

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

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SENATE BILL 210
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Short Title: Tax Amnesty/Penalties.

(Public)

Sponsors:

Referred to:

February 20, 1989

A BILL TO BE ENTITLED

AN ACT TO CREATE A TAX AMNESTY PROGRAM AND IMPROVE STATE
TAX ENFORCEMENT AND COMPLIANCE TO ASSURE FAIRNESS IN THE
COLLECTION OF TAXES FROM ALL TAXPAYERS.

The General Assembly of North Carolina enacts:

PART I.

AMNESTY PROGRAM.

Section 1. The enactment of this act, coupled with authorization for the Department of Revenue to expend the sum of \$5,071,142 for the 1989-90 fiscal year and the sum of \$4,914,908 for the 1990-91 fiscal year for additional tax enforcement and compliance personnel, will provide net additional recurring revenue for the General Fund of \$37,000,000 for the 1989-90 fiscal year and \$64,100,000 for the 1990-91 fiscal year. In addition, this act will provide \$25,000,000 of one-time revenue for the General Fund for the 1989-90 fiscal year.

Sec. 2. Amnesty program established; scope. The Department of Revenue shall administer a tax amnesty program to be conducted during the period September 1, 1989, through December 1, 1989. During the tax amnesty period, the Department of Revenue may not initiate a criminal prosecution for failure to report or pay taxes within the scope of the Program and shall waive all penalties assessed for such failure when the taxes, plus any interest due, are paid in full.

The taxes within the scope of the tax amnesty program are:

- 1 (1) Inheritance taxes levied under Article 1 of Chapter 105 of
2 the General Statutes;
- 3 (2) License taxes levied under Articles 2, 2A, 2B, and 2C of Chapter 105
4 of the General Statutes;
- 5 (3) Franchise taxes levied under Article 3 of Chapter 105 of the General
6 Statutes;
- 7 (4) Income taxes levied under Articles 4, 4A, 4B, and 4C of Chapter 105
8 of the General Statutes;
- 9 (5) Sales and use taxes levied under Articles 5, 39, 40, 41, and 42 of
10 Chapter 105 of the General Statutes, and under Chapter 1096 of the
11 1967 Session Laws;
- 12 (6) Gift taxes levied under Article 6 of Chapter 105 of the General
13 Statutes;
- 14 (7) Intangibles taxes levied under Article 7 of Chapter 105 of the General
15 Statutes;
- 16 (8) Motor fuels taxes levied under Articles 36, 36A, and 36B of Chapter
17 105 of the General Statutes; and
- 18 (9) Inspection taxes levied under Article 3 of Chapter 119 of the General
19 Statutes.

20 The program applies to inheritance tax liabilities due for the estates of
21 decedents dying prior to December 1, 1988; license tax liabilities for taxable periods
22 ending on or before June 30, 1988; gift tax liabilities due and remaining unpaid after
23 December 31, 1987; individual income withholding tax liabilities, sales and use tax
24 liabilities, motor fuels tax liabilities, and inspection tax liabilities for taxable periods
25 ending on or before December 31, 1988; income tax liabilities and intangibles tax
26 liabilities for taxable periods ending on or before December 31, 1987; and franchise tax
27 liabilities for taxable periods beginning on or before January 1, 1988. The program
28 does not apply to any matter that is the subject of a pending court proceeding.

29 Sec. 3. Effect of payment under program. A taxpayer who pays unreported,
30 underreported, or assessed but unpaid taxes as part of the program is not subject to
31 criminal prosecution for not reporting, underreporting, or not paying the taxes, but must
32 pay the interest due on the taxes at the rate established under G.S. 105-241.1(i). An
33 attorney, accountant, paid preparer of a tax return, or other person who would otherwise
34 be subject to criminal prosecution under G.S. 105-236(9a) for his actions concerning
35 returns prepared for unreported or underreported taxes paid pursuant to the amnesty
36 program is not subject to criminal prosecution under that subdivision on the basis of
37 those actions.

