

GENERAL ASSEMBLY OF NORTH CAROLINA
1991 SESSION

CHAPTER 454
SENATE BILL 114

AN ACT TO REPEAL INHERITANCE TAX EXEMPTIONS FOR CERTAIN TYPES
OF PROPERTY.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-3 reads as rewritten:

"§ 105-3. Property exempt.

The following property shall be exempt from taxation under this Article:

- (1) Property passing to or for the use of any one or more of the following: the United States, any state, territory or any political subdivision thereof, or the District of Columbia, for exclusively public purposes.
- (2) Property passing to religious, charitable, or educational corporations, or to churches, hospitals, orphan asylums, public libraries, religious, or charitable organizations, or passing to any trustee or trustees for religious or charitable purposes, where such religious, charitable, or educational institutions, corporations, churches, trusts, etc., are located within the State and not conducted for profit.
- (3) Property passing to religious, educational, or charitable corporations, foundations or trusts, not conducted for profit, incorporated or created or administered under the laws of any other state: If such other state levies no inheritance or estate taxes on property similarly passing from residents of such state to religious, educational or charitable corporations, foundations or trusts incorporated or created or administered under the laws of this State; or if such corporation, foundation or trust is one receiving and disbursing funds donated in this State for religious, educational or charitable purposes.
- (4) The proceeds of all life insurance policies payable to beneficiaries named in subdivisions (1), (2) and (3) of this section. And also proceeds of all policies of insurance and the proceeds of all adjusted service certificates that have been or may be paid by the United States government, or that have been or may be paid on account of policies required to be carried by the United States government or any agency thereof, to the estate, beneficiary, or beneficiaries of any person who has served in the armed forces of the United States or in the merchant marine during the first or second World War or any subsequent military engagement; and proceeds, not exceeding the sum of twenty thousand dollars (\$20,000), of all policies of insurance paid to the

estate, beneficiary or beneficiaries of any person whose death was caused by enemy action during the second World War or any subsequent military engagement involving the United States. This provision will be operative only when satisfactory proof that the death was caused by enemy action is filed by the executor, administrator, or beneficiary with the Secretary of Revenue.

- (5) ~~The value of an annuity or other payment receivable by any beneficiary (other than the executor) under (a) an employees' trust (or under a contract or insurance policy purchased by an employees' trust) forming part of a pension, stock bonus, or profit-sharing plan, which at the time of the decedent's separation from employment (whether by death or otherwise), or at the time of termination of the plan if earlier, met the requirements of 26 U.S.C. § 401(a); or (b) a retirement annuity contract purchased by an employer (and not by an employees' trust) pursuant to a plan, which at the time of decedent's separation from employment (by death or otherwise), or at the time of termination of the plan if earlier, met the requirements of 26 U.S.C. § 403(a) or § 403(b). If such amounts payable after the death of the decedent under a plan described in clause (a) or (b) are attributable to any extent to payments or contributions made by the decedent, no exemption shall be allowed for that part of the value of such amounts in the proportion that the total payments or contributions made by the decedent bears to the total payments or contributions made. For purposes of the preceding sentence contributions or payments made by the decedent's employer or former employer under a trust or plan described in clause (a) or (b) shall not be considered to be contributed by the decedent nor shall any deductible employee contributions within the meaning of 26 U.S.C. § 72(o)(5) be considered to have been contributed by the decedent. For purposes of this subdivision, contributions or payments on behalf of the decedent while he was an employee within the meaning of 26 U.S.C. § 401(e)(1) made under a trust or plan described in clause (a) or (b) shall, to the extent allowable as a deduction under 26 U.S.C. § 404, be considered to be made by a person other than the decedent and, to the extent not so allowable, shall be considered to be made by the decedent. Provided, that the value of such annuities or other payments receivable described in this subdivision shall not be exempt unless the payments received therefrom are or will be subject to income taxation under Article 4 of this Subchapter, and if such payments are not or will not be subject to income taxation under Article 4 of this Subchapter the value of such annuities or other payments receivable shall be included in the gross value of the estate of the decedent and taxable under the provisions of this Article.~~
- (6) ~~The value of an annuity receivable by any beneficiary (other than the executor) under:~~

- a. ~~An individual retirement account described in section 408(a) of the Code,~~
- b. ~~An individual retirement annuity described in section 408(b) of the Code, or~~
- e. ~~A retirement bond described in section 409(a) of the Code.~~

~~If any payment to an account described in paragraph a or for an annuity described in paragraph b or a bond described in paragraph c was not allowable as a deduction under 26 U.S.C. § 219 or § 220 and was not a rollover contribution described in 26 U.S.C. §§ 402(a)(5), 403(a)(4), 408(d)(3), or 409(b)(3)(C), the preceding sentence shall not apply to that portion of the value of the amount receivable under such account, annuity, or bond (as the case may be) which bears the same ratio to the total value of the amount so receivable as the total amount which was paid to or for such account, annuity, or bond and which was not allowable as a deduction under 26 U.S.C. § 219 or § 220 and was not such a rollover contribution bears to the total amount paid to or for such account, annuity, or bond. For purposes of this subdivision, the term 'annuity' means an annuity contract or other arrangement providing for a series of substantially equal periodic payments to be made to a beneficiary (other than the executor) for his life or over a period extending for at least 36 months after the date of the decedent's death.~~

- (7) ~~The total value of proceeds of an annuity or other payment receivable by any beneficiary (other than the executor) under a military family protection, or survivor benefit, plan, or other comparable plan, pursuant to Chapter 73 of Title 10 of the United States Code.~~
- (8) Repealed by Session Laws 1989 (Regular Session 1990), c. 970, s. 1.
- (9) The total value of death benefits paid to a decedent's estate or a named beneficiary from voluntary pledges made by the North Carolina Highway Patrol or other association of law-enforcement officers employed by the State or a county or municipality, if the benefits are paid from an assessment against the members of the association.
- (10) Property passing to the surviving spouse of a decedent."

Sec. 2. This act becomes effective September 1, 1991, and applies to the estates of decedents dying on or after that date.

In the General Assembly read three times and ratified this the 1st day of July, 1991.

James C. Gardner
President of the Senate

Daniel Blue, Jr.
Speaker of the House of Representatives