

GENERAL ASSEMBLY OF NORTH CAROLINA
1995 SESSION

CHAPTER 46
SENATE BILL 120

AN ACT TO PROVIDE UNIFORM TAX TREATMENT OF NORTH CAROLINA
OBLIGATIONS AND FEDERAL OBLIGATIONS.

The General Assembly of North Carolina enacts:

Section 1. Article 1 of Chapter 53A of the General Statutes is repealed.

Sec. 2. G.S. 63A-9(l) reads as rewritten:

"(l) Bonds and notes ~~and their transfer, including any profit made on their sale,~~ are exempt from all State, county, and municipal taxation or assessment, direct or indirect, general or special, whether imposed for the purpose of general revenue or otherwise, excluding inheritance and gift taxes, taxes, income taxes on the gain from the transfer of bonds and notes, and franchise taxes. The interest on bonds and notes is not subject to taxation as income, ~~and the bonds and notes are not subject to taxation when constituting a part of the surplus of any bank, trust company, or other corporation.~~ income."

Sec. 3. G.S. 105-134.6 reads as rewritten:

"§ 105-134.6. Adjustments to taxable income.

(a) S Corporations. – The pro rata share of each shareholder in the income attributable to the State of an S Corporation shall be adjusted as provided in G.S. 105-130.5. The pro rata share of each resident shareholder in the income not attributable to the State of an S Corporation shall be subject to the adjustments provided in subsections (b), (c), and (d) of this section.

(b) Deductions. – The following deductions from taxable income shall be made in calculating North Carolina taxable income, to the extent each item is included in taxable income:

(1) Interest upon the obligations of ~~(i) the United States or its possessions, (ii) this State or a political subdivision of this State, or (iii) a nonprofit educational institution organized or chartered under the laws of this State.~~ any of the following:

a. The United States or its possessions.

b. This State, a political subdivision of this State, or a commission, an authority, or another agency of this State or of a political subdivision of this State.

c. A nonprofit educational institution organized or chartered under the laws of this State.

- (2) ~~Interest upon obligations and gain~~ Gain from the disposition of obligations issued before July 1, 1995, to the extent the ~~interest or gain~~ is exempt from tax under the laws of this State.
- (3) Benefits received under Title II of the Social Security Act and amounts received from retirement annuities or pensions paid under the provisions of the Railroad Retirement Act of 1937.
- (4) Repealed by Session Laws 1989 (Reg. Sess., 1990), c. 1002, s. 2.
- (5) Refunds of state, local, and foreign income taxes included in the taxpayer's gross income.
- (6)
 - a. An amount, not to exceed four thousand dollars (\$4,000), equal to the sum of the amount calculated in subparagraph b. plus the amount calculated in subparagraph c.
 - b. The amount calculated in this subparagraph is the amount received during the taxable year from one or more state, local, or federal government retirement plans.
 - c. The amount calculated in this subparagraph is the amount received during the taxable year from one or more retirement plans other than state, local, or federal government retirement plans, not to exceed a total of two thousand dollars (\$2,000) in any taxable year.
 - d. In the case of a married couple filing a joint return where both spouses received retirement benefits during the taxable year, the maximum dollar amounts provided in this subdivision for various types of retirement benefits apply separately to each spouse's benefits.
- (7) Recodified as G.S. 105-134.6(d)(1).
- (8) Recodified as G.S. 105-134.6(d)(2).
- (9) Income that is (i) earned or received by an enrolled member of a federally recognized Indian tribe and (ii) derived from activities on a federally recognized Indian reservation while the member resides on the reservation. Income from intangibles having a situs on the reservation and retirement income associated with activities on the reservation are considered income derived from activities on the reservation.
- (10) The amount by which the basis of property under this Article exceeds the basis of the property under the Code, in the year the taxpayer disposes of the property.

(c) Additions. – The following additions to taxable income shall be made in calculating North Carolina taxable income, to the extent each item is not included in taxable income:

- (1) Interest upon the obligations of ~~states, other than this State, and their political subdivisions~~ states other than this State, political subdivisions of those states, and agencies of those states and their political subdivisions.

