

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

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HOUSE BILL 140

Short Title: Unpaid Debt Taxed as Income.

(Public)

Sponsors: Representatives Gamble; and Hall.

Referred to: Finance.

February 15, 1993

A BILL TO BE ENTITLED

AN ACT TO PROVIDE THAT DEBTS THAT REMAIN UNPAID ONE HUNDRED TWENTY DAYS AFTER THEY ARE DUE ARE TAXABLE AS INCOME TO THE DEBTOR.

The General Assembly of North Carolina enacts:

Section 1. Division I of Article 4 of Chapter 105 of the General Statutes is amended by adding a new section to read:

**"§ 105-130.12A. Certain debts taxable as income.**

(a) Definitions. – As used in this section, the term 'debt' means a liquidated sum due a creditor, minus the value of any real or tangible personal property by which the sum due is secured. The term does not include a sum due under a home loan, as defined in G.S. 24-1.1A, or a manufactured home loan, as defined in G.S. 24-1.1C.

(b) Creditors May Report Debts. – A creditor who complies with the requirements of this section may report to the Secretary pursuant to G.S. 105-130.21(c) a debt owed to the creditor that became 120 days overdue during the calendar year. Before reporting the debt, the creditor must send the debtor a letter by mail to the debtor's last known address advising the debtor that (i) unless the debtor contests or pays the debt within 30 days, the creditor will report the amount of the debt to the Secretary and (ii) unless the debtor contests or pays the debt, the amount of the debt will be taxable to the debtor as income. If the debtor does not contest or pay the debt within 35 days after the creditor mails the letter required by this subsection, the creditor may report the debt to the Secretary pursuant to G.S. 105-130.21(c).

(c) Debts Taxable as Income. – Uncontested debts that become 120 days overdue during the taxable year are taxable as income of the debtor. A debt is uncontested if the

1 debtor does not dispute the amount or the due date of the debt. The debtor shall include  
2 an uncontested debt in taxable income as provided in G.S. 105-130.5(a)(14) unless the  
3 debt is (i) includable in gross income under the Code for the taxable year because it has  
4 been discharged or (ii) not includable in gross income for the taxable year pursuant to  
5 section 108(a) of the Code. If the debtor later repays the debt, the debtor may deduct  
6 the amount repaid as provided in G.S. 105-130.5(b)(17). If the debt later becomes (i)  
7 includable in gross income under the Code for the taxable year because it has been  
8 discharged or (ii) not includable in gross income for the taxable year pursuant to section  
9 108(a) of the Code, the debtor may deduct the debt as provided in G.S. 105-  
10 130.5(b)(17)."

11 Sec. 2. G.S. 105-130.5 reads as rewritten:

12 "**§ 105-130.5. Adjustments to federal taxable income in determining State net**  
13 **income.**

14 (a) The following additions to federal taxable income shall be made in  
15 determining State net income:

- 16 (1) Taxes based on or measured by net income by whatever name called  
17 and excess profits ~~taxes;~~ taxes.
- 18 (2) Interest paid in connection with income exempt from taxation under  
19 this ~~Division;~~ Division.
- 20 (3) The contributions deduction allowed by the ~~Code;~~ Code.
- 21 (4) Interest income earned on bonds and other obligations of other states  
22 or their political subdivisions, less allowable amortization on any bond  
23 acquired on or after January 1, ~~1963;~~ 1963.
- 24 (5) The amount by which gains have been offset by the capital loss  
25 carryover allowed under the Code. All gains recognized on the sale or  
26 other disposition of assets must be included in determining State net  
27 income or loss in the year of ~~disposition;~~ disposition.
- 28 (6) The net operating loss deduction allowed by the ~~Code;~~ and Code.
- 29 (7) Special deductions allowable under sections 241 to 247, inclusive, of  
30 the Code.
- 31 (8) Repealed by Session Laws 1987, c. 778, s. 2.
- 32 (9) Payments to or charges by a parent, subsidiary or affiliated corporation  
33 in excess of fair compensation in all intercompany transactions of any  
34 kind whatsoever pursuant to the Revenue Laws of this State.
- 35 (10) The total amounts allowed under this Article during the taxable year as  
36 a credit against the taxpayer's income tax. A corporation that  
37 apportions part of its income to this State shall make the addition  
38 required by this subdivision after it determines the amount of its  
39 income that is apportioned and allocated to this State and shall not  
40 apply to a credit taken under this Article the apportionment factor used  
41 by it in determining the amount of its apportioned income.
- 42 (11) The amount by which the percentage depletion allowance allowed by  
43 sections 613 and 613A of the Code for mines, oil and gas wells, and  
44 other natural deposits exceeds the cost depletion allowance for these

