

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007

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SENATE DRS75319-LYx-183 (3/13)

Short Title: Repeal Estate and Gift Taxes.

(Public)

Sponsors: Senator Clodfelter.

Referred to:

A BILL TO BE ENTITLED

AN ACT TO IMPLEMENT A RECOMMENDATION OF THE STATE AND LOCAL FISCAL MODERNIZATION STUDY COMMISSION BY REPEALING THE ESTATE AND GIFT TAXES AND EXPANDING THE SALES TAX BASE TO OFFSET THE LOSS IN REVENUE.

The General Assembly of North Carolina enacts:

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 Article 1A of Chapter 105 of the General Statutes is repealed.

SECTION 2. Article 6 of Chapter 105 of the General Statutes is repealed.

SECTION 3. 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,~~ or 105-163.6A, 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

1 or election within the applicable period provided under section 1033(a)(2)(C) or section
2 1033(a)(2)(D) of the Code. If a taxpayer sells at a gain the taxpayer's principal
3 residence, the Secretary must assess any tax due as a result of the sale within the period
4 provided under section 1034(j) of the Code.

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

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

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

15 **SECTION 4.** G.S. 105-164.3 is amended by adding a new subdivision to
16 read:

17 "**§ 105-164.3. Definitions.**

18 The following definitions apply in this Article:

19 ...

20 (33b) Repair, maintenance, and installation services. – The term includes the
21 activities listed in this subdivision:

- 22 a. Restoration of tangible personal property or real property to
23 proper working order.
24 b. Maintenance of tangible personal property or real property to
25 keep the property in working order, to avoid breakdown, or to
26 prevent unnecessary repairs.
27 c. Installation of tangible personal property or fixtures that
28 become part of existing real property."

29 **SECTION 5.** G.S. 105-164.4(a) reads as rewritten:

30 "(a) A privilege tax is imposed on a retailer at the following percentage rates of
31 the retailer's net taxable sales or gross receipts, as appropriate. The general rate of tax is
32 four percent (4%).

33 ...

34 (4) Every person engaged in ~~the business of operating a dry cleaning,~~
35 ~~pressing, or hat blocking establishment, a laundry, or any similar~~
36 ~~business, engaged in the business of renting clean linen or towels or~~
37 ~~wearing apparel, or any similar business, or engaged in the business of~~
38 ~~soliciting cleaning, pressing, hat blocking, laundering or linen rental~~
39 ~~business for any of these businesses,~~business in one of the industries
40 listed in this subdivision is considered a retailer under this Article. A
41 tax at the general rate of tax is levied on the gross receipts derived by
42 these retailers from services rendered in this State in engaging in any
43 of the occupations or businesses named in this subdivision. The tax
44 imposed by this subdivision does not apply to receipts derived from

1 coin, token, or card-operated washing machines, extractors, and dryers.
2 The tax imposed by this subdivision does not apply to gross receipts
3 derived from services performed for resale by a retailer that pays the
4 tax on the total gross receipts derived from the services.

- 5 a. Laundry, dry cleaning, and hat-blocking services.
- 6 b. Renting clean linens, towels, or wearing apparel.
- 7 c. Repair, cleaning, maintenance, and installation services.

8 ...

9 (9) The general rate of tax applies to the sales price of a warranty
10 agreement, a maintenance agreement, a repair contract, or a similar
11 service agreement or contract by which the seller agrees to maintain or
12 repair tangible personal property. A person who sells a service
13 agreement or contract is considered a retailer under this Article."

14 **SECTION 6.** This act becomes effective January 1, 2008, and applies to
15 estates of decedents dying on or after that date, to gifts made on or after that date, and to
16 sales made on or after that date.