

NORTH CAROLINA GENERAL ASSEMBLY
1977 SESSION

CHAPTER 657
HOUSE BILL 1104

AN ACT TO MAKE TECHNICAL REVISIONS IN CHAPTER 105 OF THE GENERAL STATUTES.

The General Assembly of North Carolina enacts:

Section 1. Article 2 of Subchapter I, Chapter 105 of the General Statutes, is amended by:

(a) deleting "105-41.1," and "105-43," from the first line of G.S. 105-33(d), as the same appears in 1972 Replacement Volume 2D of the General Statutes;

(b) deleting the word "net" from the fifth line of the fourth paragraph of G.S. 105-37.1(a), as the same appears in 1972 Replacement Volume 2D of the General Statutes;

(c) rewriting G.S. 105-61(e) in its entirety, to read as follows:

"(e) A single private residence or cottage designed for single family occupancy, located in a resort area, and occupied during a part of the season by the owner or owners thereof but rented the remainder of the season to others for single family occupancy, shall be exempt from the tax imposed in this section. All such private residences or cottages, in excess of one, so located, owned, occupied and rented shall be subject to the tax imposed in this section."

(d) deleting the first three lines from G.S. 105-64(a), as the same appears in 1972 Replacement Volume 2D of the General Statutes, and inserting in lieu thereof the following:

"(a) Every person, firm or corporation engaged in the business of operating billiard or pool tables, whether operated by slot or otherwise, shall";

(e) deleting the first three lines from G.S. 105-64.1(a), as the same appears in 1972 Replacement Volume 2D of the General Statutes, and inserting in lieu thereof the following:

"(a) Every person, firm or corporation engaged in the business of operating a bowling alley, or alleys of like kind, shall apply for and procure from";

(f) deleting "78-1 to 78-24" from the third line of G.S. 105-67(a), as the same appears in 1972 Replacement Volume 2D of the General Statutes, and inserting in lieu thereof "Chapter 78A of the General Statutes";

(g) inserting the words "tape players and tape cartridges designed for use in tape players" immediately after the comma following the word "instruments" in the eighth line of G.S. 105-82(a), as the same appears in 1972 Replacement Volume 2D of the General Statutes;

(h) rewriting G.S. 105-37(c) in its entirety, to read as follows:

"(c) For any moving picture show operated within the city limits or within one mile of the corporate limits of any city having a population of 25,000 or over, and known as neighborhood or suburban theaters, the tax shall be one third of the above tax, based upon the population of such city.";

(i) inserting the word "organizations" between the words "civic" and "and" on the first line of the fourth paragraph of G.S. 105-37.1.

Sec. 2. Article 2B of Subchapter I, Chapter 105 of the General Statutes, is amended by:

(a) deleting the reference to "G.S. 105-113.5" from G.S. 105-113.44(7), and inserting in lieu thereof "G.S. 105-113.45"; and

(b) deleting the first five lines of G.S. 105-113.56A, as the same appears in 1972 Replacement Volume 2D of the General Statutes, and inserting in lieu thereof the following:

"Instead of paying the tax levied in this Article in the manner otherwise provided, any distributor or wholesale dealer may pay the tax in the following manner, with respect to bottled soft drinks:".

Sec. 3. G.S. 105-113.86(p), as the same appears in the 1975 Cumulative Supplement to 1972 Replacement Volume 2D of the General Statutes, is amended by deleting from line 23 thereof the words "latest federal decennial census" and inserting in lieu thereof the words "most recent annual estimate of population as certified to the Secretary of Revenue by the Secretary of Administration".

Sec. 4. G.S. 105-130.3 is amended by rewriting the first paragraph thereof to read as follows:

"Every corporation doing business in this State shall pay annually an income tax equivalent to six percent (6%) of its net income or the portion thereof allocated and apportioned to this State. The net income or net loss of such corporation shall be the same as 'taxable income' as defined in the Internal Revenue Code in effect on January 1, 1977, subject to the adjustments provided in G.S. 105-130.5."

Sec. 5. Article 4 of Subchapter I, Chapter 105 of the General Statutes is amended by:

(a) rewriting G.S. 105-135(12) in its entirety, to read as follows:

"(12) The word 'person' means an individual, a fiduciary, a partnership, or a corporation and includes an officer or employee of a corporation, or a member or employee of a partnership or of an individual proprietorship who as such officer, employee, or member is under a duty to perform an act in meeting the requirements of this division."

(b) adding at the end of G.S. 105-141(a) a new subdivision (21), to read as follows:

"(21) Reimbursement for moving expenses from one residence to another which is attributable to employment or self-employment must be included in gross income as a compensation for services when the income from the new principal place of employment is reportable for taxation to North Carolina under the provisions of this division; provided, however, that when only a portion of the income earned at the new principal place of employment is reportable for taxation to North Carolina under the provisions of this division, the moving expense reimbursement shall be apportioned for taxation by this State under rules and regulations prescribed by the Secretary of Revenue."

