

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

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HOUSE BILL 272  
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Short Title: Fair Share Tax Act.

(Public)

Sponsors:

Referred to:

February 20, 1989

A BILL TO BE ENTITLED

AN ACT TO CREATE A TAX AMNESTY PROGRAM AND IMPROVE STATE  
TAX ENFORCEMENT AND COMPLIANCE TO ASSURE FAIRNESS IN THE  
COLLECTION OF TAXES FROM ALL TAXPAYERS.

Whereas, over ninety-five percent (95%) of State taxes are collected under  
our voluntary compliance system; and

Whereas, uncollected taxes are needed to fund improvements in the quality of  
education demanded by citizens and the business community; and

Whereas, recent federal legislative and judicial mandates will impose a major  
burden on the current tax structure; and

Whereas, uncollected taxes undermine the fairness of the overall tax system;  
and

Whereas, the State's voluntary tax compliance system can be enhanced by a  
modernization package that includes a tax amnesty program, increased penalties for tax  
evasion, and additional enforcement and compliance resources; Now, therefore,  
The General Assembly of North Carolina enacts:

**PART I: AMNESTY PROGRAM**

Section 1. This act shall be known as the "Fair Share Tax Act of 1989."

Sec. 2. Amnesty program established; scope. The Department of Revenue  
shall administer a tax amnesty program to be conducted during the period September 1,  
1989, through December 1, 1989. During the tax amnesty period, the Department of  
Revenue may not initiate a criminal prosecution for failure to report or pay taxes within

1 the scope of the Program and shall waive all penalties assessed for such failure when the  
2 taxes, plus any interest due, are paid in full.

3 The taxes within the scope of the tax amnesty program are:

- 4 (1) Inheritance taxes levied under Article 1 of Chapter 105 of  
5 the General Statutes;
- 6 (2) License taxes levied under Articles 2, 2A, 2B, and 2C of Chapter 105  
7 of the General Statutes;
- 8 (3) Franchise taxes levied under Article 3 of Chapter 105 of the General  
9 Statutes;
- 10 (4) Income taxes levied under Articles 4, 4A, 4B, and 4C of Chapter 105  
11 of the General Statutes;
- 12 (5) Sales and use taxes levied under Articles 5, 39, 40, 41, and 42 of  
13 Chapter 105 of the General Statutes, and under Chapter 1096 of the  
14 1967 Session Laws;
- 15 (6) Gift taxes levied under Article 6 of Chapter 105 of the General  
16 Statutes;
- 17 (7) Intangibles taxes levied under Article 7 of Chapter 105 of the General  
18 Statutes;
- 19 (8) Motor fuels taxes levied under Articles 36, 36A, and 36B of Chapter  
20 105 of the General Statutes; and
- 21 (9) Inspection taxes levied under Article 3 of Chapter 119 of the General  
22 Statutes.

23 The program applies to inheritance tax liabilities due for the estates of  
24 decedents dying prior to December 1, 1988; license tax liabilities for taxable periods  
25 ending on or before June 30, 1988; gift tax liabilities due and remaining unpaid after  
26 December 31, 1987; individual income withholding tax liabilities, sales and use tax  
27 liabilities, motor fuels tax liabilities, and inspection tax liabilities for taxable periods  
28 ending on or before December 31, 1988; income tax liabilities and intangibles tax  
29 liabilities for taxable periods ending on or before December 31, 1987; and franchise tax  
30 liabilities for taxable periods beginning on or before January 1, 1988. The program  
31 does not apply to any matter that is the subject of a pending court proceeding.

32 Sec. 3. Effect of payment under program. A taxpayer who pays unreported,  
33 underreported, or assessed but unpaid taxes as part of the program is not subject to  
34 criminal prosecution for not reporting, underreporting, or not paying the taxes, but must  
35 pay the interest due on the taxes at the rate established under G.S. 105-241.1(i). An  
36 attorney, accountant, paid preparer of a tax return, or other person who would otherwise  
37 be subject to criminal prosecution under G.S. 105-236(9a) for his actions concerning  
38 returns prepared for unreported or underreported taxes paid pursuant to the amnesty  
39 program is not subject to criminal prosecution under that subdivision on the basis of  
40 those actions.

41 Sec. 4. Requirements for participation. To be eligible to participate in the  
42 program, a taxpayer shall:

- 43 (1) File an application to participate before the end of the amnesty period;

- 1 (2) File a return for all reporting periods for which the taxpayer has not  
2 previously filed a return but was required to file a return;  
3 (3) File an amended tax return for all reporting periods for which the  
4 taxpayer underreported tax liability; and  
5 (4) Pay the taxpayer's previously assessed taxes or unreported or  
6 underreported taxes for all reporting periods in full plus any interest  
7 due on the taxes by December 1, 1989.

