

GENERAL ASSEMBLY OF NORTH CAROLINA
1997 SESSION

S.L. 1997-318
HOUSE BILL 96

AN ACT TO DIRECT THE SECRETARY OF REVENUE TO (1) MAKE REFUNDS OF THE INTANGIBLES TAX TO TAXPAYERS WHO PRESERVED THEIR RIGHT TO A REFUND BY PROTESTING PAYMENT WITHIN THE TIME LIMITS SET BY G.S. 105-267 AND (2) NOTIFY AFFECTED INTANGIBLES TAXPAYERS BY MAIL AS SOON AS POSSIBLE OF THE COURT NOTICE IN THE CLASS ACTION LAWSUIT REGARDING REFUNDS.

The General Assembly of North Carolina enacts:

Section 1. Because the General Assembly has enacted S.L. 1997-17, prohibiting the Secretary of Revenue from collecting intangibles tax liability arising from a taxpayer's use of the taxable percentage deductions in former G.S. 105-203 (repealed) for any of the tax years from 1990 through 1994, G.S. 105-267 as it applies to those tax years entitles a taxpayer to a refund for one or more of those tax years to the extent the taxpayer meets all of the following requirements with respect to the applicable tax year:

- (1) The taxpayer paid intangibles tax on shares of stock for the tax year.
- (2) The taxpayer protested payment of the tax within 30 days of payment and met the other requirements of G.S. 105-267, as it then existed, to establish and preserve the taxpayer's refund claim for the tax year.
- (3) The taxpayer's established and preserved refund claim was pending on February 21, 1996, the date the United States Supreme Court held the taxable percentage deduction in former G.S. 105-203 unconstitutional.

Section 2. The Secretary of Revenue shall make these refunds in accordance with G.S. 105-267.

Section 3. (a) The Secretary of Revenue shall, as soon as possible, mail a copy of the Wake County Superior Court's notice in the class action lawsuit Smith v. State to all intangibles taxpayers that she has identified as possibly being affected and for whom she has identified a last known mailing address. The court's notice requires immediate action by affected taxpayers. The Secretary of Revenue shall, therefore, make an extraordinary effort to assure that the notices are sent as quickly as possible.

(b) It is the intent of the General Assembly that as many affected taxpayers as possible receive actual, complete information before the deadline set by the court for taxpayers to make a decision regarding the class action lawsuit. The Secretary of Revenue shall supplement the mailing required by this section with circulation of the

court's notice to tax professionals and media outlets throughout the State and to any other person she considers appropriate to implement the intent of this section.

Section 4. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 21st day of July, 1997.

s/ Dennis A. Wicker
President of the Senate

s/ Harold J. Brubaker
Speaker of the House of Representatives

s/ James B. Hunt, Jr.
Governor

Approved 2:40 p.m. this 22nd day of July, 1997