpayer's actual income year."

**Sec. 5.** Division II of Article 4 of Subchapter I of Chapter 105 of the General Statutes is hereby amended by:

- (a) Making the following changes in G.S. 105-141:

- (1) Inserting in subdivision (3) of subsection (b) immediately following the word "descent" the phrase "except as provided in G.S. 105-142.1."
- (2) Deleting subdivision (5) of subsection (b) in its entirety and substituting in lieu thereof the following:
- "(5) Any amounts received as compensation for personal injuries or sickness (i) through accident or health insurance, (ii) through health or accident plans financed by profit-sharing trusts or pension trusts, (iii) under workmen's compensation acts or similar acts (which have been judicially declared to provide benefits in the nature of workmen's compensation benefits, by whatever name called), and (iv) for damages (whether by suit or agreement); and any amounts received through self-funded reimbursement plans adopted by an employer for the benefit of his employees, reimbursing them for expenses incurred for their medical care or for the medical care of their spouses or their dependents; provided, that any amounts received from sources mentioned in this subdivision as reimbursement for medical care expenses incurred and claimed as a deduction in a prior year or in prior years shall be excluded only to the extent that such amounts exceed the deduction claimed under subsection (11) of G.S. 105-147, except that nothing in this subdivision shall be construed as preventing a taxpayer from filing an amended return for a taxable year in which a medical deduction was claimed and allowed for the purpose of reducing the amount of the medical expense deduction claimed in such year by any reimbursement for such medical expenses received in a later year when a change in the prior year is not barred by the provisions of this Division."
- (3) Adding a new subdivision at the end of subsection (b) to be designated as subdivision (19) and to read as follows:
- "(19) Amounts earned during the income year by a pension, profit-sharing, stock bonus, or annuity plan established by an employer for the benefit of his employees or for himself and his employees, provided that such plan shall have been determined by the Internal Revenue Service to be a qualified plan for Federal income tax purposes under the provisions of Section 401(a) of the Internal Revenue Code of 1954 as amended."
- (4) Adding a new subdivision at the end of subsection (b) to be designated as subdivision (20) and to read as follows:
- "(20) The amount of any reduction after December 31, 1973, in the retired or retainer pay of a member or former member of the uniformed services of the United States who has made an election under Chapter 73 of Title 10 of the United States Code to receive a reduced amount of retired or retainer pay.
- In the case of any individual referred to in the preceding paragraph, all amounts received after December 31, 1973, as retired or retainer pay shall be excluded from gross income until there has been so excluded an amount equal to the consideration for the contract. The preceding sentence shall apply only to the extent that the amounts received would, but for such sentence, be includible in gross income.
- For the purpose of this subdivision and subsection (i) of G.S. 105-141.1, the term 'consideration for the contract' means, in respect of any individual, the sum of: a. the total amount of the reductions before January 1, 1974, in his retired or retainer pay by reason of an election under Chapter 73 of Title 10 of the United States Code, and, b. any amounts deposited at any time by him pursuant to Section 1438 of such Title 10."

(b) Changing G.S. 105-141.1 by adding at the end thereof a new subsection to be designated as subsection (i) and to read as follows:

"(i) Annuities Under Retired Serviceman's Family Protection Plan. Neither subsection (c) nor that portion of subsection (a) which provides an exclusion from income for a portion of an annuity shall apply in the case of amounts received after December 31, 1973, as an annuity under Chapter 73 of Title 10 of the United States Code, but all such amounts shall be excluded from gross income until there has been so excluded (under G.S. 105-141(b)(20) or this section, including amounts excluded on or after January 1, 1974) an amount equal to the consideration for the contract (as defined by G.S. 105-141(b)(20)), plus any amount under G.S. 105-141(b)(11) treated as additional consideration paid by the employee. Thereafter all amounts so received shall be included in gross income."

(c) Changing G.S. 105-141.3 by deleting the period at the end thereof and adding the following: "and less losses from dealings in business property and property held for the production of income."