- (2) Any amount allowed as a deduction from gross income under the Code that is taxed under the Code by a separate tax other than the tax imposed in section 1 of the Code.
 - (3) Any amount deducted from gross income under section 164 of the Code as state, local, or foreign income tax to the extent that the taxpayer's total itemized deductions deducted under the Code for the taxable year exceed the standard deduction allowable to the taxpayer under the Code reduced by the amount by which the taxpayer's allowable standard deduction has been increased under section 63(c)(4) of the Code.
 - (4) The amount by which the taxpayer's standard deduction has been increased for inflation under section 63(c)(4) of the Code and the amount by which the taxpayer's personal exemptions have been increased for inflation under section 151(d)(4)(A) of the Code. For the purpose of this subdivision, if the taxpayer's personal exemptions have been reduced by the applicable percentage under section 151(d)(3) of the Code, the amount by which the personal exemptions have been increased for inflation is also reduced by the applicable percentage.
 - (5) The fair market value, up to a maximum of one hundred thousand dollars (\$100,000), of the donated property interest for which the taxpayer claims a credit for the taxable year under G.S. 105-151.12 and the market price of the gleaned crop for which the taxpayer claims a credit for the taxable year under G.S. 105-151.14.
 - (6) The amount by which the basis of property under the Code exceeds the basis of the property under this Article, in the year the taxpayer disposes of the property.
- (d) Other Adjustments. – The following adjustments to taxable income shall be made in calculating North Carolina taxable income:
- (1) The amount of inheritance tax attributable to an item of income in respect of a decedent required to be included in gross income under the Code, adjusted as provided in G.S. 105-134.5, 105-134.6, and 105-134.7, may be deducted in the year the item of income is included. The amount of inheritance tax attributable to an item of income in respect of a decedent is (i) the amount by which the inheritance tax paid under Article 1 of this Chapter on property transferred to a beneficiary by a decedent exceeds the amount of inheritance tax that would have been payable by the beneficiary if the item of income in respect of a decedent had not been included in the property transferred to the beneficiary by the decedent, (ii) multiplied by a fraction, the numerator of which is the amount required to be included in gross income for the taxable year under the Code, adjusted as provided in G.S. 105-134.5, 105-134.6, and 105-134.7, and the denominator of which is the total amount of income in respect of a decedent transferred to the beneficiary by the decedent. For an estate or trust,

the deduction allowed by this subdivision shall be computed by excluding from the gross income of the estate or trust the portion, if any, of the items of income in respect of a decedent that are properly paid, credited, or to be distributed to the beneficiaries during the taxable year.

The Secretary of Revenue may provide to a beneficiary of an item of income in respect of a decedent any information contained on an inheritance tax return that the beneficiary needs to compute the deduction allowed by this subdivision.

- (2) The taxpayer may deduct the amount by which the taxpayer's deductions allowed under the Code were reduced, and the amount of the taxpayer's deductions that were not allowed, because the taxpayer elected a federal tax credit in lieu of a deduction. This deduction is allowed only to the extent that a similar credit is not allowed by this Division for the amount."

Sec. 4. G.S. 115C-513(b) reads as rewritten:

"(b) Issuance of Bonds. ~~—~~The board of education of a merged school administrative unit may issue notes, bonds, or refunding bonds at one time or from time to time to pay the capital costs of school facilities as described in G.S. 159-48. The bonds shall be issued and maintained in accordance with the provisions of Articles 1, 4, 5A, 7, 9, 10, and 11 of Chapter 159 of the General Statutes, except as modified by this section.

The board of education of a merged school administrative unit shall call for a referendum authorizing the issuance of notes, bonds, and refunding bonds and the levy of a tax to pay amounts relating to these notes, bonds, or refunding bonds. The referendum may be called only with the consent of the boards of commissioners of both counties in which the merged school administrative unit is located. The referendum shall be held in the merged school administrative unit and only those qualified voters who reside in the unit may vote. The board of commissioners of each county shall have the referendum conducted by the board of elections of its county.

