GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

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HOUSE BILL 35*

Short Title: Tax Relief/Competitiveness/AB. (Public)

Sponsors: Representatives G. Miller, Black, Redwine, Wilkins; and Hill.

Referred to: Finance.

January 30, 1995

A BILL TO BE ENTITLED

AN ACT TO PROVIDE TAX RELIEF AND ECONOMIC COMPETITIVENESS FOR NORTH CAROLINA.

The General Assembly of North Carolina enacts:

Section 1. This act shall be known as the Tax Relief and Economic Competitiveness Act of 1995.

The General Assembly finds that:

(1) The economic competitiveness of North Carolina depends upon a competitive tax structure for both business and personal taxes.

(2) A study comparing North Carolina taxes on business and households to those in 21 states that compete for jobs and investment with North Carolina found that while North Carolina has an overall favorable and competitive tax climate, there are several taxes out of line with a competitive tax environment.

(3) The corporate income tax rate and the intangibles tax negatively affect North Carolina's economic competitiveness and can inhibit future job creation and investment.

(4) Working families and families with children in North Carolina facing growing economic pressures; accordingly, tax relief should be targeted to working families to increase the rewards from work and enhance the

ability of working families to provide for the basic needs of their families and support and educate their children.

(5) Property taxes can threaten low-income elderly and disabled homeowners with the loss of their homes; relief from property taxes can help these homeowners stay in their homesteads.

For these reasons, the General Assembly enacts the Tax Relief and Economic Competitiveness Act of 1995 to provide broad-based tax relief to North Carolina taxpayers, to target tax relief to working families with children, to ease the tax burden of low-income elderly and disabled homeowners, and to promote the economic competitiveness of North Carolina and stimulate jobs, wages, and investment.

INCREASE PERSONAL EXEMPTIONS

Sec. 2. G.S. 105-134.6(c)(4) reads as rewritten:

"(4) The amount by which the taxpayer's standard deduction has been increased for inflation under section 63(c)(4)(A) of the Code and the amount by which each of the taxpayer's personal exemptions ~~have~~ has been increased for inflation above two thousand five hundred dollars ($2,500) under section 151(d)(4)(A) of the Code. For the purpose of this subdivision, if the taxpayer's personal exemptions have been reduced by the applicable percentage under section 151(d)(3) of the Code, the amount by which each of the personal exemptions ~~have~~ has been increased for inflation above two thousand five hundred dollars ($2,500) is also reduced by the applicable percentage."

CHILD TAX CREDIT

Sec. 3. Effective for taxable years beginning on or after January 1, 1995, Division II of Chapter 105 of the General Statutes is amended by adding a new section to read:

"**§ 105-151.24. Credit for children.**

An individual is allowed as a credit against the tax imposed by this Division an amount equal to fifty dollars ($50.00) for each dependent child for whom the individual was allowed to deduct a personal exemption under section 151(c)(1)(b) of the Code for the taxable year. A nonresident or part-year resident who claims the credit allowed by this section shall reduce the amount of the credit by multiplying it by the fraction calculated under G.S. 105-134.5(b) or (c), as appropriate. The credit allowed under this section may not exceed the amount of tax imposed by this Division for the taxable year reduced by the sum of all credits allowed, except payments of tax made by or on behalf of the taxpayer."

EXPAND HOMESTEAD EXEMPTION

Sec. 4. Effective for taxes imposed for taxable years beginning on or after July 1, 1996, G.S. 105-277.1 reads as rewritten:

"**§ 105-277.1. Property classified for taxation at reduced valuation.**

(a) Exclusion. – The following class of property is designated a special class of property under Article V, Sec. 2(2) of the North Carolina Constitution and shall be assessed for taxation in accordance with this section. The first ~~fifteen thousand dollars~~

~~($15,000)~~ eighteen thousand dollars ($18,000) in appraised value of a permanent residence owned and occupied by a qualifying owner is excluded from taxation. A qualifying owner is an owner who meets all of the following requirements as of January 1 preceding the taxable year for which the benefit is claimed:

(1) Is at least 65 years of age or totally and permanently disabled.

(2) Has an income for the preceding calendar year of not more than ~~eleven thousand dollars ($11,000).~~ fifteen thousand dollars ($15,000).

(3) Is a North Carolina resident.

An otherwise qualifying owner does not lose the benefit of this exclusion because of a temporary absence from his or her permanent residence for reasons of health, or because of an extended absence while confined to a rest home or nursing home, so long as the residence is unoccupied or occupied by the owner's spouse or other dependent.

(b) Definitions. – When used in this section, the following definitions shall apply:

(1) Code. – The Internal Revenue Code, as defined in G.S. 105-228.90.