(d) Making the following changes in G.S. 105-142:

- (1) Deleting from the first sentence of subsection (c) the words "dividends from foreign corporations" and inserting in lieu thereof the following: "his share of dividends received by the partnership".
- (2) Adding a sentence at the end of subsection (c) to read as follows: "In any case where it is necessary to determine the gross income of a partner for purposes of this Division, such amount shall include his distributive share of the gross income of the partnership."
- (3) Inserting between the comma after the word "organization" and the word "shall" in the first sentence of subsection (d) the phrase "or qualified plan which meets the requirements of Section 401(a) of the Internal Revenue Code of 1954 as amended" and inserting on the sixth line of the first sentence of subsection (d) immediately following the words "such trust" the words "or such qualified plan".
- (4) Adding a new paragraph at the end of subsection (d) to read as follows: "In the case of a pension, profit-sharing, or stock bonus plan or trust established by an employer for the benefit of his employees which does not meet the requirements of G.S. 105-161(f)(1)a. or Section 401(a) of the Internal Revenue Code of 1954 as amended, any contributions to such plan or trust made by an employer during a taxable year shall be reportable as income in such taxable year by employees in whose names such contributions are credited only to the extent that such employees shall have acquired a nonforfeitable right to such contributions in such taxable year."
- (5) Adding on the ninth line of subdivision (f)(2) within the parentheses the phrase "which are not readily marketable" so the phrase enclosed within the parentheses will read as follows: "(exclusive of evidences of indebtedness of the purchaser which are not readily marketable)."

(e) Making the following changes in G.S. 105-142.1:

- (1) Deleting from the fourth line of subsection (b) the word "of" which follows the word "estate" and inserting in lieu thereof the word "or" so as to read "the estate or such person."
- (2) Changing the period at the end of subsection (e) to a semicolon and adding the following: "provided, that expense for medical care of the decedent allowable under the provisions of G.S. 105-147(11) which are paid out of the estate of such decedent during the one-year period beginning with the day after the date of his death shall be treated as paid by the taxpayer at the time incurred."

- (f) Making the following changes in G.S. 105-144:
- (1) Changing the period at the end of subdivision (3)b of subsection (a) to a semicolon and adding the following: "provided further, that the basis for determining gain or loss from the sale or exchange of a life interest in property which was acquired by gift shall be zero, except that this provision shall not apply in the case of a sale or exchange of both the life and remainder interests in the property simultaneously."
  - (2) Changing the period at the end of subdivision (3)c of subsection (a) to a semicolon and adding the following: "provided, that the basis for determining gain or loss from the sale or exchange of a life interest in property which was acquired by bequest, devise, or descent shall be zero, except that this provision shall not apply in the case of a sale or exchange of both the life and remainder interest in such property simultaneously."
- (g) Changing G.S. 105-144.1 by deleting from subdivision (2)b.1. of subsection (a) thereof the words "One year" and substituting in lieu thereof the words "Two years".
- (h) Changing G.S. 105-144.2 by adding a new subsection at the end thereof to be designated as subsection (h) and to read as follows: "(h) Members of the Armed Forces. The running of any period of time specified in subsection (a) or (c) (other than the one year referred to in subsection (c)(4)) shall be suspended during any time that the taxpayer (or his spouse if the old residence and the new residence are each used by the taxpayer and his spouse as their principal residence) serves on extended active duty with the Armed Forces of the United States after the date of sale of the old residence and during an induction period (as defined in G.S. 105-141(b)(12)) except that any such period of time as so suspended shall not extend beyond the date four (4) years after the date of sale of the old residence. For purposes of this subsection, the term 'extended active duty' means any period of active duty pursuant to a call or order to such duty for a period in excess of 90 days or for an indefinite period."
- (i) Making the following changes in G.S. 105-147:
- (1) Inserting in subdivision c of subsection (1) between the words "conservation" and "to" the phrase "or prevention of erosion of land" so as to read "soil and water conservation or prevention of erosion of land."
  - (2) Deleting from subdivision b.1. of subsection (6) the words "on net income" and substituting in lieu thereof the phrase "on, with respect to, or measured by income" so as to read "Taxes on, with respect to, or measured by income by whatever name called and excess profits taxes."
  - (3) Adding to the last sentence of subsection (7) immediately following the words "regulated investment company" as these words appear twice in that sentence the words "and real estate investment trust" so as to read in both instances "regulated investment company and real estate investment trust," and deleting the words "North Carolina" immediately preceding the word "regulated."
  - (4) Repealing subsection (8) in its entirety and substituting in lieu thereof a new subsection (8) to read as follows:

"(8) In the case of an individual moving into this State, or an individual moving from one location to another within this State, moving expenses paid or incurred during the taxable year in connection with the commencement of work in this State by such individual as an employee at a new principal place of work, in this State to the extent allowed or allowable for federal income tax purposes under the provisions of Section 217 of the Internal Revenue Code of 1954 as amended. In the case of an individual moving out of this State, moving expenses paid or incurred during the taxable year in connection with the commencement of work outside this State, provided that

such individual remains a resident of this State and reports to this State for taxation all income required to be so reported by a resident individual under this Division for the period of time required under Section 217 of the Internal Revenue Code of 1954 as amended for qualifying for the moving expense deduction for federal income tax purposes and only to the extent allowed or allowable under that section for federal income tax purposes. Where joint federal returns are filed by husband and wife for federal income tax purposes, the deduction otherwise allowable under this subsection shall be limited to such amount as would have been allowable if separate federal income tax returns had been filed."

