

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

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HOUSE BILL 1844

Short Title: Repeal Intangibles Tax.

(Public)

Sponsors: Representatives Wilson; Arnold, Balmer, Barbee, Berry, Bowie, Brawley, J. Brown, Brubaker, Church, Cole, Culp, Daughtry, Decker, Dickson, Dockham, Edwards, Esposito, Flaherty, Gardner, Grady, Hall, Hayes, Holmes, Howard, Ives, Joye, Justus, McCombs, Miner, Mitchell, Morgan, Nichols, J. Preston, Robinson, Russell, Sexton, Smith, Tallent, Thompson, Warner, Weatherly, and Wood.

Referred to: Finance.

May 30, 1994

A BILL TO BE ENTITLED

AN ACT TO REPEAL THE INTANGIBLES TAX AND REIMBURSE LOCAL GOVERNMENTS FOR THE LOSS OF THE INTANGIBLES TAX REVENUE.

The General Assembly of North Carolina enacts:

Section 1. This act shall be known as the North Carolina Jobs Development Act of 1994.

Sec. 1.1. G.S. 105-213.1 is recodified as G.S. 105-275.2. The remainder of Article 7 of Chapter 105 of the General Statutes is repealed. Any taxes collected pursuant to Article 7 of Chapter 105 of the General Statutes on or after the date the Article is repealed shall remain in the General Fund and any refunds made on or after the date the Article is repealed of taxes collected pursuant to that Article shall be charged to the General Fund.

Sec. 2. G.S. 105-275 is amended by adding the following new subdivisions:

(31a) Accounts receivable.

(31b) Bonds, notes, and other evidences of debt.

(31c) Shares of stock, including shares and units of ownership of mutual funds, investment trusts, and investment funds.

(31d) The beneficial or equitable interest in a trust, trust fund, or trust account, including custodial accounts, held by a foreign fiduciary."

1 Sec. 3. G.S. 105-213.1, as recodified as G.S. 105-275.2 by Section 1 of this
2 act, reads as rewritten:

3 **"§ 105-275.2. Reimbursement to counties and municipalities for ~~partial~~ repeal of**
4 **State tax on intangible personal property.**

5 (a) Reimbursement for Repeal of Tax on Money on Deposit, Money on Hand,
6 and Funds on Deposit with Insurance Companies. – On or before August 30 of each
7 year, the Secretary of Revenue shall allocate for distribution to each county and the
8 municipalities in the county the amount allocated to the county under this subsection in
9 1990.

10 ~~Amounts allocated to a county under this subsection shall in turn be divided and~~
11 ~~distributed between the county and the municipalities located in the county in~~
12 ~~accordance with the method of allocating intangible tax revenue between a county and~~
13 ~~the municipalities located in the county provided in G.S. 105-213.~~

14 (a1) Reimbursement for Partial Repeal of Tax on Accounts Receivable. – On or
15 before August 30 of each year, the Secretary of Revenue shall distribute to counties and
16 municipalities an amount equal to forty percent (40%) of the tax collected on accounts
17 receivable under former Article 7 of this Chapter (repealed) during the 1989-90 fiscal
18 year. ~~The Secretary of Revenue shall first allocate the amount to be distributed in this~~
19 ~~subsection to the counties in the same manner as the amount allocated in G.S. 105-213. The~~
20 ~~amount allocated to each county shall in turn be divided and distributed between the county and~~
21 ~~the municipalities located in the county in accordance with the method of allocating intangible~~
22 ~~tax revenue between a county and the municipalities located in the county provided in G.S.~~
23 ~~105-213. The Secretary shall allocate this amount among the counties in proportion to~~
24 ~~the amount allocated to each county under former G.S. 105-213 (repealed) in August~~
25 ~~1994.~~

