

Article 1A.  
Estate Taxes.

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3 **§ 105-32.1. Definitions.**

4 The following definitions apply in this Article:

- 5 (1) Code. – Defined in G.S. 105-228.90.  
6 (2) Personal representative. – The person appointed by the clerk of superior  
7 court under Chapter 28A of the General Statutes to administer the estate of a  
8 decedent or, if no one is appointed under that Chapter, the person required to  
9 file a federal estate tax return for the estate of the decedent.  
10 (3) Secretary. – Defined in G.S. 105-228.90. (1998-212, s. 29A.2(b).)

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12 **§ 105-32.2. Estate tax imposed in amount equal to federal state death tax credit.**

13 (a) Tax. – An estate tax is imposed on the estate of a decedent when a federal estate tax  
14 is imposed on the estate under section 2001 of the Code and any of the following apply:

- 15 (1) The decedent was a resident of this State at death.  
16 (2) The decedent was not a resident of this State at death and owned any of the  
17 following:  
18 a. Real property or tangible personal property that is located in this  
19 State.  
20 b. Intangible personal property that has a tax situs in this State.

21 (b) Amount. – The amount of the estate tax imposed by this section is the amount of the  
22 state death tax credit that, as of December 31, 2001, would have been allowed under section  
23 2011 of the Code against the federal taxable estate. The tax may not exceed the amount of  
24 federal estate tax due under the Code. The federal taxable estate and the amount of the federal  
25 estate tax due are determined without taking into account the deduction for state death taxes  
26 allowed under Section 2058 of the Code and the credits allowed under sections 2011 through  
27 2015 of the Code.

28 If any property in the estate is located in a state other than North Carolina, the amount of  
29 tax payable depends on whether the decedent was a resident of this State at death. If the  
30 decedent was a resident of this State at death, the amount of tax due under this section is  
31 reduced by an amount computed by multiplying the credit by a fraction, the numerator of which  
32 is the gross value of the estate that has a tax situs in another state and the denominator of which  
33 is the value of the decedent's gross estate. If the decedent was not a resident of this State at  
34 death, the amount of tax due under this section is an amount computed by multiplying the  
35 credit by a fraction, the numerator of which is the gross value of real property that is located in  
36 North Carolina plus the gross value of any personal property that has a tax situs in North  
37 Carolina and the denominator of which is the value of the decedent's gross estate. For purposes  
38 of this section, the gross value of property is its gross value as finally determined in the federal  
39 estate tax proceedings. (1998-212, s. 29A.2(b); 2002-87, s. 9; 2002-126, ss. 30C.3(a),  
40 30C.3(b); 2003-284, ss. 37A.4, 37A.5; 2003-416, s. 1; 2004-170, ss. 1, 4(a), (b); 2005-144, ss.  
41 8.1, 8.2; 2006-162, s. 26; 2008-107, s. 28.17(a).)

42  
43 **§ 105-32.3. Liability for estate tax.**

44 (a) Primary. – The tax imposed by this Article is payable from the assets of the estate.  
45 A person who receives property from an estate is liable for the amount of estate tax attributable  
46 to that property.

47 (b) Personal Representative. – The personal representative of an estate is liable for an  
48 estate tax that is not paid within two years after it was due. This liability is limited to the value  
49 of the assets of the estate that were under the control of the personal representative. The amount  
50 for which the personal representative is liable may be recovered from the personal

1 representative or from the surety on any bond filed by the personal representative under Article  
2 8 of Chapter 28A of the General Statutes.

3 (c) Clerk of Court. – A clerk of court who allows a personal representative to make a  
4 final settlement of an estate without presenting one of the following is liable on the clerk's bond  
5 for any estate tax due:

6 (1) An affirmation by the personal representative certifying that no tax is due on  
7 the estate because this Article does not require an estate tax return to be filed  
8 for that estate.

9 (2) A certificate issued by the Secretary stating that the tax liability of the estate  
10 has been satisfied. (1998-212, s. 29A.2(b).)

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12 **§ 105-32.4. Payment of estate tax.**

13 (a) Due Date. – The estate tax imposed by this Article is due when an estate tax return  
14 is due. An estate tax return is due on the date a federal estate tax return is due.

15 (b) Filing Return. – An estate tax return must be filed under this Article if a federal  
16 estate tax return is required. The return must be filed by the personal representative of the estate  
17 on a form provided by the Secretary.

18 (c) Extension. – An extension of time to file a federal estate tax return is an automatic  
19 extension of the time to file an estate tax return under this Article. The Secretary may, in  
20 accordance with G.S. 105-263, extend the time for paying the estate tax imposed by this Article  
21 or for filing an estate tax return.

22 (d) Obtaining Amount Due. – The personal representative of an estate may sell assets in  
23 the estate to obtain money to pay the tax imposed by this Article.