- (5) Adding a new subdivision to subsection (9) to be designated as subdivision e. and to read as follows:

"e. Disaster losses. Notwithstanding the provisions of subdivisions a. and b. of this subsection, any loss attributable to a disaster occurring in an area subsequently determined by the President of the United States to warrant assistance by the Federal Government under the Disaster Relief Act of 1970 may, at the election of the taxpayer, be deducted for the taxable year immediately preceding the taxable year in which the disaster occurred. Such deduction shall not be in excess of so much of the loss as would have been deductible in the taxable year in which the casualty occurred, based on the facts existing at the date the taxpayer claims the loss. If an election is made under this subdivision, the casualty resulting in the loss will be deemed to have occurred in the taxable year for which the deduction is claimed."

- (6) Repealing subsection (14) in its entirety and redesignating subsection (24) (relating to a deduction for removal of architectural barriers to the handicapped) as subsection (14).

- (7) Repealing subsection (20) in its entirety and substituting in lieu thereof a new subsection (20) to read as follows:

"(20) Reasonable amounts paid by employers within the income year to trusts which qualify for exemption under subsection (f)(1)a. of G.S. 105-161 and to plans established by employers for the benefit of their employees which meet the requirements of Section 401(a) of the Internal Revenue Code of 1954 as amended; reasonable amounts paid by a self-employed individual or owner-employee to a retirement program pursuant to a plan adopted by such individual and approved by the Internal Revenue Service; and reasonable amounts paid by employers to nonqualified plans or trusts established by employers for the benefit of their employees, but only to the extent that such amounts contributed by such employers shall be required under the provisions of this Division to be included in the gross income of such employees; provided, that amounts which are deductible for federal income tax purposes shall be prima facie allowable as deductions hereunder; provided further, that in the case of taxpayers on the accrual basis, they shall be deemed to have made payments on the last day of the year of accrual if actual payments are made within the time fixed by statute for filing the taxpayer's return."

- (j) Changing G.S. 105-149 by deleting subsection (b) thereof in its entirety and substituting in lieu thereof a new subsection (b) to read as follows:

"(b) In the case of an individual having only a portion of his income during the income year taxable to this State, the exemptions otherwise allowable under this section shall be allowed only in the proportion that his adjusted gross income taxable to this State bears to his

total adjusted gross income; provided that any taxpayer who shall report for taxation by this State all of his income during the income year shall be entitled to the full personal exemption allowable under this section."

- (k) Repealing G.S. 105-150 in its entirety.
- (1) Making the following changes in G.S. 105-152:
  - (1) Inserting in subdivision (1) of subsection (a) immediately following the word and figure "subdivision (5)" the phrase, "and the additional exemptions provided under subdivisions (8) and (9)", so as to read "without the inclusion of the exemption for dependents provided under subdivision (5) and the additional exemptions provided under subdivisions (8) and (9)."
  - (2) Deleting from subdivision (3) of subsection (a) the words "having a place of" and substituting in lieu thereof the word "doing" so as to read "doing business in this State."
- (m) Making the following changes in G.S. 105-154:
  - (1) Inserting on the tenth line of subsection (a) between the words "wages" and "premiums" the word "dividends" so as to read "salaries, wages, dividends, premiums."
  - (2) Deleting from the first sentence of subsection (b) the words "having a place of" and substituting in lieu thereof the word "doing" so as to read "Every partnership doing business in the State."
- (n) Changing G.S. 105-157 by replacing the period at the end of subsection (a) thereof with a semicolon and adding the following: "provided, that if the amount shown to be due after all credits is less than one dollar (\$1.00), no payment need be made."