After issuance of the approved bonds, the merged school administrative unit shall make timely payments of principal and interest on the bonds after receipt of notification of its debt service obligation pursuant to G.S. 159-35. The provisions of G.S. 159-36 govern a failure by the merged school administrative unit to levy taxes or otherwise provide for payment of the debt.

Bonds, notes, and refunding bonds issued under this section ~~and their transfer (including any profit made on the sale thereof)~~ shall be exempt from all State, county, and municipal taxation and assessment, direct or indirect, general or special, whether imposed for the purpose of general revenue or otherwise, excluding inheritance and gift taxes, taxes, income taxes on the gain from the transfer of bonds, notes, and refunding bonds, and franchise taxes. The interest on bonds, notes, and refunding bonds is not subject to taxation as to income. ~~The bonds, notes, and refunding bonds are not subject to taxation when they constitute a part of the surplus of a bank, trust company, or other corporation.~~

Article 9 of the North Carolina Uniform Commercial Code, Chapter 25 of the General Statutes, does not apply to any security interest created in connection with the issuance of bonds under this section."

Sec. 5. G.S. 115E-21 reads as rewritten:

"§ 115E-21. Tax exemption.

The exercise of the powers granted by this Chapter will be in all respects for the benefit of the people of the State and will promote their health and welfare, and no tax or assessment shall be levied upon any project undertaken by the agency prior to the retirement or provision for the retirement of all bonds or notes issued and obligations incurred by the agency in connection with such project.

Any bonds or notes issued by the agency under the provisions of this Chapter, ~~their transfer and the income therefrom (including any profit made on the sale thereof)~~ Chapter shall at all times be free from taxation by the State or any local unit or political subdivision or other instrumentality of the State, excepting inheritance or gift ~~taxes.~~ taxes, income taxes on the gain from the transfer of the bonds and notes, and franchise taxes. The interest on the bonds and notes is not subject to taxation as income."

Sec. 6. G.S. 116-183 reads as rewritten:

"§ 116-183. Acceptance of grants; exemption from taxation.

The Board is hereby authorized, subject to the approval of the Director of the Budget, to accept grants of money or materials or property of any kind for any project from a federal agency, private agency, corporation or individual, upon such terms and conditions as such federal agency, private agency, corporation or individual may impose. ~~The bonds issued under the provisions of this Article and the income therefrom shall at all times be free from taxation within the State.~~ are exempt from all State, county, and municipal taxation or assessment, direct or indirect, general or special, whether imposed for the purpose of general revenue or otherwise, excluding inheritance and gift taxes, income taxes on the gain from the transfer of the bonds and notes, and franchise taxes. The interest on the bonds and notes is not subject to taxation as income."

Sec. 7. G.S. 116-196 reads as rewritten:

"§ 116-196. Exemption from taxation; bonds eligible for investment or deposit.

Any bonds issued under this Article, ~~including any of such bonds constituting a part of the surplus of any bank, trust company or other corporation, and the transfer of and the income from any such bonds (including any profit made on the sale thereof and all principal, interest and redemption premiums, if any)~~ Article shall at all times be exempt from all taxes or assessment, direct or indirect, general or special, whether imposed for the purpose of general revenue or otherwise, which are levied or assessed by the State or by any county, political subdivision, agency or other instrumentality of the State. State, excluding inheritance and gift taxes, income taxes on the gain from the transfer of the bonds, and franchise taxes. The interest on the bonds is not subject to taxation as income. Bonds issued by the Board under the provisions of this Article are hereby made securities in which all public officers and public bodies of the State and its political subdivisions, all insurance companies, trust companies, banking associations, investment companies, executors, administrators, trustees and other fiduciaries may

properly and legally invest funds, including capital in their control or belonging to them. Such bonds are hereby made securities which may properly and legally be deposited with and received by any State or municipal officer or any agency or political subdivision of the State for any purpose for which the deposit of bonds or obligations of the State is now or may hereafter be authorized by law."

