

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

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SENATE BILL 236*

Short Title: Revenue Administrative Changes. (Public)

Sponsors: Senators Kerr, Clodfelter, Dalton, Hartsell, and Hoyle.

Referred to: Finance.

February 27, 2003

A BILL TO BE ENTITLED

AN ACT TO MODIFY THE DIVIDEND RECEIVED DEDUCTION FOR REGULATED INVESTMENT COMPANIES AND REAL ESTATE INVESTMENT TRUSTS TO ENSURE THAT ALL DIVIDENDS ARE TREATED UNIFORMLY, TO EXTEND FOR TWO YEARS THE DEPARTMENT OF REVENUE'S AUTHORITY TO OUTSOURCE THE COLLECTION OF IN-STATE TAX DEBTS, AND TO MAKE VARIOUS ADMINISTRATIVE CHANGES IN THE TAX LAWS.

The General Assembly of North Carolina enacts:

MODIFY DIVIDEND RECEIVED DEDUCTION FOR RICs AND REITs.

SECTION 1. G.S. 105-130.7 and G.S. 105-130.5(b)(3) are repealed.

SECTION 2. G.S. 105-130.4(c) reads as rewritten:

"(c) Rents and royalties from real or tangible personal property, gains and losses, interest, ~~dividends less the portion deductible under G.S. 105-130.7,~~ dividends, patent and copyright royalties and other kinds of income, to the extent that they constitute nonbusiness income, less related expenses shall be allocated as provided in subsections (d) through (h) of this section."

SECTION 3. G.S. 105-130.4(f) reads as rewritten:

"(f) Interest and net dividends are allocable to this State if the corporation's commercial domicile is in this State. For purposes of this section, the term "net dividends" means gross dividend income received less related ~~expenses and less that portion of the dividends deductible under G.S. 105-130.7.~~ expenses."

AVOID DUPLICATIVE REPORTING REQUIREMENTS REGARDING SALES OF SEIZED PROPERTY.

SECTION 4. G.S. 105-242(a)(2) reads as rewritten:

"(2) The Secretary may issue a warrant or order under the Secretary's hand and seal to any revenue officer or other employee of the Department of Revenue charged with the duty to collect taxes, commanding the officer or employee to levy upon and sell the taxpayer's personal

1 property, including that described in G.S. 105-366(d), found within the
2 State for the payment of the tax, including penalties and interest.
3 Except as otherwise provided in this subdivision, the levy upon the
4 sale of personal property shall be governed by the laws regulating levy
5 and sale under execution. The person to whom the warrant is directed
6 shall proceed to levy upon and sell the personal property subject to
7 levy in the same manner and with the same powers and authority
8 normally exercised by sheriffs in levying upon and selling personal
9 property under execution, except that the property may be sold in any
10 county, in the discretion of the Secretary. In addition to the notice of
11 sale required by the laws governing sale of property levied upon under
12 execution, the Secretary may advertise the sale in any reasonable
13 manner and for any reasonable period of time to produce an adequate
14 bid for the property. Levy and sale fees, plus actual advertising costs,
15 shall be added to and collected in the same manner as taxes. The
16 Secretary is not required to file a report of sale with the clerk of
17 superior court, as required by the laws governing sale of property
18 levied upon under execution, if the sale is otherwise publicly
19 reported."

20 **EXTEND AUTHORITY TO CONTINUE USING OUTSIDE COLLECTION**
21 **AGENCIES.**

22 **SECTION 5.** Section 9 of S.L. 2001-380 reads as rewritten:

23 "SECTION 9. Section 3 of this act becomes effective November 1, 2001. Section 6
24 of this act is effective on and after July 1, 2001. Section 8 of this act becomes effective
25 ~~October 1, 2003.~~ October 1, 2005. The remainder of this act is effective when it
26 becomes law and applies to tax debts that remain unpaid on or after that date."