26 (a2) Reimbursement for Repeal of Tax on Accounts Receivable, Bonds, Stocks,
27 and Foreign Trust Interests. – On or before August 30 of each year, the Secretary shall
28 distribute to counties and municipalities the amount of revenue collected under former
29 Article 7 of this Chapter (repealed) during the 1989-90 fiscal year minus an amount
30 equal to the costs during the preceding fiscal year of:

- 31 (1) The Department of Revenue in performing the duties imposed by
32 Article 15 of this Chapter.
- 33 (2) The Property Tax Commission.
- 34 (3) The Institute of Government in operating a training program in
35 property tax appraisal and assessment.
- 36 (4) The personnel and operations provided by the Department of State
37 Treasurer for the Local Government Commission.
- 38 (5) Refunds made during the fiscal year of taxes levied under former
39 Article 7 of this Chapter (repealed).
- 40 (6) The Department of Revenue to collect and administer the taxes levied
41 under former Article 7 of this Chapter (repealed).

42 (a3) Distribution Between County and Its Municipalities. – The amounts allocated
43 to each county under this section shall be allocated between the county and the
44 municipalities in the county in proportion to the total amount of ad valorem taxes levied

1 by each during the fiscal year preceding the distribution. In dividing these amounts
2 between each county and its municipalities, the Secretary of Revenue shall treat taxes
3 levied by a merged school administrative unit described in G.S. 115C-513 in a part of
4 the unit located in a county as taxes levied by the county in which that part is located.

5 After making these allocations, the Secretary shall certify to the State Controller and
6 to the State Treasurer the amount to be distributed to each county and municipality in
7 the State. The State Controller shall then issue a warrant on the State Treasurer to each
8 county and municipality in the amount certified.

9 For the purpose of computing the distribution to any county and the municipalities
10 located in the county for any year with respect to which the property valuation of a
11 public service company is the subject of an appeal and the Department of Revenue is
12 restrained by law from certifying the valuation to the county and the municipalities in
13 the county, the Department shall use the last property valuation of the public service
14 company that has been certified.

15 The chair of each board of county commissioners and the mayor of each
16 municipality shall report to the Secretary of Revenue information requested by the
17 Secretary to enable the Secretary to allocate the amount distributed by this section. If a
18 county or municipality fails to make a requested report within the time allowed, the
19 Secretary may disregard the county or municipality in allocating the amount distributed
20 by this section.

21 (b) Restrictions on Use. — ~~Amounts distributed to a county or a municipality~~
22 ~~under this section are subject to the same restrictions as amounts distributed under G.S.~~
23 ~~105-213. The amount distributed to each county and municipality shall be used by the~~
24 ~~county or municipality in proportion to property tax levies made by it for the various~~
25 ~~funds and activities of the county or municipality, unless the county or municipality has~~
26 ~~pledged the amount to be distributed to it under this section in payment of a loan~~
27 ~~agreement with the North Carolina Solid Waste Management Capital Projects Financing~~
28 ~~Agency. A county or municipality that has pledged amounts distributed under this~~
29 ~~section in payment of a loan agreement with the Agency may apply the amount the loan~~
30 ~~agreement requires.~~

31 (e) Municipality Defined. — ~~As used in this section, the term 'municipality' has~~
32 ~~the same meaning as in G.S. 105-213.~~

33 (d) Source. — Funds distributed under this section shall be drawn from collections
34 received under Division II of Article 4 of this Chapter."

35 Sec. 4. G.S. 105-151.19 is repealed.

36 Sec. 5. G.S. 105-130.7 reads as rewritten:

37 **"§ 105-130.7. Deductible portion of dividends.**

38 Dividends from stock issued by ~~any a~~ corporation shall be deducted to the extent herein
39 ~~provided.~~ are deductible to the extent provided in this section.

