

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

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SENATE BILL 51*

Short Title: Income Tax Based on Federal Law-2.

(Public)

Sponsors: Senators Winner, Rauch, Plyler; and Bryan.

Referred to: Finance.

January 25, 1989

A BILL TO BE ENTITLED

AN ACT TO STRUCTURE INDIVIDUAL INCOME TAX AS A PERCENTAGE OF
FEDERAL TAXABLE INCOME.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-133 reads as rewritten:

"§ 105-133. Short title.

This Division of the income tax Article shall be known ~~and may be cited~~ as the
Individual Income Tax Act."

Sec. 2. G.S. 105-134 reads as rewritten:

"§ 105-134. Purpose.

The general purpose of this Division is to impose a tax for the use of the State
government upon the net income ~~in excess of the exemptions herein allowed~~ collectible
annually:

(1) Of every resident of this State.

(2) Of every nonresident individual deriving income from North Carolina
sources attributable to the ownership of any interest in real or tangible
personal property in this State or deriving income from a business,
trade, profession, or occupation carried on in this State."

Sec. 3. G.S. 105-135 through G.S. 105-149 are repealed.

Sec. 4. Division II of Article 4 of Chapter 105 of the General Statutes is
amended by adding after G.S. 105-134 the following new sections to read:

"§ 105-134.1 Definitions.

The following definitions apply in this Division.

- 1 (1) Code. The Internal Revenue Code as enacted as of January 1, 1989,
2 including any provisions enacted as of that date which become
3 effective either before or after that date, but not including sections
4 63(c)(4) and 151(d)(3).
- 5 (2) Department. The Department of Revenue.
- 6 (3) Fiscal year. Defined in section 441(e) of the Code.
- 7 (4) Gross income. Defined in section 61 of the Code.
- 8 (5) Head of household. Defined in section 2(b) of the Code.
- 9 (6) Individual. A natural person.
- 10 (7) Married individual. An individual who is married and is considered
11 married as provided in section 7703 of the Code.
- 12 (8) Nonresident individual. An individual who is not a resident of this
13 State.
- 14 (9) North Carolina net income. Defined in G.S. 105-134.5.
- 15 (10) Person. An individual, a fiduciary, a partnership, or a corporation.
16 The term includes an officer or employee of a corporation or a member
17 or employee of a partnership who, as officer, employee, or member, is
18 under a duty to perform an act in meeting the requirements of this
19 Division.
- 20 (11) Resident. An individual who is domiciled in this State at any time
21 during the taxable year or who resides in this State during the taxable
22 year for other than a temporary or transitory purpose. In the absence
23 of convincing proof to the contrary, an individual who is present
24 within the State for more than six months during the taxable year is
25 presumed to be a resident, but the absence of an individual from the
26 State for more than six months raises no presumption that the
27 individual is not a resident. A resident who removes from the State
28 during a taxable year is considered a resident until he has both
29 established a definite domicile elsewhere and abandoned any domicile
30 in this State. The fact of marriage does not raise any presumption as to
31 domicile or residence.
- 32 (12) S Corporation. Defined in G.S. 105-131(b).
- 33 (13) Secretary. The Secretary of Revenue.
- 34 (14) Taxable income. Defined in section 63 of the Code.
- 35 (15) Taxable year. Defined in section 441(b) of the Code.
- 36 (16) Taxpayer. An individual subject to the tax imposed by this Division.

37 **§ 105-134.2. Individual income tax imposed.**

38 A tax is imposed upon the North Carolina net income of every individual. The tax
39 shall be levied, collected, and paid annually and shall be computed at the following
40 percentages of the taxpayer's North Carolina net income.

41 (1) For married individuals who file a joint return under G.S. 105-152.1 and for
42 surviving spouses, as defined in section 2(a) of the Code:

43 On the North Carolina net income up to twenty thousand dollars (\$20,000),
44 five percent (5%); and

1 On the excess over twenty thousand dollars (\$20,000), eight percent (8%).

2 (2) For heads of households, as defined in section 2(b) of the Code:

3 On the North Carolina net income up to sixteen thousand dollars (\$16,000),

4 five percent (5%); and

5 On the excess over sixteen thousand dollars (\$16,000), eight percent (8%).

6 (3) For unmarried individuals other than surviving spouses and heads of
7 households:

8 On the North Carolina net income up to twelve thousand dollars (\$12,000),

9 five percent (5%); and

10 On the excess over twelve thousand dollars (\$12,000), eight percent (8%).

11 (4) For married individuals who do not file a joint return under G.S. 105-152.1:

12 On the North Carolina net income up to ten thousand dollars (\$10,000), five
13 percent (5%); and

14 On the excess over ten thousand dollars (\$10,000), eight percent (8%).

15 **"§ 105-134.3. Year of assessment.**

16 The tax imposed by this Division shall be assessed, collected, and paid in the taxable
17 year following the taxable year for which the assessment is made, except as provided to
18 the contrary in Article 4A of this Chapter.

19 **"§ 105-134.4. Taxable year.**

20 A taxpayer shall compute his North Carolina net income on the basis of the taxable
21 year used in computing his income tax liability under the Code.

22 **"§ 105-134.5. North Carolina net income defined.**

23 (a) Residents. For residents of this State, the term 'North Carolina net income'
24 means taxable income as calculated under the Code, adjusted as provided in G.S. 105-
25 134.6 and G.S. 105-134.7.

26 (b) Nonresidents. For nonresident individuals, the term 'North Carolina net
27 income' means taxable income as calculated under the Code, adjusted as provided in
28 G.S. 105-134.6 and G.S. 105-134.7, multiplied by a fraction the denominator of which
29 is the taxpayer's gross income as calculated under the Code, adjusted as provided in
30 G.S. 105-134.6 and G.S. 105-134.7, and the numerator of which is the amount of that
31 gross income, as adjusted, that is derived from North Carolina sources and is
32 attributable to the ownership of any interest in real or tangible personal property in this
33 State or is derived from a business, trade, profession, or occupation carried on in this
34 State.

35 (c) Part-year residents. If an individual was a resident of this State for only part
36 of the taxable year, having moved into or removed from the State during the year, the
37 term 'North Carolina net income' has the same meaning as in subsection (b) except that
38 the numerator shall include gross income, adjusted as provided in G.S. 105-134.6 and
39 G.S. 105-134.7, derived from all sources during the period the individual was a resident.

40 (d) S Corporations and Partnerships. In order to calculate the numerator of the
41 fraction provided in subsection (b), the amount of a shareholder's pro rata share of S
42 Corporation income that is includable in the numerator shall be the shareholder's pro
43 rata share of the S Corporation's income attributable to the State, as defined in G.S. 105-
44 131(4). In order to calculate the numerator of the fraction provided in subsection (b) for

1 a member of a partnership or other unincorporated business with one or more
2 nonresident members that operates in one or more other states, the amount of the
3 member's distributive share of income of the business that is includable in the numerator
4 shall be determined by multiplying the total net income of the business by the ratio
5 ascertained under the provisions of G.S. 105-130.4. As used in this subsection, total net
6 income means the entire gross income of the business less all expenses, taxes, interest,
7 and other deductions allowable under the Code which were incurred in the operation of
8 the business.

9 **"§ 105-134.6. Adjustments to taxable income.**

10 (a) S Corporations. The pro rata share of each shareholder in the income
11 attributable to the State of an S Corporation shall be adjusted as provided in G.S. 105-
12 130.5. The pro rata share of each resident shareholder in the income not attributable to
13 the State of an S Corporation shall be subject to the adjustments provided in subsections
14 (b) and (c) of this section.

15 (b) Deductions. The following deductions from taxable income shall be made in
16 calculating North Carolina net income, to the extent each item is included in gross
17 income:

- 18 (1) Interest upon the obligations of the United States or its possessions.
- 19 (2) Amounts received from retirement annuities or pensions paid under the
20 provisions of the Railroad Retirement Act of 1937.
- 21 (3) Retirement, pension, and deferred compensation benefits that are not
22 subject to State taxation under the following provisions: G.S. 118-49,
23 120-4.29, 127A-40(e), 128-31, 135-9, 135-95, 143-166.30, and 147-
24 9.4.
- 25 (4) Amounts received from retirement and pension funds established for
26 firefighters and law enforcement officers by or under the control of
27 North Carolina cities or counties if the amounts would have been
28 exempt under G.S. 128-31 or G.S. 143-166.30 had the city or county
29 elected to provide the benefits pursuant to those statutes.
- 30 (5) Retirement benefits paid to a member from voluntary pledges made by
31 the North Carolina Highway Patrol or other association of law
32 enforcement officers employed by the State or a county or city, if the
33 benefits are paid from an assessment against the members.
- 34 (6) Any amount not to exceed four thousand dollars (\$4,000) received by
35 the taxpayer during the taxable year under a federal employee
36 retirement program to which the taxpayer made contributions during
37 his working years.
- 38 (7) Any amount not to exceed four thousand dollars (\$4,000) received by
39 the taxpayer during the taxable year as retired or retainer pay as a
40 result of service in any of the armed forces of the United States.
- 41 (8) Any amount not to exceed one thousand five hundred dollars (\$1,500)
42 received by the taxpayer during the taxable year as compensation for
43 the performance of duties as a member of the North Carolina
44 organized militia, the national guard as defined in G.S. 127A-3.

- 1 (9) Retirement and pension benefits received from another state by a
2 former teacher or state employee of the other state if the other state
3 levies no income tax on individuals or exempts or excludes for income
4 tax purposes retirement and pension benefits received by retired
5 members of the North Carolina Retirement System for Teachers and
6 State Employees.
- 7 (10) Refunds of State income taxes included in the taxpayer's gross income.
8 In addition, where the sum of (i) the amount of the taxpayer's itemized
9 deductions claimed in the previous taxable year, (ii) plus the amount of
10 the refund deducted under this subdivision, (iii) minus the amount of
11 any State income tax added to taxable income under subdivision (c)(3)
12 of this section in the previous taxable year is less than the amount of
13 the standard deduction that would have applied to the taxpayer in the
14 previous taxable year under section 63 of the Code, then the taxpayer
15 may deduct from taxable income an amount equal to the difference
16 between the sum and the standard deduction amount.

17 (c) Additions. The following additions to taxable income shall be made in
18 calculating North Carolina net income, to the extent each item is not included in gross
19 income:

- 20 (1) Interest upon the obligations of states, other than this State, and their
21 political subdivisions.
- 22 (2) Any amount allowed as a deduction from gross income under the Code
23 that is taxed under the Code by a separate tax other than the tax
24 imposed in section 1 of the Code. The Secretary shall report to the
25 1991 General Assembly all provisions under the Code for taxing
26 certain amounts separately and shall recommend whether such
27 amounts should be taxed separately under this Division or should be
28 added to taxable income in calculating North Carolina net income.
- 29 (3) Any amount deducted from gross income under section 164 of the
30 Code as State income tax.
- 31 (4) The amount by which the taxpayer's standard deduction has been
32 increased under section 63(c)(4) of the Code and the amount by which
33 the taxpayer's personal exemptions have been increased under section
34 151(d)(3) of the Code.

35 **§ 105-134.7. Transitional adjustments.**

36 (a) The following adjustments to taxable income shall be made in calculating
37 North Carolina net income:

- 38 (1) Amounts that were included in the basis of property under federal tax
39 law but not under State tax law before January 1, 1990, shall be added
40 to taxable income in the year the taxpayer disposes of the property.
- 41 (2) Amounts that were included in the basis of property under State tax
42 law but not under federal tax law before January 1, 1990, shall be
43 deducted from taxable income in the year the taxpayer disposes of the
44 property.

1 (3) Amounts that were recognized as income under federal law but not
2 under State law due to a taxpayer's use of the installment method set
3 out in G.S. 105-142(f) prior to January 1, 1990, shall be added to
4 taxable income in the taxpayer's first taxable year beginning on or after
5 January 1, 1990. Amounts that were recognized as income under State
6 law but not under federal law due to a taxpayer's use of a different
7 installment method prior to January 1, 1990, shall be deducted from
8 taxable income in the taxpayer's first taxable year beginning on or after
9 January 1, 1990.

10 (4) Losses in the nature of net economic losses sustained in any or all of
11 the five taxable years preceding the taxpayer's first taxable year
12 beginning on or after January 1, 1990, arising from business
13 transactions, business capital or business property, may be deducted
14 from taxable income subject to the limitations contained in former
15 G.S. 105-147(9)a., c., and d. (repealed).

16 (5) The amount of any net operating loss for a taxable year beginning on
17 or after January 1, 1990, carried back to a taxable year beginning on or
18 before December 31, 1989, pursuant to section 172 of the Code may
19 be deducted from taxable income in the taxable year following the
20 taxable year for which the loss occurred.

21 (6) The transitional adjustments provided in Division I-S of this Article
22 shall be made with respect to a shareholder's pro rata share of S
23 Corporation income.

24 (b) The Secretary may by rule require other adjustments to be made to taxable
25 income as necessary to assure that the transition to the tax changes effective January 1,
26 1990, will not result in double taxation of income, exemption of otherwise taxable
27 income from taxation under this Division, or double allowance of deductions.

28 **"§ 105-134.8. Effective dates of amendments.**

29 Except as otherwise provided in this Chapter, the amendments to this Article made
30 by Section 4 of Chapter 1340 of the 1957 Session Laws are effective for taxable years
31 beginning on or after January 1, 1957.

32 **"§ 105-134.9. Inventory.**

33 Whenever, in the opinion of the Secretary, it is necessary in order clearly to
34 determine the income of any taxpayer, inventories shall be taken by the taxpayer as
35 prescribed by the Secretary, conforming as nearly as possible to the best accounting
36 practice in the trade or business and most clearly reflecting the income."