(1a) Income. – Adjusted gross income, as defined in section 62 of the Code, plus all other moneys received from every source other than gifts or inheritances received from a spouse, lineal ancestor, or lineal descendant. For married applicants residing with their spouses, the income of both spouses must be included, whether or not the property is in both names.

(1b) Owner. – A person who holds legal or equitable title, whether individually, as a tenant by the entirety, a joint tenant, or a tenant in common, or as the holder of a life estate or an estate for the life of another. A manufactured home jointly owned by husband and wife is considered property held by the entirety.

(2) Repealed by Session Laws 1993, c. 360, s. 1.

(2a) Repealed by Session Laws 1985 (Reg. Sess., 1986), c. 982, s. 20.

(3) Permanent residence. – A person's legal residence. It includes the dwelling, the dwelling site, not to exceed one acre, and related improvements. The dwelling may be a single family residence, a unit in a multi-family residential complex, or a manufactured home.

(4) Totally and permanently disabled. – A person is totally and permanently disabled if the person has a physical or mental impairment that substantially precludes him or her from obtaining gainful employment and appears reasonably certain to continue without substantial improvement throughout his or her life.

(c) Application. – An application for the exclusion provided by this section should be filed during the regular listing period, but may be filed and must be accepted at any time up to and through April 15 preceding the tax year for which the exclusion is claimed. When property is owned by two or more persons other than husband and wife and one or more of them qualifies for this exclusion, each owner shall apply separately for his or her proportionate share of the exclusion.

(1) Elderly Applicants. – Persons 65 years of age or older may apply for this exclusion by entering the appropriate information on a form made available by the assessor under G.S. 105-282.1.

(2) Disabled Applicants. – Persons who are totally and permanently disabled may apply for this exclusion by (i) entering the appropriate information on a form made available by the assessor under G.S. 105-282.1 and (ii) furnishing acceptable proof of their disability. The proof shall be in the form of a certificate from a physician licensed to practice medicine in North Carolina or from a governmental agency authorized to determine qualification for disability benefits. After a disabled applicant has qualified for this classification, he or she shall not be required to furnish an additional certificate unless the applicant's disability is reduced to the extent that the applicant could no longer be certified for the taxation at reduced valuation.

(d) Multiple Ownership. – A permanent residence owned and occupied by husband and wife as tenants by the entirety is entitled to the full benefit of this exclusion notwithstanding that only one of them meets the age or disability requirements of this section. When a permanent residence is owned and occupied by two or more persons other than husband and wife and one or more of the owners qualifies for this exclusion, each qualifying owner is entitled to the full amount of the exclusion not to exceed his or her proportionate share of the valuation of the property. No part of an exclusion available to one co-owner may be claimed by any other co-owner and in no event may the total exclusion allowed for a permanent residence exceed ~~fifteen thousand dollars ($15,000).~~ the exclusion amount provided in this section."

Sec. 5. Effective for taxes imposed for taxable years beginning on or after July 1, 1996, G.S. 105-309(f) reads as rewritten:

"(f) The following information shall appear on each abstract or on an information sheet distributed with the abstract. The abstract or sheet must include the address and telephone number of the assessor below the notice required by this subsection. The notice shall read as follows:

'PROPERTY TAX RELIEF FOR ELDERLY AND PERMANENTLY DISABLED PERSONS.

North Carolina excludes from property taxes the first ~~fifteen thousand dollars ($15,000)~~ eighteen thousand dollars ($18,000) in appraised value of a permanent residence owned and occupied by North Carolina residents aged 65 or older or totally and permanently disabled whose income does not exceed ~~eleven thousand dollars ($11,000).~~ fifteen thousand dollars ($15,000). Income means the owner's adjusted gross income as determined for federal income tax purposes, plus all moneys received other than gifts or inheritances received from a spouse, lineal ancestor or lineal descendant.

If you received this exclusion in (assessor insert previous year), you do not need to apply again unless you have changed your permanent residence. If you received the exclusion in (assessor insert previous year) and your income in (assessor insert previous year) was above ~~eleven thousand dollars ($11,000),~~ fifteen thousand dollars ($15,000), you must notify the assessor. If you received the exclusion in (assessor insert previous year) because you were totally and permanently disabled and you are no longer totally and permanently disabled, you must notify the assessor. If the person receiving the exclusion in (assessor insert previous year) has died, the person required by law to list the property must notify the assessor. Failure to make any of the notices required by this paragraph before April 15 will result in penalties and interest.

If you did not receive the exclusion in (assessor insert previous year) but are now eligible, you may obtain a copy of an application from the assessor. It must be filed by April 15'."

