

GENERAL ASSEMBLY OF NORTH CAROLINA
SECOND EXTRA SESSION 1996

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SENATE BILL 8
Second Edition Engrossed 7/9/96

Short Title: 1996 Tax Relief Act.

(Public)

Sponsors: Senators Kerr, Sherron, Hoyle; Perdue and Rand.

Referred to: Appropriations.

July 8, 1996

1 A BILL TO BE ENTITLED
2 AN ACT TO REDUCE TAXES FOR THE CITIZENS OF NORTH CAROLINA AND
3 TO REFUND TO FEDERAL RETIREES THE UNCONSTITUTIONAL TAXES
4 THEY PAID ON THEIR PENSIONS FOR TAX YEARS 1985 THROUGH 1988.

5 The General Assembly of North Carolina enacts:

6 Section 1. G.S. 105-164.4(a) is amended by adding a new subdivision to read:

7 "(5) The rate of three percent (3%) applies to the sales price of food that is
8 not otherwise exempt pursuant to G.S. 105-164.13 but would be exempt
9 pursuant to G.S. 105-164.13 if it were purchased with coupons issued
10 under the Food Stamp Program, 7 U.S.C. § 51."

11 Sec. 2. G.S. 105-465 reads as rewritten:

12 **"§ 105-465. County election as to adoption of local sales and use tax.**

13 The board of elections of any county, upon the written request of the board of county
14 commissioners thereof, or upon receipt of a petition signed by qualified voters of the
15 county equal in number to at least fifteen percent (15%) of the total number of votes cast
16 in the county, at the last preceding election for the office of Governor, shall call a special
17 election for the purpose of submitting to the voters of the county the question of whether
18 a one percent (1%) sales and use tax as hereinafter provided will be levied.

1 The special election shall be held under the same rules and regulations applicable to
2 the election of members of the General Assembly. No new registration of voters shall be
3 required. All qualified voters in the county who are properly registered not later than 21
4 days (excluding Saturdays and Sundays) prior to the election shall be entitled to vote at
5 said election. The county board of elections shall give at least 20 days' public notice prior
6 to the closing of the registration books for the special election.

7 The county board of election shall prepare ballots for the special election ~~which shall~~
8 ~~contain the words, 'election. The question presented on the ballot shall be 'FOR the one~~
9 ~~percent (1%) local sales and use tax only on those items presently covered by the four percent~~
10 ~~(4%) sales and use tax,' and the words, 'on items subject to State sales and use tax at the~~
11 ~~general State rate and on food' or 'AGAINST the one percent (1%) local sales and use tax~~
12 ~~only on those items presently covered by the four percent (4%) sales and use tax,' with~~
13 ~~appropriate squares so that each voter may designate his vote by his cross (X) mark. on items~~
14 ~~subject to State sales and use tax at the general State rate and on food'.~~

15 The county board of elections shall fix the date of the special election; provided,
16 however, that the special election shall not be held on the date of any biennial election for
17 county officers, nor within 60 days thereof, nor within one year from the date of the last
18 preceding special election under this section."

19 Sec. 3. G.S. 105-467 reads as rewritten:

20 "**§ 105-467. Scope of sales tax.**

21 The sales tax ~~which that~~ may be imposed under this Article is limited to a tax at the
22 rate of one percent (1%) ~~of~~ of the following:

- 23 (1) The sales price of ~~those articles of~~ tangible personal property ~~now~~ subject
24 to the general rate of sales tax imposed by the State under G.S. 105-
25 164.4(a)(1) and ~~(4b); (a)(4b).~~
- 26 (2) The gross receipts derived from the lease or rental of tangible personal
27 property when the lease or rental of the property is subject to the general
28 rate of sales tax imposed by the State under G.S. ~~105-164.4(a)(2); 105-~~
29 164.4(a)(2).
- 30 (3) The gross receipts derived from the rental of any room or ~~lodging~~
31 ~~furnished by any hotel, motel, inn, tourist camp or other similar~~
32 accommodations ~~now~~ subject to the general rate of sales tax imposed by
33 the State under G.S. ~~105-164.4(a)(3); and 105-164.4(a)(3).~~
- 34 (4) The gross receipts derived from services rendered by laundries, dry
35 cleaners, and other businesses ~~now~~ subject to the general rate of sales
36 tax imposed by the State under G.S. 105-164.4(a)(4).
- 37 (5) The sales price of food subject to three percent (3%) sales tax imposed
38 by the State under G.S. 105-164.4(a)(5).

39 The sales tax authorized by this Article does not apply to sales that are taxable by the
40 State under G.S. 105-164.4 but are not specifically included in subdivisions (1) through
41 ~~(4)-(5)~~ of this section.

42 The State exemptions and exclusions contained in G.S. 105-164.13 and the State
43 refund provisions contained in G.S. 105-164.14 shall ~~apply with equal force and in like~~

1 ~~manner~~ to the local sales and use tax authorized to be levied and imposed under this
2 Article. A taxing county shall have no authority, with respect to the local sales and use tax
3 imposed under this Article to change, alter, add to or delete any refund provisions contained in
4 G.S. 105-164.14, or any exemptions or exclusions contained in G.S. 105-164.13 or which are
5 elsewhere provided for. may not allow an exemption, exclusion, or refund that is not
6 allowed under the State sales and use tax.