37 Sec. 5. G.S. 105-151 reads as rewritten:

38 **"§ 105-151. Tax credits for income taxes paid to other states by individuals.**

39 (a) ~~Individuals who are residents~~ An individual who is a resident of this State shall
40 be allowed is allowed a credit against the taxes imposed by this division ~~Division~~ for
41 income taxes imposed by and paid to another state or country on income taxed under
42 this division ~~Division~~ , subject to the following conditions:

43 (1) The credit shall be allowed only for taxes paid to such ~~other~~ another
44 state or country on income derived from sources within such ~~the~~ state

1 or country ~~which~~ that is taxed under ~~the~~ its laws ~~thereof~~ irrespective of
 2 the residence or domicile of the recipient; provided, that whenever a
 3 taxpayer who is deemed to be a resident of this State under the
 4 provisions of this ~~division~~ Division ~~and who~~ is deemed also to be a
 5 resident of another state or country under the laws of ~~such other that~~
 6 state or ~~country~~ country, the Secretary of ~~Revenue~~ Revenue may, in his
 7 discretion, allow a credit against the taxes imposed by this ~~division~~
 8 Division for ~~such~~ taxes imposed by and paid to ~~such~~ the other state or
 9 country on income taxed under this ~~division~~ Division.

10 (2) The fraction of the gross ~~income for North Carolina income tax purposes~~
 11 ~~which income~~, as calculated under the Code and adjusted as provided
 12 in G.S. 105-134.6 and G.S. 105-134.7, that is subject to income tax in
 13 another state or country shall be ~~ascertained~~ ascertained, and the North
 14 Carolina net income tax before credit under this section shall be
 15 multiplied by ~~such that~~ fraction. The credit allowed shall be either the
 16 product thus calculated or the income tax actually paid the other state
 17 or ~~country~~ country, whichever is smaller.

18 (3) Receipts showing the payment of income taxes to another state or
 19 country and a true copy of a return or returns upon the basis of which
 20 the taxes are assessed ~~must~~ shall be filed with the Secretary of ~~Revenue~~
 21 Revenue at, or prior to, the time credit is claimed. If credit is claimed on
 22 account of a deficiency assessment, a true copy of the notice assessing
 23 or proposing to assess the deficiency, as well as a receipt showing the
 24 payment of the deficiency, shall be filed.

25 (b) If any taxes paid to another state or country for which a taxpayer has been
 26 allowed a credit under this section are at any time credited or refunded to the taxpayer, a
 27 tax equal to that portion of the credit allowed for such taxes so credited or refunded
 28 shall be due and payable from the taxpayer within 30 days ~~from~~ after the date of ~~the~~
 29 receipt of the refund or notice of the credit. If the amount of tax is not paid within 30
 30 days ~~of~~ after receipt or ~~notice~~ notice, the taxpayer shall be subject to the penalties and
 31 interest on delinquent payments provided ~~for~~ in Subchapter I of this Chapter."

32 Sec. 6. G.S. 105-151.1 reads as rewritten:

33 "**§ 105-151.1. Tax credit for construction of dwelling units for handicapped**
 34 **persons.**

35 There shall be allowed to resident owners of multifamily rental units located in
 36 North Carolina as a credit against the tax imposed by this Division, an amount equal to
 37 five hundred fifty dollars (\$550.00) for each dwelling unit constructed by such resident
 38 owner which conforms to the recommendations of section (11x) of the North Carolina
 39 Building Code for the taxable year within which the construction of such dwelling units
 40 is completed; provided, that credit will be allowed under this section only for the
 41 number of such dwelling units completed during the taxable year which were required
 42 to be built in compliance with section (11x) of the North Carolina Building Code;
 43 provided further, that if the credit allowed by this section exceeds the tax imposed by
 44 this Division reduced by all other credits allowed by ~~the provisions of this Division, such~~

1 the excess shall be allowed as a credit against the tax imposed by this Division for the
2 next succeeding year; and provided further, that in order to secure the credit allowed by
3 this section the taxpayer shall file with his income tax return for the taxable year with
4 respect to which such credit is to be claimed, a copy of the occupancy permit on the face
5 of which there shall be recorded by the building inspector the number of units
6 completed during the taxable year which conform to section (11x) of the North Carolina
7 Building Code. When he has recorded the number of such units on the face of the
8 occupancy permit, the building inspector shall promptly ~~make and~~ forward a copy of the
9 permit to the Special Office for the Handicapped, Department of Insurance."

10 Sec. 7. G.S. 105-151.2 through G.S. 105-151.10 are repealed.

11 Sec. 8. G.S. 105-151.11 reads as rewritten:

12 **"§ 105-151.11. Credit against personal income tax for child care and certain**
13 **employment-related expenses.**

14 (a) ~~Any person who maintains a household which includes as a member one or~~
15 ~~more qualifying individuals shall be allowed as a credit against the tax imposed by this~~
16 ~~Division an amount equal to seven percent (7%) of the employment-related expenses as~~
17 ~~defined in subdivision (b)(2) herein.~~

18 (b) For the purposes of this section:

19 (1) The term "qualifying individual" means:

20 a. ~~A dependent of the taxpayer who is under the age of 15 and~~
21 ~~with respect to whom the taxpayer is entitled to a deduction~~
22 ~~under G.S. 105-149(a)(5);~~

23 b. ~~A dependent of the taxpayer who is physically or mentally~~
24 ~~incapable of caring for himself; or~~

25 e. ~~The spouse of the taxpayer, if the spouse is physically or~~
26 ~~mentally incapable of caring for himself or herself.~~

27 (2) ~~The term "employment related expenses" means amounts paid for~~
28 ~~expenses for household service and for the care of a qualifying~~
29 ~~individual, but only if such expenses are incurred to enable the~~
30 ~~taxpayer to be gainfully employed. The term includes expenses~~
31 ~~incurred for services outside the taxpayer's household if the expenses~~
32 ~~incurred are for the care of a qualifying individual described in (b)(1)a.~~
33 ~~or a qualifying individual described in (b)(1)b. or c. who regularly~~
34 ~~spends at least eight hours each day in the taxpayer's household.~~

35 (3) a. ~~For the purposes of this section, an individual shall be treated as~~
36 ~~maintaining a household for any period only if over half of the cost of~~
37 ~~maintaining the household during such period is furnished by such~~
38 ~~individual.~~

39 b. ~~In the case of a married person living with his or her spouse and~~
40 ~~such spouse is maintaining the household, the credit provided~~
41 ~~for herein shall be allowed with respect to employment-related~~
42 ~~expenses in connection with any qualifying individuals, except~~
43 ~~as limited herein, of the spouse not maintaining the household.~~

1 (4) ~~If a child (as defined in G.S. 105-149(a)(5)) who is under the age of 15~~
2 ~~or who is physically or mentally incapable of caring for himself~~
3 ~~receives over half of his support during the calendar year from his~~
4 ~~parents who are divorced or separated with the intent to remain~~
5 ~~separate and apart, and such child is in the custody of one or both of~~
6 ~~his parents for more than one half of the calendar year, in the case of~~
7 ~~any taxable year beginning in such calendar year such child shall be~~
8 ~~treated as being a qualifying individual described in subparagraph a or~~
9 ~~b of subdivision (b)(1), as the case may be, with respect to that parent~~
10 ~~who has custody for a longer period during such calendar year than the~~
11 ~~other parent, and shall not be treated as being a qualifying individual~~
12 ~~with respect to such other parent.~~

13 ~~(b1) The amount of employment related expenses for which a credit may be~~
14 ~~claimed may not exceed two thousand four hundred dollars (\$2,400) if the taxpayer's~~
15 ~~household includes one qualifying individual, and may not exceed four thousand eight~~
16 ~~hundred dollars (\$4,800) if the taxpayer's household includes more than one qualifying~~
17 ~~individual.~~

18 ~~(e) (1) If the taxpayer is married and living with his spouse for any~~
19 ~~period during the taxable year, there shall be taken into account~~
20 ~~employment related expenses incurred during any month of such~~
21 ~~period only if:~~

- 22 ~~a. Both spouses are gainfully employed on a substantially full-~~
23 ~~time basis, or one spouse is gainfully employed on a~~
24 ~~substantially full-time basis and the other spouse is a full-time~~
25 ~~student, which shall mean an individual who during each of five~~
26 ~~calendar months during the taxable year is a full-time student at~~
27 ~~an educational institution, or~~
28 ~~b. The spouse is a qualifying individual described in subdivision~~
29 ~~(b)(1)c.~~

30 ~~(2) No credit shall be allowed under this section with respect to any~~
31 ~~amount paid by the taxpayer to an individual with respect to whom a~~
32 ~~deduction is allowable under G.S. 105-149(a)(5) to the taxpayer or his~~
33 ~~spouse, or who is a child of the taxpayer (within the meaning of G.S.~~
34 ~~105-149(a)(5)) who has not attained the age of 19 at the close of the~~
35 ~~taxable year.~~

36 ~~(3) In the case of employment related expenses incurred during any~~
37 ~~taxable year solely with respect to a qualifying individual (other than~~
38 ~~an individual who is also described in subdivision (b)(1)a), the amount~~
39 ~~of such expenses which may be taken into account for purposes of this~~
40 ~~section shall be reduced:~~

- 41 ~~a. If such individual is described in subdivision (b)(1)b, by the~~
42 ~~amount by which the sum of:~~
43 ~~1. Such individual's adjusted gross income for such taxable year,~~
44 ~~and~~

- 1 2. ~~The disability payments received by such individual during~~
2 ~~such year, exceed one thousand dollars (\$1,000), or~~
3 b. ~~In the case of a qualifying individual described in subdivision~~
4 ~~(b)(1)c, by the amount of disability payments received by such~~
5 ~~individual during the taxable year.~~

6 ~~For purposes of this paragraph, the term "disability payment" means a payment~~
7 ~~(other than a gift) which is made on account of the physical or mental condition of an~~
8 ~~individual and which is not included in gross income.~~

9 ~~(d) If a husband and wife are living together at the end of the taxable year, no~~
10 ~~credit under this section shall be allowed unless they file a combined return for the year.~~

11 ~~(a) A person who is allowed a credit against federal income tax for a percentage~~
12 ~~of employment-related expenses under section 21 of the Code shall be allowed as a~~
13 ~~credit against the tax imposed by this Division an amount equal to seven percent (7%)~~
14 ~~of the employment-related expenses as defined in section 21(b)(2) of the Code.~~

15 ~~(b) The amount of employment-related expenses for which a credit may be~~
16 ~~claimed may not exceed two thousand four hundred dollars (\$2,400) if the taxpayer's~~
17 ~~household includes one qualifying individual, as defined in section 21(b)(1) of the~~
18 ~~Code, and may not exceed four thousand eight hundred dollars (\$4,800) if the taxpayer's~~
19 ~~household includes more than one qualifying individual.~~

20 ~~(e) (c) No credit shall be allowed under this section unless the taxpayer completes and~~
21 ~~attaches to his return the necessary form or forms as may be required by the Secretary.~~
22 ~~Secretary of Revenue, nor shall any deduction be allowed under G.S. 105-147(11) for amounts~~
23 ~~claimed under this subdivision. No credit shall be allowed under this section for amounts~~
24 ~~deducted from gross income in calculating taxable income under the Code.~~

25 ~~(f) (d) The credit allowed by this section shall not exceed the amount of tax~~
26 ~~imposed by this Division for the taxable year reduced by the sum of all credits~~
27 ~~allowable under this Division, except for payments of tax made by or on behalf of the~~
28 ~~taxpayer.~~

29 ~~(g) (e) No credit shall be allowed under this section with respect to employment-~~
30 ~~related expenses paid by a nonresident of this State."~~

31 Sec. 9. G.S. 105-151.12 reads as rewritten:

32 "**§ 105-151.12. Credit for certain real property donations.**

33 ~~(a) Any~~A ~~person that~~who makes a qualified donation of interests in real property
34 located in North Carolina during the taxable year that is useful for (i) public beach
35 access or use, (ii) public access to public waters or trails, (iii) fish and wildlife
36 conservation, or (iv) other similar land conservation purposes, shall be allowed as a
37 credit against the taxes imposed by this Division an amount equal to twenty-five percent
38 (25%) of the fair market value of the donated property interest. To be eligible for this
39 credit, the interest in property must be donated to and accepted by either the State, local
40 ~~government~~government, or a body that is both organized to receive and administer lands
41 for conservation purposes and is qualified to receive charitable contributions ~~pursuant to~~
42 ~~G.S. 105-147(15) or (16);~~ under the Code; provided, however, that lands required to be
43 dedicated pursuant to local governmental regulation or ordinance and dedications made
44 to increase building density levels permitted under such regulations or ordinances ~~shall~~

1 are not ~~be~~ eligible for this credit. The credit allowed under this section may not exceed
2 five thousand dollars (\$5,000). To support the credit allowed by this section, the
3 taxpayer shall file with the income tax return for the taxable year in which the credit is
4 ~~claimed,~~ claimed a certification by the Department of Natural Resources and
5 Community Development that the property donated is suitable for one or more of the
6 valid public benefits set forth by this subsection.

7 (b) The credit allowed by this section may not exceed the amount of tax imposed
8 by this Division for the taxable year reduced by the sum of all credits allowed under this
9 Division, except payments of tax made by or on behalf of the taxpayer.

10 (c) Any unused portion of this credit may be carried forward for the next
11 succeeding five years.