40 (1) ~~As soon as may be practicable after September 30 of each year, the~~
41 ~~Secretary of Revenue shall determine from the corporate income tax~~
42 ~~return filed during the year ending September 30 by each corporation~~
43 ~~required to file a return during that period the proportion of the entire~~
44 ~~net income or loss of the corporation allocable to this State under the~~

1 provisions of G.S. 105-130.4, except as provided herein. If a
2 corporation has a net income in North Carolina and a net loss from all
3 sources wherever located, or if a corporation has a net loss in North
4 Carolina and a net income from all sources wherever located, the
5 Secretary shall require the use of the allocation fraction determined
6 under the provisions of G.S. 105-130.4. A corporation which is a
7 stockholder in any such corporation shall be allowed to deduct the
8 same proportion of the dividends received by it from such corporation
9 during its income year ending on or after September 30. No deduction
10 shall be allowed for any part of any dividend received from any
11 corporation that was required to file an income tax return during the
12 year ending September 30 but failed to file the return. In the case of
13 dividends received from a corporation that was not required to file a
14 return during the year ending September 30, the proportion of
15 dividends deductible by the stockholder shall be determined by the
16 Secretary from the best information available.

- 17 (2) Dividends received by a corporation from stock in any insurance
18 company of this State taxed under the provisions of G.S. 105-228.5
19 shall be deductible by such corporation, and a proportionate part of
20 any dividends received from stock in any foreign insurance
21 corporation shall be deductible, such part to be determined on the basis
22 of the ratio of premiums reported for taxation in this State to total
23 premiums collected both in and out of this State.
- 24 (3) A corporation shall be allowed to deduct such proportionate part of
25 dividends received by it from a regulated investment company or a real
26 estate investment trust, as defined in G.S. 105-130.12, as represents
27 and corresponds to income received by such regulated investment
28 company or real estate investment trust which would not be taxed by
29 this State if received directly by the corporation.
- 30 (3a) Dividends received on shares of capital stock owned in a stock-owned
31 savings and loan association taxed under Article 8D of this Chapter
32 shall be deductible.
- 33 (4) Notwithstanding ~~the provisions of subdivisions (1) through (3a) any~~
34 other provision of this section, a corporation which, at the close of its
35 ~~taxable year, has its commercial domicile within North Carolina shall~~
36 be allowed to may deduct all dividends received from corporations in
37 which it owns more than fifty percent (50%) of the outstanding voting
38 stock.
- 39 (5) Notwithstanding any other provisions of this Division, a corporation
40 ~~which that~~ is a shareholder in a holding company ~~shall be allowed as a~~
41 deduction may deduct an amount equal to those dividends received by
42 it from ~~such the~~ holding company, multiplied by a fraction, the
43 numerator of which ~~shall be is~~ the dividends received by ~~such the~~
44 holding company ~~attributable to North Carolina, that are deductible by it~~

1 under subdivisions (2) through (3a) of this section and the denominator
 2 of which ~~shall be~~ is the gross dividends received by ~~such the~~ the holding
 3 company. ~~company;~~ provided, however, that no deduction shall be allowed
 4 where the fraction is smaller than one-third (1/3). For purposes of this
 5 section, ~~'dividends attributable to North Carolina'~~ shall be the amount of
 6 dividend income received by the holding company on stock owned in other
 7 corporations equal to the total of the proportion of each of such corporation's
 8 dividends as shall be determined deductible by the Secretary under
 9 subdivisions (1) through (3a) of this section; provided that a A holding
 10 company ~~which that~~ owns more than fifty percent (50%) of the
 11 outstanding voting stock of one or more holding companies as defined
 12 in this subdivision shall be ~~permitted~~ is allowed a deduction for all
 13 dividends received from ~~such those~~ those holding companies and all other
 14 corporations in which it owns more than fifty percent (50%) of the
 15 outstanding voting stock. ~~stock~~ except that no deduction shall be allowed
 16 if less than one-third (1/3) of the dividends received by the holding company
 17 are attributable to North Carolina. A shareholder of such a holding company
 18 shall determine the deductible portion of its dividends received from such
 19 holding company as hereinabove provided except that the amounts received
 20 from a subsidiary holding company as ~~'dividends attributable to North~~
 21 ~~Carolina'~~ shall be determined as though the subsidiary corporation of the
 22 subsidiary holding company had paid the dividends directly to the parent
 23 holding company. For the purposes of this section and unless the context
 24 clearly requires a different meaning, As used in this section, the term
 25 'holding company' shall ~~mean any~~ means a corporation subject to the
 26 tax imposed by G.S. 105-130.3 whose ordinary gross income consists
 27 of fifty percent (50%) or more of dividend income received from
 28 corporations in which it owns more than fifty percent (50%) of the
 29 outstanding voting stock, and ~~'subsidiary'~~ shall mean any corporation, more
 30 than fifty percent (50%) of whose outstanding voting stock is owned by
 31 another corporation. For the purposes of this subsection, stock. As used in
 32 this subdivision, the term 'dividend' includes, in addition to corporate
 33 dividends, distributions received from a partnership by a corporation
 34 owning more than a fifty percent (50%) interest in the partnership.