24 (e) Administration. – Article 9 of this Chapter applies to this Article. (1998-212, s.  
25 29A.2(b).)

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27 **§ 105-32.5. Making installment payments of tax due when federal estate tax is payable in**  
28 **installments.**

29 A personal representative who elects under section 6166 of the Code to make installment  
30 payments of federal estate tax may elect to make installment payments of the tax imposed by  
31 this Article. An election under this section extends the time for payment of the tax due in  
32 accordance with the extension elected under section 6166 of the Code. Payments of tax are due  
33 under this section at the same time and in the same proportion to the total amount of tax due as  
34 payments of federal estate tax under section 6166 of the Code. Acceleration of payments under  
35 section 6166 of the Code accelerates the payments due under this section. (1998-212, s.  
36 29A.2(b).)

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38 **§ 105-32.6. Estate tax is a lien on real property in the estate.**

39 The tax imposed by this Article on an estate is a lien on the real property in the estate and  
40 on the proceeds of the sale of the real property in the estate. The lien is extinguished when one  
41 of the following occurs:

42 (1) The personal representative certifies to the clerk of court that no tax is due  
43 on the estate because this Article does not require an estate tax return to be  
44 filed for that estate.

45 (2) The Secretary issues a certificate stating that the tax liability of the estate has  
46 been satisfied.

47 (3) For specific real property, when the Secretary issues a tax waiver for that  
48 property.

49 (4) Ten years have elapsed since the date of the decedent's death. (1998-212, s.  
50 29A.2(b).)

1 **§ 105-32.7. Generation-skipping transfer tax.**

2 (a) Tax. – A tax is imposed on a generation-skipping transfer that is subject to the tax  
3 imposed by Chapter 13 of Subtitle B of the Code when any of the following apply:

4 (1) The original transferor is a resident of this State at the date of the original  
5 transfer.

6 (2) The original transferor is not a resident of this State at the date of the  
7 original transfer and the transfer includes any of the following:

8 a. Real or tangible personal property that is located in this State.

9 b. Intangible personal property that has a tax situs in this State.

10 (b) Amount. – The amount of the tax imposed by this section is the maximum credit for  
11 state generation-skipping transfer taxes allowed under section 2604 of the Code. If property in  
12 the transfer is located in a state other than North Carolina, the amount of tax payable is the  
13 North Carolina percentage of the credit.

14 If the original transferor was a resident of this State at the date of the original transfer, the  
15 North Carolina percentage is the net value of the property transferred that does not have a tax  
16 situs in another state, divided by the net value of all property transferred. If the original  
17 transferor was not a resident of this State at the date of the original transfer, the North Carolina  
18 percentage is the net value of real property that is located in North Carolina plus the net value  
19 of any personal property that has a tax situs in North Carolina, divided by the net value of all  
20 property transferred, unless the original transferor's state of residence uses a different formula  
21 to determine that state's percentage. In that circumstance, the North Carolina percentage is the  
22 amount determined by the formula used by the original transferor's state of residence.

23 The net value of property that is located in or has a tax situs in this State is its gross value  
24 reduced by any debt secured by that property. The net value of all the property in a transfer is  
25 its gross value reduced by any debts secured by the property.

26 (c) Payment. – The tax imposed by this section is due when a return is due. A return is  
27 due the same date as the federal return for payment of the federal generation-skipping transfer  
28 tax. The tax is payable by the person who is liable for the federal generation-skipping transfer  
29 tax. (1998-212, s. 29A.2(b).)

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31 **§ 105-32.8. Federal determination that changes the amount of tax payable to the State.**

32 If the federal government corrects or otherwise determines the gross estate tax imposed  
33 under section 2001 of the Code or the amount of the maximum state death tax credit allowed an  
34 estate under section 2011 of the Code, the personal representative must, within six months after  
35 being notified of the correction or final determination by the federal government, file an estate  
36 tax return with the Secretary reflecting the correct amount of tax payable under this Article. If  
37 the federal government corrects or otherwise determines the amount of the maximum state  
38 generation-skipping transfer tax credit allowed under section 2604 of the Code, the person who  
39 made the transfer must, within six months after being notified of the correction or final  
40 determination by the federal government, file a tax return with the Secretary reflecting the  
41 correct amount of tax payable under this Article.

42 The Secretary must propose an assessment for any additional tax due as provided in Article  
43 9 of this Chapter and must refund any overpayment of tax as provided in Article 9 of this  
44 Chapter. A person who fails to report a federal correction or determination in accordance with  
45 this section is subject to the penalties in G.S. 105-236 and forfeits the right to any refund due  
46 by reason of the determination. (1998-212, s. 29A.2(b); 1999-337, s. 13; 2005-435, s. 24;  
47 2006-18, s. 3; 2007-491, s. 6.)