

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

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HOUSE BILL 1559
Senate Finance Committee Substitute Adopted 6/22/00

Short Title: Conform with Federal Law.

(Public)

Sponsors:

Referred to:

May 17, 2000

1 A BILL TO BE ENTITLED
2 AN ACT TO UPDATE THE REFERENCE TO THE INTERNAL REVENUE CODE
3 USED IN DEFINING AND DETERMINING CERTAIN STATE TAX
4 PROVISIONS, TO CONFORM TO FEDERAL LAW REGARDING PENSION
5 TAX WITHHOLDING AND DEADLINES FOR PAYMENTS OF CERTAIN
6 ESTIMATED INCOME TAXES, TO CLARIFY THE SALES FACTOR FOR
7 DETERMINATION OF STATE CORPORATE INCOME AND FRANCHISE TAX,
8 AND TO ENABLE THE COLLECTION OF TAX DEBT OWED TO NORTH
9 CAROLINA THROUGH THE FEDERAL TREASURY OFFSET PROGRAM.The
10 General Assembly of North Carolina enacts:
11 Section 1. G.S. 105-228.90(b)(1a) reads as rewritten:
12 "(b) Definitions. – The following definitions apply in this Article:
13 ...
14 (1a) Code. – The Internal Revenue Code as enacted as of ~~June 1, 1999,~~
15 January 1, 2000, including any provisions enacted as of that date which
16 become effective either before or after that date."
17 Section 2. G.S. 105-163.1(11b) reads as rewritten:

1 "(11b) (Effective January 1, 2001) Pension payment. – A periodic payment or
2 a nonperiodic distribution ~~that is not an eligible rollover distribution,~~ as
3 those terms are defined in section 3405 of the Code."

4 Section 3. G.S. 105-163.2A(d) reads as rewritten:

5 "(d) Election of No Withholding. – The recipient may elect not to have taxes
6 withheld under this ~~section.~~ section to the extent permitted by section 3405 of the Code.
7 The election must be in the form required by the Secretary. In the case of periodic
8 payments, the election remains in effect until revoked by the recipient. In the case of a
9 nonperiodic distribution, the election applies on a distribution-by-distribution basis unless
10 it meets conditions prescribed by the Secretary for it to apply to subsequent nonperiodic
11 distributions by the pension payer.

12 A pension payer must notify each recipient of the right to elect not to have taxes
13 withheld under this section. The notice must comply with the requirements of section
14 3405 of the Code and any additional requirements prescribed by the Secretary.

15 A recipient's election not to have taxes withheld under this section is void if the
16 recipient fails to furnish the recipient's tax identification number to the pension payer, or
17 the Secretary has notified the pension payer that the tax identification number furnished
18 by the recipient is incorrect."

19 Section 4. G.S. 105-163.15(i) reads as rewritten:

20 "(i) Notwithstanding ~~the other provisions~~ subsections (c), (d), (e), and (h) of this
21 section, an individual who is a farmer or fisherman for a taxable year is subject to the
22 provisions of this subsection.

23 (1) One installment. – The individual is required to make only one
24 installment payment of tax for that taxable year. This installment is due
25 on or before January 15 of the following taxable year but may be paid
26 without penalty or interest on or before March 1 of that year. The
27 amount of the installment payment shall must be the lesser of:

28 (1) a. Sixty-six and two-thirds percent (66 2/3%) of the tax shown on the
29 return for the taxable year, or, if no return is filed, sixty-six and two-
30 thirds percent (66 2/3%) of the tax for that year; or

31 (2) b. One hundred percent (100%) of the tax shown on the return of the
32 individual for the preceding taxable year, if the preceding taxable year
33 was a taxable year of 12 months and the individual filed a return for that
34 year.

35 (2) Exception. – If, on or before March 1 of the following taxable year, the
36 taxpayer files a return for the taxable year and pays in full the amount
37 computed on the return as payable, no addition to tax is imposed under
38 subsection (a) of this section with respect to any underpayment of the
39 required installment for the taxable year.

40 (3) Eligibility. – An individual is a farmer or fisherman for any taxable year
41 if the individual's gross income from farming or fishing, including
42 oyster farming, for the taxable year is at least sixty-six and two-thirds
43 percent (66 2/3%) of the total gross income from all sources for the

1 taxable year, or the individual's gross income from farming or fishing,
2 including oyster farming, shown on the return of the individual for the
3 preceding taxable year is at least sixty-six and two-thirds percent (66
4 2/3%) of the total gross income from all sources shown on the return."

5 Section 5. G.S. 105-130.4(a)(7) reads as rewritten:

6 "(a) As used in this section, unless the context otherwise requires:

7 ...

8 (7) "Sales" means all gross receipts of the corporation except ~~receipts for the~~
9 following receipts:

10 a. Receipts from any a casual sale of property and except receipts
11 property.

12 b. Receipts allocated under subsections (c) through (h) of this
13 section.

14 c. Receipts exempt from taxation.

15 d. The portion of receipts realized from the sale or maturity of
16 securities or other obligations that represents a return of
17 principal."

18 Section 6. G.S. 105A-13 reads as rewritten:

19 "**§ 105A-13. Collection assistance fees.**

20 (a) State Setoff. – To recover the costs incurred by the Department in collecting
21 debts under this Chapter, a collection assistance fee of no more than fifteen dollars
22 (\$15.00) is imposed on each debt collected through setoff. The Department must collect
23 this fee as part of the debt and retain it. The Department must set the amount of the
24 collection assistance fee based on its actual cost of collection under this Chapter for the
25 immediately preceding year. If the Department is able to collect only part of a debt
26 through setoff, the collection assistance fee has priority over the remainder of the debt.
27 The collection assistance fee shall not be added to child support debts or collected as part
28 of child support debts. Instead, the Department shall retain from collections under
29 Division II of Article 4 of Chapter 105 of the General Statutes the cost of collecting child
30 support debts under this Chapter.

31 (b) Federal Setoff. – A collection assistance fee of fifteen dollars (\$15.00) applies
32 to a setoff made by the United States Department of the Treasury to recover tax owed to
33 North Carolina. The Department of Revenue must add the fee to the amount of the tax
34 liability submitted to the United States Department of the Treasury for setoff. If a federal
35 setoff covers only part of the tax due, the collection assistance fee has priority over the
36 tax due."

37 Section 7. Notwithstanding Section 1 of this bill, any amendments to the
38 Internal Revenue Code enacted in 1999 that increase North Carolina taxable income for
39 the 1999 taxable year become effective for taxable years beginning on or after January 1,
40 2000.

41 Section 8. Sections 2 and 3 of this act become effective January 1, 2001. The
42 remainder of this act is effective when it becomes law.