- 35 (6) In no case shall the total amount of dividends that are allowed as a
 36 deduction to a corporation as a result of the application of subdivisions
 37 ~~(1)-(2)~~ through (3a) of this section be in excess of fifteen thousand
 38 dollars (\$15,000) for the taxable year."

39 Sec. 6. G.S. 105-276 reads as rewritten:

40 **"§ 105-276. Taxation of intangible personal property.**

41 Intangible personal property that is not excluded from taxation under G.S. 105-
 42 ~~275(31)~~ or classified under Schedule H, G.S. 105-198 through G.S. 105-217, 105-275
 43 is subject to this Subchapter. ~~The classification of such property for taxation under~~
 44 ~~Schedule H shall not exclude the property from the system property valuation of public~~

1 ~~service companies under Article 23 provided proper adjustments are made to prevent~~
2 ~~duplicate taxation."~~

3 Sec. 7. G.S. 105-305 reads as rewritten:

4 **"§ 105-305. Place for listing intangible personal property.**

5 (a) Listing Instructions. – This section ~~shall apply~~ applies to all taxable intangible
6 personal property that has a tax situs in this ~~State, that State and~~ State and is not required by this
7 Subchapter to be appraised originally by the Department of Revenue, ~~and that is not~~
8 ~~subject to taxation under the provisions of Schedule H, G.S. 105-198 through 105-217.~~
9 Revenue. The place in this State at which ~~such~~ this property is taxable shall be
10 ~~determined according to the rules prescribed in subsections (b) through (e), below.~~ as
11 provided in this section. The person whose duty it is to list property shall list it in the
12 county in which the place of taxation is located, indicating on the abstract the
13 information required by G.S. 105-309(d). If the place of taxation lies within a city or
14 town that requires separate listing under G.S. 105-326(a), the person whose duty it is to
15 list shall also list the property for taxation in the city or town.

16 (b) General Rule. – Except as otherwise provided in subsections (c) through ~~(e),~~
17 ~~below,~~ (e) of this section, intangible personal property shall be taxable at the residence
18 of the owner. For the purposes of this section:

19 (1) The residence of a person who has two or more places in this State at
20 which ~~he~~ the person occasionally dwells shall be the place ~~at which he~~
21 the person dwelt for the longest period of time during the calendar year
22 immediately preceding the date as of which property is to be listed for
23 taxation.

24 (2) The residence of a domestic or foreign taxpayer other than an
25 individual person shall be the place at which its principal North
26 Carolina office is located.

27 (c) Intangible personal property representing an interest or interests in real
28 property that is situated in this State shall be taxable in the place in which the
29 represented real property is located.

30 (d) The intangible personal property of a decedent whose estate is in the process
31 of administration or has not been distributed shall be taxable in the place at which it
32 would be taxable if the decedent were still alive and still residing in the place at which
33 ~~he~~ the decedent resided at the time of ~~his~~ death.