12 ~~(d) The fair market value, or any portion thereof, of a qualifying donation that is
13 not eligible for a credit pursuant to this section may be considered as a charitable
14 contribution pursuant to G.S. 105-147(15) or (16). That portion of the donation allowed
15 as a credit pursuant to this section shall not be eligible as a charitable contribution.~~

16 (c) No credit shall be allowed under this section for amounts deducted from gross
17 income in calculating taxable income under the Code.

18 ~~(e) (d) In the case of property owned by the entirety, where both spouses are
19 required to file North Carolina income tax returns, each spouse may claim one half of
20 the credit allowed by this section or one spouse may claim the entire credit allowed by
21 this section by agreement with the other spouse, provided both spouses were living
22 together at the end of the taxable year and file their separate returns for the taxable year
23 on the combined form. the credit allowed by this section may be claimed only if the
24 spouses file a joint return under G.S. 105-152.1. Where only one spouse is required to
25 file a North Carolina income tax return, such that spouse may claim the credit allowed
26 by this section.~~

27 ~~(f) (e) In the case of marshland for which a claim has been filed pursuant to G.S.
28 113-205, the offer of donation must be made before December 31, 1990, to qualify for
29 the credit allowed by this section."~~

30 Sec. 10. G.S. 105-151.13 reads as rewritten:

31 "**§ 105-151.13. Credit for conservation tillage equipment.**

32 (a) ~~Any~~ A person who purchases conservation tillage equipment for use in a
33 farming business, including tree farming, shall be allowed as a credit against the tax
34 imposed by this Division an amount equal to twenty-five percent (25%) of the cost of
35 the equipment. This credit may not exceed two thousand five hundred dollars (\$2,500)
36 for any ~~income-taxable~~ year. The credit may ~~only~~ be claimed only by the first purchaser
37 of the equipment and may not be claimed by a person who purchases the equipment for
38 resale or for use outside this State. This credit may not exceed the amount of tax
39 imposed by this Division for the taxable year reduced by the sum of all credits
40 allowable under this Division, except tax payments made by or on behalf of the
41 taxpayer. If the credit allowed by this section exceeds the tax imposed under this
42 Division, the excess may be carried forward and applied to the tax imposed under this
43 Division for the next succeeding five years. The basis in any equipment for which a

1 credit is allowed under this section shall be reduced by the amount of the credit
2 allowable.

3 (b) As used in this section, 'conservation tillage equipment' means:

- 4 (1) A planter such as a planter commonly known as a 'no-till' planter
5 designed to minimize disturbance of the soil in planting crops or trees,
6 including equipment that may be attached to equipment already owned
7 by the taxpayer; ~~or, or~~
8 (2) Equipment designed to minimize disturbance of the soil in
9 reforestation site preparation, including equipment that may be
10 attached to equipment already owned by the taxpayer; provided,
11 however, this shall include only those items of equipment generally
12 known as a 'KG-Blade', a 'drum-chopper', or a 'V-Blade'.

13 (c) In the case of conservation tillage equipment owned jointly by a husband and
14 wife, where both spouses are required to file North Carolina income tax returns, ~~each~~
15 ~~spouse may claim one-half of the credit allowed by this section or one spouse may claim the~~
16 ~~entire credit allowed by this section by agreement with the other spouse, provided both spouses~~
17 ~~were living together at the end of the taxable year and file their separate returns for the taxable~~
18 ~~year on the combined form. the credit allowed by this section may be claimed only if the~~
19 ~~spouses file a joint return under G.S. 105-152.1. Where only one spouse is required to~~
20 ~~file a North Carolina income tax return, that spouse may claim the credit allowed by this~~
21 ~~section."~~

22 Sec. 11. G.S. 105-151.14 reads as rewritten:

23 "**§ 105-151.14. Credit for gleaned crop.**

24 (a) ~~Any~~ A person who grows a crop and permits the gleaning of the crop shall be
25 allowed as a credit against the tax imposed by this Division an amount equal to ten
26 percent (10%) of the market price of the quantity of the gleaned crop. This credit may
27 not exceed the amount of tax imposed by this Division for the taxable year reduced by
28 the sum of all credits allowable under this Division, except tax payments made by or on
29 behalf of the taxpayer. ~~No deduction is allowed under G.S. 105-147(15) or (16) for the items~~
30 ~~for which a credit is claimed under this section. No credit is allowed under this section for~~
31 ~~amounts that were deducted from gross income in calculating taxable income under the~~
32 ~~Code. Any unused portion of the credit may be carried forward for the next succeeding~~
33 ~~five years.~~

34 (b) The following definitions apply to this section:

- 35 (1) 'Gleaning' means the harvesting of a crop that has been donated by the
36 grower to a nonprofit organization which will distribute the crop to
37 individuals or other nonprofit organizations it considers appropriate
38 recipients of the ~~food;~~ food.
39 (2) 'Market price' means the season average price of the crop as
40 determined by the North Carolina Crop and Livestock Reporting
41 Service in the Department of Agriculture, or the average price of the
42 crop in the nearest local market for the month in which the crop is
43 gleaned if the Crop and Livestock Reporting Service does not
44 determine the season average price for that ~~crop;~~ and crop.

- 1 (3) 'Nonprofit organization' means an organization ~~for~~ to which charitable
2 contributions are deductible from gross income under ~~G.S. 105-130.9 or~~
3 ~~G.S. 105-147(15) or (16)-the Code."~~

4 Sec. 12. G.S. 105-151.15 reads as rewritten:

5 **"§ 105-151.15. Credit for distributing North Carolina wine.**

6 (a) Credit. A person who is required by Article 2C of this Chapter to pay the
7 excise tax levied on unfortified or fortified wine is allowed as a credit against the tax
8 imposed by this Division an amount equal to the product of twenty cents (20¢) and the
9 number of liters of qualifying native wine on which the person paid excise tax during
10 the taxable year. To obtain this credit a person who is a wine wholesaler or an importer
11 ~~must~~ shall attach the following to the tax return on which the credit is claimed:

- 12 (1) A copy of the sales invoice between the manufacturer of the wine for
13 which the credit is claimed and the grower from whom the fruits or
14 berries of which the wine is composed was purchased;
15 (2) A statement signed by the manufacturer of the wine certifying that the
16 wine for which the credit is claimed is qualifying native wine and
17 giving the names of any other wine wholesalers or importers in North
18 Carolina who received part of the same qualifying native wine.

19 If the person claiming the credit is an unfortified winery or a fortified winery, the
20 person must attach to his return a signed statement certifying that the wine for which the
21 credit is claimed is qualifying native wine. This credit may not exceed the amount of
22 tax imposed by this Division for the taxable year reduced by the sum of all credits
23 allowable under this Division, except tax payments made by or on behalf of the
24 taxpayer.

25 (b) Definitions. The following definitions apply in this section:

- 26 (1) Native Wine. Unfortified or fortified wine at least sixty percent (60%)
27 of which is composed of fruits or berries grown in North Carolina.
28 (2) Qualifying Native Wine. Native wine that is part of the first 950 liters
29 of wine produced by a manufacturer from a ton of fruits or berries
30 grown in North Carolina.

31 Sec. 13. G.S. 105-151.16 is repealed.

32 Sec. 14. G.S. 105-151.17 reads as rewritten:

33 **"§ 105-151.17. Credit for creating jobs in severely distressed county.**

34 (a) Credit. – A person who (i) for at least 40 weeks during the year has at least
35 nine employees, (ii) whose business is located, for part or all of his taxable year, in a
36 severely distressed county, and (iii) who is eligible as provided in subsection (b) may
37 qualify for a credit against the tax imposed by this Division by creating new full-time
38 jobs with the business in the severely distressed county during that year. A person who
39 hires an additional full-time employee during that year to fill a position located in a
40 severely distressed county is allowed a credit of two thousand eight hundred dollars
41 (\$2,800) for the additional employee. A position is located in a county if (i) at least
42 fifty percent (50%) of the employee's duties are performed in the county, or (ii) the
43 employee is a resident of the county. The credit may not be taken in the ~~income-taxable~~
44 year in which the additional employee is hired. Instead, the credit shall be taken in

1 equal installments over the four years following the ~~income~~-taxable year in which the
2 additional employee was hired and shall be conditioned on the continued employment
3 by the taxpayer of the number of full-time employees the taxpayer had upon hiring the
4 employee that caused the taxpayer to qualify for the credit. If, in one of the four years
5 in which the installment of a credit accrues, the number of the taxpayer's full-time
6 employees falls below the number of full-time employees the taxpayer had in the year in
7 which the taxpayer qualified for the credit or the position filled by the employee is
8 moved to another county, the credit expires and the taxpayer may not take any
9 remaining installment of the credit. The taxpayer may, however, take the portion of an
10 installment that accrued in a previous year and was carried forward to the extent
11 permitted under subsection (e) of this section.

12 The North Carolina Employment Security Commission shall determine the number
13 of new full-time jobs eligible for the credit allowed by this section by comparing the
14 average number of full-time employees reported by the taxpayer on the quarterly wage
15 reports submitted to the Commission during the year with the number reported the
16 previous year, and shall provide that information to the Secretary of Revenue annually
17 for each employer eligible under subsection (b) of this section.

18 For the purposes of this section, a full-time job is a position that requires at least
19 1,600 hours of work per year and is intended to be held by one employee during the
20 entire year. A full-time employee is an employee who holds a full-time job.

21 (b) Eligibility. – A taxpayer is eligible for the credit allowed by this subsection
22 only if he owns a business that engages in manufacturing, agribusiness, processing,
23 warehousing, wholesaling, retailing, research and development, or a service-related
24 industry, as determined by the Employment Security Commission.

25 (c) County Designation. – A severely distressed county is a county designated as
26 such by the Secretary of the Department of Commerce. Each year, on or before
27 December 31, the Secretary of the Department of Commerce shall designate which
28 counties are considered severely distressed, and shall provide that information to the
29 Secretary of Revenue. A county is considered severely distressed if its distress factor is
30 one of the twenty highest in the State and it has an unemployment rate of seven percent
31 (7%) or more. The Secretary of Commerce shall assign to each county in the State a
32 distress factor which is the sum of (1) the county's rank in a ranking of counties by rate
33 of unemployment from lowest to highest and (2) the county's rank in a ranking of
34 counties by per capita income from highest to lowest. In measuring rates of
35 unemployment and per capita income, the Secretary of Commerce shall use data from
36 the North Carolina Employment Security Commission and the United States
37 Department of Commerce for the most recent thirty-six month period for which data is
38 available. A designation as a severely distressed county is effective only for the
39 calendar year following the designation.

40 (d) Planned Expansion. – A person who, during the year in which a county is
41 designated as a severely distressed county, signs a letter of commitment with the
42 Department of Commerce to create at least twenty new full-time jobs in that distressed
43 county within two years ~~of~~ after the date the letter is signed qualifies for the credit
44 allowed by this section even though the employees are not hired that year. The credit

1 shall be available in the ~~income-taxable~~ year after at least twenty employees have been
2 hired if such hirings are within the two-year commitment period. The conditions
3 outlined in subsection (a) apply to a credit taken under this subsection, except that if the
4 county is no longer designated a severely distressed county after the year the letter of
5 commitment was signed, the credit is still available. If the taxpayer does not hire the
6 employees within the two-year period, he does not qualify for the credit. However, if
7 the taxpayer qualifies for a credit under subsection (a) in the year any new employees
8 are hired, he may take the credit under that subsection.

9 (e) Limitations. – The sale, merger, acquisition, or bankruptcy of a business, or
10 any other transaction by which an existing business reformulates itself as another
11 business, does not create new eligibility in a succeeding business with respect to jobs
12 for which the predecessor was not eligible under this section. A taxpayer may,
13 however, take any installment of or carried-over portion of a credit that his predecessor
14 could have taken if he had taxable income. Jobs transferred from one county in the
15 State to another county in the State shall not be considered new jobs for purposes of this
16 section. A credit taken under this section may not exceed fifty percent (50%) of the tax
17 imposed by this Division for the taxable year, reduced by the sum of all other credits
18 allowed under this Division, except tax payments made by or on behalf of the taxpayer.
19 Any unused portion of the credit may be carried forward for the next succeeding five
20 years."

21 Sec. 15. Division II of Article 4 of Chapter 105 of the General Statutes is
22 amended by adding after G.S. 105-151.17 two new sections to read:

23 **"§ 105-151.18. Credit for the disabled.**

24 A person who (i) is retired on disability, (ii) at the time of retirement, was
25 permanently and totally disabled as defined in section 22 of the Code, and (iii) claims a
26 federal income tax credit under section 22 of the Code for the taxable year, is allowed as
27 a credit against the tax imposed by this Division an amount equal to one-third of the
28 amount of the federal income tax credit for which he is eligible under section 22 of the
29 Code. The credit allowed under this section may not exceed the amount of tax imposed
30 by this Division for the taxable year reduced by the sum of all credits allowed under this
31 Division, except payments of tax made by or on behalf of the taxpayer.

32 **"§ 105-151.19. Credit for North Carolina dividends.**

33 There is allowed as a credit against the tax imposed by this Division an amount
34 equal to six percent (6%) of the amount of dividends received by the taxpayer during
35 the taxable year from stock issued by a qualified corporation, up to a maximum credit of
36 three hundred dollars (\$300.00) per taxpayer for the taxable year. A corporation is a
37 qualified corporation if the proportion of its entire net income or loss allocable to this
38 State for the taxable year under G.S. 105-130.4 exceeds fifty percent (50%), except that
39 no credit shall be allowed for dividends issued with respect to a taxable period during
40 which the corporation is an S Corporation subject to the provisions of Division I-S of
41 this Article. This credit may not exceed the amount of tax imposed by this Division for
42 the taxable year reduced by the sum of all credits allowed under this Division, except
43 payments of tax made by or on behalf of the taxpayer."