8 Sec. 5. Administration. The Secretary of Revenue shall issue forms and  
9 instructions to implement the amnesty program and shall publicize the tax amnesty  
10 period to maximize public awareness of and participation in the program.

11 Sec. 6. Funds. To pay for the amnesty program provided in Part I of this act,  
12 the Secretary of Revenue may draw up to one million one hundred thousand dollars  
13 (\$1,100,000) from collections received by the Department during July 1989 under  
14 Division II of Article 4 of Chapter 105 of the General Statutes.

## 15 **PART II: INCREASED PENALTIES**

16 Sec. 7. G.S. 105-236(7) reads as rewritten:

17 "(7) Attempt to Evade or Defeat Tax. – Any person who willfully attempts, or any  
18 person who aids or abets any person to attempt in any manner to evade or defeat any tax  
19 imposed by this Subchapter of the General Statutes, or the payment thereof, shall, in  
20 addition to other penalties provided by law, be guilty of a ~~misdemeanor~~. Class I felony  
21 punishable by imprisonment up to five years, a fine up to twenty-five thousand dollars  
22 (\$25,000), or both."

23 Sec. 8. G.S. 105-236(8) reads as rewritten:

24 "(8) Willful Failure to Collect, Withhold, or Pay Over Tax. – Any person required  
25 under this Subchapter to collect, withhold, account for, and pay over any tax imposed  
26 by this Subchapter who willfully fails to collect or truthfully account for and pay over  
27 such tax shall, in addition to other penalties provided by law, be guilty of a ~~misdemeanor~~  
28 ~~and shall be punished by a fine not to exceed one thousand dollars (\$1,000), or by~~  
29 ~~imprisonment not to exceed two years, or by both such fine and imprisonment.~~ misdemeanor.  
30 Notwithstanding any other provision of law, no prosecution for a violation brought  
31 under this subdivision shall be barred before the expiration of three years after the date  
32 of the violation."

33 Sec. 9. G.S. 105-236(9) reads as rewritten:

34 "(9) Willful Failure to File Return, Supply Information, or Pay Tax. – Any person  
35 required under this Subchapter to pay any tax, to make a return, to keep any records, or  
36 to supply any information, who willfully fails to pay such tax, make such return, keep  
37 such records, or supply such information, at the time or times required by law, or  
38 regulations issued pursuant thereto, shall, in addition to other penalties provided by law,  
39 be guilty of a misdemeanor. Notwithstanding any other provision of law, no  
40 prosecution for a violation brought under this subdivision shall be barred before the  
41 expiration of three years after the date of the violation."

42 Sec. 10. G.S. 105-236(9a) reads as rewritten:

43 "(9a) Aid or Assistance. – Any person, pursuant to or in connection with the  
44 revenue laws, who willfully aids, assists in, procures, counsels, or advises the

1 preparation, presentation, or filing of a return, affidavit, claim, or any other document  
2 that he knows is fraudulent or false as to any material matter, whether or not the falsity  
3 or fraud is with the knowledge or consent of the person authorized or required to present  
4 or file the return, affidavit, claim, or other document, shall be guilty of a ~~misdemeanor~~  
5 Class J felony punishable by imprisonment up to three years, a fine up to ten thousand  
6 dollars (\$10,000), or both."

7 **PART III: ENFORCEMENT/COMPLIANCE FUNDS**

8 Sec. 11. (a) There is appropriated:

- 9 (1) From the Highway Fund to the Department of Revenue the sum of  
10 \$117,950 for the 1989-90 fiscal year and the sum of \$149,690 for the  
11 1990-91 fiscal year; and  
12 (2) From the General Fund to the Department of Revenue the sum of  
13 \$4,953,192 for the 1989-90 fiscal year and the sum of \$4,765,218 for  
14 the 1990-91 fiscal year

15 for additional tax enforcement personnel, support personnel, and other costs resulting  
16 from the additional tax enforcement personnel.

17 (b) Notwithstanding any other provision of this section, this section does not  
18 appropriate any funds and no funds may be expended under this section.

19 **PART IV: EFFECTIVE DATES**

20 Sec. 12. Section 11 of this act shall become effective July 1, 1989; Sections 7  
21 through 10 shall become effective December 2, 1989, and shall apply to violations  
22 occurring on or after that date; the remainder of this act is effective upon ratification.