(c) changing the period at the end of G.S. 105-141(b)(11) to a comma, and adding thereafter the following:

"or plan qualifying under the provisions of Section 401(a) of the Internal Revenue Code of 1954 as amended."

(d) changing the period at the end of G.S. 105-141.1(d)(3) to a semicolon, and adding thereafter the following:

"provided, however, when a lump sum payment from an annuity endowment or life insurance contract is received by an individual who has moved into North Carolina, the relief provisions of this subdivision shall not be available to such individual if he was not a resident of North Carolina during the entire two years immediately preceding the year in which the lump sum payment is received."

(e) deleting from the seventh line of G.S. 105-144.2(h), as the same appears in the 1975 Cumulative Supplement to Replacement Volume 2D of the General Statutes, the words and figures "and during an induction period (as defined in G.S. 105-141(b)(12))".

(f) rewriting all of G.S. 105-147(5) to read as follows:

"(5) All interest paid during the income year on the indebtedness of the taxpayer except interest paid or accrued in connection with the ownership of property, the income from which is not taxable under this division."

(g) rewriting all of G.S. 105-147(8) to read as follows:

"(8) In the case of an individual moving from one location to another, moving expenses paid or incurred during the taxable year in connection with the commencement of work at the new location 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; except, that no individual shall be allowed the deduction for such moving expenses unless the income earned at the new principal place of employment is reportable for taxation to North Carolina under the provisions of 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; provided, that if the reimbursement for the moving expenses is reportable for taxation to North Carolina under the provisions of G.S. 105-141(a)(21), the deduction for moving expenses shall be allowed to the extent allowed for federal income tax purposes; and provided further, that when only a portion of the income earned at the new principal place of employment is reportable for taxation to North Carolina under the provisions of this division, the moving expense deduction shall be apportioned under rules and regulations prescribed by the Secretary of Revenue. 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. The deduction allowed by this subdivision for moving expenses shall be allowed as a business expense deductible from gross income in arriving at adjusted gross income."

(h) inserting immediately after the reference to "G.S. 105-147" in the fourth line of G.S. 105-161(d)(3), as the same appears in the 1975 Cumulative Supplement to 1972 Replacement Volume 2D of the General Statutes, the following parenthetical phrase:

"(or as an offset against the sales price of property in determining gain or loss)".

(i) rewriting all of G.S. 105-163.1(13), to read as follows:

"(13) The word 'person' means an individual, a fiduciary, a partnership, or a corporation and includes an officer or employee of a corporation or a member or employee of a partnership or of an individual proprietorship who as such officer, employee, or member is under a duty to perform an act in meeting the requirements of this division."

(j) substituting the words and figures "eighty percent (80%)" for the words and figures "seventy percent (70%)", in the first line of G.S. 105-163.15(d)(1)c, as the same appears in 1972 Replacement Volume 2D of the General Statutes.

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

(a) redesignating present subsection (j) of G.S. 105-241.1 to be subsection (k) thereof, and adding a new subsection (j), between subsection (i) and redesignated subsection (k) of G.S. 105-241.1, to read as follows:

"(j) 'Tax' and 'additional tax', for the purposes of this Subchapter and for the purposes of Subchapters V and VIII of this Chapter, include penalties and interest, as well as the principal amount of such tax or additional tax."

(b) inserting a new sentence, immediately before the last sentence in G.S. 105-259, to read as follows:

"Notwithstanding contrary provisions of this section, the secretary may also furnish to the Employment Security Commission account and identification numbers, and names and addresses, of taxpayers when said commission requires such information for the purpose of administering Chapter 96 of the General Statutes."

Sec. 7. G.S. 105-438 is amended by rewriting the same in its entirety, to read as follows:

“§ 105-438. Record of transactions. — Every distributor of motor fuels shall keep a record of all such fuels purchased, received, sold, delivered or used by him, which shall include the number of gallons so purchased, received, sold, delivered, or used, and the dates of such purchases and sales, and which shall at all times during the business hours of the day be subject to inspection by the Secretary of Revenue or his deputies, or such other officers as may be duly authorized by said Secretary."

Sec. 8. Section 1 of this act shall become effective on July 1, 1977; Sections 2, 3, 6 and 7 shall become effective upon ratification of this act; Sections 4 and 5(a), (b), (c), (d), (f), (g), (i) and (j) shall become effective with respect to taxable years beginning on and after January 1, 1977; Section 5(e) shall become effective with respect to taxable years beginning on and after January 1, 1973; and Section 5(h) shall become effective from and after October 4, 1976.

In the General Assembly read three times and ratified, this the 21st day of June, 1977.