

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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HOUSE BILL 1318  
Committee Substitute Favorable 6/3/98  
Senate Finance Committee Substitute Adopted 9/1/98

Short Title: Nonresident Tax Collection.

(Public)

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Sponsors:

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Referred to:

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May 19, 1998

1 A BILL TO BE ENTITLED  
2 AN ACT TO LIMIT THE NONRESIDENT WITHHOLDING REQUIREMENT TO  
3 ATHLETES AND ENTERTAINERS, TO INCREASE THE THRESHOLD  
4 REQUIREMENT FOR NONRESIDENT WITHHOLDING, AND TO PROVIDE A  
5 MECHANISM TO ENHANCE COLLECTION OF TAXES FROM  
6 NONRESIDENTS ENGAGED IN CONSTRUCTION-RELATED BUSINESSES.

7 The General Assembly of North Carolina enacts:

8 Section 1. G.S. 105-163.1(2) reads as rewritten:

9 "(2) Contractor. – Either of the following:

- 10 a. A nonresident individual who performs ~~personal services~~ in this  
11 State for compensation other than ~~wages~~ wages any personal  
12 services in connection with a performance, an entertainment, an  
13 athletic event, a speech, or the creation of a film, radio, or  
14 television program.
- 15 b. A nonresident entity that provides for the performance ~~of the~~  
16 ~~following personal services~~ in this State for ~~compensation~~ services  
17 compensation of any personal services in connection with a  
18 performance, an entertainment, an athletic event, a speech, or the

1 creation of a ~~film~~ film, radio, or television program, or the  
2 construction or repair of a building or highway program."

3 Section 2. Section 4 of S.L. 1997-109 is repealed.

4 Section 3. G.S. 105-163.3(a), as amended by S.L. 1998-98, reads as rewritten:

5 "(a) Requirement. – Every payer who pays a contractor more than ~~six hundred~~  
6 ~~dollars (\$600.00)~~ one thousand five hundred dollars (\$1,500) during a calendar year shall  
7 deduct and withhold from compensation paid to the contractor the State income taxes  
8 payable by the contractor on the compensation as provided in this section. The amount of  
9 taxes to be withheld is four percent (4%) of the compensation paid to the contractor. The  
10 taxes a payer withholds are held in trust for the Secretary."

11 Section 4. Article 1 of Chapter 87 of the General Statutes is amended by  
12 adding a new section to read:

13 "**§ 87-10.1. Licensing of nonresidents.**

14 (a) Definitions. – The following definitions apply in this section:

15 (1) Delinquent income tax debt. – The amount of income tax due as stated  
16 in a final notice of assessment issued to a taxpayer by the Secretary of  
17 Revenue when the taxpayer no longer has the right to contest the  
18 amount.

19 (2) Foreign corporation. – Defined in G.S. 55-1-40.

20 (3) Reserved.

21 (4) Foreign limited liability company. – Defined in G.S. 57C-1-03.

22 (b) Licensing. – The Board shall not issue a certificate of license for a foreign  
23 corporation unless the corporation has obtained a certificate of authority from the  
24 Secretary of State pursuant to Article 15 of Chapter 55 of the General Statutes. The  
25 Board shall not issue a certificate of license for a foreign limited liability company unless  
26 the company has obtained a certificate of authority from the Secretary of State pursuant  
27 to Article 7 of Chapter 57C of the General Statutes.

28 (c) Information. – Upon request, the Board shall provide the Secretary of Revenue  
29 on an annual basis the name, address, and tax identification number of every nonresident  
30 individual licensed by the Board. The information shall be provided in the format  
31 required by the Secretary of Revenue.

32 (d) Delinquents. – If the Secretary of Revenue determines that any nonresident  
33 individual licensed by the Board owes a delinquent income tax debt, the Secretary of  
34 Revenue may notify the Board of these nonresident individuals and instruct the Board not  
35 to renew their certificates of license. The Board shall not renew the certificate of license  
36 of such a nonresident individual identified by the Secretary of Revenue unless the Board  
37 receives a written statement from the Secretary that the debt either has been paid or is  
38 being paid pursuant to an installment agreement."

