

GENERAL ASSEMBLY OF NORTH CAROLINA
1995 SESSION

CHAPTER 468
SENATE BILL 121

AN ACT TO REVISE THE PROCEDURES FOR ASSESSMENTS OF
INHERITANCE TAX FOLLOWING A FEDERAL DETERMINATION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-29 reads as rewritten:

"§ 105-29. Uniform valuation.

(a) ~~If the value of any estate taxed under this schedule shall have been assessed and fixed by the federal government for the purpose of determining the federal taxes due thereon prior to the time the report from the executor or administrator is made to the Secretary of Revenue under the provisions of this Article, the amount or value of such estate so fixed, assessed, and determined by the federal government shall be stated in such report. If the assessment of the estate by the federal government shall be made after the filing of the report by the executor or administrator with the Secretary of Revenue, as provided in this Article, the said executor or administrator shall, within 30 days after receipt of notice of the final determination by the federal government of the value or amount of said estate as assessed and determined for the purpose of fixing federal taxes thereon, make report of the amount so fixed and assessed by the federal government, under oath or affirmation, to the Secretary of Revenue. If the amount of said estate as assessed and fixed by the federal government shall be in excess of that theretofore fixed or assessed under this schedule for the purpose of determining the amount of taxes due the State from said estate, then the Secretary of Revenue shall reassess said estate and fix the value thereof at the amount fixed, assessed, and determined by the federal government, unless the said executor or administrator shall, within 30 days after notice to him from the Secretary of Revenue, show cause why the valuation and assessment of said estate as theretofore made should not be changed or increased. If the valuation placed upon said estate by the federal government shall be less than that theretofore fixed or assessed under this Article, the executor or administrator may, within 30 days after filing his return of the amount so fixed or assessed by the federal government, file with the Secretary of Revenue a petition to have the value of said estate reassessed and the same reduced to the amount as fixed or assessed by the federal government. In either event the Secretary of Revenue shall proceed to determine, from such evidence as may be brought to his attention or which he shall otherwise acquire, the correct value of the said estate, and if the valuation is changed, he shall reassess the taxes due by said estate under this Article and notify the executor or administrator of such fact. In the event the valuation of said estate shall be decreased and if there shall have been an overpayment of the tax in the amount of three~~

dollars (\$3.00) or more, the Secretary of Revenue shall, within 60 days after the final determination of the value of said estate and the assessment of the correct amount of tax against the same, refund the amount of such excess tax theretofore paid. In the event that the amount of such overpayment is less than three dollars (\$3.00) the overpayment shall be refunded upon receipt by the Secretary of Revenue of a written demand for such refund from the taxpayer. No overpayment shall be refunded, irrespective of whether upon discovery or receipt of written demand if such discovery is not made or such demand is not received within three years from the date set by the statute for the filing of the return, or within six months after the date of the final determination of the federal estate tax liability, or within six months from the date of the payment of the tax alleged to be an overpayment, whichever is the later.

(b) ~~If the executor or administrator shall fail to file with the Secretary of Revenue the return under oath or affirmation, stating the amount or value at which the estate was assessed by the federal government as provided for in this section, the Secretary of Revenue shall assess and collect from the executor or administrator a penalty equal to twenty five percent (25%) of the amount of any additional tax which may be found to be due by such estate upon reassessment and reappraisal thereof, which penalty shall under no condition be less than twenty five dollars (\$25.00) or more than five hundred dollars (\$500.00) and which cannot be remitted by the Secretary of Revenue except for good cause shown. The Secretary of Revenue is authorized and directed to confer quarterly with the Department of Internal Revenue of the United States government to ascertain the value of estates in North Carolina which have been assessed for taxation by the federal government, and he shall cooperate with the said Department of Internal Revenue, furnishing to said Department such information concerning estates in North Carolina as said Department may request.~~

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

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

Sec. 2. G.S. 105-241.1(e) reads as rewritten:

"(e) Statute of Limitations. – The Secretary may propose an assessment of tax due from a taxpayer at any time if (i) the taxpayer did not file a proper application for a license or did not file a return, (ii) the taxpayer filed a false or fraudulent application or return, or (iii) the taxpayer attempted in any manner to fraudulently evade or defeat the tax. If a taxpayer files a return reflecting a federal determination as provided in G.S. 105-29, 105-130.20, 105-159, 105-160.8, 105-163.6A, or 105-197.1, the Secretary must propose an assessment of any tax due within one year after the return is filed or within three years of when the original return was filed or due to be filed, whichever is later. If there is a federal determination and the taxpayer does not file the required return, the Secretary must propose an assessment of any tax due within three years after the date the Secretary received the final report of the federal determination. If a taxpayer forfeits a tax credit pursuant to G.S. 105-163.014, the Secretary must assess any tax or additional tax due as a result of the forfeiture within three years after the date of the forfeiture. In all other cases, the Secretary must propose an assessment of any tax due from a taxpayer within three years after the date the taxpayer filed an application for a license or a return or the date the application or return was required by law to be filed, whichever is later. If the Secretary proposes an assessment of tax within the time provided in this section, the final assessment of the tax is timely.

A taxpayer may make a written waiver of any of the limitations of time set out in this subsection, for either a definite or an indefinite time. If the Secretary accepts the taxpayer's waiver, the Secretary may propose an assessment at any time within the time extended by the waiver."

Sec. 3. This act becomes effective August 1, 1995, and applies to assessments of taxes for which the statute of limitations had not expired on or before August 1, 1995.

In the General Assembly read three times and ratified this the 24th day of July, 1995.

Dennis A. Wicker
President of the Senate

Harold J. Brubaker
Speaker of the House of Representatives