# NORTH CAROLINA GENERAL ASSEMBLY LEGISLATIVE FISCAL NOTE

BILL NUMBER: HB 1147

**SHORT TITLE:** Update Code Reference **SPONSOR(S):** Representative Shubert

FISCAL IMPACT: Expenditures: Increase ( )

Decrease ( )

Revenues: Increase ( ) Decrease ( )

No Impact ( )

No Estimate Available (X)

FUND AFFECTED: General Fund (X), Highway Fund (), Local Govt.(),

Other Funds ( )

BILL SUMMARY: Section 1 rewrites the definition of the Internal Revenue Code used in State tax statutes to change the reference date from January 1, 1995, to March 20, 1996.

#### BACKGROUND

An update to the Internal Revenue code is brought to the legislature annually as both a policy decision and a response to a legal restraint. The policy reason for specifying a particular date is that, in light of continuous changes made to the federal tax law, the State may not want to automatically adopt federal changes, particularly when they result in large revenue losses. The legal restraint involves Article V, Section 2(1) of the North Carolina State Constitution which states in pertinent part that the "power of taxation \_ shall never be surrendered, suspended, or contracted away". A 1977, memorandum from the State Attorney General's Office to the Tax Research Division of the Department of Revenue concluded that a "statute which adopts by reference future amendments to the Internal Revenue Code would\_ be invalidated as an unconstitutional delegation of legislative power".

Legislation enacted by Congress since January 1, 1995, that affects the Internal Revenue Code is as follows:

Public Law 104-7, the Self-Employed Health Insurance Act reinstated and made permanent the deduction for health insurance premiums paid by self-employed individuals. This includes premiums paid on behalf of the self-employed individual, a spouse, and dependents. The deduction is twenty-five percent of the qualified premiums for tax years beginning after December 31, 1993, and increases to thirty percent for tax years beginning after December 31, 1994.

The act also made C corporations and certain partnerships ineligible to defer gain on a involuntary conversion under the Code section 1033 when replacement property is purchased from a related person effective for acquisitions after February 5, 1995.

### **BACKGROUND**

#### Continued

Code section 1071, which allowed a taxpayer to treat the sale of a broadcast property as an involuntary conversion if the sale is certified by the FCC as necessary to effectuate an FCC ownership and control policy, was repealed effective for sales or exchanges after January 16, 1995.

Public Law 104-117, gives members of the Armed Forces serving in combat zones the same tax benefits as those serving peace keeping missions in the former Republic of Yugoslavia. The law identifies Bosnia, Herzegovina, Croatia, and Macedonia as qualified hazardous duty areas to be treated as combat zones.

Sections 112 and 3401 of the Code were amended to increase the amount of exempt military pay for certain commissioned officers to an amount equal to the highest rate of basic pay of any enlisted member plus any special pay and by excluding the exempt pay from withholding requirements.

EFFECTIVE DATE: Upon Ratification

## PRINCIPAL DEPARTMENT(S)/PROGRAM(S) AFFECTED:

Department of Revenue, Corporate Income Tax Division Department of Revenue, Individual Income Tax Division

### FISCAL IMPACT

		FY	FY	FY FY	FY
	96-97	97 <del>-</del> 98	9 <del>8-9</del> 9	99-00	00-01
REVENUES:					
GENERAL FUND	-NA-	-NA-	-NA-	-NA-	-NA-

# ASSUMPTIONS AND METHODOLOGY:

Unsuccessful attempts have been made to determine the number of service personnel from North Carolina that are serving in combat zones; without knowledge of this number it is impossible to create assumptions.

The loss, due to the deductions for health insurance premiums paid by self-employed individuals, is a continuation of 1994 policy.

SOURCES OF DATA: Department of Revenue

## FISCAL RESEARCH DIVISION

733-4910

PREPARED BY: H. Warren Plonk
APPROVED BY: Tom L. Covington
DATE: May 22, 1996

Official
Fiscal Research Division
Publication

Signed Copy Located in the NCGA Principal Clerk's Offices