1 items under the Code, except as otherwise provided herein. This  
2 subdivision does not apply to depletion deductions for clay, gravel,  
3 phosphate rock, lime, shells, stone, sand, feldspar, gemstones, mica,  
4 talc, lithium compounds, tungsten, coal, peat, olivine, pyrophyllite, and  
5 other solid minerals or rare earths extracted from the soil or waters of  
6 this State. Corporations required to apportion income to North  
7 Carolina shall first add to federal taxable income the amount of all  
8 percentage depletion in excess of cost depletion that was subtracted  
9 from the corporation's gross income in computing its federal income  
10 taxes and shall then subtract from the taxable income apportioned to  
11 North Carolina the amount by which the percentage depletion  
12 allowance allowed by sections 613 and 613A of the Code for solid  
13 minerals or rare earths extracted from the soil or waters of this State  
14 exceeds the cost depletion allowance for these items.

15 (12) The amount allowed under the Code for depreciation or as an expense  
16 in lieu of depreciation for utility plant acquired by a natural gas local  
17 distribution company, to the extent the plant is included in the  
18 company's rate base at zero cost in accordance with G.S. 62-158.

19 (13) The amount of income the Code allowed the taxpayer to exclude  
20 because the income was attributed under section 925 of the Code to a  
21 foreign sales corporation, to the extent the Code required the amount  
22 to be included in the federal taxable income of the foreign sales  
23 corporation to which it was attributed.

24 (14) The total amount of all uncontested debts owed by the taxpayer at the  
25 end of the taxable year that became 120 days overdue during the  
26 taxable year, as provided in G.S. 105-130.12A, other than a debt (i)  
27 includable in gross income under the Code for the taxable year because  
28 it has been discharged or (ii) not includable in gross income for the  
29 taxable year pursuant to section 108(a) of the Code.

30 (b) The following deductions from federal taxable income shall be made in  
31 determining State net income:

32 (1) Interest upon the obligations of the United States or its possessions, to  
33 the extent included in federal taxable income: Provided, interest upon  
34 the obligations of the United States shall not be an allowable deduction  
35 unless interest upon obligations of the State of North Carolina or any  
36 of its political subdivisions is exempt from income taxes imposed by  
37 the ~~United States;~~ States.

38 (2) Payments received from a parent, subsidiary or affiliated corporation  
39 in excess of fair compensation in intercompany transactions which in  
40 the determination of the net income or net loss of such corporation  
41 were not allowed as a deduction under the Revenue Laws of this ~~State;~~  
42 State.

43 (3) The deductible portion of dividends from stock issued by any  
44 corporation as provided under G.S. ~~105-130.7;~~ 105-130.7.

