

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

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SENATE BILL 658  
House Committee Substitute Favorable 7/20/93

Short Title: Computer Software Not Taxable.

(Public)

Sponsors:

Referred to:

March 31, 1993

1 A BILL TO BE ENTITLED  
2 AN ACT TO EXPAND THE PROPERTY TAX EXEMPTION FOR COMPUTER  
3 SOFTWARE.

4 The General Assembly of North Carolina enacts:

5 Section 1. G.S. 105-273(8a) reads as rewritten:

6 "(8a) 'Inventories' means (i) goods held for sale in the regular course of  
7 business by manufacturers, retail and wholesale merchants, and  
8 contractors, and (ii) goods held by contractors to be furnished in the  
9 course of building, installing, repairing, or improving real property. As  
10 to manufacturers, the term includes raw materials, goods in process,  
11 and finished goods, as well as other materials or supplies that are  
12 consumed in manufacturing or processing, or that accompany and  
13 become a part of the sale of the property being sold. The term also  
14 includes crops, livestock, poultry, feed used in the production of  
15 livestock and poultry, and other agricultural or horticultural products  
16 held for sale, whether in process or ready for sale. The term does not  
17 include fuel used in manufacturing or processing, nor does it include  
18 materials or supplies not used directly in manufacturing or processing.  
19 As to retail and wholesale merchants and contractors, the term  
20 includes, in addition to articles held for sale, packaging materials that  
21 accompany and become a part of the sale of the property being sold.

22 ~~As to manufacturers and retail and wholesale merchants the~~  
23 ~~term also includes the following computer software, as long as the~~

1 software is not treated as a capital asset by the taxpayer for income tax  
2 purposes:

- 3 a. ~~Computer software developed or modified by the owner or~~  
4 ~~licensee for its own use.~~  
5 b. ~~Computer software developed or modified to the special order~~  
6 ~~of or to meet the particular needs of the owner or licensee.~~  
7 e. ~~Computer software developed, acquired, or used to develop or~~  
8 ~~enhance computer software for license or sale to ultimate~~  
9 ~~consumers.~~

10 For the purpose of this paragraph, the term 'computer software' means  
11 a program or routine used to cause a computer to perform a specific  
12 task or set of tasks; it includes both system and application programs  
13 and any documentation related to the computer software."

14 Sec. 2. G.S. 105-275 is amended by adding a new subdivision to read:

15 "(40) Computer software and any documentation related to the computer  
16 software. As used in this subdivision, the term 'computer software'  
17 means any program or routine used to cause a computer to perform a  
18 specific task or set of tasks. The term includes system and application  
19 programs and database storage and management programs.

20 The exclusion established by this subdivision does not apply to  
21 computer software and its related documentation if the computer  
22 software meets one or more of the following descriptions:

- 23 a. It is embedded software. 'Embedded software' means computer  
24 instructions, known as microcode, that reside permanently in  
25 the internal memory of a computer system or other equipment  
26 and are not intended to be removed without terminating the  
27 operation of the computer system or equipment and removing a  
28 computer chip, a circuit, or another mechanical device.  
29 b. It is purchased or licensed from a person who is unrelated to the  
30 taxpayer and it is capitalized on the books of the taxpayer in  
31 accordance with generally accepted accounting principles,  
32 including financial accounting standards issued by the Financial  
33 Accounting Standards Board. A person is unrelated to a  
34 taxpayer if (i) the taxpayer and the person are not subject to any  
35 common ownership, either directly or indirectly, and (ii) neither  
36 the taxpayer nor the person has any ownership interest, either  
37 directly or indirectly, in the other.

38 This subdivision does not affect the value or taxable status of any  
39 property that is otherwise subject to taxation under this Subchapter."

40 Sec. 3. G.S. 105-282.1(a)(2) reads as rewritten:

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

1                   Sec. 4. This act is effective for taxes imposed for taxable years beginning on  
2 or after July 1, 1994.