REDUCE CORPORATE INCOME TAX

Sec. 6. Effective for taxable years beginning on or after July 1, 1996, G.S. 105-130.3 reads as rewritten:

"§ 105-130.3. Corporations.

A tax is imposed on the State net income of every C Corporation doing business in this State at ~~seven and seventy-five one-hundredths percent (7.75%)~~ seven percent (7%) of the corporation's State net income. An S Corporation is not subject to the tax levied in this section."

Sec. 7. Effective October 1, 1995, G.S. 115C-546.1 reads as rewritten:

"§ 115C-546.1. Creation of Fund; administration.

(a) There is created the Public School Building Capital Fund. The Fund shall be used to assist county governments in meeting their public school building capital needs.

(b) Each calendar quarter, the Secretary of Revenue shall remit to the State Treasurer for credit to the Public School Building Capital Fund an amount equal to ~~two thirty-firsts (2/31)~~ one-fourteenth (1/14) of the net collections received during the previous quarter by the Department of Revenue under G.S. 105-130.3 minus two million five hundred thousand dollars ($2,500,000). All funds deposited in the Public School Building Capital Fund shall be invested as provided in G.S. 147-69.2 and G.S. 147-69.3.

(c) The Fund shall be administered by the Office of State Budget and Management."

REPEAL INTANGIBLES TAX/REIMBURSE LOCAL GOVERNMENTS

Sec. 8. (a) Effective July 1, 1995, G.S. 105-213.1 is recodified as G.S. 105-275.2 and G.S. 105-213 is repealed.

(b) Effective January 1, 1995, the remainder of Article 7 of Chapter 105 of the General Statutes is repealed. The Secretary shall retain from collections under Division II of Article 4 of Chapter 105 of the General Statutes the cost for the 1995-96 fiscal year of collecting, administering, and refunding the taxes levied in Article 7 of Chapter 105 of the General Statutes.

Sec. 9. G.S. 105-275 is amended by adding the following new subdivisions:

"(31a) Accounts receivable.

(31b) Bonds, notes, and other evidences of debt.

(31c) Shares of stock, including shares and units of ownership of mutual funds, investment trusts, and investment funds.

(31d) The beneficial or equitable interest in a trust, trust fund, or trust account, including custodial accounts, held by a foreign fiduciary."

Sec. 10. G.S. 105-213.1, as recodified as G.S. 105-275.2 by Section 8 of this act, reads as rewritten:

"§ 105-275.2. Reimbursement to counties and municipalities for partial repeal of tax on intangible personal property.

(a) Reimbursement for Repeal of Tax on Money on Deposit, Money on Hand, and Funds on Deposit with Insurance Companies. – On or before August 30 of each year, the Secretary of Revenue shall allocate for distribution to each county and the municipalities in the county the amount allocated to the county under this subsection in 1990.

~~Amounts allocated to a county under this subsection shall in turn be divided and distributed between the county and the municipalities located in the county in accordance with the method of allocating intangible tax revenue between a county and the municipalities located in the county provided in G.S. 105-213.~~

(a1) Reimbursement for Partial Repeal of Tax on Accounts Receivable. – On or before August 30 of each year, the Secretary of Revenue shall distribute to counties and municipalities an amount equal to forty percent (40%) of the tax collected on accounts receivable under former Article 7 of this Chapter (repealed) during the 1989-90 fiscal year. ~~The Secretary of Revenue shall first allocate the amount to be distributed in this subsection to the counties in the same manner as the amount allocated in G.S. 105-213. The amount allocated to each county shall in turn be divided and distributed between the county and the municipalities located in the county in accordance with the method of allocating intangible tax revenue between a county and the municipalities located in the county provided in G.S. 105-213.~~ The Secretary shall allocate this amount among the counties in proportion to the amount allocated to each county under former G.S. 105-213 (repealed) in August 1994.

(a2) Distribution Between County and its Municipalities. – The amounts allocated to each county under this section shall be allocated between the county and the municipalities in the county in proportion to the total amount of ad valorem taxes levied by each during the fiscal year preceding the distribution. In dividing these amounts between each county and its municipalities, the Secretary of Revenue shall treat taxes levied by a merged school administrative unit described in G.S. 115C-513 in a part of the unit located in a county as taxes levied by the county in which that part is located.

After making these allocations, the Secretary shall certify to the State Controller and to the State Treasurer the amount to be distributed to each county and municipality in the State. The State Controller shall then issue a warrant on the State Treasurer to each county and municipality in the amount certified.