39 Section 5. Article 2 of Chapter 87 of the General Statutes is amended by  
40 adding a new section to read:

41 "**§ 87-22.2. Licensing of nonresidents.**

42 (a) Definitions. – The following definitions apply in this section:

1           (1) Delinquent income tax debt. – The amount of income tax due as stated  
2           in a final notice of assessment issued to a taxpayer by the Secretary of  
3           Revenue when the taxpayer no longer has the right to contest the  
4           amount.

5           (2) Foreign corporation. – Defined in G.S. 55-1-40.

6           (3) Reserved.

7           (4) Foreign limited liability company. – Defined in G.S. 57C-1-03.

8           (b) Licensing. – The Board shall not issue a license for a foreign corporation  
9           unless the corporation has obtained a certificate of authority from the Secretary of State  
10           pursuant to Article 15 of Chapter 55 of the General Statutes. The Board shall not issue a  
11           license for a foreign limited liability company unless the company has obtained a  
12           certificate of authority from the Secretary of State pursuant to Article 7 of Chapter 57C of  
13           the General Statutes.

14           (c) Information. – Upon request, the Board shall provide the Secretary of Revenue  
15           on an annual basis the name, address, and tax identification number of every nonresident  
16           individual licensed by the Board. The information shall be provided in the format  
17           required by the Secretary of Revenue.

18           (d) Delinquents. – If the Secretary of Revenue determines that any nonresident  
19           individual licensed by the Board owes a delinquent income tax debt, the Secretary of  
20           Revenue may notify the Board of these nonresident individuals and instruct the Board not  
21           to renew their licenses. The Board shall not renew the license of such a nonresident  
22           individual identified by the Secretary of Revenue unless the Board receives a written  
23           statement from the Secretary that the debt either has been paid or is being paid pursuant  
24           to an installment agreement."

25           Section 6. Article 4 of Chapter 87 of the General Statutes is amended by  
26 adding a new section to read:

27 **"§ 87-44.2. Licensing of nonresidents.**

28           (a) Definitions. – The following definitions apply in this section:

29           (1) Delinquent income tax debt. – The amount of income tax due as stated  
30           in a final notice of assessment issued to a taxpayer by the Secretary of  
31           Revenue when the taxpayer no longer has the right to contest the  
32           amount.

33           (2) Foreign corporation. – Defined in G.S. 55-1-40.

34           (3) Reserved.

35           (4) Foreign limited liability company. – Defined in G.S. 57C-1-03.

36           (b) Licensing. – The Board shall not issue a license for a foreign corporation  
37           unless the corporation has obtained a certificate of authority from the Secretary of State  
38           pursuant to Article 15 of Chapter 55 of the General Statutes. The Board shall not issue a  
39           license for a foreign limited liability company unless the company has obtained a  
40           certificate of authority from the Secretary of State pursuant to Article 7 of Chapter 57C of  
41           the General Statutes.

42           (c) Information. – Upon request, the Board shall provide the Secretary of Revenue  
43           on an annual basis the name, address, and tax identification number of every nonresident

1 individual licensed by the Board. The information shall be provided in the format  
2 required by the Secretary of Revenue.

3 (d) Delinquents. – If the Secretary of Revenue determines that any nonresident  
4 individual licensed by the Board owes a delinquent income tax debt, the Secretary of  
5 Revenue may notify the Board of these nonresident individuals and instruct the Board not  
6 to renew their licenses. The Board shall not renew the license of such a nonresident  
7 individual identified by the Secretary of Revenue unless the Board receives a written  
8 statement from the Secretary that the debt either has been paid or is being paid pursuant  
9 to an installment agreement."

10 Section 7. Chapter 89C of the General Statutes is amended by adding a new  
11 section to read:

12 **"§ 89C-18.1. Licensing of nonresidents.**

13 (a) Definitions. – The following definitions apply in this section:

14 (1) Delinquent income tax debt. – The amount of income tax due as stated  
15 in a final notice of assessment issued to a taxpayer by the Secretary of  
16 Revenue when the taxpayer no longer has the right to contest the  
17 amount.

18 (2) Foreign corporation. – Defined in G.S. 55-1-40.

19 (3) Reserved.

