

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007

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SENATE DRS85014-LY-26 (1/15)

Short Title: Repeal Estate and Gift Taxes.

(Public)

Sponsors: Senator Goodall.

Referred to:

A BILL TO BE ENTITLED

AN ACT TO REPEAL THE ESTATE AND GIFT TAXES.

The General Assembly of North Carolina enacts:

SECTION 1. Article 1A of Chapter 105 of the General Statutes is repealed.

SECTION 2. G.S. 105-241.1(e) reads as rewritten:

"(e) Statute of Limitations. – There is no statute of limitations and the Secretary may propose an assessment of tax due from a taxpayer at any time if (i) the taxpayer did not file a proper application for a license or did not file a return, (ii) the taxpayer filed a false or fraudulent application or return, or (iii) the taxpayer attempted in any manner to fraudulently evade or defeat the tax.

If a taxpayer files a return reflecting a federal determination as provided in G.S. ~~105-32.8,~~ 105-130.20, 105-159, 105-160.8, 105-163.6A, or 105-197.1, the Secretary must propose an assessment of any tax due within one year after the return is filed or within three years of when the original return was filed or due to be filed, whichever is later. If there is a federal determination and the taxpayer does not file the required return, the Secretary must propose an assessment of any tax due within three years after the date the Secretary received the final report of the federal determination.

If a taxpayer forfeits a tax credit or tax benefit pursuant to forfeiture provisions of this Chapter, the Secretary must assess any tax due as a result of the forfeiture within three years after the date of the forfeiture. If a taxpayer elects under section 1033(a)(2)(A) of the Code not to recognize gain from involuntary conversion of property into money, the Secretary must assess any tax due as a result of the conversion or election within the applicable period provided under section 1033(a)(2)(C) or section 1033(a)(2)(D) of the Code. If a taxpayer sells at a gain the taxpayer's principal residence, the Secretary must assess any tax due as a result of the sale within the period provided under section 1034(j) of the Code.

1 In all other cases, the Secretary must propose an assessment of any tax due from a
2 taxpayer within three years after the date the taxpayer filed an application for a license
3 or a return or the date the application or return was required by law to be filed,
4 whichever is later.

5 If the Secretary proposes an assessment of tax within the time provided in this
6 section, the final assessment of the tax is timely.

7 A taxpayer may make a written waiver of any of the limitations of time set out in
8 this subsection, for either a definite or an indefinite time. If the Secretary accepts the
9 taxpayer's waiver, the Secretary may propose an assessment at any time within the time
10 extended by the waiver."

11 **SECTION 3.** Article 6 of Chapter 105 of the General Statutes is repealed.

12 **SECTION 4.** G.S. 105-241.1(e), as amended by Section 2 of this act, reads
13 as rewritten:

14 "(e) Statute of Limitations. – There is no statute of limitations and the Secretary
15 may propose an assessment of tax due from a taxpayer at any time if (i) the taxpayer did
16 not file a proper application for a license or did not file a return, (ii) the taxpayer filed a
17 false or fraudulent application or return, or (iii) the taxpayer attempted in any manner to
18 fraudulently evade or defeat the tax.

19 If a taxpayer files a return reflecting a federal determination as provided in
20 G.S. 105-130.20, 105-159, 105-160.8, or 105-163.6A, ~~or 105-197.1~~, the Secretary must
21 propose an assessment of any tax due within one year after the return is filed or within
22 three years of when the original return was filed or due to be filed, whichever is later. If
23 there is a federal determination and the taxpayer does not file the required return, the
24 Secretary must propose an assessment of any tax due within three years after the date
25 the Secretary received the final report of the federal determination.

26 If a taxpayer forfeits a tax credit or tax benefit pursuant to forfeiture provisions of
27 this Chapter, the Secretary must assess any tax due as a result of the forfeiture within
28 three years after the date of the forfeiture. If a taxpayer elects under section
29 1033(a)(2)(A) of the Code not to recognize gain from involuntary conversion of
30 property into money, the Secretary must assess any tax due as a result of the conversion
31 or election within the applicable period provided under section 1033(a)(2)(C) or section
32 1033(a)(2)(D) of the Code. If a taxpayer sells at a gain the taxpayer's principal
33 residence, the Secretary must assess any tax due as a result of the sale within the period
34 provided under section 1034(j) of the Code.

35 In all other cases, the Secretary must propose an assessment of any tax due from a
36 taxpayer within three years after the date the taxpayer filed an application for a license
37 or a return or the date the application or return was required by law to be filed,
38 whichever is later.

39 If the Secretary proposes an assessment of tax within the time provided in this
40 section, the final assessment of the tax is timely.

41 A taxpayer may make a written waiver of any of the limitations of time set out in
42 this subsection, for either a definite or an indefinite time. If the Secretary accepts the
43 taxpayer's waiver, the Secretary may propose an assessment at any time within the time
44 extended by the waiver."

1 **SECTION 5.** Sections 1 and 2 of this act become effective July 1, 2007, and
2 apply to the estates of decedents dying on or after that date. Sections 3 and 4 of this act
3 become effective January 1, 2008, and apply to gifts made on or after that date. The
4 remainder of this act is effective when it becomes law.