27 **REVISE SECRECY PROVISION TO REFLECT TRANSFER OF DMV**
28 **ENFORCEMENT TO THE DIVISION OF THE STATE HIGHWAY PATROL.**

29 **SECTION 6.** G.S. 105-259(b)(7) reads as rewritten:

30 "(7) To exchange information with the ~~Division of Motor Vehicles of the~~
31 ~~Department of Transportation~~ Division of the State Highway Patrol of
32 the Department of Crime Control and Public Safety or the
33 International Fuel Tax Association, Inc., when the information is
34 needed to fulfill a duty imposed on the Department of Revenue or the
35 ~~Division of Motor Vehicles~~ Division of the State Highway Patrol of
36 the Department of Crime Control and Public Safety."

37 **BASE LOCAL SALES TAX DISTRIBUTIONS ON TAXPAYER DATA.**

38 **SECTION 7.** G.S. 105-472(a) reads as rewritten:

39 "(a) County Allocation. – The Secretary shall, on a monthly basis, allocate to each
40 taxing county for which the Secretary collects the tax the net proceeds of the tax
41 collected in that county under this Article. For the purpose of this section, "net
42 proceeds" means the gross proceeds of the tax collected in each county under this
43 Article less taxes refunded, the cost to the State of collecting and administering the tax
44 in the county as determined by the Secretary, and other deductions that may be charged

1 to the county. If the Secretary collects local sales or use taxes in a month and the taxes
2 cannot be identified as being attributable to a particular taxing county, the Secretary
3 shall allocate the taxes among the taxing counties in proportion to the amount of taxes
4 collected in each county under this Article during that month and shall include them in
5 the monthly distribution. Amounts collected by electronic funds transfer payments are
6 included in the distribution for the month in which the return that applies to the payment
7 is due."

8 **SIMPLIFY PROCEDURE FOR HOLD HARMLESS CALCULATION.**

9 **SECTION 8.** G.S. 105-521(b) reads as rewritten:

10 "(b) Distributions. – On or before May 1 of each year, the Department of Revenue
11 and the Fiscal Research Division of the General Assembly must each submit to the
12 Secretary and to the General Assembly a final projection of the estimated amount that
13 all local governments would be expected to receive during the upcoming fiscal year
14 under G.S. 105-520 if every county levied the tax under this Article for the fiscal year.
15 If the Secretary does not use the lower of the two final projections to make the
16 calculation required by this subsection, the Secretary must report the reasons for this
17 decision to the Joint Legislative Commission on Governmental Operations within 60
18 days after receiving the projections.

19 ~~On or before September 15, 2003, and each September 15 thereafter,~~ 15 of each year,
20 the Secretary must multiply each local government's local sales tax share by the
21 estimated amount that all local governments would be expected to receive during the
22 current fiscal year under G.S. 105-520 if every county levied the tax under this Article
23 for the year. If the resulting amount is less than one hundred percent (100%) of the local
24 government's repealed reimbursement amount, the Secretary must pay the local
25 government the difference, but not less than one hundred dollars (\$100.00).

26 ~~On or before May 1, 2003, and each May 1 thereafter, the Office of State Budget~~
27 ~~and Management and the Fiscal Research Division of the General Assembly must each~~
28 ~~submit to the Secretary and to the General Assembly a final projection of the estimated~~
29 ~~amount that all local governments would be expected to receive during the upcoming~~
30 ~~fiscal year under G.S. 105-520 if every county levied the tax under this Article for the~~
31 ~~fiscal year. If the Secretary does not use the lower of the two final projections to make~~
32 ~~the calculation required by this subsection, the Secretary must report the reasons for this~~
33 ~~decision to the Joint Legislative Commission on Governmental Operations within 60~~
34 ~~days after receiving the projections."~~

35 **CLARIFY THAT THE FILING FEE FOR AN ANNUAL REPORT IS** 36 **NONREFUNDABLE.**

37 **SECTION 9.** G.S. 55-1-22 is amended by adding a new subsection to read:

38 "(d) The fee for the annual report in subdivision (23) of this section is
39 nonrefundable."

40 **EFFECTIVE DATE.**

41 **SECTION 10.** Sections 1, 2, and 3 of this act are effective for taxable years
42 beginning on or after January 1, 2003. Section 7 becomes effective July 1, 2003. The
43 remainder of this act is effective when it becomes law.