- 1           (4) Losses in the nature of net economic losses sustained by the  
2 corporation in any or all of the five preceding years pursuant to the  
3 provisions of G.S. 105-130.8. Provided, a corporation required to  
4 allocate and apportion its net income under the provisions of G.S. 105-  
5 130.4 shall deduct its allocable net economic loss only from total  
6 income allocable to this State pursuant to the provisions of G.S. ~~105-~~  
7 ~~130.8;~~ 105-130.8.
- 8           (5) Contributions or gifts made by any corporation within the income year  
9 to the extent provided under G.S. ~~105-130.9;~~ 105-130.9.
- 10          (6) Amortization in excess of depreciation allowed under the Code on the  
11 cost of any sewage or waste treatment plant, and facilities or  
12 equipment used for purposes of recycling or resource recovery of or  
13 from solid waste, or for purposes of reducing the volume of hazardous  
14 waste generated as provided in G.S. 105-130.10.
- 15          (7) Depreciation of emergency facilities acquired prior to January 1, 1955.  
16 Any corporation shall be permitted to depreciate any emergency  
17 facility, as such is defined in section 168 of the Code, over its useful  
18 life, provided such facility was acquired prior to January 1, 1955, and  
19 no amortization has been claimed on such facility for State income tax  
20 ~~purposes; and purposes.~~
- 21          (8) The amount of losses realized on the sale or other disposition of assets  
22 not allowed under section 1211(a) of the Code. All losses recognized  
23 on the sale or other disposition of assets must be included in  
24 determining State net income or loss in the year of disposition.
- 25          (9) With respect to a shareholder of a regulated investment company, the  
26 portion of undistributed capital gains of such regulated investment  
27 company included in such shareholder's federal taxable income and on  
28 which the federal tax paid by the regulated investment company is  
29 allowed as a credit or refund to the shareholder under section 852 of  
30 the Code.
- 31          (10) Repealed by Session Laws 1987, c. 778, s. 2.
- 32          (11) The amount by which a deduction for an ordinary and necessary  
33 business expense was required to be reduced under the Code for  
34 federal tax purposes or the amount of such a deduction that was not  
35 allowed under the Code because the corporation claimed a federal tax  
36 credit against its federal income tax liability for the income year in lieu  
37 of a deduction.
- 38          (12) Reasonable expenses, in excess of deductions allowed under the Code,  
39 paid for reforestation and cultivation of commercially grown trees;  
40 provided, that this deduction shall be allowed only to those  
41 corporations in which the real owners of all the shares of such  
42 corporation are natural persons actively engaged in the commercial  
43 growing of trees, or the spouse, siblings, or parents of such persons.  
44 Provided, further, that in no case shall a corporation be allowed a

- 1 deduction for the same reforestation or cultivation expenditure more  
2 than once.
- 3 (13) The eligible income of an international banking facility to the extent  
4 included in determining federal taxable income, determined as follows:
- 5 a. 'International banking facility' shall have the same meaning as  
6 is set forth in the laws of the United States or regulations of the  
7 board of governors of the federal reserve system.
- 8 b. The eligible income of an international banking facility for the  
9 taxable year shall be an amount obtained by multiplying State  
10 taxable income as determined under G.S. 105-130.3  
11 (determined without regard to eligible income of an  
12 international banking facility and allocation and apportionment,  
13 if applicable) for such year by a fraction, the denominator of  
14 which shall be the gross receipts for such year derived by the  
15 bank from all sources, and the numerator of which shall be the  
16 adjusted gross receipts for such year derived by the  
17 international banking facility from:
- 18 1. Making, arranging for, placing or servicing loans to  
19 foreign persons substantially all the proceeds of which  
20 are for use outside the United States;
- 21 2. Making or placing deposits with foreign persons which  
22 are banks or foreign branches of banks (including  
23 foreign subsidiaries or foreign branches of the taxpayer)  
24 or with other international banking facilities; or
- 25 3. Entering into foreign exchange trading or hedging  
26 transactions related to any of the transactions described  
27 in this paragraph.
- 28 c. The adjusted gross receipts shall be determined by multiplying  
29 the gross receipts of the international banking facility by a  
30 fraction the numerator of which is the average amount for the  
31 taxable year of all assets of the international banking facility  
32 which are employed outside the United States and the  
33 denominator of which is the average amount for the taxable  
34 year of all assets of the international banking facility.
- 35 d. For the purposes of this subsection the term 'foreign person'  
36 ~~means:~~ means any of the following:
- 37 1. An individual who is not a resident of the United States;  
38 States.
- 39 2. A foreign corporation, a foreign partnership or a foreign  
40 trust, as defined in section 7701 of the Code, other than a  
41 domestic branch ~~thereof;~~ thereof.
- 42 3. A foreign branch of a domestic corporation (including  
43 the ~~taxpayer);~~ taxpayer.