**Sec. 6.** Division III of Article 4 of Subchapter I of Chapter 105 of the General Statutes is hereby amended by:

- (a) Making the following changes in G.S. 105-161:
  - (1) Deleting subdivision (3) of subsection (d) in its entirety and substituting in lieu thereof a new subdivision (3) to read as follows
  - "(3) Double Deduction Not Allowed. The amounts allowable under G.S. 105-9 as a deduction in computing the taxable estate of a decedent for inheritance tax purposes, to the extent that they consist of those items which would be allowable as a deduction under G.S. 105-147 for income tax purposes, shall not be allowed as a deduction in computing the taxable income of the estate or of any other person unless there is filed, within the time and in the manner and form prescribed by the Secretary of Revenue, a statement that such amounts have not been allowed as deductions under G.S. 105-9 and a waiver of the right to have such amounts allowed as deductions under G.S. 105-9. This subdivision shall not apply with respect to deductions allowed under G.S. 105-142.1 (e) (relating to income in respect of decedents)."
  - (2) Deleting from the eighth line of subdivision (4)a of subsection (d) the words "or permanently set aside".
  - (3) Adding a new paragraph at the end of subdivision (4)a of subsection (d) to read as follows: "In the case of an estate there shall be allowed as a deduction in computing its taxable income any amount of gross income, without limitation, which pursuant to the terms of its governing instrument is during the taxable year, permanently set aside for religious, charitable, scientific, literary, or educational purposes, or for a distributee specified in G.S. 105-147(15) or G.S. 105-147(16)."
  - (4) Changing the period at the end of subdivision (1) of subsection (i) to a semicolon and adding at the end thereof the following: "provided, that if the

amount shown to be due after all credits is less than one dollar (\$1.00), no payment need be made."

(b) Changing G.S. 105-163 by deleting subdivision (2) of subsection (b) thereof in its entirety and redesignating subdivisions (3) and (4) of subsection (b) as subdivisions (2) and (3), respectively.

**Sec. 7.** Article 4A of Subchapter I of Chapter 105 of the General Statutes is hereby amended by:

(a) Adding a new subsection at the end of G.S. 105-163.6 to be designated as subsection (f) and to read as follows:

"(f) Any person required to collect, truthfully account for, and pay over any amounts required to be deducted and withheld under G.S. 105-163.2, who fails to collect and pay over such amount shall, in addition to other penalties provided by law, be personally liable to a penalty equal to the total amount not 565 collected or not accounted for and paid over. No penalty shall be imposed under G.S. 105-163.17 for any offense to which this section is applicable."

(b) Making the following changes in G.S. 105-163.11:

(1) Deleting from subdivision (1) of subsection (a) the words and figures "two hundred dollars (\$200.00)" and inserting in lieu thereof "one thousand dollars (\$1,000)."

(2) Deleting from subdivision (2) of subsection (a) the words and figures "two hundred dollars (\$200.00)" as they appear twice in that subdivision and substitute in lieu of each the words and figures "one thousand dollars (\$1,000)."

(3) Adding at the end of subsection (a) a new subdivision to be designated as subdivision (3) to read as follows:

"(3) Notwithstanding the provisions of subdivisions (1) and (2) of this subsection, no declaration is required to be filed if the estimated tax (as determined under this section) reduced by the amount which the individual estimates as the amount of income tax to be withheld under the provisions of G.S. 105-163.2 and by any estimated tax credit under the provisions of G.S. 105-151 for income tax imposed by and paid to another state or country, can be reasonably expected to be less than forty dollars(\$40.00)."

(4) Deleting from the first line of subsection (e) the date "February 15" and inserting in lieu thereof the date "March 1."

(c) Changing G.S. 105-163.15 by deleting from both the second and sixth lines of subdivision (1) of subsection (b) the words and figures "seventy per cent (70%)" and substituting in lieu thereof in each case the words and figures "eighty percent (80%)."

**Sec. 8.** Article 5 of Subchapter I of Chapter 105 of the General Statutes is hereby amended by:

(a) Rewriting G.S. 105-164.3(17) to read as follows:

"(17) 'Storage' means and includes any keeping or retention in this State for any purpose by the purchaser thereof, except sale in the regular course of business, of tangible personal property purchased from a retailer."

(b) Rewriting G.S. 105-164.3(19) to read as follows:

"(19) 'Storage' and 'Use'; Exclusion. — 'Storage' and 'use' do not include the keeping, retaining or exercising any right or power over tangible personal property by the purchaser thereof for the original purpose of subsequently transporting it outside the State for use thereafter solely outside the State and which purpose is consummated, or for the purpose of being processed, fabricated, or manufactured into, attached to or incorporated into, other

tangible personal property to be transported outside the State and thereafter used solely outside the State."

(c) Inserting the word "of" immediately after the word "computation" and immediately before the word "tax" in line 8 of G.S. 105-164.4(1) as the same appears in 1972 Replacement Volume 2D of the General Statutes of North Carolina.

(d) Deleting from G.S. 105-164.4(4) the last sentence thereof, which reads as follows:

"Persons, firms and corporations required to be licensed under this Article and to pay the taxes imposed by this subdivision shall not hereafter be subject to the one percent (1%) of gross receipts taxes levied under G.S. 105-74 and 105-85, with respect to gross receipts collected on and after July 1, 1961."

