

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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SENATE BILL 784
Finance Committee Substitute Adopted 5/22/97

Short Title: Conform Tax Extension Rules.

(Public)

Sponsors:

Referred to:

April 10, 1997

A BILL TO BE ENTITLED

AN ACT TO PROVIDE TAX RELIEF AND SIMPLIFICATION BY CONFORMING
STATE TAX LAW TO THE FEDERAL RULE THAT GRANTS A FILING
EXTENSION EVEN IF THE REQUEST IS NOT ACCOMPANIED BY PAYMENT.

The General Assembly of North Carolina enacts:

Section 1. G. S. 105-263 reads as rewritten:

"§ 105-263. Extensions of time for filing a report or return.

The Secretary may extend the time in which a person must file a report or return with the Secretary. To obtain an extension of time for filing a report or return, a person must comply with any application requirement set by the Secretary. ~~In addition, if the extension is for~~ An extension of time for filing a franchise tax return, an income tax return, or a gift tax return, the person must pay the amount of tax expected to be due with the return by the original due date of the return; ~~an extension of time for filing one of these returns~~ return does not extend the time for paying the tax due or the time when a penalty attaches for failure to pay the tax. An extension of time for filing

~~If the extension is for~~ a report or any return other than a franchise tax return, an income tax return, or a gift tax return, ~~the person is not required to pay the amount of tax expected to be due with the report or return by the original due date of the report or return; an extension of time for filing a report or one of these other returns~~ return extends

1 the time for paying the tax due and the time when a penalty attaches for failure to pay the
2 tax. When an extension of time for filing a report or return extends the time for paying
3 the tax expected to be due with the report or return, interest, at the rate established
4 pursuant to G.S. 105-241.1(i), accrues on the tax due from the original due date of the
5 report or return to the date the tax is paid."

6 Section 2. G.S. 105-122(d) reads as rewritten:

7 "(d) After determining the proportion of its total capital stock, surplus and
8 undivided profits as set out in subsection (c) of this section, which amount so determined
9 shall in no case be less than fifty-five percent (55%) of the appraised value as determined
10 for ad valorem taxation of all the real and tangible personal property in this State of each
11 such corporation plus the total appraised value of intangible property returned for
12 taxation of intangible personal property as herein specified nor less than its total actual
13 investment in tangible property in this State, every corporation taxed under this section
14 shall ~~annually pay to the Secretary of Revenue, at the time the report and statement are due,~~
15 Revenue a franchise or privilege tax, which is hereby levied at the rate of one dollar and
16 fifty cents (\$1.50) per one thousand dollars (\$1,000) of the total amount of capital stock,
17 surplus and undivided profits as herein provided. The tax imposed in this section shall in
18 no case be less than thirty-five dollars (\$35.00) and shall be for the privilege of carrying
19 on, doing business, and/or the continuance of articles of incorporation or domestication of
20 each such corporation in this State. Appraised value of tangible property including real
21 estate shall be the ad valorem valuation for the calendar year next preceding the due date
22 of the franchise tax return. Appraised value of intangible property shall be the total gross
23 valuation required to be reported for intangible tax purposes on April 15 coincident with
24 or next preceding the due date of the franchise tax return. The term 'total actual
25 investment in tangible property' as used in this section shall be construed to mean the
26 total original purchase price or consideration to the reporting taxpayer of its tangible
27 properties, including real estate, in this State plus additions and improvements thereto
28 less reserve for depreciation as permitted for income tax purposes, and also less any
29 indebtedness incurred and existing by virtue of the purchase of any real estate and any
30 permanent improvements made thereon. In computing 'total actual investment in tangible
31 personal property' there shall also be deducted reserves for the entire cost of any air-
32 cleaning device or sewage or waste treatment plant, including waste lagoons, and
33 pollution abatement equipment purchased or constructed and installed which reduces the
34 amount of air or water pollution resulting from the emission of air contaminants or the
35 discharge of sewage and industrial wastes or other polluting materials or substances into
36 the outdoor atmosphere or into streams, lakes, or rivers, upon condition that the
37 corporation claiming such deduction shall furnish to the Secretary a certificate from the
38 Department of Environment, Health, and Natural Resources or from a local air pollution
39 control program for air-cleaning devices located in an area where the Environmental
40 Management Commission has certified a local air pollution control program pursuant to
41 G.S. 143-215.112 certifying that said Department or local air pollution control program
42 has found as a fact that the air-cleaning device, waste treatment plant or pollution
43 abatement equipment purchased or constructed and installed as above described has

1 actually been constructed and installed and that such device, plant or equipment complies
2 with the requirements of the Environmental Management Commission or local air
3 pollution control program with respect to such devices, plants or equipment, that such
4 device, plant or equipment is being effectively operated in accordance with the terms and
5 conditions set forth in the permit, certificate of approval, or other document of approval
6 issued by the Environmental Management Commission or local air pollution control
7 program and that the primary purpose thereof is to reduce air or water pollution resulting
8 from the emission of air contaminants or the discharge of sewage and waste and not
9 merely incidental to other purposes and functions. The cost of constructing facilities of
10 any private or public utility built for the purpose of providing sewer service to residential
11 and outlying areas shall be treated as deductible for the purposes of this section; the
12 deductible liability allowed by this section shall apply only with respect to such pollution
13 abatement plants or equipment constructed or installed on or after January 1, 1955.

14 In determining the total tax payable by any corporation under this section, there shall
15 be allowed as a credit on such tax the amount of the credit authorized by Division V of
16 Article 4 of this Chapter."

17 Section 3. G.S. 105-129 reads as rewritten:

18 **"§ 105-129. Extension of time for filing returns.**

19 ~~The A return required by this Article shall be is due on or before the dates specified~~
20 ~~unless the Secretary of Revenue grants an extension on or before the due date of the~~
21 ~~return. The Secretary of Revenue for good cause may extend the time for filing any return~~
22 ~~under this Article. A taxpayer requesting an extension of time for filing shall, on or~~
23 ~~before the date the return is due, submit an application for an extension of time for filing~~
24 ~~on a form prescribed by the Secretary and pay the full amount of the tax anticipated to be~~
25 ~~due. date set in this Article. A taxpayer may ask the Secretary for an extension of time to~~
26 ~~file a return under G.S. 105-263.~~"

27 Section 4. G.S. 105-130.17(d) reads as rewritten:

28 "(d) ~~In case of sickness, absence, or other disability or whenever in his~~
29 ~~judgment good cause exists, the Secretary may allow further time for filing returns. A~~
30 ~~taxpayer requesting an extension of time for filing shall, on or before the date the return~~
31 ~~is due, submit an application for an extension of time for filing on a form prescribed by~~
32 ~~the Secretary and pay the full amount of the tax anticipated to be due. A taxpayer may~~
33 ~~ask the Secretary for an extension of time to file a return under G.S. 105-263.~~"

34 Section 5. The Secretary of Revenue shall draw from collections under Article
35 4 of Chapter 105 of the General Statutes for the 1997-98 fiscal year the one-time
36 computer programming costs of implementing this act.

37 Section 6. This act becomes effective January 1, 1998, and applies to returns
38 due on or after that date.