- 1                                   4.     A foreign government or an international organization or  
2                                   an agency of ~~either, or either.~~
- 3                                   5.     An international banking facility.
- 4                                   For purposes of this paragraph, the terms 'foreign' and  
5                                   'domestic' shall have the same meaning as set forth in section  
6                                   7701 of the Code.
- 7                   (14)    The amount by which the basis of a depreciable asset is required to be  
8                   reduced under the Code for federal tax purposes because of a tax credit  
9                   allowed against the corporation's federal income tax liability. This  
10                  deduction may be claimed only in the year in which the Code requires  
11                  that the asset's basis be reduced. In computing gain or loss on the  
12                  asset's disposition, this deduction shall be considered as depreciation.
- 13                  (15)    The amount paid during the income year, pursuant to 7 U.S.C. § 1445-  
14                  2, as marketing assessments on tobacco grown by the corporation in  
15                  North Carolina.
- 16                  (16)    The amount of natural gas expansion surcharges collected by a natural  
17                  gas local distribution company under G.S. 62-158.
- 18                  (17)    The total amount of all debts that were included in State net income in  
19                  an earlier taxable year pursuant to subdivision (a)(14) of this section  
20                  and (i) were repaid by the taxpayer during the taxable year, (ii) are  
21                  includable in gross income under the Code for the taxable year because  
22                  they have been discharged, or (iii) are not includable in gross income  
23                  for the taxable year pursuant to section 108(a) of the Code.
- 24                  (c)     The following other adjustments to federal taxable income shall be made in  
25                  determining State net income:
- 26                          (1)     In determining State net income, no deduction shall be allowed for  
27                          annual amortization of bond premiums applicable to any bond  
28                          acquired prior to January 1, 1963. The amount of premium paid on any  
29                          such bond shall be deductible only in the year of sale or other  
30                          disposition.
- 31                          (2)     Federal taxable income must be increased or decreased to account for  
32                          any difference in the amount of depreciation, amortization, or gains or  
33                          losses applicable to property which has been depreciated or amortized  
34                          by use of a different basis or rate for State income tax purposes than  
35                          used for federal income tax purposes prior to the effective date of this  
36                          division.
- 37                          (3)     No deduction is allowed for any direct or indirect expenses related to  
38                          income not taxed under this Division; provided, no adjustment shall be  
39                          made under this subsection for adjustments addressed in G.S. 105-  
40                          130.5(a) and (b).
- 41                  (d)     Repealed by Session Laws 1987, c. 778, s. 3.
- 42                  (e)     Notwithstanding any other provision of this section, any recapture of  
43                  depreciation required under the Code must be included in a corporation's State net  
44                  income to the extent required for federal income tax purposes.

1 (f) Expired."

2 Sec. 3. G.S. 105-130.21 reads as rewritten:

3 **"§ 105-130.21. Information at the source.**

4 (a) Every corporation having a place of business or having one or more  
5 employees, agents or other representatives in this State, in whatever capacity acting,  
6 including lessors or mortgagors of real or personal property, or having the control,  
7 receipt, custody, disposal, or payment of interest (other than interest coupons payable to  
8 the bearer), rent, salaries, wages, premiums, annuities, compensations, remunerations,  
9 emoluments or other fixed or determinable annual or periodical gains or profits paid or  
10 payable during any year to any taxpayer, shall make complete return thereof to the  
11 Secretary of Revenue under such regulations and in such form and manner and to such  
12 extent as may be prescribed by him. The filing of any report in compliance with the  
13 provisions of this section by a foreign corporation shall not constitute an act in evidence  
14 of and shall not be deemed to be evidence that such corporation is doing business in this  
15 State.