44 Sec. 16. G.S. 105-152 reads as rewritten:

1 **"§ 105-152. Returns.**

2 (a) The following persons shall file with the Secretary of Revenue an income tax
3 return under affirmation, showing therein specifically the ~~items of gross taxable income~~
4 and the ~~deductions allowed~~ adjustments required by this Division, and such other facts as
5 the Secretary may require for the purpose of making any computation required by this
6 Division:

7 (1) Every resident required to file an income tax return for the taxable year
8 under the Code and every or nonresident who (i) derived gross income
9 from North Carolina sources during the taxable year attributable to the
10 ownership of any interest in real or tangible personal property in this
11 State or derived from a business, trade, profession, or occupation
12 carried on in this State and (ii) is required to file an income tax return
13 for the taxable year under the Code. ~~has a gross income during the~~
14 ~~income year which is in excess of the personal exemption to which he or she~~
15 ~~is entitled under the provisions of G.S. 105-149(a), without the inclusion of~~
16 ~~the exemptions for dependents provided under subdivision (5), any part of~~
17 ~~which is subject to taxation in this State.~~

18 (2) ~~Every resident or nonresident required under the provisions of G.S.~~
19 ~~105-149(b) to prorate his exemption and who has a gross income~~
20 ~~during the income year from sources both within and without this State~~
21 ~~in excess of the prorated exemption, any part of which is subject to~~
22 ~~taxation in this State.~~

23 (3)(2) Every partnership doing business in this State as provided in G.S.
24 105-154.

25 (4)(3) Any person whom the Secretary believes to be liable for a tax under
26 this Division, when so notified by the Secretary of Revenue and
27 requested to file a return.

28 (b) If the taxpayer is unable to make his own return, the return shall be made by a
29 duly authorized agent or by a guardian or other person charged with the care of the
30 person or property of ~~such~~ the taxpayer.

31 (c) The return of an ~~individual, who, while living, receiving income in excess of the~~
32 ~~exemption during the income year,~~ individual who was required to file a return for the
33 taxable year while living and who has died before making the return, shall be made in
34 his name and behalf by the ~~administrator,~~ administrator or executor of the estate, and the
35 tax shall be levied upon and collected from ~~his~~ the estate.

36 (d) When the Secretary of Revenue has reason to believe that any taxpayer so
37 conducts ~~the~~ a trade or business as either directly or indirectly to distort his ~~true net~~
38 taxable income and the net income properly attributable to the State, ~~or his North Carolina~~
39 net income whether by the arbitrary shifting of income, through price fixing, charges for
40 service, or otherwise, whereby the net income is arbitrarily assigned to one or another
41 unit in a group of taxpayers carrying on business under a substantially common control,
42 he may require such facts as he deems necessary for the proper computation of the ~~entire~~
43 net taxable income and the North Carolina net income properly attributable to the State,

1 income, and in determining the same the Secretary of Revenue shall have regard to the
 2 fair profit which that would normally arise from the conduct of the trade or business.

3 ~~(e) A joint return may not be filed by a husband and wife; however, a husband and~~
 4 ~~wife may, at their election, file their separate income tax returns on a single form, and a~~
 5 ~~husband and wife so filing shall be deemed to have expressly agreed that:~~

6 (1) ~~If the sum of the payments by either spouse, including withheld and~~
 7 ~~estimated taxes, exceeds the amount of the tax for which such spouse~~
 8 ~~is separately liable, the excess may be applied by the Department of~~
 9 ~~Revenue to the credit of the other spouse if the sum of the payments by~~
 10 ~~such other spouse, including withholding and estimated taxes, is less~~
 11 ~~than the amount of the tax for which such other spouse is separately~~
 12 ~~liable.~~

13 (2) ~~If the sum of the payments made by both spouses with respect to the~~
 14 ~~taxes for which they are separately liable, including withheld and~~
 15 ~~estimated taxes, exceeds the total of the taxes due, refund of the excess~~
 16 ~~may be made payable to both spouses or if either is deceased, to the~~
 17 ~~survivor.~~

18 A joint return may be filed by a husband and wife as provided in G.S. 105-152.1. A
 19 husband and wife filing jointly are jointly and severally liable for the tax imposed by
 20 this Division reduced by the sum of all credits allowable under this Division including
 21 tax payments made by or on behalf of the husband and wife. A husband and wife filing
 22 jointly shall be deemed to have expressly agreed that if the amount of the payments
 23 made by them with respect to the taxes for which they are liable, including withheld and
 24 estimated taxes, exceeds the total of the taxes due, refund of the excess may be made
 25 payable to both spouses jointly or, if either is deceased, to the survivor alone.

26 (f) The Secretary may require some or all persons required to file a return under
 27 this section to attach to the return a copy of their federal income tax return for the
 28 taxable year. The Secretary may require a taxpayer to provide the Department with
 29 copies of any other return the taxpayer has filed with the Internal Revenue Service and
 30 to verify any information in the return."

31 Sec. 17. Division II of Article 4 of Chapter 105 of the General Statutes is
 32 amended by adding after G.S. 105-152 a new section to read:

33 "**§ 105-152.1. Joint returns.**

34 A husband and wife shall make a single return jointly if:

35 (1) Their federal taxable income is determined on a joint federal return;
 36 and

37 (2) Both spouses are residents of this State or both spouses have North
 38 Carolina net income."

39 Sec. 18. G.S. 105-154 reads as rewritten:

40 "**§ 105-154. Information at the source.**

41 (a) Every individual, partnership, corporation, joint-stock company or
 42 association, or insurance company, being a resident or having a place of business or
 43 having one or more employees, agents, or other representatives in this State, in whatever
 44 capacity acting, including lessors or mortgagors of real or personal property, fiduciaries,

1 employers, and all officers and employees of the State or of any political subdivision of
2 the State and all officers and employees of the United States ~~of America~~ or of any
3 political subdivision or agency thereof having the control, receipt, custody, disposal, or
4 payment of interest (other than interest coupons payable to bearer), rent, salaries, wages,
5 dividends, premiums, annuities, compensations, remunerations, ~~emoluments~~
6 emoluments, or other fixed or determinable annual or periodical gains, profits, and
7 incomes paid or payable during any year to any taxpayer, shall make complete return
8 thereof to the Secretary ~~of Revenue~~ under such regulations and in such form and manner
9 and to such extent as may be prescribed by him. The filing of any report in compliance
10 with the provisions of this section by a foreign corporation shall not constitute an act in
11 evidence of and shall not be deemed to be evidence that such corporation is doing
12 business in this State.

13 (b) Every partnership doing business in the State shall make a ~~return~~, return
14 stating specifically the items of its gross income and the deductions allowed under the
15 Code and the adjustments required by this Division, and shall include in the return the
16 names and addresses of the individuals who would be entitled to share in the net income
17 if distributable, and the amount of the distributive share of each individual, together
18 with the distributive shares of corporation dividends. The return shall be signed by one
19 of the partners under affirmation in the form prescribed in G.S. 105-155 of this
20 Division, and the same penalties prescribed in G.S. 105-236 shall apply in the event of a
21 willful misstatement. If a business established in this State is owned by a nonresident
22 individual or by a partnership having one or more nonresident members, the manager of
23 the business shall report the earnings of the business in this State and the distributive
24 share of the income of each nonresident owner or partner, and shall pay the tax as levied
25 on individuals under G.S. 105-134.2(3) for each nonresident owner or partner. The
26 business may deduct the payment for each nonresident owner or partner from the owner
27 or partner's distributive share of the profits of the business in this State."

28 Sec. 19. G.S. 105-155 reads as rewritten:

29 **"§ 105-155. Time and place of filing returns.**

30 Returns shall be in such forms as the Secretary ~~of Revenue~~ may from time to time
31 prescribe, and shall be filed with the Secretary at his main office, or at any branch office
32 which he may establish. The return of every ~~person-taxpayer~~ reporting on a calendar
33 year basis shall be filed on or before the fifteenth day of April in each year, and the
34 return of every ~~person-taxpayer~~ reporting on a fiscal year basis shall be filed on or before
35 the fifteenth day of the fourth month following the close of the fiscal year. In case of
36 sickness, absence, or other disability or whenever in his judgment good cause exists, the
37 Secretary may allow further time for filing returns.

38 There shall be annexed to the return the affirmation of the taxpayer making the
39 return in the following form: 'Under penalties prescribed by law, I hereby affirm that to
40 the best of my knowledge and belief this return, including any accompanying schedules
41 and statements, is true and complete. (If prepared by a person other than the taxpayer,
42 his affirmation is based on all information of which he has any knowledge.)' The
43 Secretary shall ~~cause to be prepared~~ prepare blank forms for the ~~said~~ returns, and shall
44 ~~cause them to be distributed~~ distribute them throughout the State, and ~~to be furnished~~

1 furnish them upon application; but failure to receive or secure the form shall not relieve
2 any taxpayer from the obligation of ~~making any filing~~ a return herein ~~required~~ required by
3 this Division."

4 Sec. 20. G.S. 105-156 reads as rewritten:

5 **"§ 105-156. Failure to file returns; supplementary returns.**

6 If the Secretary of Revenue shall be of the opinion that any taxpayer has failed to file
7 a return or to include in a return filed, either intentionally or through error, ~~items of~~
8 taxable income, he may require from ~~such the~~ taxpayer a return or supplementary return,
9 under oath, in such form as he shall prescribe, of all the items of gross income which the
10 taxpayer received during the year for which the return is made, whether or not taxable
11 under the provisions of this Division. If from a supplementary return or otherwise the
12 Secretary finds that any ~~items of income, taxable under this Division, have taxable income~~
13 has been omitted from the original return, or any items returned as taxable that are not
14 taxable, or any item as taxable income overstated, he may require the ~~items taxable income~~
15 so omitted to be disclosed to him under oath of the taxpayer, and to be added to ~~or~~
16 ~~deducted from~~ the original return. ~~Such~~ The supplementary return and the correction of
17 the original return shall not relieve the taxpayer from any of the penalties to which he
18 may be liable under G.S. 105-236. The Secretary may proceed under the provisions of
19 G.S. ~~105-241.1, 105-241.1~~ whether or not he requires a return or a supplementary return
20 under this section."

21 Sec. 21. G.S. 105-156.1 is repealed.

22 Sec. 22. G.S. 105-157 reads as rewritten:

23 **"§ 105-157. Time and place of payment of tax.**

24 (a) Except as otherwise provided in this section and in Article 4A of this Chapter,
25 the full amount of the tax payable as shown on the face of the return shall be paid to the
26 Secretary of Revenue at the office where the return is filed at the time fixed by law for
27 filing the return. ~~return; provided, that when a husband and wife have elected under G.S. 105-~~
28 ~~152(e) to file their separate income tax returns on a single form and the amount for which one~~
29 ~~spouse is separately liable has been reduced by credit for overpayment of tax by the other~~
30 ~~spouse as provided in that subsection, only the amount in excess of such credit shall be~~
31 ~~payable; provided, that if~~ If the amount shown to be due ~~after all credits~~ is less than one
32 dollar (\$1.00), no payment need be made.

33 (b) The tax may be paid with uncertified check during such time and under such
34 regulations as the Secretary of Revenue ~~shall~~ may prescribe; but if a check so received is
35 not paid by the bank on which it is drawn, the taxpayer by whom ~~such the~~ check ~~is~~ was
36 tendered shall remain liable for the payment of the tax and for all legal penalties the
37 same as if ~~such the~~ check had not been tendered."

38 Sec. 23. G.S. 105-158 reads as rewritten:

39 **"§ 105-158. Abatement of income taxes of certain members of the armed forces**
40 **upon death.**

41 In the case of any individual

42 (1) Who dies

43 a. On or after January 1, ~~1964~~ 1964,

- 1 b. While in active service as a member of the armed forces of the
2 United States, and
3 c. While serving in a combat zone; ~~zone (as determined under~~
4 ~~G.S.105-141(b)(12);~~ or
5 (2) Who dies
6 a. On or after January 1, ~~1964;~~ 1964, and
7 b. As a result of wounds, ~~disease~~ disease, or injury incurred while
8 in active service as a member of the armed forces of the United
9 States, and while serving in a combat zone on or after January
10 1, 1964,

11 No individual income tax imposed by ~~the State of North Carolina~~ this Division shall apply
12 with respect to the taxable year in which falls the date of his death, or with respect to
13 any prior taxable year ending on or after the first day he so served in a combat zone; and
14 any tax under this Division and under the corresponding provisions of prior revenue
15 laws for taxable years preceding those above specified which is unpaid at the date of his
16 death (including interest, additions to the tax, and additional amounts) shall not be
17 assessed and if assessed the assessment shall be abated, and if collected shall be credited
18 or refunded as an overpayment. As used in this section, the term 'combat zone' means
19 an area which the President of the United States by executive order designates as an
20 area in which the Armed Forces of the United States are or have been engaged in
21 combat."