Sec. 8. G.S. 116-198.39 reads as rewritten:

"§ 116-198.39. Bonds are exempt from taxation.

Any bonds issued under this Article, ~~including any of such bonds constituting a part of the surplus of any bank, trust company, or other corporation, and the transfer of and the income from any such bonds (including any profit made on the sale thereof and all principal, interest, and redemption premiums, if any)~~ Article shall at all times be exempt from all taxes or assessment, direct or indirect, general or special, whether imposed for the purpose of general revenue or otherwise, which are levied or assessed by the State or by any county, political subdivision, agency, or other instrumentality of the State. State, excluding inheritance and gift taxes, income taxes on the gain from the transfer of the bonds, and franchise taxes. The interest on the bonds is not subject to taxation as income. Bonds issued by the Board under the provisions of this Article are hereby made securities in which all public officers and public bodies of the State and its political subdivisions, all insurance companies, trust companies, banking associations, investment companies, executors, administrators, trustees, and other fiduciaries may properly and legally invest funds, including capital in their control or belonging to them. Such bonds are hereby made securities which may properly and legally be deposited with and received by any State or municipal officer or any agency or political subdivision of the State for any purpose for which the deposit of bonds or obligations of the State is now or may hereafter be authorized by law."

Sec. 9. G.S. 116-209.13 reads as rewritten:

"§ 116-209.13. Tax exemption.

The exercise of the powers granted by this Article in all respects will be for the benefit of the people of the State, for their well-being and prosperity and for the improvement of their social and economic conditions, and the Authority shall not be required to pay any taxes on any property owned by the Authority under the provisions of this Article or upon the income therefrom, and the bonds issued under the provisions of this Article, ~~their transfer and the income therefrom (including any profit made on the sale thereof)~~, Article shall at all times be free from taxation by the State or any local unit or political subdivision or other instrumentality of the State, excepting inheritance or gift taxes. taxes, income taxes on the gain from the transfer of the bonds, and franchise taxes. The interest on the bonds is not subject to taxation as income."

Sec. 10. G.S. 122A-19 reads as rewritten:

"§ 122A-19. Tax exemption.

The exercise of the powers granted by this Chapter will be in all respects for the benefit of the people of the State, for their well-being and prosperity and for the improvement of their social and economic conditions, and the Agency shall not be required to pay any tax or assessment on any property owned by the Agency under the provisions of this Chapter or upon the income therefrom.

Any obligations issued by the Agency under the provisions of this ~~Chapter, their transfer and the income therefrom (including any profit made on the sale thereof),~~ Chapter shall at all times be free from taxation by the State or any local unit or political subdivision or other instrumentality of the State, excepting inheritance or gift ~~taxes-~~ taxes, income taxes on the gain from the transfer of the obligations, and franchise taxes. The interest on the obligations is not subject to taxation as income."

Sec. 11. G.S. 122D-14 reads as rewritten:

"§ 122D-14. Exemption from taxes.

The exercise of the powers granted by this Chapter will be in all respects for the benefit of the people of the State, for their well-being and prosperity and for the improvement of their social and economic conditions, and the Authority shall not be required to pay any tax or assessment on any property owned by the Authority under the provisions of this Chapter or upon the income therefrom.

Any obligations issued by the Authority under the provisions of this ~~Chapter, their transfer and the income therefrom (including any profit made on the sale thereof),~~ Chapter shall at all times be free from taxation by the State or any local unit or political subdivision or other instrumentality of the State, excepting inheritance or gift ~~taxes-~~ taxes, income taxes on the gain from the transfer of the obligations, and franchise taxes. The interest on the obligations is not subject to taxation as income."

Sec. 12. G.S. 131A-21 reads as rewritten:

"§ 131A-21. Tax exemption.