For the purpose of computing the distribution to any county and the municipalities located in the county for any year with respect to which the property valuation of a public service company is the subject of an appeal and the Department of Revenue is restrained by law from certifying the valuation to the county and the municipalities in the county, the Department shall use the last property valuation of the public service company that has been certified.

The chair of each board of county commissioners and the mayor of each municipality shall report to the Secretary of Revenue information requested by the Secretary to enable the Secretary to allocate the amount distributed by this section. If a county or municipality fails to make a requested report within the time allowed, the Secretary may disregard the county or municipality in allocating the amount distributed by this section.

(b) Restrictions on Use. ~~– Amounts distributed to a county or a municipality under this section are subject to the same restrictions as amounts distributed under G.S. 105-213.~~ The amount distributed to each county and municipality shall be used by the county or municipality in proportion to property tax levies made by it for the various funds and activities of the county or municipality, unless the county or municipality has pledged the amount to be distributed to it under this section in payment of a loan agreement with the North Carolina Solid Waste Management Capital Projects Financing Agency. A county or municipality that has pledged amounts distributed under this section in payment of a loan agreement with the Agency may apply the amount the loan agreement requires.

~~(c) Municipality Defined. – As used in this section, the term 'municipality' has the same meaning as in G.S. 105-213.~~

(d) Source. – Funds distributed under this section shall be drawn from collections received under Division II of Article 4 of this Chapter."

Sec. 11. Funds are appropriated from the General Fund to the Department of Revenue for the 1995-97 fiscal biennium to be used to reimburse local governments for their revenue losses due to the repeal of the intangibles tax. These funds shall be distributed to local governments in accordance with legislation enacted by the General Assembly. It is the intent of the General Assembly that the reimbursement to local governments shall continue in future years.

Sec. 12. G.S. 105-501 reads as rewritten:

"§ 105-501. Distribution of additional taxes.

The Secretary shall, on a quarterly basis, allocate the net proceeds of the additional one-half percent (1/2%) sales and use taxes levied under this Article to the taxing counties on a per capita basis according to the most recent annual population estimates certified to the Secretary by the State Budget Officer. The Secretary shall then adjust the amount allocated to each county as provided in G.S. 105-486(b). The amount allocated to each taxing county shall then be divided among the county and the municipalities located in the county in accordance with the method by which the one percent (1%) sales and use taxes levied in that county pursuant to Article 39 of this Chapter or Chapter 1096 of the 1967 Session Laws are distributed.

If any taxes levied under this Article by a county have not been collected in that county for a full quarter because of the levy or repeal of the taxes, the Secretary shall distribute a pro rata share to that county for that quarter based on the number of months the taxes were collected in that county during the quarter.

In determining the net proceeds of the tax to be distributed, the Secretary shall deduct from the collections to be allocated an amount equal to one-fourth of the costs during the preceding fiscal year of:

(1) The Department of Revenue in performing the duties imposed by Article 15 of this Chapter.

(2) The Property Tax Commission.

(3) The Institute of Government in operating a training program in property tax appraisal and assessment.

(4) The personnel and operations provided by the Department of State Treasurer for the Local Government Commission."

Sec. 13. G.S. 105-288(d) reads as rewritten:

"(d) Expenses. – The members of the Property Tax Commission shall receive travel and subsistence expenses in accordance with G.S. 138-5 and a salary of two hundred dollars ($200.00) a day when hearing cases. The Secretary of Revenue shall supply all the clerical and other services required by the Commission. All expenses of the Commission and the Department of Revenue in performing the duties enumerated in this Article shall be paid ~~from funds appropriated out of revenue derived from the tax on intangible personal property as provided by G.S. 105-213.~~ as provided in G.S. 105-501."

Sec. 14. G.S. 105-276 reads as rewritten:

"§ 105-276. Taxation of intangible personal property.

Intangible personal property that is not excluded from taxation under G.S. ~~105-275(31) or classified under Schedule H, G.S. 105-198 through G.S. 105-217,~~ 105-275 is subject to this Subchapter. ~~The classification of such property for taxation under Schedule H shall not exclude the property from the system property valuation of public service companies under Article 23 provided proper adjustments are made to prevent duplicate taxation.~~"

Sec. 15. G.S. 105-282.1(a)(2) reads as rewritten:

"(2) Owners of the special classes of property excluded from taxation under G.S. 105-275(5), (15), (16), (26), (31), (31a), (31b), (31c), (31d), (32a), (33), (34), or (40), or exempted under G.S. 105-278.2 are not required to file applications for the exclusion or exemption of that property."

Sec. 16. G.S. 105-305 reads as rewritten:

"§ 105-305. Place for listing intangible personal property.