22 Sec. 24. G.S. 105-159 reads as rewritten:

23 **"§ 105-159. Corrections and changes.**

24 If the amount of the ~~net-taxable~~ income for any year of any taxpayer under this
25 Division, as reported or as reportable to the United States Treasury Department, is
26 changed, corrected, or otherwise determined by the Commissioner of Internal Revenue
27 or other officer of the United States of competent authority, ~~such the~~ taxpayer, within
28 two years after receipt of the internal revenue agent's report or supplemental report
29 reflecting the corrected or determined ~~net-taxable~~ income shall make return under oath
30 or affirmation to the Secretary ~~of Revenue~~ of such the corrected, ~~changed~~ changed, or
31 determined ~~net-taxable~~ income. In making ~~any an~~ assessment or refund under this
32 section, the Secretary shall consider all ~~facts or~~ evidence brought to his attention,
33 whether or not ~~the same were it was~~ considered or taken into account in the federal
34 assessment or correction. If the taxpayer fails to notify the Secretary ~~of Revenue~~ of
35 ~~assessment of additional tax by the Commissioner of Internal Revenue,~~ that the taxpayer's
36 taxable income for any year as reported or as reportable to the United States Treasury
37 Department, is changed, corrected, or otherwise determined for federal income tax
38 purposes, the statute of limitations shall not apply. apply to assessments under this
39 section. The Secretary ~~of Revenue~~ shall thereupon proceed to ~~determine,~~ determine from
40 such evidence as ~~he may have been~~ brought to his attention or ~~shall otherwise acquire,~~
41 the correct North Carolina net income of ~~such the~~ taxpayer for the ~~fiscal or calendar~~ taxable
42 year, and if there ~~shall be~~ is any additional tax due from such taxpayer ~~the same it~~ shall
43 be assessed and collected; and if there ~~shall have~~ has been an overpayment of the tax the
44 ~~said~~ Secretary shall, within 30 days after the final determination of the North Carolina

1 net income of ~~such the~~ taxpayer, refund the amount of ~~such the~~ excess: Provided, that
2 any taxpayer who fails to comply with this section as to ~~making report of such change as~~
3 ~~made by the federal government~~ within the time specified shall be subject to all penalties
4 as provided in G.S. 105-236, in case of additional tax due, and shall forfeit his rights to
5 any refund due by reason of such change.

6 When the taxpayer makes the return reflecting the corrected ~~net taxable~~ income as
7 required by this section, the Secretary of ~~Revenue~~ shall make assessments or refunds
8 based thereon within three years ~~from~~ after the date the return required by this section is
9 filed and not thereafter. When the taxpayer does not make the return reflecting the
10 corrected ~~net taxable~~ income as required by this section but the Department of ~~Revenue~~
11 receives from the United States government or one of its agents a report reflecting ~~such~~
12 corrected ~~net taxable~~ income, the Secretary of ~~Revenue~~ shall make assessments for taxes
13 due based on ~~such the~~ corrected ~~net taxable~~ income within five years ~~from~~ after the date
14 the report from the United States government or its agent is actually received and not
15 thereafter.

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

22 Sec. 25. G.S. 105-159.1 reads as rewritten:

23 "**§ 105-159.1. Designation of tax by individual to political party.**

24 (a) Every individual whose income tax liability for the taxable year is one dollar
25 (\$1.00) or more may designate on his or her income tax return that one dollar (\$1.00) of
26 the amount of tax paid by him or her to the Department of ~~Revenue~~ shall ~~thereafter~~ be
27 paid by the Secretary of ~~Revenue~~, ~~in the manner hereinafter described,~~ to the State
28 Treasurer for the use of all political parties ~~as defined herein~~ upon a pro rata basis
29 according to their respective party voter registrations according to the most recent
30 certification of the State Board of Elections; Provided, however, that no political party
31 with less than one percent (1%) of the total number of registered voters in the State shall
32 receive any ~~such of these~~ funds, and the registration of such ~~parties~~ a party shall not be
33 included in calculating the pro rata distribution. ~~For purposes of~~ As used in this section,
34 ~~political party~~ the term 'political party' shall ~~mean~~ means a political party which at the
35 last preceding general State election received at least ten percent (10%) of the entire
36 vote cast in the State for ~~Governor~~, Governor or for presidential electors, or a group of
37 voters who by July 1 of the preceding calendar year, by virtue of a petition as a new
38 political party, had duly qualified as a new political party within the meaning of Chapter
39 163 of the General ~~Statutes of North Carolina~~. Statutes.

40 (b) For each quarterly period beginning on or after January 1, 1978, ~~and for each~~
41 ~~quarterly period thereafter,~~ on or before the last day of the month following the close of
42 ~~each the~~ quarterly period, the Secretary of ~~Revenue~~ shall remit all funds ~~so~~ designated
43 ~~above~~ pursuant to this section collected during the preceding quarter to the State
44 Treasurer who shall ~~thereafter~~ deposit them in an interest-bearing account to be known

1 as the North Carolina ~~Election Campaign~~ Political Parties Financing Fund. Any interest
2 earned on funds so deposited shall be credited to the political party ~~for to~~ which said the
3 funds were ~~designated.~~ allocated. A report to the State Treasurer, State Board of
4 ~~Elections~~ Elections, and each State party chairman shall accompany each ~~such~~
5 remittance, and shall detail the amount of funds forwarded, the cumulative total of funds
6 forwarded to date for the year, and an estimate of the probable total amount to be
7 collected and forwarded for that calendar year.

8 (d) The Secretary of ~~Revenue~~ shall amend the income tax return in order that all
9 taxpayers desiring to make the political contributions authorized ~~herein~~ in this
10 section may do so by designating ~~same~~ on the front face of the tax return. The line of
11 authorization for ~~such the~~ designation shall be color contrasted with the color scheme of
12 the remainder of the income tax return. ~~Such return,~~ The return or its accompanying
13 explanatory ~~instruction,~~ instruction shall readily indicate that any ~~such~~ designations
14 neither increase nor decrease an individual's tax liability."

15 Sec. 26. Section 6 of Chapter 1089 of the 1987 Session Laws reads as
16 rewritten:

17 "Sec. 6. This act is effective for taxable years beginning on or after ~~July 1, 1990.~~
18 January 1, 1990."

19 Sec. 27. Sections 3 and 4 of Chapter 1089 of the 1987 Session Laws are
20 repealed.

21 Sec. 28. Division I-S of Article 4 of Chapter 105 of the General Statutes
22 reads as rewritten:

23 **"DIVISION I-S. S CORPORATION INCOME TAX.**

24 **"§ 105-131. Title; definitions; interpretation.**

25 (a) This Division of the income tax Article shall be known and may be cited as
26 the S Corporation Income Tax Act.

27 (b) For the purpose of this Division, unless otherwise required by the context:

28 (1) ~~'Business income' means items of income, loss, deduction or credit~~
29 ~~arising from transactions and activity in the regular course of the S~~
30 ~~Corporation's trade or business, and includes income from tangible and~~
31 ~~intangible property if the acquisition, management, and/or disposition~~
32 ~~of the property constitute integral parts of the S Corporation's regular~~
33 ~~trade or business operations.~~

34 (1) (2) 'Code' means the Internal Revenue Code of 1986, as enacted as of
35 January 1, ~~1988,~~ 1989, and includes any provisions enacted as of that
36 date which become effective either before or after that date.

37 (2) (3) 'C Corporation' means a corporation that is not an S Corporation
38 and is subject to the tax levied under Division I of this Article.

39 (3) (4) 'Department' means the Department of Revenue.

40 (4) 'Income attributable to the State' means items of income, loss,
41 deduction, or credit of the S Corporation apportioned and allocated to
42 this State pursuant to G.S. 105-130.4.

43 (5) ~~'Net income' or 'net loss' shall be the same as the S Corporation's~~
44 ~~taxable income, as defined in the Code.~~

- 1 (5) 'Income not attributable to the State' means all items of income, loss,
 2 deduction, or credit of the S Corporation other than income attributable
 3 to the State.
 4 ~~(6) 'Nonbusiness income' means all items of income, loss, deduction, or~~
 5 ~~credit of the S Corporation other than business income.~~
 6 (6) ~~(7)~~ 'Post-termination transition period' means that period defined in
 7 section 1377(b)(1) of the Code.
 8 ~~(7)~~ ~~(8)~~ 'Pro rata share' means the share determined with respect to an S
 9 Corporation shareholder for a taxable period in the manner provided in
 10 section 1377(a) of the Code.
 11 (8) ~~(9)~~ 'S Corporation' means a corporation for which a valid election
 12 under section 1362(a) of the Code is in effect.
 13 (9) ~~(10)~~ 'Secretary' means the Secretary of Revenue.
 14 (10) ~~(11)~~ 'Taxable period' means any taxable year or portion of a taxable
 15 year during which a corporation is an S Corporation.

16 (c) Except as otherwise expressly provided or clearly appearing from the context,
 17 any term used in this Division shall have the same meaning as when used in a
 18 comparable context in the Code, or in any statute relating to federal income taxes, in
 19 effect during the taxable period. Due consideration shall be given in the interpretation
 20 of this Division to applicable sections of the Code in effect and to federal rulings and
 21 regulations interpreting such sections, except where the Code, ruling, or regulation
 22 conflicts with the provisions of this Division.

23 **"§ 105-131.1. Taxation of an S Corporation and its shareholders.**

24 (a) An S Corporation shall not be subject to the tax levied under G.S. 105-130.3.

25 (b) Each shareholder's pro rata share of an S Corporation's income attributable to
 26 the State and each resident shareholder's pro rata share of income not attributable to the
 27 State, net income or net loss, to the extent apportioned and allocated to this State pursuant to
 28 G.S. 105-130.4, shall be taken into account by the shareholder in the manner and subject
 29 to the adjustments provided in ~~G.S. 105-131.2~~ Division II of this Article and section 1366
 30 of the Code and shall be subject to the tax levied under Division II of this Article.

31 **"§ 105-131.2. ~~Apportionment, allocation, adjustment, Adjustment and~~**
 32 **~~characterization of income.~~**

33 ~~(a) Allocation of Net Income. The net income of an S Corporation shall be~~
 34 ~~allocated and apportioned to this State as provided in G.S. 105-130.4.~~

35 (a) Adjustment. The pro rata share of each shareholder in the income attributable
 36 to the State of an S Corporation shall be subject to the adjustments provided in G.S.
 37 105-130.5. The pro rata share of each resident shareholder in the income not
 38 attributable to the State of an S Corporation shall be subject to the adjustments provided
 39 in G.S. 105-134.6(b) and (c).

40 ~~(b) Allocation of Shareholder's Pro Rata Share.~~

41 ~~(1) The pro rata share of each resident and nonresident shareholder in the~~
 42 ~~business income of the S Corporation apportioned to this State under~~
 43 ~~subsection (a) of this section shall, for purposes of G.S. 105-131.1(b),~~

1 be taken into account by the shareholder subject to the adjustments in
2 determining State net income as provided in G.S. 105-130.5.

3 (2) ~~The pro rata share of each resident shareholder in (i) the business
4 income of the S Corporation not apportioned to this State under
5 subsection (a) above, and (ii) the entire nonbusiness income of the S
6 Corporation, shall, for purposes of G.S. 105-131.1(b), be taken into
7 account by the shareholder subject to the adjustments in determining
8 State net income for items exempt from taxation in the State under
9 G.S. 105-141(b).~~

10 (3) ~~The pro rata share of each nonresident shareholder in the nonbusiness
11 income of the S Corporation allocated to this State under subsection
12 (a) above, shall, for purposes of G.S. 105-131.1(b), be taken into
13 account by the shareholder subject to the adjustments in determining
14 State net income as provided in G.S. 105-130.5.~~

15 (c) Characterization of Income. S Corporation items of income, loss,
16 deduction, and credit taken into account by a shareholder pursuant to G.S. 105-131.1(b)
17 shall be characterized for purposes of this Division as though received or incurred by the S
18 Corporation and not its shareholder.

19 **"§ 105-131.3. Basis and adjustments.**

20 (a) The initial basis of a resident shareholder in the stock of an S Corporation and
21 in any indebtedness of the corporation owed to that shareholder shall be determined, as
22 of the later of the date the stock is acquired, the effective date of the S Corporation
23 election, or the date the shareholder became a resident of this State, as provided under
24 the Code.

25 (b) The basis of a resident shareholder in the stock and indebtedness of an S
26 Corporation shall be adjusted in the manner and to the extent required by section 1011
27 of the Code except that:

28 (1) ~~Any adjustments made (other than for income exempt from federal or
29 State income taxes) to the S Corporation's business income and
30 nonbusiness income pursuant to G.S. 105-131.2 shall be taken into
31 account; and~~

32 (2) Any adjustments made pursuant to section 1367 of the Code for a
33 taxable period during which this State did not measure S Corporation
34 shareholder income by reference to the corporation's income shall be
35 disregarded.

36 (c) The initial basis of a nonresident shareholder in the stock of an S Corporation
37 and in any indebtedness of the corporation to that shareholder shall be zero.

38 (d) The basis of a nonresident shareholder in the stock and indebtedness of an S
39 Corporation shall be adjusted as provided in section 1367 of the Code, except that
40 adjustments to basis shall be limited to the business income and nonbusiness income
41 taken into account by the shareholder pursuant to G.S. 105-131.1(b).

42 (e) The basis of a shareholder in the stock of an S Corporation shall be reduced
43 by the amount allowed as a loss or deduction pursuant to G.S. 105-131.4(c).

1 (f) The basis of a resident shareholder in the stock of an S Corporation shall be
2 reduced by the amount of any cash distribution that is not taxable to the shareholder as a
3 result of the application of G.S. 105-131.6(b).

4 (g) For purposes of this section, a shareholder shall be considered to have
5 acquired stock or indebtedness received by gift at the time the donor acquired the stock
6 or indebtedness, if the donor was a resident of this State at the time of the gift.

7 **"§ 105-131.4. Carryforwards; carrybacks; loss limitation.**

8 (a) Carryforwards and carrybacks to and from an S Corporation shall be
9 restricted in the manner provided in section 1371(b) of the Code.