(e) Deleting from G.S. 105-164.13(15) the word "purchases" as the same appears in line 1 of the 1972 Replacement Volume 2D of the General Statutes and substituting in lieu thereof the word "purchasers".

(f) Deleting from G.S. 105-164.13(23) the word "or" appearing immediately after the word "retail" and immediately before the word "when" in line 7 thereof as the same appears in 1972 Replacement Volume 2D of the General Statutes and substituting therefor the word "and".

**Sec. 9.** Article 6 of Subchapter I of Chapter 105 of the General Statutes is hereby amended by:

(a) Rewriting the first sentence of subparagraph (3) of G.S. 105-188(e) to read as follows:

"(3) From the tax thus computed, deduct the total gift tax, if any, computed with respect to gifts to the same donee in any prior year or years since January 1, 1948."

(b) Rewriting the first sentence of G.S. 105-197, to read as follows:

"Any person who within the calendar year nineteen hundred thirty-nine, after March 24, 1939, or any calendar year thereafter, makes any gift or gifts taxed by this Article shall report, under oath or affirmation, to the Department of Revenue, on forms provided for that purpose, showing therein an itemized schedule of all such gifts, the name and residence of each donee and the actual value of the gift to each, the relationship of each of such persons to the donor, and any other information which the Department of Revenue may require."

**Sec. 10.** Article 6 of Subchapter I of Chapter 105 of the General Statutes is hereby amended by adding a new section, G.S. 105-197.1 thereto, to read as follows:

**"§ 105-197.1. Corrections and changes.** — If the amount of the net gifts of any taxpayer for any year, subject to the provisions of this act and as reported or as reportable to the United States Treasury Department, is changed, corrected, or otherwise determined by the Commissioner of Internal Revenue or other officer of the United States having authority to do so, such taxpayer, within 30 days after receipt of any Internal Revenue agent's report or supplemental report reflecting the corrected or determined net gifts shall make return under oath or affirmation to the Secretary of Revenue of such corrected, changed or determined net gifts. In making any assessment or refund under this section, the Secretary shall consider all facts or evidence brought to his attention, whether or not the same were considered or taken into account in the federal assessment or correction. If the taxpayer fails to notify the Secretary of Revenue of assessment of additional tax by the Commissioner of Internal Revenue, the statute of limitations shall not apply. The Secretary of Revenue shall thereupon proceed to determine, from such evidence as he may have brought to his attention or shall otherwise acquire, the correct net gifts of such taxpayer for the calendar year, and if there shall be any additional tax due from such taxpayer the same shall be assessed and collected; and if there shall have been an overpayment of the tax the said Secretary shall, within 30 days after the final determination of the net gifts of such taxpayer, refund the amount of such excess: Provided, that any taxpayer who fails to comply with this section as to making report of such change as made by the federal government within the time specified shall be subject to all penalties as

provided in G.S. 105-236, in case of additional tax due, and shall forfeit his rights to any refund due by reason of such change.

When the taxpayer makes the return reflecting the corrected net gifts as required by this section, the Secretary of Revenue shall make assessments or refunds based thereon within three years from the date the return required by this section is filed, and not thereafter. When the taxpayer does not make the return reflecting the corrected net gifts as required by this section but the Department of Revenue receives from the United States government or one of its agents a report reflecting such corrected net gifts, the Secretary of Revenue shall make assessments for taxes due based on such corrected net gifts within five years from the date the report from the United States government or its agent is actually received, and not thereafter.

Nothing in this section shall be construed as preventing the Secretary of Revenue from making an assessment immediately following the receipt from any source of information concerning the correcting, change in, or determination of net gifts of a taxpayer by the United States government. The assessment of tax or additional tax under this section shall not be subject to any statute of limitations except as provided in this section."

**Sec. 11.** Article 7 of Subchapter I of Chapter 105 of the General Statutes is hereby amended by:

(a) Adding at the end of G.S. 105-200 a new sentence to read as follows: "For the purpose of this section, money on hand shall include legal tender of the United States and other countries, bills of exchange, checks, drafts and other similar instruments."

(b) Rewriting subparagraph (1) of the first paragraph of G.S. 105-202 in its entirety, to read as follows:

"(1) Accounts payable; provided, however, that accounts payable to security brokers incurred directly for the purchase of bonds, debentures and similar investments taxable under this section shall be deductible;"

(c) Rewriting the second paragraph of G.S. 105-203 in its entirety, to read as follows:

"The tax herein levied shall not apply to shares of stock in building and loan associations or savings and loan associations which pay a tax as levied under Article 8D of Chapter 105 of the General Statutes, nor to shares of stock owned by any corporation which has its commercial domicile in North Carolina, where such corporation owns more than fifty percent (50%) of the outstanding voting stock."