16 (b) Every corporation doing business or having a place of business in this State  
17 shall file with the Secretary of Revenue, on such form and in such manner as he may  
18 prescribe, the names and addresses of all taxpayers, residents of North Carolina, to  
19 whom dividends have been paid and the amount of such dividends during the income  
20 year.

21 (c) A creditor who has complied with the provisions of G.S. 105-130.12A may  
22 file with the Secretary of Revenue, on the form and in the manner prescribed by the  
23 Secretary, (i) the name, address, and social security number of every individual residing  
24 in this State who owes a debt to the creditor that became 120 days overdue during the  
25 year, (ii) the name, address, and taxpayer identification number of every corporation  
26 doing business in this State who owes a debt to the creditor that became 120 days  
27 overdue during the year, and (iii) the amount of each debt."

28 Sec. 4. Division II of Article 4 of Chapter 105 of the General Statutes is  
29 amended by adding a new section to read:

30 **"§ 105-134.9. Certain debts taxable as income.**

31 (a) Definitions. – As used in this section, the term 'debt' means a liquidated sum  
32 due a creditor, minus the value of any real or tangible personal property by which the  
33 sum due is secured. The term does not include a sum due under a home loan, as defined  
34 in G.S. 24-1.1A, or a manufactured home loan, as defined in G.S. 24-1.1C.

35 (b) Creditors May Report Debts. – A creditor who complies with the  
36 requirements of this section may report to the Secretary pursuant to G.S. 105-154(e) a  
37 debt owed to the creditor that became 120 days overdue during the calendar year.  
38 Before reporting the debt, the creditor must send the debtor a letter by mail to the  
39 debtor's last known address advising the debtor that (i) unless the debtor contests or  
40 pays the debt within 30 days, the creditor will report the amount of the debt to the  
41 Secretary, and (ii) unless the debtor contests or pays the debt, the amount of the debt  
42 will be taxable to the debtor as income. If the debtor does not contest or pay the debt  
43 within 35 days after the creditor mails the letter required by this subsection, the creditor  
44 may report the debt to the Secretary pursuant to G.S. 105-154(e).

1 (c) Debts Taxable as Income. – Uncontested debts that become 120 days overdue  
2 during the taxable year are taxable as income of the debtor. A debt is uncontested if the  
3 debtor does not dispute the amount or the due date of the debt. The debtor shall include  
4 an uncontested debt in taxable income as provided in G.S. 105-134.6(c)(6) unless the  
5 debt is (i) includable in gross income under the Code for the taxable year because it has  
6 been discharged or (ii) not includable in gross income for the taxable year pursuant to  
7 section 108(a) of the Code. If the debtor later repays the debt, the debtor may deduct  
8 the amount repaid as provided in G.S. 105-134.6(b)(9). If the debt later becomes (i)  
9 includable in gross income under the Code for the taxable year because it has been  
10 discharged or (ii) not includable in gross income for the taxable year pursuant to section  
11 108(a) of the Code, the debtor may deduct the debt as provided in G.S. 105-  
12 134.6(b)(9)."

13 Sec. 5. G.S. 105-134.6 reads as rewritten:

14 **"§ 105-134.6. Adjustments to taxable income.**

15 (a) S Corporations. – The pro rata share of each shareholder in the income  
16 attributable to the State of an S Corporation shall be adjusted as provided in G.S. 105-  
17 130.5. The pro rata share of each resident shareholder in the income not attributable to  
18 the State of an S Corporation shall be subject to the adjustments provided in subsections  
19 (b) and (c) of this section.

