

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2005

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HOUSE DRH60588-LYxz-284 (1/20)

Short Title: IRC Update.

(Public)

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Sponsors: Representatives Wainwright; Carney, Church, Hill, Luebke, and Wilkins.

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Referred to:

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A BILL TO BE ENTITLED

1  
2 AN ACT TO UPDATE THE REFERENCE TO THE INTERNAL REVENUE CODE  
3 USED IN DEFINING AND DETERMINING CERTAIN STATE TAX  
4 PROVISIONS AND TO MAKE OTHER CHANGES TO MORE CLOSELY  
5 CONFORM TO FEDERAL TAX LAW.

6 The General Assembly of North Carolina enacts:

7 **SECTION 1.** G.S. 105-228.90(b)(1b) reads as rewritten:

8 "(b) Definitions. – The following definitions apply in this Article:

9 ...

10 (1b) Code. – The Internal Revenue Code as enacted as of January 1,  
11 ~~2005,2006~~, including any provisions enacted as of that date which  
12 become effective either before or after that date."

13 **SECTION 2.** Notwithstanding Section 1 of this act, any amendments to the  
14 Internal Revenue Code enacted after January 1, 2005, that increase North Carolina  
15 taxable income for the 2005 taxable year become effective for taxable years beginning  
16 on or after January 1, 2006.

17 **SECTION 3.** G.S. 105-32.8 reads as rewritten:

18 "§ 105-32.8. **Federal determination that changes the amount of tax payable to the**  
19 **State.**

20 If the federal government corrects or otherwise determines the gross estate tax  
21 imposed under section 2001 of the Code or the amount of the maximum state death tax  
22 credit allowed an estate under section 2011 of the Code, the personal representative  
23 must, within ~~two years~~ six months after being notified of the correction or final  
24 determination by the federal government, file an estate tax return with the Secretary  
25 reflecting the correct amount of tax payable under this Article. If the federal government  
26 corrects or otherwise determines the amount of the maximum state generation-skipping  
27 transfer tax credit allowed under section 2604 of the Code, the person who made the

1 transfer must, within ~~two years~~six months after being notified of the correction or final  
2 determination by the federal government, file a tax return with the Secretary reflecting  
3 the correct amount of tax payable under this Article.

4 The Secretary must assess and collect any additional tax due as provided in Article 9  
5 of this Chapter and must refund any overpayment of tax as provided in Article 9 of this  
6 Chapter. A person who fails to report a federal correction or determination in  
7 accordance with this section forfeits the right to any refund due by reason of the  
8 determination."

9 **SECTION 4.** G.S. 105-130.20 reads as rewritten:

10 **"§ 105-130.20. Federal corrections.**

11 If a taxpayer's federal taxable income is corrected or otherwise determined by the  
12 federal government, the taxpayer must, within ~~two years~~six months after being notified  
13 of the correction or final determination by the federal government, file an income tax  
14 return with the Secretary reflecting the corrected or determined taxable income. The  
15 Secretary shall determine from all available evidence the taxpayer's correct tax liability  
16 for the income year. As used in this section, the term 'all available evidence' means  
17 evidence of any kind that becomes available to the Secretary from any source, whether  
18 or not the evidence was considered in the federal correction or determination.

19 The Secretary shall assess and collect any additional tax due from the taxpayer as  
20 provided in Article 9 of this Chapter. The Secretary shall refund any overpayment of tax  
21 as provided in Article 9 of this Chapter. A taxpayer that fails to comply with this section  
22 is subject to the penalties in G.S. 105-236 and forfeits its rights to any refund due by  
23 reason of the determination."

24 **SECTION 5.** G.S. 105-159 reads as rewritten:

25 **"§ 105-159. Federal corrections.**

26 If a taxpayer's federal taxable income is corrected or otherwise determined by the  
27 federal government, the taxpayer must, within ~~two years~~six months after being notified  
28 of the correction or final determination by the federal government, file an income tax  
29 return with the Secretary reflecting the corrected or determined taxable income. The  
30 Secretary shall determine from all available evidence the taxpayer's correct tax liability  
31 for the taxable year. As used in this section, the term 'all available evidence' means  
32 evidence of any kind that becomes available to the Secretary from any source, whether  
33 or not the evidence was considered in the federal correction or determination.