(d) Amending G.S. 105-206 by:

(1) Rewriting the second paragraph thereof to read as follows:

"Every person, firm, association, corporation, clerk of court, guardian, trustee, executor, administrator, receiver, assignee for creditors, trustee in bankruptcy or other fiduciary owning or holding any intangible personal properties defined and classified and/or liable for or required to pay any tax levied, in this Article or schedule, either as principal or agent, shall make and deliver to the Secretary of Revenue in such form as he may prescribe a full, accurate and complete return of such tax liability; such return, together with the total amount of tax due, shall be filed on or before the fifteenth day of April in each year. In case of sickness, absence or other disability or whenever in his judgment good cause exists, the Secretary of Revenue may allow further time for filing returns."

(2) Adding the words "or on any other taxable date" immediately following the word "year" appearing on line 17 of the third paragraph of G.S. 105-206, as the same appears in 1972 Replacement Volume 2D of the General Statutes of North Carolina;

(3) Deleting the fifth paragraph thereof in its entirety.

(e) Rewriting the first paragraph of G.S. 105-21 1 to read as follows:

"Any taxpayer who shall, for the purpose of evading taxation under the provisions of this Article or schedule, within 30 days prior to December 31 of any year, or within 30 days prior to any other taxable date, either directly or indirectly convert any intangible personal property

taxable under the provisions of this Article or schedule into another class of property nontaxable in this State, or who, with like intent, shall either directly or indirectly convert such intangible personal property into a class of property which is taxable in this State at a lower rate than the intangible personal property so converted, shall be taxable on such intangible personal property as if such conversion had not taken place; the fact that such taxpayer within 30 days after December 31 of any year, or within 30 days after any other taxable date, either directly or indirectly converts such property nontaxable in this State or taxable at the lower rate in this State into intangible personal property taxable at the higher rate shall be prima facie evidence of intent to evade taxation by this State, and the burden of proof shall be upon such taxpayer to show that the first conversion was for a bona fide purpose of investment and not for the purpose of evading taxation by this State. Furthermore, no indebtedness will be allowed as a deduction from the value of any intangible personal property taxed under this Article if such indebtedness was incurred for the primary purpose of reducing or offsetting the tax due; and the burden of proof shall be upon the taxpayer to show that any indebtedness claimed was for a purpose other than that of reducing or offsetting the tax due."

(f) Rewriting the first paragraph of G.S. 105-212 in its entirety, to read as follows:

"None of the taxes levied in this Article or schedule shall apply to religious, educational, charitable or benevolent organizations not conducted for profit, nor to trusts established for religious, educational, charitable or benevolent purposes where none of the property or the income from the property owned by such trust may inure to the benefit of any individual or any organization conducted for profit, nor to any funds held irrevocably in trust exclusively for the maintenance and care of places of burial; nor to any funds, evidences of debt, or securities held irrevocably in pension, profit sharing, stock bonus, or annuity trusts, or combinations thereof, established by employers for the purpose of distributing both the principal and income thereof exclusively to eligible employees, or the beneficiaries of such employees, if such trusts qualify for exemption from income tax under the provisions of G.S. 105-161(f)(1)a; nor to any funds, evidences of debt or securities held irrevocably in a pension, profit sharing, stock bonus or annuity plan established by an employer for the benefit of his employees or for himself and his employees if such plan qualifies for exemption from income tax under the provisions of G.S. 105-141(b)(19); insurance companies reporting premiums to the Commissioner of Insurance of this State and paying a tax thereon under the provisions of Article 8B, Schedule 1B shall not be subject to the provisions of G.S. 105-201, 105-202 and 105-203; building and loan associations and savings and loan associations paying a tax under the provisions of Article 8D of Chapter 105 of the General Statutes shall not be subject to the provisions of G.S. 105-201, 105-202 and 105-203; State credit unions organized pursuant to the provisions of Subchapter III, Chapter 54, paying the supervisory fees required by law, shall not be subject to any of the taxes levied in this Article or schedule; banks, banking associations and trust companies shall not be subject to the tax levied in this Article or schedule on evidences of debt held by them when said evidences of debt represent investment of funds on deposit with such banks, banking associations and trust companies: Provided, that each such institution must, upon request by the Secretary of Revenue, establish in writing its claim for exemption as herein provided. The exemption in this section shall apply only to those institutions, and only to the extent, specifically mentioned, and no other."