20 (4) Foreign limited liability company. – Defined in G.S. 57C-1-03.

21 (b) Licensing. – The Board shall not renew a certificate of licensure for a foreign  
22 corporation unless the corporation has obtained a certificate of authority from the  
23 Secretary of State pursuant to Article 15 of Chapter 55 of the General Statutes. The  
24 Board shall not renew a certificate of licensure for a foreign limited liability company  
25 unless the company has obtained a certificate of authority from the Secretary of State  
26 pursuant to Article 7 of Chapter 57C of the General Statutes.

27 (c) Information. – Upon request, the Board shall provide the Secretary of Revenue  
28 on an annual basis the name, address, and tax identification number of every nonresident  
29 individual licensed by the Board. The information shall be provided in the format  
30 required by the Secretary of Revenue.

31 (d) Delinquents. – If the Secretary of Revenue determines that any nonresident  
32 individual licensed by the Board owes a delinquent income tax debt, the Secretary of  
33 Revenue may notify the Board of these nonresident individuals and instruct the Board not  
34 to renew their certificates of licensure. The Board shall not renew the certificate of  
35 licensure of such a nonresident individual identified by the Secretary of Revenue unless  
36 the Board receives a written statement from the Secretary that the debt either has been  
37 paid or is being paid pursuant to an installment agreement."

38 Section 8. G.S. 150B-3(d) reads as rewritten:

39 "(d) This section does not apply to ~~revocations~~ the following:

40 (1) Revocations of occupational licenses based solely on a court order of  
41 child support delinquency or a Department of Health and Human  
42 Services determination of child support delinquency issued pursuant to  
43 G.S. 110-142, 110-142.1, or 110-142.2.

- 1           (2) Refusal to renew an occupational license pursuant to G.S. 87-10.1, 87-  
2           22.2, 87-44.2, or 89C-18.1, based solely on a Department of Revenue  
3           determination that the licensee owes a delinquent income tax debt."

4           Section 9. G.S. 93B-14 reads as rewritten:

5 **"§ 93B-14. Information on applicants for licensure.**

6           Every occupational licensing board shall require applicants for licensure to provide to  
7           the Board the applicant's social security number. This information shall be treated as  
8           confidential and may be released only ~~to~~ as follows:

- 9           (1) To the State Child Support Enforcement Program of the Department of  
10           Health and Human Services upon its request and for the purpose of  
11           enforcing a child support order.  
12           (2) To the Department of Revenue for the purpose of administering the  
13           State's tax laws."

14           Section 10. G.S. 87-10.1, as enacted by this act, reads as rewritten:

15 **"§ 87-10.1. Licensing of nonresidents.**

16           (a) Definitions. – The following definitions apply in this section:

- 17           (1) Delinquent income tax debt. – The amount of income tax due as stated  
18           in a final notice of assessment issued to a taxpayer by the Secretary of  
19           Revenue when the taxpayer no longer has the right to contest the  
20           amount.  
21           (2) Foreign corporation. – Defined in G.S. 55-1-40.  
22           (3) Foreign entity. – A foreign corporation, a foreign limited liability  
23           company, or a foreign partnership.  
24           (4) Foreign limited liability company. – Defined in G.S. 57C-1-03.  
25           (5) Foreign partnership. – Either of the following that does not have a  
26           permanent place of business in this State:  
27           a. A foreign limited partnership as defined in G.S. 59-102.  
28           b. A general partnership formed under the laws of a jurisdiction  
29           other than this State.

30           (b) Licensing. – The Board shall not issue a certificate of license for a foreign  
31           corporation unless the corporation has obtained a certificate of authority from the  
32           Secretary of State pursuant to Article 15 of Chapter 55 of the General Statutes. The  
33           Board shall not issue a certificate of license for a foreign limited liability company unless  
34           the company has obtained a certificate of authority from the Secretary of State pursuant  
35           to Article 7 of Chapter 57C of the General Statutes.

36           (c) Information. – Upon request, the Board shall provide the Secretary of Revenue  
37           on an annual basis the name, address, and tax identification number of every nonresident  
38           individual and foreign entity licensed by the Board. The information shall be provided in  
39           the format required by the Secretary of Revenue.