10 (b) The aggregate amount of losses or deductions of an S Corporation taken into
11 account by a shareholder pursuant to G.S. 105-131.1(b) may not exceed the combined
12 adjusted bases, determined in accordance with G.S. 105-131.3, of the shareholder in the
13 stock and indebtedness of the S Corporation.

14 (c) Any loss or deduction that is disallowed for a taxable period pursuant to
15 subsection (b) of this section shall be treated as incurred by the corporation in the
16 succeeding taxable period with respect to that shareholder.

17 (d) (1) Any loss or deduction that is disallowed pursuant to
18 subsection (b) of this section for the corporation's last taxable period
19 as an S Corporation shall be treated as incurred by the shareholder
20 on the last day of any post-termination transition period.

21 (2) The aggregate amount of losses and deductions taken into account by a
22 shareholder pursuant to subdivision (1) of this subsection may not
23 exceed the adjusted basis of the shareholder in the stock of the
24 corporation (determined in accordance with G.S. 105-131.3 at the
25 close of the last day of any post-termination transition period and
26 without regard to this subsection).

27 **"§ 105-131.5. Part-year resident shareholder.**

28 If a shareholder of an S Corporation is both a resident and nonresident of this State
29 during any taxable period, the shareholder's pro rata share of the S Corporation's income
30 attributable to the State and income not attributable to the State for the taxable period
31 ~~business income and nonbusiness income determined pursuant to G.S. 105-131.2~~ shall be
32 further prorated between the shareholder's periods of residence and nonresidence, in
33 accordance with the number of days in each ~~period~~ period, as provided in G.S. 105-
34 134.5.

35 **"§ 105-131.6. Distributions.**

36 (a) Subject to the provisions of subsection (c) of this section, a distribution made
37 by an S Corporation with respect to its stock to a resident shareholder shall be taxable to
38 the shareholder ~~under as provided in~~ Division II of this Article ~~only~~ to the extent that the
39 distribution is characterized as a dividend or as gain from the sale or exchange of
40 property pursuant to section 1368 of the Code.

41 (b) Subject to the provisions of subsection (c) of this section, any distribution of
42 money made by a corporation with respect to its stock to a resident shareholder during a
43 post-termination transition period shall not be taxable to the shareholder ~~under as~~
44 provided in Division II of this Article to the extent the distribution is applied against and

1 reduces the adjusted basis of the stock of the shareholder in accordance with section
2 1371(e) of the Code.

3 (c) In applying sections 1368 and 1371(e) of the Code to any distribution referred
4 to in this section:

5 (1) The term 'adjusted basis of the stock' means the adjusted basis of the
6 shareholder's stock as determined under G.S. 105-131.3; and

7 (2) The accumulated adjustments account maintained for each resident
8 shareholder shall be equal to, and shall be adjusted in the same manner
9 as, the corporation's accumulated adjustments account defined in
10 section 1368(e)(1)(A) of the Code, except that:

11 a. The accumulated adjustments account shall be modified in the
12 manner provided in G.S. 105-131.3(b)(1); and

13 b. The amount of the corporation's federal accumulated
14 adjustments account that existed on the day this State began to
15 measure the S Corporation shareholders' income by reference to
16 the income of the S Corporation shall be ignored and shall be
17 treated for purposes of Divisions I and II of this Article as
18 additional accumulated earnings and profits of the corporation.

19 **"§ 105-131.7. Returns; shareholder agreements; mandatory withholding.**

20 (a) An S Corporation incorporated or doing business in the State shall file with
21 the Department an annual return, on a form prescribed by the Secretary, on or before the
22 due date prescribed for the filing of C Corporation returns in G.S. 105-130.17. The
23 return shall show the name, address, and social security or federal identification number
24 of each shareholder, income attributable to the State and the income not attributable ~~the~~
25 ~~allocations and apportionments of income to this to the State with respect to each~~
26 ~~shareholder as determined under G.S. 105-131.2, defined in G.S. 105-131(4) and (5), and~~
27 such other information as the Secretary may require.

28 (b) The Department shall permit S Corporations to file composite returns and to
29 make composite payments of tax on behalf of some or all nonresident shareholders.
30 The Department may permit S Corporations to file composite returns and make
31 composite payments of tax on behalf of some or all resident shareholders.

32 (c) An S Corporation shall file with the Department, on a form prescribed by the
33 Secretary, the agreement of each nonresident shareholder of the corporation (i) to file a
34 return and make timely payment of all taxes imposed by this State on the shareholder
35 with respect to the income of the S Corporation, and (ii) to be subject to personal
36 jurisdiction in this State for purposes of the collection of any unpaid income tax,
37 together with related interest and penalties, owed by the nonresident shareholder. If the
38 corporation fails to timely file an agreement required by this subsection on behalf of any
39 of its nonresident shareholders, then the corporation shall at the time specified in
40 subsection (d) of this section pay to the Department on behalf of each nonresident
41 shareholder with respect to whom an agreement has not been timely filed ~~who fails to~~
42 ~~execute such an agreement~~ an amount equal to seven percent (7%) of the shareholder's pro
43 rata share of the S Corporation's net income attributable to the State reflected on the
44 corporation's return for the taxable period. An S Corporation may recover a payment

1 made pursuant to the preceding sentence from the shareholder on whose behalf the
2 payment was made, apportioned and allocated to this State pursuant to G.S. 105-130.4 and
3 adjusted pursuant to G.S. 105-131.2.

4 (d) The agreements required to be filed pursuant to subsection (c) of this section
5 shall be filed at the following times:

6 (1) At the time the annual return is required to be filed for the first taxable
7 period for which the S Corporation becomes subject to the provisions
8 of this Division; and

9 (2) At the time the annual return is required to be filed for any taxable
10 period in which the corporation has a nonresident shareholder on
11 whose behalf such an agreement has not been previously filed.

12 (e) Amounts paid to the Department on account of the corporation's shareholders
13 under subsections (b) and (c) shall constitute payments on their behalf of the income tax
14 imposed on them under Division II of this Article for the taxable period.

15 **"§ 105-131.8. Tax credits.**

16 (a) For purposes of G.S. 105-151, each resident shareholder shall be considered
17 to have paid a tax imposed on the shareholder in an amount equal to the shareholder's
18 pro rata share of any net income tax paid by the S Corporation to a state which does not
19 measure the income of S Corporation shareholders by the income of the S Corporation.
20 For purposes of the preceding sentence, the term 'net income tax' means any tax
21 imposed on or measured by a corporation's net income.

22 (a) (b) Each shareholder of an S Corporation shall be allowed as a credit against
23 the tax imposed by Division II of this Article in an amount equal to the shareholder's
24 pro rata share of the tax credits described in G.S. 105-130.22 through G.S. 105-130.39
25 for which the S Corporation is eligible."

26 Sec. 29. G.S. 53A-15(i) reads as rewritten:

27 "(i) The securities, evidences of indebtedness and shares of the capital stock issued
28 by the corporation established under the provisions of this Article, ~~their transfer, and~~
29 ~~income therefrom,~~ and deposits of financial institutions invested therein, shall at all times
30 be free from taxation within the State. Gain from the disposition of, and income from,
31 such securities, evidences of indebtedness, and shares of stock, shall be taxable under
32 Article 4 of Chapter 105 of the General Statutes to the same extent as it is taxable under
33 the Internal Revenue Code."

34 Sec. 30. G.S. 115E-21 reads as rewritten:

35 **"§ 115E-21. Tax exemption.**

36 The exercise of the powers granted by this Chapter will be in all respects for the
37 benefit of the people of the State and will promote their health and welfare, and no tax
38 or assessment shall be levied upon any project undertaken by the agency prior to the
39 retirement or provision for the retirement of all bonds or notes issued and obligations
40 incurred by the agency in connection with such project.

41 Any bonds or notes issued by the agency under the provisions of this Chapter, ~~their~~
42 ~~transfer and the income therefrom (including any profit made on the sale thereof)~~ Chapter
43 shall at all times be free from taxation by the State or any local unit or political
44 subdivision or other instrumentality of the State, excepting inheritance or gift taxes.

1 Gain from the disposition of, and income from, such bonds and notes shall be taxable
2 under Article 4 of Chapter 105 of the General Statutes to the same extent as it is taxable
3 under the Internal Revenue Code."

4 Sec. 31. G.S. 116-183 reads as rewritten:

5 **"§ 116-183. Acceptance of grants; exemption from taxation.**

6 The Board is hereby authorized, subject to the approval of the Director of the
7 Budget, to accept grants of money or materials or property of any kind for any project
8 from a federal agency, private agency, corporation or individual, upon such terms and
9 conditions as such federal agency, private agency, corporation or individual may
10 impose. The bonds issued under the provisions of this Article ~~and the income therefrom~~
11 shall at all times be free from taxation within the State. Gain from the disposition of,
12 and income from, such bonds shall be taxable under Article 4 of Chapter 105 of the
13 General Statutes to the same extent as it is taxable under the Internal Revenue Code."

14 Sec. 32. G.S. 116-196 reads as rewritten:

15 **"§ 116-196. Exemption from taxation; bonds eligible for investment or deposit.**

16 Any bonds issued under this Article, including any of such bonds constituting a part
17 of the surplus of any bank, trust company or other ~~corporation, and the transfer of and the~~
18 ~~income from any such bonds (including any profit made on the sale thereof and all principal,~~
19 ~~interest and redemption premiums, if any) corporation shall at all times be exempt from all~~
20 taxes or assessment, direct or indirect, general or special, whether imposed for the
21 purpose of general revenue or otherwise, which are levied or assessed by the State or by
22 any county, political subdivision, agency or other instrumentality of the State. Gain
23 from the disposition of, and income from, such bonds shall be taxable under Article 4 of
24 Chapter 105 of the General Statutes to the same extent as it is taxable under the Internal
25 Revenue Code. Bonds issued by the Board under the provisions of this Article are
26 hereby made securities in which all public officers and public bodies of the State and its
27 political subdivisions, all insurance companies, trust companies, banking associations,
28 investment companies, executors, administrators, trustees and other fiduciaries may
29 properly and legally invest funds, including capital in their control or belonging to them.
30 Such bonds are hereby made securities which may properly and legally be deposited
31 with and received by any State or municipal officer or any agency or political
32 subdivision of the State for any purpose for which the deposit of bonds or obligations of
33 the State is now or may hereafter be authorized by law."

34 Sec. 33. G.S. 122A-19 reads as rewritten:

35 **"§ 122A-19. Tax exemption.**

36 The exercise of the powers granted by this Chapter will be in all respects for the
37 benefit of the people of the State, for their well-being and prosperity and for the
38 improvement of their social and economic conditions, and the Agency shall not be
39 required to pay any tax or assessment on any property owned by the Agency under the
40 provisions of this Chapter or upon the income therefrom.

41 Any obligations issued by the Agency under the provisions of this ~~Chapter, their~~
42 ~~transfer and the income therefrom (including any profit made on the sale thereof), Chapter~~
43 shall at all times be free from taxation by the State or any local unit or political
44 subdivision or other instrumentality of the State, excepting inheritance or gift taxes.

1 Gain from the disposition of, and income from, such obligations shall be taxable under
2 Article 4 of Chapter 105 of the General Statutes to the same extent as it is taxable under
3 the Internal Revenue Code."

4 Sec. 34. G.S. 122D-14 reads as rewritten:

5 **"§ 122D-14. Exemption from taxes.**

6 The exercise of the powers granted by this Chapter will be in all respects for the
7 benefit of the people of the State, for their well-being and prosperity and for the
8 improvement of their social and economic conditions, and the Authority shall not be
9 required to pay any tax or assessment on any property owned by the Authority under the
10 provisions of this Chapter or upon the income therefrom.

11 Any obligations issued by the Authority under the provisions of this Chapter, ~~their~~
12 ~~transfer and the income therefrom (including any profit made on the sale thereof),~~ Chapter
13 shall at all times be free from taxation by the State or any local unit or political
14 subdivision or other instrumentality of the State, excepting inheritance or gift taxes.
15 Gain from the disposition of, and income from, such obligations shall be taxable under
16 Article 4 of Chapter 105 of the General Statutes to the same extent as it is taxable under
17 the Internal Revenue Code."

18 Sec. 35. G.S. 131A-21 reads as rewritten:

19 **"§ 131A-21. Tax exemption.**

20 The exercise of the powers granted by this Chapter will be in all respects for the
21 benefit of the people of the State and will promote their health and welfare, and no tax
22 or assessment shall be levied upon any health care facilities undertaken by the
23 Commission prior to the retirement or provision for the retirement of all bonds or notes
24 issued and obligations incurred by the Commission in connection with such health care
25 facilities.

26 Any bonds or notes issued by the Commission under the provisions of this Chapter,
27 ~~their transfer and the income therefrom (including any profit made on the sale thereof),~~ Chapter
28 shall at all times be free from taxation by the State or any local unit or political
29 subdivision or other instrumentality of the State, excepting inheritance or gift taxes.
30 Gain from the disposition of, and income from, such bonds and notes shall be taxable
31 under Article 4 of Chapter 105 of the General Statutes to the same extent as it is taxable
32 under the Internal Revenue Code."

33 Sec. 36. G.S. 131E-28(c) reads as rewritten:

34 "(c) Bonds, notes, debentures, or other evidences of indebtedness of a hospital
35 authority issued under the Local Government Revenue Bond Act, Chapter 159 of the
36 General Statutes, Article 5, or issued pursuant to the bond and revenue anticipation
37 provisions of Chapter 159 of the General Statutes, Article 9, or issued pursuant to G.S.
38 131E-26(b) or contracted pursuant to G.S. 131E-32 ~~and the transfer of and income from~~
39 ~~such instruments, including profits on sales,~~ shall at all times be free from taxation by the
40 State or any of its subdivisions, except for inheritance or gift taxes. Gain from the
41 disposition of, and income from, such bonds, notes, debentures, or other evidences of
42 indebtedness shall be taxable under Article 4 of Chapter 105 of the General Statutes to
43 the same extent as it is taxable under the Internal Revenue Code."