(g) Amending G.S. 105-213 by rewriting the second paragraph thereof in its entirety, to read as follows:

"In determining the amount to be distributed there shall be deducted from net collections (total collections less refunds) the following:

- (1) The tax credit specified in the second paragraph of G.S. 105-122(d), and
- (2) The cost to the State to administer and collect the taxes levied under this Article for the preceding fiscal year, and

- (3) The cost to the State for the operation of the Ad Valorem Tax Division of the Department of Revenue and of the Property Tax Commission for the preceding fiscal year."

**Sec. 12.** Article 8C of Subchapter I of Chapter 105 of the General Statutes is hereby amended by:

(a) Deleting from G.S. 105-228.12 as the same appears in 1972 Replacement Volume 2D of the General Statutes of North Carolina the word "preceding" in line 9, and the word "preceding" in line 11 of said section.

(b) Rewriting G.S. 105-228.15 in its entirety, to read as follows:

**"§ 105-228.15. Gross income defined** — For purposes of this Article the words 'gross income' shall mean the income of a bank received or accrued from whatever source during the taxable year as follows: Interest and discount on loans; interest from bonds, notes, mortgages and other investments, including interest from all government bonds issued directly by any level of government or through any government agency, any exclusion provided in Article 4 of Subchapter I of Chapter 105 notwithstanding; dividends from securities owned; service charges; collection fees; exchange charges; trust department earnings; rents; commissions, gains or profits from the sale or other disposition of property, either real or personal, tangible or intangible; recoveries from losses previously written off or deducted from income in prior taxable years; and all other recoveries, gains, profits, income or receipts regardless of nature and from whatever source derived, except that there shall be excluded from gross income gifts and payments received from a parent, subsidiary or affiliated corporation in excess of fair compensation in inter-company transactions which in the determination of the net income or net loss of such corporation were not allowed as a deduction under the Revenue Laws of this State." (c) Rewriting G.S. 105-228.16(1) in its entirety, to read as follows:

"(1) All ordinary and necessary expenses paid or accrued during the taxable year except that no deduction shall be allowed for payments to or charges by a parent, subsidiary or affiliated corporation in excess of fair compensation in all inter-company transactions of any kind whatsoever pursuant to the Revenue Laws of this State."

(d) Rewriting G.S. 105-228.16(3) in its entirety, to read as follows:

"(3) All unearned discount and interest paid during the taxable year except interest paid in connection with income exempt from taxation under this Article." (e) Rewriting G.S. 105-228.16(7) in its entirety, to read as follows:

"(7) Bad debts to the extent deducted for federal income tax purposes."

**Sec. 13.** Article 9 of Subchapter I of Chapter 105 of the General Statutes is hereby amended by:

(a) Making the following changes in G.S. 105-236:

1. Inserting between the last two words of subdivision a. of subsection (10) the word "or" so as to read "trust or estate".
2. Adding at the end of subsection (11) a new paragraph to read as follows: "The term 'person' as used in this section includes an officer or employee of a corporation, or a member or employee of a partnership who as such officer, employee, or member is under a duty to perform the act in respect of which the violation occurs."

(b) Changing G.S. 105-241.1 by deleting the second and last sentences of subsection (e) and substituting in lieu thereof the following: "Any tax or additional tax due from the taxpayer may be assessed at any time if (1) no proper application for a license or no return has been filed, (2) a false or fraudulent application or return has been filed, or (3) there has been an attempt in any manner to fraudulently defeat or evade tax."

(c) Deleting from the fourth paragraph of G.S. 105-242(c) the words "Deputy Collector N. C. Department of Revenue" which appear in italics in the line immediately above the word "WITNESS", and substituting therefor the words, in italics, "Revenue Collector N. C. Department of Revenue".

(d) Inserting a new paragraph in G.S. 105-253, immediately following the first paragraph thereof to read as follows: "Each responsible corporate officer is made personally and individually liable: (1) for all sales and use taxes collected by a corporation upon taxable transactions of the corporation, which liability shall be satisfied upon timely remittance of such taxes to the Secretary by the corporation; and (2) for all sales and use taxes due upon taxable transactions of the corporation but upon which the corporation failed to collect the tax, but only if the responsible officer knew, or in the exercise of reasonable care should have known, that the tax was not being collected. His liability shall be satisfied upon timely remittance of such tax to the Secretary by the corporation. If said tax shall remain unpaid by the corporation, after the same is due and payable, the Secretary of Revenue may assess the tax against, and collect the tax from, any responsible corporate officer in accordance with the provisions of G.S. 105-241.1, which officer shall be the "taxpayer" in such case, as referred to in G.S. 105-241.1 et seq. As used in this section, the words "responsible corporate officers" mean the president and the treasurer of a corporation and may include such other officers as have been assigned the duty of filing tax returns and remitting sales and use tax to the Secretary of Revenue on behalf of the corporation. Any penalties which may be imposed pursuant to the provisions of G.S. 105-236 and which are applicable to a deficiency shall apply to any assessment provided for herein. All other provisions of Article 9, Schedule J of the Revenue Laws shall apply to such assessment to the extent that they are not inconsistent with the provisions of this section."