40           (d) Delinquents. – If the Secretary of Revenue determines that any nonresident  
41           individual or foreign corporation licensed by the board, a member of any foreign limited  
42           liability company licensed by the Board, or a partner in any foreign partnership licensed  
43           by the Board, ~~licensed by the Board~~ owes a delinquent income tax debt, the Secretary of

1 Revenue may notify the Board of these nonresident individuals and foreign entities and  
2 instruct the Board not to renew their certificates of license. The Board shall not renew  
3 the certificate of license of such a nonresident individual or foreign entity identified by  
4 the Secretary of Revenue unless the Board receives a written statement from the  
5 Secretary that the debt either has been paid or is being paid pursuant to an installment  
6 agreement."

7 Section 11. G.S. 87-22.2, as enacted by this act, reads as rewritten:

8 **"§ 87-22.2. Licensing of nonresidents.**

9 (a) Definitions. – The following definitions apply in this section:

10 (1) Delinquent income tax debt. – The amount of income tax due as stated  
11 in a final notice of assessment issued to a taxpayer by the Secretary of  
12 Revenue when the taxpayer no longer has the right to contest the  
13 amount.

14 (2) Foreign corporation. – Defined in G.S. 55-1-40.

15 (3) Foreign entity. – A foreign corporation, a foreign limited liability  
16 company, or a foreign partnership.

17 (4) Foreign limited liability company. – Defined in G.S. 57C-1-03.

18 (5) Foreign partnership. – Either of the following that does not have a  
19 permanent place of business in this State:

20 a. A foreign limited partnership as defined in G.S. 59-102.

21 b. A general partnership formed under the laws of a jurisdiction  
22 other than this State.

23 (b) Licensing. – The Board shall not issue a license for a foreign corporation  
24 unless the corporation has obtained a certificate of authority from the Secretary of State  
25 pursuant to Article 15 of Chapter 55 of the General Statutes. The Board shall not issue a  
26 license for a foreign limited liability company unless the company has obtained a  
27 certificate of authority from the Secretary of State pursuant to Article 7 of Chapter 57C of  
28 the General Statutes.

29 (c) Information. – Upon request, the Board shall provide the Secretary of Revenue  
30 on an annual basis the name, address, and tax identification number of every nonresident  
31 individual and foreign entity licensed by the Board. The information shall be provided in  
32 the format required by the Secretary of Revenue.

33 (d) Delinquents. – If the Secretary of Revenue determines that any nonresident  
34 individual or foreign corporation licensed by the Board, a member of any foreign limited  
35 liability company licensed by the Board, or a partner in any foreign partnership licensed  
36 by the Board, licensed by the Board owes a delinquent income tax debt, the Secretary of  
37 Revenue may notify the Board of these nonresident individuals and foreign entities and  
38 instruct the Board not to renew their licenses. The Board shall not renew the license of  
39 such a nonresident individual or foreign entity identified by the Secretary of Revenue  
40 unless the Board receives a written statement from the Secretary that the debt either has  
41 been paid or is being paid pursuant to an installment agreement."

42 Section 12. G.S. 87-44.2, as enacted by this act, reads as rewritten:

43 **"§ 87-44.2. Licensing of nonresidents.**

1 (a) Definitions. – The following definitions apply in this section:

2 (1) Delinquent income tax debt. – The amount of income tax due as stated  
3 in a final notice of assessment issued to a taxpayer by the Secretary of  
4 Revenue when the taxpayer no longer has the right to contest the  
5 amount.

6 (2) Foreign corporation. – Defined in G.S. 55-1-40.

7 (3) Foreign entity. – A foreign corporation, a foreign limited liability  
8 company, or a foreign partnership.

9 (4) Foreign limited liability company. – Defined in G.S. 57C-1-03.

10 (5) Foreign partnership. – Either of the following that does not have a  
11 permanent place of business in this State:

12 a. A foreign limited partnership as defined in G.S. 59-102.

13 b. A general partnership formed under the laws of a jurisdiction  
14 other than this State.