34 The Secretary shall assess and collect any additional tax due from the taxpayer as  
35 provided in Article 9 of this Chapter. The Secretary shall refund any overpayment of tax  
36 as provided in Article 9 of this Chapter. A taxpayer who fails to comply with this  
37 section is subject to the penalties in G.S. 105-236 and forfeits the right to any refund  
38 due by reason of the determination."

39 **SECTION 6.** G.S. 105-197.1 reads as rewritten:

40 **"§ 105-197.1. Federal corrections.**

41 If the amount of a taxpayer's net gifts is corrected or otherwise determined by the  
42 federal government, the taxpayer must, within ~~two years~~six months after being notified  
43 of the correction or final determination by the federal government, file a gift tax return  
44 with the Secretary of Revenue reflecting the corrected or determined net gifts. The

1 Secretary of Revenue shall determine from all available evidence the taxpayer's correct  
2 tax liability for the taxable year. As used in this section, the term 'all available evidence'  
3 means evidence of any kind that becomes available to the Secretary from any source,  
4 whether or not the evidence was considered in the federal correction or determination.

5 The Secretary shall assess and collect any additional tax due from the taxpayer as  
6 provided in Article 9 of this Chapter. The Secretary shall refund any overpayment of tax  
7 as provided in Article 9 of this Chapter. A taxpayer who fails to comply with this  
8 section is subject to the penalties in G.S. 105-236 and forfeits the right to any refund  
9 due by reason of the determination."

10 **SECTION 7.** G.S. 105-130.17 is amended by adding a new subsection to  
11 read:

12 "(g) A corporation that files a federal return pursuant to section 6072(c) of the  
13 Code shall file its return on or before the fifteenth day of the sixth month following the  
14 close of its income year."

15 **SECTION 8.** G.S. 105-155(a) reads as rewritten:

16 "(a) ~~Where and When to File Return.~~ – An income tax return shall be filed as  
17 ~~prescribed by the Secretary at the place and in the form prescribed by the Secretary.~~ The  
18 income tax return of every taxpayer reporting on a calendar year basis ~~shall be filed~~  
19 due on or before the fifteenth day of April in each year, ~~and the year.~~ The income tax  
20 return of every taxpayer reporting on a fiscal year basis ~~shall be filed~~ is due on or before  
21 the fifteenth day of the fourth month following the close of the fiscal year. These dates  
22 do not apply to a nonresident alien whose federal income tax return is due at a later date  
23 under section 6072(c) of the Code. The return of a nonresident alien affected by that  
24 Code section is due on or before the fifteenth day of the sixth month following the close  
25 of the taxable year. An information return shall be filed at the times prescribed by the  
26 Secretary. A taxpayer may ask the Secretary for an extension of time to file a return  
27 under G.S. 105-263."

28 **SECTION 9.** G.S. 105-151.11(b) reads as rewritten:

29 "(b) Employment Related Expenses. – The amount of employment-related  
30 expenses for which a credit may be claimed may not exceed ~~two thousand four hundred~~  
31 ~~dollars (\$2,400)~~ three thousand dollars (\$3,000) if the taxpayer's household includes one  
32 qualifying individual, as defined in section 21(b)(1) of the Code, and may not exceed  
33 ~~four thousand eight hundred dollars (\$4,800)~~ six thousand dollars (\$6,000) if the  
34 taxpayer's household includes more than one qualifying individual. The amount of  
35 employment-related expenses for which a credit may be claimed is reduced by the  
36 amount of employer-provided dependent care assistance excluded from gross income."

37 **SECTION 10.** Sections 1, 2, and 10 of this act are effective when they  
38 become law. Sections 3 through 6 of this act become effective July 1, 2006, and apply  
39 to federal determinations made on or after that date. Sections 7 through 9 of this act are  
40 effective for taxable years beginning on or after January 1, 2006.