38 Sec. 4. Requirements for participation. To be eligible to participate in the
39 program, a taxpayer shall:

- 40 (1) File an application to participate before the end of the amnesty period;
- 41 (2) File a return for all reporting periods for which the taxpayer has not
42 previously filed a return but was required to file a return;
- 43 (3) File an amended tax return for all reporting periods for which the
44 taxpayer underreported tax liability; and

1 (4) Pay the taxpayer's previously assessed taxes or unreported or
2 underreported taxes for all reporting periods in full plus any interest
3 due on the taxes by December 1, 1989.

4 Sec. 5. Administration. The Secretary of Revenue shall issue forms and
5 instructions to implement the amnesty program and shall publicize the tax amnesty
6 period to maximize public awareness of and participation in the program.

7 Sec. 6. Funds. To pay for the amnesty program provided in Part I of this act,
8 the Secretary of Revenue may draw up to one million one hundred thousand dollars
9 (\$1,100,000) from collections received by the Department during July 1989 under
10 Division II of Article 4 of Chapter 105 of the General Statutes.

11 PART II.

12 INCREASED PENALTIES.

13 Sec. 7. G.S. 105-236(7) reads as rewritten:

14 "(7) Attempt to Evade or Defeat Tax. – Any person who willfully attempts, or any
15 person who aids or abets any person to attempt in any manner to evade or defeat any tax
16 imposed by this Subchapter of the General Statutes, or the payment thereof, shall, in
17 addition to other penalties provided by law, be guilty of a ~~misdemeanor~~. Class I felony
18 punishable by imprisonment up to five years, a fine up to twenty-five thousand dollars
19 (\$25,000), or both."

20 Sec. 8. G.S. 105-236(8) reads as rewritten:

21 "(8) Willful Failure to Collect, Withhold, or Pay Over Tax. – Any person required
22 under this Subchapter to collect, withhold, account for, and pay over any tax imposed
23 by this Subchapter who willfully fails to collect or truthfully account for and pay over
24 such tax shall, in addition to other penalties provided by law, be guilty of a ~~misdemeanor~~
25 ~~and shall be punished by a fine not to exceed one thousand dollars (\$1,000), or by~~
26 ~~imprisonment not to exceed two years, or by both such fine and imprisonment.~~ misdemeanor.
27 Notwithstanding any other provision of law, no prosecution for a violation brought
28 under this subdivision shall be barred before the expiration of three years after the date
29 of the violation."

30 Sec. 9. G.S. 105-236(9) reads as rewritten:

31 "(9) Willful Failure to File Return, Supply Information, or Pay Tax. – Any person
32 required under this Subchapter to pay any tax, to make a return, to keep any records, or
33 to supply any information, who willfully fails to pay such tax, make such return, keep
34 such records, or supply such information, at the time or times required by law, or
35 regulations issued pursuant thereto, shall, in addition to other penalties provided by law,
36 be guilty of a misdemeanor. Notwithstanding any other provision of law, no
37 prosecution for a violation brought under this subdivision shall be barred before the
38 expiration of three years after the date of the violation."

39 Sec. 10. G.S. 105-236(9a) reads as rewritten:

40 "(9a) Aid or Assistance. – Any person, pursuant to or in connection with the
41 revenue laws, who willfully aids, assists in, procures, counsels, or advises the
42 preparation, presentation, or filing of a return, affidavit, claim, or any other document
43 that he knows is fraudulent or false as to any material matter, whether or not the falsity
44 or fraud is with the knowledge or consent of the person authorized or required to present

1 or file the return, affidavit, claim, or other document, shall be guilty of a ~~misdemeanor~~.
2 Class J felony punishable by imprisonment up to three years, a fine up to ten thousand
3 dollars (\$10,000), or both."

4 **PART III.**

5 **EFFECTIVE DATES**

6 Sec. 11. Part II of this act shall become effective December 2, 1989, and
7 shall apply to violations occurring on or after that date; the remainder of this act is
8 effective upon ratification.