20 (b) Deductions. – The following deductions from taxable income shall be made  
21 in calculating North Carolina taxable income, to the extent each item is included in  
22 gross income:

- 23 (1) Interest upon the obligations of (i) the United States or its possessions,  
24 (ii) this State or a political subdivision of this State, or (iii) a nonprofit  
25 educational institution organized or chartered under the laws of this  
26 State.
- 27 (2) Interest upon obligations and gain from the disposition of obligations  
28 to the extent the interest or gain is exempt from tax under the laws of  
29 this State.
- 30 (3) Benefits received under Title II of the Social Security Act and amounts  
31 received from retirement annuities or pensions paid under the  
32 provisions of the Railroad Retirement Act of 1937.
- 33 (4) Repealed by Session Laws 1989 (Regular Session, 1990), c. 1002, s. 2.
- 34 (5) Refunds of state, local, and foreign income taxes included in the  
35 taxpayer's gross income.
- 36 (6) a. An amount, not to exceed four thousand dollars (\$4,000), equal to  
37 the sum of the amount calculated in subparagraph b. plus the amount  
38 calculated in subparagraph c.  
39 b. The amount calculated in this subparagraph is the amount  
40 received during the taxable year from one or more state, local,  
41 or federal government retirement plans.  
42 c. The amount calculated in this subparagraph is the amount  
43 received during the taxable year from one or more retirement  
44 plans other than state, local, or federal government retirement



1 plans, not to exceed a total of two thousand dollars (\$2,000) in  
2 any taxable year.

3 d. In the case of a married couple filing a joint return where both  
4 spouses received retirement benefits during the taxable year, the  
5 maximum dollar amounts provided in this subdivision for  
6 various types of retirement benefits apply separately to each  
7 spouse's benefits.

8 (7) The amount of inheritance tax attributable to an item of income in  
9 respect of a decedent required to be included in gross income under the  
10 Code, adjusted as provided in G.S. 105-134.5, 105-134.6, and 105-  
11 134.7. The amount of inheritance tax attributable to an item of income  
12 in respect of a decedent is (i) the amount by which the inheritance tax  
13 paid under Article 1 of this Chapter on property transferred to a  
14 beneficiary by a decedent exceeds the amount of inheritance tax that  
15 would have been payable by the beneficiary if the item of income in  
16 respect of a decedent had not been included in the property transferred  
17 to the beneficiary by the decedent, (ii) multiplied by a fraction, the  
18 numerator of which is the amount required to be included in gross  
19 income for the taxable year under the Code, adjusted as provided in  
20 G.S. 105-134.5, 105-134.6, and 105-134.7, and the denominator of  
21 which is the total amount of income in respect of a decedent  
22 transferred to the beneficiary by the decedent. For an estate or trust,  
23 the deduction allowed by this subdivision shall be computed by  
24 excluding from the gross income of the estate or trust the portion, if  
25 any, of the items of income in respect of a decedent that are properly  
26 paid, credited, or to be distributed to the beneficiaries during the  
27 taxable year.

28 The Secretary of Revenue may provide to a beneficiary of an item  
29 of income in respect of a decedent any information contained on an  
30 inheritance tax return that the beneficiary needs to compute the  
31 deduction allowed by this subdivision.

32 (8) The amount by which the taxpayer's deductions allowed under the  
33 Code were reduced, and the amount of the taxpayer's deductions that  
34 were not allowed, because the taxpayer elected a federal tax credit in  
35 lieu of a deduction, to the extent that a similar credit is not allowed by  
36 this Division for the amount.

37 (9) The total amount of all debts that were included in the taxpayer's North  
38 Carolina taxable income in an earlier taxable year pursuant to  
39 subdivision (c)(6) of this section and (i) were repaid by the taxpayer  
40 during the taxable year, (ii) are includable in gross income under the  
41 Code for the taxable year because they have been discharged, or (iii)  
42 are not includable in gross income for the taxable year pursuant to  
43 section 108(a) of the Code.