The exercise of the powers granted by this Chapter will be in all respects for the benefit of the people of the State and will promote their health and welfare, and no tax or assessment shall be levied upon any health care facilities undertaken by the Commission prior to the retirement or provision for the retirement of all bonds or notes issued and obligations incurred by the Commission in connection with such health care facilities.

Any bonds or notes issued by the Commission under the provisions of this ~~Chapter, their transfer and the income therefrom (including any profit made on the sale thereof)~~ Chapter shall at all times be free from taxation by the State or any local unit or political subdivision or other instrumentality of the State, excepting inheritance or gift ~~taxes-~~ taxes, income taxes on the gain from the transfer of the bonds and notes, and franchise taxes. The interest on the bonds and notes is not subject to taxation as income."

Sec. 13. G.S. 131E-28(c) reads as rewritten:

"(c) Bonds, notes, debentures, or other evidences of indebtedness of a hospital authority issued under the Local Government Revenue Bond Act, Chapter 159 of the General Statutes, Article 5, or issued pursuant to the bond and revenue anticipation provisions of Chapter 159 of the General Statutes, Article 9, or issued pursuant to G.S. 131E-26(b) or contracted pursuant to G.S. 131E-32 ~~and the transfer of and income from such instruments, including profits on sales,~~ shall at all times be free from taxation by the State or any of its subdivisions, except for inheritance or gift ~~taxes-~~ taxes, income taxes on the gain from the transfer of the instruments, and franchise taxes. The interest on the instruments is not subject to taxation as income."

Sec. 14. G.S. 142-12 reads as rewritten:

"§ 142-12. State bonds exempt from taxation.

~~The original bonds or certificates of debt of the State, which have been issued since the first day of January, 1853, or which may hereafter be issued under the authority of any act whatever, as likewise the bonds and certificates substituted for such original bonds and certificates, shall be, they and the interest accruing thereon, exempt from taxation.—Bonds and other evidences of indebtedness issued by the State are exempt from State taxation to the extent provided in the act authorizing their issuance. If the act authorizing the issuance of the instruments does not address exemption from taxation, then they are exempt from taxation by the State or any of its subdivisions, except for inheritance or gift taxes, income taxes on the gain from the transfer of the instruments, and franchise taxes. Unless the act authorizing the issuance of the instruments provides otherwise, the interest on the instruments is not subject to taxation as income."~~

Sec. 15. G.S. 142-29.6(f) reads as rewritten:

~~"(f) All refunding obligations, coupons (if any) and any evidences of additional interest appertaining thereto, and their transfer (including any profit made on the sale thereof), obligations shall be exempt from all State, county and municipal taxation or assessment, direct or indirect, general or special, whether imposed for the purpose of general revenue or otherwise, including except for inheritance and gift taxes, income taxes on the gain from the transfer of the obligations, and franchise taxes. The interest on the refunding obligations is not subject to taxation as income, and the interest on the refunding obligations shall not be subject to taxation as to income, nor shall the refunding obligations or coupons (if any) or evidences of additional indebtedness be subject to taxation when constituting a part of the surplus of any bank, trust company or other corporation."~~

Sec. 16. G.S. 143B-456(g) reads as rewritten:

~~"(g) Any obligations issued by the Authority under the provisions of this Part, their transfer and the income therefrom (including any profit made on the sale thereof), Part shall at all times be free from taxation by the State or any local unit or political subdivision or other instrumentality of the State, excepting inheritance or gift taxes, taxes, income taxes on the gain from the transfer of the obligations, and franchise taxes. The interest on the obligations is not subject to taxation as income."~~

Sec. 17. G.S. 157-26 reads as rewritten:

"§ 157-26. Tax exemptions.