(a) Listing Instructions. – This section ~~shall apply~~ applies to all taxable intangible personal property that has a tax situs in this ~~State, that~~ State and is not required by this Subchapter to be appraised originally by the Department of ~~Revenue, and that is not subject to taxation under the provisions of Schedule H, G.S. 105-198 through 105- 217.~~ Revenue. The place in this State at which ~~such~~ this property is taxable shall be determined ~~according to the rules prescribed in subsections (b) through (e), below.~~ as provided in this section. The person whose duty it is to list property shall list it in the county in which the place of taxation is located, indicating on the abstract the information required by G.S. 105-309(d). If the place of taxation lies within a city or town that requires separate listing under G.S. 105-326(a), the person whose duty it is to list shall also list the property for taxation in the city or town.

(b) General Rule. – Except as otherwise provided in subsections (c) through ~~(e), below,~~ (e) of this section, intangible personal property shall be taxable at the residence of the owner. For the purposes of this section:

(1) The residence of a person who has two or more places in this State at which ~~he~~ the person occasionally dwells shall be the place ~~at which he~~ the person dwelt for the longest period of time during the calendar year immediately preceding the date as of which property is to be listed for taxation.

(2) The residence of a domestic or foreign taxpayer other than an individual person shall be the place at which its principal North Carolina office is located.

(c) Intangible personal property representing an interest or interests in real property that is situated in this State shall be taxable in the place in which the represented real property is located.

(d) The intangible personal property of a decedent whose estate is in the process of administration or has not been distributed shall be taxable in the place at which it would be taxable if the decedent were still alive and still residing in the place at which ~~he~~ the decedent resided at the time of ~~his~~ death.

(e) Intangible personal property within the jurisdiction of the State held by a resident or nonresident trustee, guardian, or other fiduciary having legal title to the property shall be taxable in accordance with the following rules:

(1) If ~~any~~ a beneficiary is a resident of the State, an amount representing ~~his~~ the beneficiary's portion of the property shall be taxable in the place at which it would be taxable if ~~he~~ the beneficiary were the owner of ~~his~~ that portion.

(2) If ~~any~~ a beneficiary is a nonresident of the State, an amount representing ~~his~~ the beneficiary's portion of the property shall be taxable in the place at which it would be taxable if the fiduciary were the beneficial owner of the property."

Sec. 17. G.S. 108A-93 reads as rewritten:

"§ 108A-93. Withholding of State moneys from counties failing to pay public assistance costs.

The Director of the Budget ~~is authorized to~~ may withhold from any county that does not pay its full share of public assistance costs to the State and has not ~~arranged for payment pursuant to G.S. 108- 54.1 or~~ obtained a loan for repayment under G.S. 108A-89, any State moneys appropriated from the General Fund for public assistance and related administrative costs, or ~~to~~ may direct the Secretary of Revenue and State ~~Treasurer~~ Controller to withhold any tax owed to a county under ~~Article 7 of Chapter 105 of the General Statutes,~~ G.S. 105-113.82, ~~Article 39 of Chapter 105 of the General Statutes~~ Subchapter VIII of Chapter 105 of the General Statutes, or Chapter 1096 of the Session

Laws of 1967. The Director of the Budget shall notify the ~~chairman~~ chair of the board of county commissioners of the proposed action prior to the withholding of funds."

Sec. 18. G.S. 142-12.1(c) reads as rewritten:

"(c) The interest on any ~~such~~ of these bonds or obligations shall maintain its existing exemption from State income taxation, or other taxation, if any, ~~including, but not limited to, the tax on intangible personal property now imposed by the State,~~ notwithstanding that ~~such~~ the interest may be or become subject to federal income taxation as a result of legislative action by the federal government."

EFFECTIVE DATES

Sec. 19. Section 2 of this act becomes effective July 1, 1995. Sections 4 and 5 of this act become effective for taxes imposed for taxable years beginning on or after July 1, 1996. Section 6 of this act is effective for taxable years beginning on or after July 1, 1996. Section 7 of this act becomes effective October 1, 1995, and applies to remittances made on or after that date. Section 8(a) of this act becomes effective July 1, 1995; Section 8(b) of this act is effective for taxable years beginning on or after January 1, 1995. Section 11 of this act becomes effective July 1, 1995. Sections 10, 12, 13, and 17 of this act become effective July 1, 1995, and apply to distributions made on or after that date. The remainder of this act is effective for taxable years beginning on or after January 1, 1995.

Sec. 20. This act does not affect the rights or liabilities of the State, a taxpayer, or another person arising under a statute amended or repealed by this act before its amendment or repeal; nor does it affect the right to any refund or credit of a tax that would otherwise have been available under the amended or repealed statute before its amendment or repeal.