1 (c) Additions. – The following additions to taxable income shall be made in  
2 calculating North Carolina taxable income, to the extent each item is not included in  
3 gross income:

- 4 (1) Interest upon the obligations of states, other than this State, and their  
5 political subdivisions.
- 6 (2) Any amount allowed as a deduction from gross income under the Code  
7 that is taxed under the Code by a separate tax other than the tax  
8 imposed in section 1 of the Code.
- 9 (3) Any amount deducted from gross income under section 164 of the  
10 Code as state, local, or foreign income tax to the extent that the  
11 taxpayer's total itemized deductions deducted under the Code for the  
12 taxable year exceed the standard deduction allowable to the taxpayer  
13 under the Code reduced by the amount by which the taxpayer's  
14 allowable standard deduction has been increased under section  
15 63(c)(4) of the Code.
- 16 (4) The amount by which the taxpayer's standard deduction has been  
17 increased for inflation under section 63(c)(4) of the Code and the  
18 amount by which the taxpayer's personal exemptions have been  
19 increased for inflation under section 151(d)(4) of the Code. For the  
20 purpose of this subdivision, if the taxpayer's personal exemptions have  
21 been reduced by the applicable percentage under section 151(d)(3) of  
22 the Code, the amount by which the personal exemptions have been  
23 increased for inflation is also reduced by the applicable percentage.
- 24 (5) The fair market value, up to a maximum of one hundred thousand  
25 dollars (\$100,000), of the donated property interest for which the  
26 taxpayer claims a credit for the taxable year under G.S. 105-151.12  
27 and the market price of the gleaned crop for which the taxpayer claims  
28 a credit for the taxable year under G.S. 105-151.14.
- 29 (6) The total amount of all uncontested debts owed by the taxpayer at the  
30 end of the taxable year that became 120 days overdue during the  
31 taxable year, as provided in G.S. 105-134.9, other than a debt (i)  
32 includable in gross income under the Code for the taxable year because  
33 it has been discharged or (ii) not includable in gross income for the  
34 taxable year pursuant to section 108(a) of the Code."

35 Sec. 6. G.S. 105-154 reads as rewritten:

36 "**§ 105-154. Information at the source returns.**

37 (a) 'Person' Defined. – Notwithstanding G.S. 105-134.1, as used in this section,  
38 the term 'person' means an individual, a fiduciary, a firm, a partnership, an association, a  
39 corporation, a unit of government, or another group acting as a unit.

40 (b) Information Returns of Payers. – A person who is a resident of this State, has  
41 a place of business in this State, or has an employee, an agent, or another representative  
42 in any capacity in this State shall file an information return as required by the Secretary  
43 if the person directly or indirectly pays or controls the payment of any income to any  
44 taxpayer. The return shall contain all information required by the Secretary. The filing

1 of any return in compliance with this section by a foreign corporation is not evidence  
2 that the corporation is doing business in this State.

3 (c) Information Returns of Partnerships. – A partnership doing business in this  
4 State and required to file a return under the Code shall file an information return with  
5 the Secretary. A partnership that the Secretary believes to be doing business in this State  
6 and to be required to file a return under the Code shall file an information return when  
7 requested to do so by the Secretary. The information return shall contain all information  
8 required by the Secretary. It shall state specifically the items of the partnership's gross  
9 income, the deductions allowed under the Code, and the adjustments required by this  
10 Division. The information return shall also include the name and address of each person  
11 who would be entitled to share in the partnership's net income, if distributable, and the  
12 amount each person's distributive share would be. The information return shall specify  
13 the part of each person's distributive share of the net income that represents corporation  
14 dividends. The information return shall be signed by one of the partners under  
15 affirmation in the form prescribed in G.S. 105-155.

16 (d) Payment of Tax on Behalf of Nonresident Owner or Partner. – If a business  
17 conducted in this State is owned by a nonresident individual or by a partnership having  
18 one or more nonresident members, the manager of the business shall report the earnings  
19 of the business in this State, the distributive share of the income of each nonresident  
20 owner or partner, and any other information required by the Secretary. The manager of  
21 the business shall pay with the return the tax on each nonresident owner or partner's  
22 share of the income computed at the rate levied on individuals under G.S. 105-  
23 134.2(a)(3). The business may deduct the payment for each nonresident owner or  
24 partner from the owner or partner's distributive share of the profits of the business in  
25 this State. If the nonresident partner is not an individual and the partner has executed an  
26 affirmation that the partner will pay the tax with its corporate, partnership, trust, or  
27 estate income tax return, the manager of the business is not required to pay the tax on  
28 the partner's share. In this case, the manager shall include a copy of the affirmation with  
29 the report required by this subsection.