~~An authority is a local government agency and is exempt from taxation to the same extent as a unit of local government. Property owned by an authority is exempt from taxation in accordance with Article V, § Sec. 2 of the North Carolina Constitution. Bonds and other obligations issued by an authority or its corporate agent authorized by this Article to exercise its powers. The authority shall be exempt from the payment of any taxes or fees to the State or any subdivision thereof, or to any officer or employee of the State or any subdivision thereof. The property of an authority used for public purposes shall be exempt from all local and municipal taxes and for the purposes of such tax exemption, it is hereby declared as a matter of legislative determination that an authority is and shall be deemed to be a municipal corporation. Bonds, notes, debentures and other evidences of indebtedness of an authority (including any corporate agent~~

~~thereof authorized by this Article to exercise the powers of the authority) heretofore or hereafter issued~~ are declared to be issued for a public purpose and to be public instrumentalities and, together with the interest thereon, shall be exempt from taxes. instrumentalities. These obligations are exempt from all State, county, and municipal taxation or assessment, direct or indirect, general or special, whether imposed for the purpose of general revenue or otherwise, excluding inheritance and gift taxes, income taxes on the gain from the transfer of the obligations, and franchise taxes. The interest on the obligations is not subject to taxation as income."

Sec. 18. G.S. 159B-26 reads as rewritten:

"§ 159B-26. Tax exemption.

~~Bonds, their transfer and the income therefrom (including any profit made on the sale thereof), Bonds~~ shall at all times be free from taxation by the State or any political subdivision or any agency of either thereof, of their agencies, excepting inheritance or gift taxes. taxes, income taxes on the gain from the transfer of the bonds, and franchise taxes. The interest on the bonds is not subject to taxation as income."

Sec. 19. G.S. 159I-23 reads as rewritten:

"§ 159I-23. Tax exemption.

~~All of the bonds and notes authorized by this Chapter and the coupons, if any, appertaining thereto, and their transfer (including any profit made on the sale thereof), Chapter~~ shall be exempt from all State, county, and municipal taxation or assessment, direct or indirect, general or special, whether imposed for the purpose of general revenue or otherwise, excluding inheritance and gift ~~taxes. taxes, income taxes on the gain from the transfer of the bonds and notes, and franchise taxes. The interest on the bonds and notes shall not be subject to taxation as to income, nor shall the bonds, notes, and coupons, if any, be subject to taxation when constituting a part of the surplus of any bank, trust company, or other corporation. income."~~

Sec. 20. G.S. 160A-516(b) reads as rewritten:

"(b) Neither the commissioners of a commission nor any person executing the bonds shall be liable personally on the bonds by reason of the issuance ~~thereof. of the bonds.~~ The bonds and other obligations of the commission (and ~~such the~~ bonds and obligations shall so state on their face) shall not be a debt of the municipality, the county, or the State and neither the municipality, the county, nor the State shall be liable ~~thereon, on the bonds,~~ nor in any event shall ~~such the~~ bonds or obligations be payable out of any funds or properties other than those of ~~said the~~ commission acquired for the purpose of this Article. The bonds shall not constitute an indebtedness of the municipality within the meaning of any constitutional or statutory debt limitation or restriction. Bonds of a commission are declared to be issued for an essential public and governmental purpose and to be public ~~instrumentalities and, together with interest thereon and income therefrom, shall be exempt from all taxes. instrumentalities.~~ The bonds are exempt from all State, county, and municipal taxation or assessment, direct or indirect, general or special, whether imposed for the purpose of general revenue or otherwise, excluding inheritance and gift taxes, income taxes on the gain from the transfer of the bonds and notes, and franchise taxes. The interest on the bonds is not subject to taxation as income. Bonds may be issued by a commission under this Article

notwithstanding any debt or other limitation prescribed in any statute. This Article without reference to other statutes of the State shall constitute full and complete authority for the authorization and issuance of bonds by the commission ~~hereunder~~ under this Article and ~~such~~ this authorization and issuance shall not be subject to any conditions, ~~restrictions~~ restrictions, or limitations imposed by any other statute whether general, ~~special~~ special, or local, except as provided in subsection (d) of this section."

Sec. 21. This act becomes effective July 1, 1995, and applies to obligations issued on or after that date.

In the General Assembly read three times and ratified this the 20th day of April, 1995.

Dennis A. Wicker
President of the Senate

Harold J. Brubaker
Speaker of the House of Representatives