44 Sec. 37. G.S. 143B-456(g) reads as rewritten:

1 "(g) Any obligations issued by the Authority under the provisions of this Part, ~~their~~
2 ~~transfer and the income therefrom (including any profit made on the sale thereof),~~ Part shall at
3 all times be free from taxation by the State or any local unit or political subdivision or
4 other instrumentality of the State, excepting inheritance or gift taxes. Gain from the
5 disposition of, and income from, such obligations shall be taxable under Article 4 of
6 Chapter 105 of the General Statutes to the same extent as it is taxable under the Internal
7 Revenue Code."

8 Sec. 38. G.S. 157-26 reads as rewritten:

9 "**§ 157-26. Tax exemptions.**

10 The authority shall be exempt from the payment of any taxes or fees to the State or
11 any subdivision thereof, or to any officer or employee of the State or any subdivision
12 thereof. The property of an authority used for public purposes shall be exempt from all
13 local and municipal taxes and for the purposes of such tax exemption, it is hereby
14 declared as a matter of legislative determination that an authority is and shall be deemed
15 to be a municipal corporation. Bonds, notes, debentures and other evidences of
16 indebtedness of an authority (including any corporate agent thereof authorized by this
17 Article to exercise the powers of the authority) heretofore or hereafter issued are
18 declared to be issued for a public purpose and to be public instrumentalities ~~and, together~~
19 ~~with the interest thereon,~~ and shall be exempt from taxes. Gain from the disposition of,
20 and income from, such bonds, notes, debentures, and other evidences of indebtedness,
21 and shares of stock, shall be taxable under Article 4 of Chapter 105 of the General
22 Statutes to the same extent as it is taxable under the Internal Revenue Code."

23 Sec. 39. G.S. 159B-26 reads as rewritten:

24 "**§ 159B-26. Tax exemption.**

25 ~~Bonds, their transfer and the income therefrom (including any profit made on the sale~~
26 ~~thereof),~~ Bonds shall at all times be free from taxation by the State or any political
27 subdivision or any agency of either thereof, excepting inheritance or gift taxes. Gain
28 from the disposition of, and income from, such bonds shall be taxable under Article 4 of
29 Chapter 105 of the General Statutes to the same extent as it is taxable under the Internal
30 Revenue Code."

31 Sec. 40. G.S. 159C-14 reads as rewritten:

32 "**§ 159C-14. Tax exemption.**

33 The authority shall not be required to pay any taxes on any project or on any other
34 property owned by the authority under the provisions of this Chapter or upon the
35 income therefrom.

36 The interest on bonds issued by the authority shall be exempt from ~~all~~ income taxes
37 within the State to the same extent as it is exempt from income taxes under the Internal
38 Revenue Code.

39 All projects and all transactions therefor shall be subject to taxation to the extent
40 such projects and transactions would be subject to taxation if no public body were
41 involved therewith."

42 Sec. 41. G.S. 105-160 reads as rewritten:

43 "**§ 105-160. Short title.**

1 This Division shall be known ~~and may be cited~~ as the Income Tax Act for Estates and
2 Trusts."

3 Sec. 42. G.S. 105-161, 105-162, and 105-163 are repealed.

4 Sec. 43. Division III of Article 4 of Chapter 105 of the General Statutes is
5 amended by adding after G.S. 105-160 a new section to read:

6 **"§ 105-160.1. Estates and trusts.**

7 (a) Imposition of the Tax. The tax imposed by this Division shall apply to the
8 taxable income of estates and trusts as determined under the provisions of the Code
9 except as otherwise provided in this Division.

10 (b) Computation and Payment. The taxable income of an estate or trust shall be
11 the same as taxable income for such an estate or trust under the provisions of the Code,
12 adjusted as provided in G.S. 105-134.6 and G.S. 105-134.7, except that the adjustments
13 provided in G.S. 105-134.6 and G.S. 105-134.7 shall be apportioned between the estate
14 and the beneficiaries based on the distributions made during the taxable year. The tax
15 shall be computed at the following percentages of an amount equal to the taxable
16 income multiplied by a fraction, the numerator of which is the estate or trust's gross
17 income from North Carolina sources, plus the gross income from sources outside of the
18 State and from intangible sources which is for the benefit of a resident of this State, and
19 the denominator of which is the estate or trust's gross income as calculated under the
20 Code. For purposes of the preceding sentence, the words 'taxable income' and 'gross
21 income' shall be computed subject to the adjustments provided in G.S. 105-134.6 and
22 G.S. 105-134.7. The tax shall be at five percent (5%) on the first twelve thousand
23 dollars (\$12,000) of the amount computed above; and at eight percent (8%) on the
24 excess of the amount computed above over twelve thousand dollars (\$12,000). The tax
25 computed under the provisions of this Division shall be paid by the fiduciary
26 responsible for administering the estate or trust.

27 (c) Definitions. For the purpose of this Division, the words and phrases defined
28 in Division II of this Article shall have the same meanings prescribed to them in that
29 Division, except in those instances where the context clearly indicates a different
30 meaning.

31 (d) Tax Credits for Income Taxes Paid to Other States.

32 (1) If a fiduciary is required to pay income tax to this State for an estate or
33 a trust for which he acts, he shall be allowed a credit against the taxes
34 imposed by this section for income taxes imposed by and paid to
35 another state or country on income derived from sources within that
36 other state or country in accordance with the formula contained in
37 subdivision (2) of this subsection and the requirements of subdivision
38 (3) of this subsection.

39 (2) The fraction of the gross income for North Carolina income tax
40 purposes which is derived from sources within and subject to income
41 tax in another state or country shall be ascertained and the North
42 Carolina net income tax before credit under this subsection shall be
43 multiplied by that fraction. The credit allowed shall be either the

1 product thus calculated or the income tax actually paid the other state
2 or country, whichever is smaller.

3 (3) Receipts showing the payment of income taxes to another state or
4 country and a true copy of a return or returns upon the basis of which
5 the taxes are assessed shall be filed with the Secretary of Revenue at or
6 prior to the time credit is claimed. If credit is claimed on account of a
7 deficiency assessment, a true copy of the notice assessing or proposing
8 to assess the deficiency, as well as a receipt showing the payment of
9 the deficiency, shall be filed.

10 (4) If any taxes paid to another state or country for which a fiduciary has
11 been allowed a credit under this section are at any time credited or
12 refunded to the fiduciary, a tax equal to that portion of the credit
13 allowed for the taxes so credited or refunded shall be due and payable
14 from the fiduciary within 30 days after the date of the receipt of the
15 refund or the notice of the credit. If the amount of tax due is not paid
16 within 30 days after receipt or notice, the fiduciary shall be subject to
17 the penalties and interest on delinquent payments provided in G.S.
18 105-236 and G.S. 105-241.1.

19 (5) A resident beneficiary of an estate or trust who is taxed under the
20 provisions of Division II of this Article on income from an estate or
21 trust determined to be includable in his gross income shall be allowed
22 a credit against the tax imposed for income taxes paid by the fiduciary
23 to another state or country on the income in accordance with the
24 formula contained in subsection (d)(2) of this section and the
25 requirements of subsection (d)(3) of this section; provided, that if any
26 taxes paid to another state or country for which a beneficiary has been
27 allowed credit under this section are at any time credited or refunded
28 to the beneficiary, a tax equal to that portion of the credit allowed for
29 the taxes so credited or refunded shall be due and payable from the
30 beneficiary within 30 days after the date of receipt of the refund or
31 notice of the credit. If the amount of tax due is not paid within 30 days
32 after receipt or notice, the beneficiary shall be subject to the penalties
33 and interest on delinquent payments provided in G.S. 105-236 and
34 G.S. 105-241.1.

35 (e) Returns. The fiduciary of an estate or trust shall file an income tax return for
36 the following trusts or estates under affirmation, showing therein specifically the taxable
37 income and the adjustments required by this Division, and such other facts as the
38 Secretary may require for the purpose of making any computation required by this
39 Division:

40 (1) Every estate or trust which has taxable income under this Division
41 during the taxable year and is required to file an income tax return for
42 the taxable year under the Code.

1 (2) Every estate or trust which the Secretary believes to be liable for a tax
2 under this Division, when so notified by the Secretary of Revenue and
3 requested to file a return.

4 (f) Time and Place of Filing Returns. Returns required under the provisions of
5 subsubsection (e) of this section shall be in such form as the Secretary of Revenue may
6 prescribe, and shall be filed with the Secretary at his main office, or at any branch office
7 which he may establish. The return of every fiduciary reporting on a calendar-year
8 basis shall be filed on or before the fifteenth day of April in each year, and the return of
9 every fiduciary reporting on a fiscal year basis shall be filed on or before the fifteenth
10 day of the fourth month following the close of the fiscal year. In the case of sickness,
11 absence, or other disability or whenever in his judgment good cause exists, the
12 Secretary may allow further time for filing these returns.

13 (g) Time and Place of Payment of Tax.

14 (1) The full amount of the tax payable as shown on the face of the return
15 shall be paid to the Secretary of Revenue at the office where the return
16 is filed at the time fixed by law for filing the return; provided, that if
17 the amount shown to be due after all credits is less than one dollar
18 (\$1.00), no payment need be made.

19 (2) The tax may be paid with uncertified check, but if a check so received
20 is not paid by the bank on which it is drawn, the fiduciary by whom
21 the check is tendered shall remain liable for the payment of the tax and
22 for all penalties lawfully imposed.

23 (h) Corrections and Changes. For purposes of this section, the provisions of G.S.
24 105-159 requiring an individual to report changes, corrections, or the determination of
25 net income by the Internal Revenue Service shall apply also to fiduciaries required to
26 file returns for estates and trusts."

27 Sec. 44. G.S. 105-163.02(11) reads as rewritten:

28 "(11) 'Taxable year' shall have the meaning ascribed to such term in G.S. 105-
29 ~~135(9)~~ 105-134.1(14) and G.S. 105-130.2(5), as appropriate. In addition, 'taxable year'
30 shall be that taxable year for which a manufacturer files an income tax return upon
31 which the tax credit provided for under this Division is claimed."

32 Sec. 45. G.S. 105-163.1(3) reads as rewritten:

33 "(3) 'Dependent' means a dependent with respect to whom an income tax
34 exemption is allowed under the provisions of G.S. 105-149(a)(5) the Code."

35 Sec. 46. G.S. 105-163.2(a) and (b) read as rewritten:

36 "(a) Every employer making payment of wages on or after January 1, 1960, shall
37 deduct and withhold with respect to the wages of each employee for each payroll period
38 an amount determined as follows:

39 Such amount which, if an equal amount was collected for each similar payroll period
40 with respect to a similar amount of wages for each payroll period during an entire
41 calendar year, would aggregate or approximate the income tax liability of such
42 employee under Article 4 of this Chapter after making allowance for the personal
43 exemptions to which such employee would be entitled on the basis of his status during
44 such payroll period and after making allowance for withholding purposes for a

1 deduction from wages of the amount of the standard deduction allowed under ~~G.S. 105-~~
2 ~~147(22)~~ the Code and without making allowance for any other deductions.

3 (b) The Secretary of Revenue shall cause to be prepared and shall promulgate
4 tables for computing amounts to be withheld with respect to different rates of wages for
5 different payroll periods applicable to the various combinations of exemptions to which
6 an employee may be entitled and taking into account the ~~limited ten percent (10%)~~
7 standard deduction above referred to. Such tables may provide for the same amount to
8 be withheld within reasonable salary brackets or ranges so designed as to result in the
9 withholding during a year of approximately the amount of an employee's indicated
10 income tax liability with respect to said year. The withholding of wages pursuant to and
11 in accordance with such tables shall be deemed as a matter of law to constitute
12 compliance with the provisions of subsection (a) of this section, notwithstanding any
13 other provisions of this Article."

14 Sec. 47. G.S. 105-163.3 reads as rewritten:

15 **"§ 105-163.3. Withholding in accordance with regulations.**

16 The manner of withholding and the amount to be deducted and withheld under G.S.
17 105-163.2 shall be determined in accordance with tables, rules and regulations
18 promulgated by the Secretary. The withholding exemption allowed by such tables, rules
19 and regulations shall, as nearly as possible, approximate the exemptions to which an
20 employee would be entitled under ~~G.S. 105-149~~ the Code."

21 Sec. 48. G.S. 105-163.5(b) reads as rewritten:

22 "(b) Every employee shall, on or before January 1, 1960, or at the time of
23 commencing employment, whichever is later, furnish his employer with a signed
24 withholding exemption certificate informing the employer of the exemptions which the
25 employee claims, which in no event shall exceed the amount of exemptions to which the
26 employee is entitled under ~~G.S. 105-149~~ the Code; but, in the event that the employee
27 fails to file the exemption certificate required herein, the employer, in computing
28 amounts to be withheld from said employee's wages, shall allow the employee the
29 exemption accorded a single person with no dependents."