30 (e) Information Returns of Creditors. – A creditor who has complied with the  
31 provisions of G.S. 105-134.9 may file an information return with the Secretary. The  
32 information return shall contain (i) the name, address, and social security number of  
33 every individual residing in this State who owes a debt to the creditor that became 120  
34 days overdue during the year and (ii) the amount of each debt."

35 Sec. 7. G.S. 105-201 reads as rewritten:

36 "**§ 105-201. Accounts receivable.**

37 All accounts receivable on December 31 of each year, having a business,  
38 commercial or taxable situs in this State, other than credit balances on accounts with  
39 investment brokers or security dealers, shall be subject to an annual tax, which is hereby  
40 levied, of twenty-five cents (25¢) on every one hundred dollars (\$100.00) of the face  
41 value of such accounts receivable, except that taxpayers reporting on a fiscal year basis  
42 for income tax purposes under the provisions of Article 4 shall report accounts  
43 receivable on the last day of such fiscal year ending during the year prior to that  
44 December 31 as of which such property would otherwise be reported: Provided, that

1 from the face value of such accounts receivable there may be deducted the accounts  
2 payable of the taxpayer as of the valuation date of the accounts receivable: Provided  
3 further, that no deduction in any case shall be allowed under this section of any  
4 indebtedness of the taxpayer on account of capital outlay, permanent additions to capital  
5 or purchase of capital assets.

6 The term 'accounts payable' as used in this section ~~shall not include:~~ does not include  
7 any of the following:

- 8 (1) Reserves, secondary liabilities or contingent liabilities except upon  
9 satisfactory showing that the taxpayer will actually be compelled to  
10 pay the debt or ~~liability;~~ liability.
- 11 (2) Taxes of any kind owing by the ~~taxpayer;~~ taxpayer.
- 12 (3) Debts owed to a corporation of which the taxpayer is parent or  
13 subsidiary or with which the taxpayer is closely affiliated by stock  
14 ownership or with which the taxpayer is subsidiary of same parent  
15 corporation unless the credits created by such debts are listed if so  
16 required by law for ad valorem or property taxation, for taxation at the  
17 situs of such ~~credits;~~ or credits.
- 18 (4) Debts incurred to purchase assets which are not subject to taxation at  
19 the situs of such assets.
- 20 (5) An uncontested debt that is 120 days overdue at the end of the taxable  
21 year and is includable in the taxpayer's taxable income under G.S. 105-  
22 130.12A or G.S. 105-134.9, unless the debt has been included in the  
23 taxpayer's taxable income under Article 4 of this Chapter.

24 From the total face value of accounts receivable returned to this State for taxation by  
25 or in behalf of any taxpayer who or which also owns other such accounts receivable as  
26 have situs outside of this State, accounts payable of the taxpayer may be deducted only  
27 in the proportion which the total face value of accounts receivable taxable under this  
28 section bears to the total face value of all accounts receivable of the taxpayer.

29 The term 'accounts payable' as used in this section includes notes payable that are  
30 made for a term of one year or less and are not claimed as a deduction under G.S. 105-  
31 202.

32 Indebtedness of commercial factors incurred directly for the purchase of accounts  
33 receivable may be deducted from the total value of such accounts receivable.

34 Indebtedness of securities brokers directly incurred in connection with the purchase  
35 or sale of stocks, bonds or other securities from which such brokers derive accounts  
36 receivable taxable under this Article may be deducted from the total value of such  
37 accounts receivable."

38 Sec. 8. This act is effective for taxable years beginning on or after January 1,  
39 1993.