34 (e) Intangible personal property within the jurisdiction of the State held by a
35 resident or nonresident trustee, guardian, or other fiduciary having legal title to the
36 property shall be taxable in accordance with the following rules:

37 (1) If ~~any~~ a beneficiary is a resident of the State, an amount representing
38 ~~his~~ the beneficiary's portion of the property shall be taxable in the
39 place at which it would be taxable if ~~he~~ the beneficiary were the owner
40 of ~~his~~ that portion.

41 (2) If ~~any~~ a beneficiary is a nonresident of the State, an amount
42 representing ~~his~~ the beneficiary's portion of the property shall be
43 taxable in the place at which it would be taxable if the fiduciary were
44 the beneficial owner of the property."

1 Sec. 8. G.S. 105-282.1(a)(2) reads as rewritten:

2 "(2) Owners of the special classes of property excluded from taxation under
3 G.S. 105-275(5), (15), (16), (26), (31), (31a), (31b), (31c), (31d),
4 (32a), (33), (34), or (40), or exempted under G.S. 105-278.2 are not
5 required to file applications for the exclusion or exemption of that
6 property."

7 Sec. 9. G.S. 105-288(d) reads as rewritten:

8 "(d) Expenses. – The members of the Property Tax Commission shall receive
9 travel and subsistence expenses in accordance with G.S. 138-5 and a salary of two
10 hundred dollars (\$200.00) a day when hearing cases. The Secretary of Revenue shall
11 supply all the clerical and other services required by the Commission. All expenses of
12 the Commission and the Department of Revenue in performing the duties enumerated in
13 this Article shall be paid ~~from funds appropriated out of revenue derived from the tax on~~
14 ~~intangible personal property as provided by G.S. 105-213~~ as provided in G.S. 105-275.2."

15 Sec. 10. G.S. 108A-93 reads as rewritten:

16 "**§ 108A-93. Withholding of State moneys from counties failing to pay public**
17 **assistance costs.**

18 The Director of the Budget ~~is authorized to~~ may withhold from any county that does
19 not pay its full share of public assistance costs to the State and has not ~~arranged for~~
20 ~~payment pursuant to G.S. 108-54.1 or obtained a loan for repayment under~~ G.S. 108A-89,
21 any State moneys appropriated from the General Fund for public assistance and related
22 administrative costs, or ~~to~~ may direct the Secretary of Revenue and State ~~Treasurer~~
23 Controller to withhold any tax owed to a county under ~~Article 7 of Chapter 105 of the~~
24 ~~General Statutes, G.S. 105-113.82, Article 39 of Chapter 105 of the General Statutes~~
25 Subchapter VIII of Chapter 105 of the General Statutes, or Chapter 1096 of the Session
26 Laws of 1967. The Director of the Budget shall notify the ~~chairman~~ chair of the board of
27 county commissioners of the proposed action prior to the withholding of funds."

28 Sec. 11. Effective January 1, 1996, G.S. 105-275.2(a2)(5) and (6), as enacted
29 by this act, are repealed.

30 Sec. 12. Notwithstanding the provisions of G.S. 105-163.15 and G.S. 105-
31 163.41, no addition to tax shall be made under those sections for a taxable year
32 beginning on or after January 1, 1994, and before January 1, 1995, with respect to any
33 underpayment to the extent the underpayment was created or increased by Section 4 or
34 5 of this act.

35 Sec. 13. Section 3 of this act becomes effective January 1, 1995. The repeal
36 of G.S. 105-213 by Section 1 of this act becomes effective January 1, 1995. Section 11
37 of this act becomes effective January 1, 1996. The remainder of this act is effective for
38 taxable years beginning on or after January 1, 1994. This act does not affect the rights
39 or liabilities of the State, a taxpayer, or another person arising under a statute amended
40 or repealed by this act before its amendment or repeal; nor does it affect the right to any
41 refund or credit of a tax that would otherwise have been available under the amended or
42 repealed statute before its amendment or repeal.