(e) Making the following changes in G.S. 105-259:

(1) rewriting the first paragraph thereof to read as follows:

"Except in accordance with proper judicial order, or as otherwise provided by law, it shall be unlawful for the Secretary of Revenue, any deputy, agent, clerk, other officer, employee, or former officer or employee, to divulge or make known in any manner the amount of income, income tax or other taxes of any taxpayer, or information relating thereto or from which the amount of income, income tax or other taxes or any part thereof might be determined, deduced or estimated, whether the same be set forth or disclosed in or by means of any report or return required to be filed or furnished under this Subchapter, or in or by means of any audit, assessment, application, correspondence, schedule or other document relating to such taxpayer, notwithstanding the provisions of Chapter 132 of the General Statutes or of any other law or laws relating to public records. It shall likewise be unlawful to abstract, compile or furnish to any person, firm or corporation, not otherwise entitled to information relating to the amount of income, income tax or other taxes of a taxpayer, any list of names, addresses, social security numbers or other personal information concerning such taxpayers, whether or not such list discloses a taxpayer's income, income tax or other taxes, or any part thereof."

(2) rewriting the third paragraph thereof to read as follows: "When any record of the Department of Revenue shall have been photographed, photocopied or microphotocopied pursuant to the authority contained in G.S. 8-45.3, the original of said record may thereafter be destroyed at any time upon the order of the Secretary of Revenue, notwithstanding the provisions of G.S. 121-5, G.S. 132-3 or any other law or laws relating to the preservation of public records. Any record which shall not have been so photographed, photocopied or microphotocopied shall be preserved for three years, and thereafter until the Secretary of Revenue shall order the same to be destroyed."

**Sec. 14.** Subchapter V of Chapter 105 of the General Statutes is hereby amended by:

(a) Rewriting the second sentence of G.S. 105-446(1) in its entirety, to read as follows:

"Such application shall be made upon oath or affirmation upon such forms as the Secretary of Revenue shall prescribe, and the Secretary of Revenue is hereby authorized to prescribe different forms of application for the several classes of uses for which said fuels may have been purchased, provided that as to all such applications for reimbursement the applicant shall be required to state whether or not such applicant has filed a North Carolina income tax return with the Secretary of Revenue; provided, however, that said application shall show on its face that the purchase price of the motor fuel therein referred to has been paid by applicant or that the payment of said purchase price has been secured to the seller's satisfaction."

(b) Rewriting the first sentence of G.S. 105-446.1 in its entirety, to read as follows:

"The State Highway Commission, counties, municipal corporations and volunteer or county fire departments shall be entitled to be reimbursed at the rate of eight cents (8¢) per gallon of the tax levied by G.S. 105-434 upon filing with the Secretary of Revenue a statement showing the number of gallons of fuel purchased and used by the Highway Commission, the municipality, the county, or the volunteer or county fire department on which the tax levied by G.S. 105-434 has been paid, which statement shall be made upon the oath or affirmation of the Director of Highways or the mayor, city manager or other municipal officer designated by the governing body of the municipality, or the chairman of the board of county commissioners, or other county officer designated by the board of county commissioners or the president or other duly designated officer or agent of the volunteer or county fire department."

(c) Rewriting the first sentence of G.S. 105-446.3(a) in its entirety, to read as follows:

"Any person, association, firm or corporation, who shall purchase any motor fuels, as defined in this Article, for the purpose of use, and the same is actually used, in the operation of motor buses transporting fare-paying passengers in connection with a city transit system as hereinafter defined in subsection (b) of this section shall be entitled to be reimbursed at the rate of eight cents (8¢) per gallon of tax levied by this Article upon filing with the Secretary of Revenue an application upon the oath or affirmation of the applicant or his agent showing the number of gallons of motor fuel so purchased and used."

**Sec. 15.** Sections 1, 2, 8, 13 (except 13(e)) and 14 shall become effective on July 1, 1974. Sections 3, 4, 5, 6, 7, 9, 10, 11 and 12 shall be effective with respect to and shall apply to all taxable years beginning on and after January 1, 1974. Section 13(d) shall not affect the liability of any taxpayer arising prior to July 1, 1974. Section 13(e) shall be effective upon ratification.

In the General Assembly read three times and ratified, this the 11th day of April, 1974.