15 (b) Licensing. – The Board shall not issue a license for a foreign corporation  
16 unless the corporation has obtained a certificate of authority from the Secretary of State  
17 pursuant to Article 15 of Chapter 55 of the General Statutes. The Board shall not issue a  
18 license for a foreign limited liability company unless the company has obtained a  
19 certificate of authority from the Secretary of State pursuant to Article 7 of Chapter 57C of  
20 the General Statutes.

21 (c) Information. – Upon request, the Board shall provide the Secretary of Revenue  
22 on an annual basis the name, address, and tax identification number of every nonresident  
23 individual and every foreign entity licensed by the Board. The information shall be  
24 provided in the format required by the Secretary of Revenue.

25 (d) Delinquents. – If the Secretary of Revenue determines that any nonresident  
26 individual ~~licensed by the Board~~ or foreign corporation licensed by the Board, a member of  
27 any foreign limited liability company licensed by the Board, or a partner in any foreign  
28 partnership licensed by the Board, owes a delinquent income tax debt, the Secretary of  
29 Revenue may notify the Board of these nonresident individuals and foreign entities and  
30 instruct the Board not to renew their licenses. The Board shall not renew the license of  
31 such a nonresident individual or foreign entity identified by the Secretary of Revenue  
32 unless the Board receives a written statement from the Secretary that the debt either has  
33 been paid or is being paid pursuant to an installment agreement."

34 Section 13. G.S. 89C-18.1, as enacted by this act, reads as rewritten:

35 "**§ 89C-18.1. Licensing of nonresidents.**

36 (a) Definitions. – The following definitions apply in this section:

37 (1) Delinquent income tax debt. – The amount of income tax due as stated  
38 in a final notice of assessment issued to a taxpayer by the Secretary of  
39 Revenue when the taxpayer no longer has the right to contest the  
40 amount.

41 (2) Foreign corporation. – Defined in G.S. 55-1-40.

42 (3) Foreign entity. – A foreign corporation, a foreign limited liability  
43 company, or a foreign partnership.

1 (4) Foreign limited liability company. – Defined in G.S. 57C-1-03.

2 (5) Foreign partnership. – Either of the following that does not have a  
3 permanent place of business in this State:

4 a. A foreign limited partnership as defined in G.S. 59-102.

5 b. A general partnership formed under the laws of a jurisdiction  
6 other than this State.

7 (b) Licensing. – The Board shall not renew a certificate of licensure for a foreign  
8 corporation unless the corporation has obtained a certificate of authority from the  
9 Secretary of State pursuant to Article 15 of Chapter 55 of the General Statutes. The  
10 Board shall not renew a certificate of licensure for a foreign limited liability company  
11 unless the company has obtained a certificate of authority from the Secretary of State  
12 pursuant to Article 7 of Chapter 57C of the General Statutes.

13 (c) Information. – Upon request, the Board shall provide the Secretary of Revenue  
14 on an annual basis the name, address, and tax identification number of every nonresident  
15 individual and foreign entity licensed by the Board. The information shall be provided in  
16 the format required by the Secretary of Revenue.

17 (d) Delinquents. – If the Secretary of Revenue determines that any nonresident  
18 individual ~~licensed by the Board~~ or foreign corporation licensed by the Board, a member of  
19 any foreign limited liability company licensed by the Board, or a partner in any foreign  
20 partnership licensed by the Board, owes a delinquent income tax debt, the Secretary of  
21 Revenue may notify the Board of these nonresident individuals and foreign entities and  
22 instruct the Board not to renew their certificates of licensure. The Board shall not renew  
23 the certificate of licensure of such a nonresident individual or foreign entity identified by  
24 the Secretary of Revenue unless the Board receives a written statement from the  
25 Secretary that the debt either has been paid or is being paid pursuant to an installment  
26 agreement."

27 Section 14. Sections 1 through 3 of this act are effective retroactively as of  
28 January 1, 1998. Notwithstanding Sections 1, 2, and 3 of this act, any tax withheld under  
29 G.S. 105-163.3 may be repaid to the person from whom the tax was withheld only as  
30 provided in G.S. 105-163.3(f). Sections 10 through 13 of this act become effective July  
31 1, 2000. The remainder of this act becomes effective July 1, 1999.