30 Sec. 49. G.S. 105-163.10 reads as rewritten:

31 **"§ 105-163.10. Withheld amounts credited to individual for calendar year.**

32 The amount deducted and withheld under G.S. 105-163.2 during any calendar year
33 from the wages of any individual shall be allowed as a credit to such individual against
34 the tax imposed by G.S. ~~105-136~~ 105-134.2, for taxable years beginning in such
35 calendar year. If more than one taxable year begins in such calendar year such amount
36 shall be allowed as a credit against the tax for the last taxable year so beginning. As a
37 prerequisite to obtaining the credit allowed herein, the individual taxpayer must file
38 with the Secretary one copy, and such other copies and information as may be required
39 by regulation, of the withholding statement provided for by G.S. 105-163.7, and such
40 withholding statement must accompany the annual income tax return required by G.S.
41 105-152."

42 Sec. 50. G.S. 105-163.16(d), (e), and (f) read as rewritten:

43 "(d) When a husband and wife have elected under ~~G.S. 105-152(e)~~ G.S. 105-152.1 to
44 file ~~their separate income tax returns on a single form a joint return~~ and a refund for

1 overpayment of tax is made payable to both spouses as provided in that subsection, the
2 provisions of this section shall apply to such refund.

3 (e) Any taxpayer who shall be entitled to a refund of taxes withheld or estimated
4 taxes paid as provided by this section may elect to contribute all or any part of ~~such~~the
5 refund to the Wildlife Fund for the support of wildlife management and protection
6 programs primarily for nongame wildlife species and wildlife species which are or may
7 hereafter be designated as endangered or threatened. The Secretary shall provide
8 appropriate language and space on the individual income tax form in which to make
9 ~~such election~~ the election ~~and shall note the same in his instructions as a contribution~~
10 ~~qualifying as a deduction under G.S. 105-147(16).~~ Any such election shall become
11 irrevocable upon filing the taxpayer's income tax return for the taxable year. All of ~~such~~
12 the contributions made pursuant to this subsection shall be transmitted to the State
13 Treasurer for credit to the Wildlife Fund which shall be made available to the Wildlife
14 Resources Commission for the support of management and protection programs
15 primarily for nongame wildlife and endangered and threatened species and to match
16 federal funds which may become available for such purposes.

17 (f) Any taxpayer who shall be entitled to a refund of taxes withheld or estimated
18 taxes paid as provided by this section may elect to contribute all or any part of ~~such~~the
19 refund to the North Carolina Candidates Financing Fund for the use of political
20 campaigns as provided in Article 22C of Chapter 163 of the General Statutes. The
21 Secretary shall provide appropriate language and space on the individual income tax
22 form in which to make ~~such election~~ the election ~~and shall note the same in his instructions~~
23 ~~as a contribution qualifying as a deduction under G.S. 105-147(16).~~ Any such election shall
24 become irrevocable upon filing the taxpayer's income tax return for the taxable year.
25 The Secretary shall, on a quarterly basis, transmit the ~~remainder of such~~ the contributions
26 made pursuant to this subsection to the State Treasurer for deposit in the North Carolina
27 Candidates Financing Fund. Any interest earned on funds so deposited shall be credited
28 to that Fund."

29 Sec. 51. G.S. 105-203 reads as rewritten:

30 **"§ 105-203. Shares of stock.**

31 All shares of stock (including shares and units of ownership of mutual funds,
32 investment ~~trusts~~ trusts, and investment funds) owned by residents of this State or
33 having a business, ~~commercial~~ commercial, or taxable situs in this State on December 31
34 of each year, with the exception herein provided, shall be subject to an annual tax,
35 which is hereby levied, of twenty-five cents (25¢) on every one hundred dollars
36 (\$100.00) of the total fair market value of such stock on December 31 of each year less
37 such proportion of such value as is equal ~~to the proportion of the dividends upon such stock~~
38 ~~deductible by such taxpayer in computing his income tax liability under the provisions of G.S.~~
39 ~~105-130.7 and 105-147(7) without regard to the fifteen thousand dollar (\$15,000) limitation~~
40 ~~under subdivision (7) of G.S. 105-147 and 105-130.7. to:~~

41 (1) In the case of a taxpayer that is a corporation, the proportion of the
42 dividends upon such stock deductible by such taxpayer in computing
43 its income tax liability under G.S. 105-130.7 without regard to the
44 fifteen thousand dollar (\$15,000) limitation under G.S. 105-130.7; and

1 (2) In the case of a taxpayer that is not a corporation, the proportion of the
2 dividends upon such stock that would be deductible by such taxpayer,
3 if the taxpayer were a corporation, in computing its income tax
4 liability under the provisions of G.S. 105-130.7(1),(2),(3), and (3a),
5 without regard to the fifteen thousand dollar (\$15,000) limitation under
6 G.S. 105-130.7.

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

12 The tax herein levied shall not apply to units of ownership in an investment trust, the
13 corpus of which is composed (i) entirely of obligations of this State or (ii) entirely of
14 obligations of the United States and of this State, at least eighty percent (80%) of the
15 fair market value of which represents obligations of this State. For the purpose of this
16 paragraph, 'State' includes the State of North Carolina, political subdivisions of this
17 State, and agencies of such governmental units; 'United States' includes the United
18 States and its possessions, and the District of Columbia; 'obligations' includes bonds,
19 notes and other evidences of debt. In order for the exemption provided for in this
20 paragraph to apply, it shall be the duty of the trustees of an investment trust to provide
21 to the Secretary of Revenue, in form satisfactory to him and not later than December 31
22 of the year with respect to which the exemption applies, information sufficient to
23 establish the applicability of this exemption.

24 Indebtedness incurred directly for the purchase of shares of stock may be deducted
25 from the total value of such shares; provided, the specific shares of stock so purchased
26 are pledged as collateral to secure said indebtedness; provided further, that only so
27 much of said indebtedness may be deducted as is in the same proportion as the taxable
28 value of said shares of stock is to the total value of said shares of stock."

29 Sec. 52. G.S. 105-259 reads as rewritten:

30 **"§ 105-259. Secrecy required of officials; penalty for violation.**

31 With respect to any one of the following persons: (i) the Secretary of Revenue
32 and all other officers or employees, and former officers and employees, of the
33 Department of Revenue; (ii) local tax officials, as defined in G.S. 105-273, and former
34 local tax officials; (iii) members and former members of the Property Tax Commission;
35 (iv) any other person authorized in this section to receive information concerning any
36 item contained in any report or return, or authorized to inspect any report or return; and
37 (v) the Commissioner of Insurance and all other officers or employees and former
38 officers and employees of the Department of Insurance with respect to State and federal
39 income tax returns filed with the Commissioner of Insurance by domestic insurance
40 companies; and except in accordance with proper judicial order or as otherwise
41 provided by law, it shall be unlawful for any of said persons to divulge or make known
42 in any manner the amount of income, income tax or other taxes of any taxpayer, or
43 information relating thereto or from which the amount of income, income tax or other
44 taxes or any part thereof might be determined, deduced or estimated, whether the same

1 be set forth or disclosed in or by means of any report or return required to be filed or
2 furnished under this Subchapter, or in or by means of any audit, assessment, application,
3 correspondence, schedule or other document relating to such taxpayer, notwithstanding
4 the provisions of Chapter 132 of the General Statutes or of any other law or laws
5 relating to public records. It shall likewise be unlawful to reveal whether or not any
6 taxpayer has filed a return, and to abstract, compile or furnish to any person, firm or
7 corporation not otherwise entitled to information relating to the amount of income,
8 income tax or other taxes of a taxpayer, any list of names, addresses, social security
9 numbers or other personal information concerning such taxpayer, whether or not such
10 list discloses a taxpayer's income, income tax or other taxes, or any part thereof, except
11 that when an election is made by a husband and wife ~~under G.S. 105-152(e) to file their~~
12 ~~separate returns on a single form, or in order to determine an exemption allowable under G.S.~~
13 ~~105-149(a)(2) under G.S. 105-152.1 to file a joint return,~~ any information given to one
14 spouse concerning the income or income tax of the other spouse reported or reportable
15 on ~~such single~~ the joint return ~~or on separate returns~~ shall not be a violation of the
16 provisions of this section.

17 Nothing in this section shall be construed to prohibit the publication of statistics, so
18 classified as to prevent the identification of particular reports or returns, and the items
19 thereof; the inspection of such reports or returns by the Governor, Attorney General, or
20 their duly authorized representative; or the inspection by a legal representative of the
21 State of the report or return of any taxpayer who shall bring an action to set aside or
22 review the tax based thereon, or against whom an action or proceeding has been
23 instituted to recover any tax or penalty imposed by this Subchapter; nor shall the
24 provisions of this section prohibit the Department of Revenue furnishing information to
25 other governmental agencies of persons and firms properly licensed under Schedule B,
26 G.S. 105-33 to 105-113. The Department of Revenue may exchange information with
27 the officers of organized associations of taxpayers under Schedule B, G.S. 105-33 to
28 105-113, with respect to parties liable for such taxes and as to parties who have paid
29 such license taxes.

30 When any record of the Department of Revenue shall have been photographed,
31 photocopied or microphotocopied pursuant to the authority contained in G.S. 8-45.3, the
32 original of said record may thereafter be destroyed at any time upon the order of the
33 Secretary of Revenue, notwithstanding the provisions of G.S. 121-5, G.S. 132-3 or any
34 other law or laws relating to the preservation of public records. Any record which shall
35 not have been so photographed, photocopied or microphotocopied shall be preserved for
36 three years, and thereafter until the Secretary of Revenue shall order the same to be
37 destroyed.

38 Any person, officer, agent, clerk, employee, local tax official or former officer,
39 employee or local tax official violating the provisions of this section shall be guilty of a
40 misdemeanor and fined not less than two hundred dollars (\$200.00) nor more than one
41 thousand dollars (\$1,000) and/or imprisoned, in the discretion of the court; and if such
42 offending person be a public officer or employee, he shall be dismissed from such office
43 or employment, and shall not hold any public office or employment in this State for a
44 period of five years thereafter.

1 Notwithstanding the provisions of this section, the Secretary of Revenue may permit
2 the Commissioner of Internal Revenue of the United States, or the revenue officer of
3 any other state imposing any of the taxes imposed in this Subchapter, or the duly
4 authorized representative of either, to inspect the report or return of any taxpayer; or
5 may furnish such officer or his authorized agent an abstract of the report or return of any
6 taxpayer; or supply such officer with information concerning any item contained in any
7 report or return, or disclosed by the report of any investigation of such report or return
8 of any taxpayer. Such permission, however, shall be granted or such information
9 furnished to such officer, or his duly authorized representatives, only if the statutes of
10 the United States or of such other state grants substantially similar privilege to the
11 Secretary of Revenue of this State or his duly authorized representative.
12 Notwithstanding contrary provisions of this section, the Secretary may also furnish to
13 the Employment Security Commission account and identification numbers, and names
14 and addresses, of taxpayers when said Commission requires such information for the
15 purpose of administering Chapter 96 of the General Statutes. Neither this section nor
16 any other law prevents the exchange of information between the Department of
17 Revenue and the Department of Transportation's Division of Motor Vehicles when the
18 information is needed by either to administer the laws with which they are charged.
19 Notwithstanding any other provision of law, State officers and employees who perform
20 computerized data processing functions pursuant to G.S. 143-341(9) for the Department
21 of Revenue are authorized to receive and process for the Department of Revenue
22 information in reports and returns and are subject to the criminal provisions of this
23 section.

24 Notwithstanding the provisions of this section, the Secretary of Revenue may
25 contract with any person, firm or corporation to receive and address, sort, bag, or deliver
26 to the United States Postal Service any bulk mailing originated by the Department of
27 Revenue, and may deliver the mail to the contractor pursuant to the contract. To ensure
28 performance of the contract, the contractor shall furnish a bond in a form and amount
29 acceptable to the Secretary."

30 Sec. 53. G.S. 105-266 reads as rewritten:

31 **"§ 105-266. Overpayment of taxes to be refunded with interest.**

32 If the Secretary of Revenue discovers from the examination of any return, or
33 otherwise, that any taxpayer has overpaid the correct amount of tax (including penalties,
34 interest and costs if any), such overpayment if the amount of three dollars (\$3.00) or
35 more, shall be refunded to the taxpayer within 60 days after it is ascertained together
36 with interest thereon at the rate established in G.S. 105-241.1(i) for assessments;
37 provided, that interest on any such refund shall be computed from a date 90 days after
38 the date the tax was originally paid by the taxpayer; except that there shall be no refund
39 to the taxpayer of any sum set off under the provisions of Chapter 105A, the Set-off
40 Debt Collection Act. If said overpayment is less than three dollars (\$3.00) said
41 overpayment shall be refunded as aforesaid but only upon receipt by the Secretary of
42 Revenue of a written demand for such refund from the taxpayer. Provided, however,
43 that no overpayment shall be refunded irrespective of whether upon discovery or receipt
44 of written demand if such discovery is not made or such demand is not received within

1 three years from the date set by the statute for the filing of the return or within six
2 months of the payment of the tax alleged to be an overpayment, whichever date is the
3 later. The provisions of this paragraph shall not apply to interest required under G.S.
4 105-267. When a husband and wife have elected ~~under G.S. 105-152(e) to file their~~
5 ~~separate income tax returns on a single form~~ under G.S. 105-152.1 to file a joint return and
6 a refund for overpayment of tax is made payable to both spouses as provided in that
7 subsection, the provisions of this section shall apply to such refund."

8 Sec. 54. This act does not affect the rights or liabilities of the State, a
9 taxpayer, or other person arising under a statute amended or repealed by this act before
10 its amendment or repeal; nor does it affect the right to any refund or credit of a tax that
11 would otherwise have been available under the amended or repealed statute before its
12 amendment or repeal.

13 Sec. 55. This act is effective for taxable years beginning on or after January
14 1, 1990.