7 The local sales tax authorized to be imposed and levied under the provisions of this
8 Article shall apply to such retail sales, leases, rentals, the rendering of services,
9 furnishing of rooms, lodgings or accommodations and other applies to taxable
10 transactions which are made, furnished or rendered by retailers whose place of business is
11 located within the taxing county. The tax imposed shall apply to the furnishing of rooms,
12 lodging or other accommodations within the county which are rented to transients. For
13 the purpose of this Article, the situs of a transaction is the location of the retailer's place
14 of business."

15 Sec. 4. G.S. 105-468 reads as rewritten:

16 "**§ 105-468. Scope of use tax.**

17 The use tax ~~which may be imposed under~~ authorized by this Article shall be ~~is a tax at~~
18 the rate of one percent (1%) of the cost price of each item or article of tangible personal
19 property ~~when it~~ that is not sold in the taxing county but is used, consumed, or
20 stored for use or consumption in the taxing county, ~~except that no tax shall be imposed upon~~
21 tangible personal property when the property would be taxed by the State at a rate other than the
22 general rate of tax set in G.S. 105-164.4 if it were taxable under G.S. 105-164.6. county. The
23 tax applies to the same items that are subject to tax under G.S. 105-467.

24 Every retailer who is engaged in business in this State and in the taxing county and is
25 required to collect the use tax levied by G.S. 105-164.6 shall ~~also collect the one percent~~
26 (1%) use tax when ~~such the~~ property is to be used, ~~consumed~~ consumed, or stored in the
27 taxing county, ~~one percent (1%) use tax to be collected concurrently with the State's use tax; but~~
28 ~~no retailer not required to collect the use tax levied by G.S. 105-164.6 shall be required to collect~~
29 ~~the one percent (1%) use tax.~~ county. The use tax contemplated by this section shall be
30 levied against the purchaser, and the purchaser's liability for the use tax shall be
31 extinguished only upon payment of the use tax to the retailer, where the retailer is
32 required to collect the tax, or to the ~~Secretary of Revenue, or to the taxing county, as~~
33 ~~appropriate,~~ Secretary, where the retailer is not required to collect the tax.

34 Where a local sales or use tax has been paid with respect to tangible personal property
35 by the purchaser, either in another taxing county within the State, or in a taxing
36 jurisdiction outside the State where the purpose of the tax is similar in purpose and intent
37 to the tax which may be imposed pursuant to this Article, the tax paid may be credited
38 against the tax imposed under this section by a taxing county upon the same property. If
39 the amount of sales or use tax so paid is less than the amount of the use tax due the taxing
40 county under this section, the purchaser shall pay to the ~~Secretary of Revenue or to the~~
41 ~~taxing county, as appropriate,~~ an amount equal to the difference between the amount so
42 paid in the other taxing county or jurisdiction and the amount due in the taxing county.
43 The ~~Secretary of Revenue or the taxing county, as appropriate,~~ may require such proof of

1 payment in another taxing county or jurisdiction as is deemed to be necessary. The use
2 tax levied under this Article is not subject to credit for payment of any State sales or use
3 tax not imposed for the benefit and use of counties and municipalities. No credit shall be
4 given under this section for sales or use taxes paid in a taxing jurisdiction outside this
5 State if that taxing jurisdiction does not grant similar credit for sales taxes paid under this
6 Article."

7 Sec. 5. The first paragraph of Section 4 of Chapter 1096 of the 1967 Session
8 Laws, as amended, is amended as follows:

9 (1) By deleting the word "and" before subdivision (4).

10 (2) By changing the period at the end of subdivision (4) to a semicolon and
11 adding the word "and".

12 (3) By adding a new subdivision to read:

13 "(5) The sales price of food subject to three percent (3%) sales tax imposed
14 by the State under G.S. 105-164.4(a)(5)."

15 Sec. 6. The first sentence of Section 5 of Chapter 1096 of the 1967 Session
16 Laws is amended by deleting the first sentence of that section and substituting the
17 following sentences to read:

18 "The use tax that Mecklenburg County may impose under this division is a tax at the
19 rate of one percent (1%) of the cost price of each item or article of tangible personal
20 property that is not sold but is used, consumed, or stored for use or consumption in
21 Mecklenburg County. The tax applies to the same items that are subject to tax under
22 Section 4 of this act."

23 Sec. 7. Approval under Article 39, 40, or 42 of Chapter 105 of the General
24 Statutes, or under the Mecklenburg County Sales and Use Tax Act, Chapter 1096 of the
25 1967 Session Laws, as amended, of local sales and use taxes on items subject to State
26 sales and use tax at the general State rate constitutes approval of local sales and use taxes
27 on food.

28 Sec. 8. G.S. 105-130.3 reads as rewritten:

29 **"§ 105-130.3. Corporations.**

30 A tax is imposed on the State net income of every C Corporation doing business in
31 this State at ~~seven and seventy-five one-hundredths percent (7.75%)~~ seven and one-half
32 percent (7.5%) of the corporation's State net income. An S Corporation is not subject to
33 the tax levied in this section."

34 Sec. 9. G.S. 115C-546.1(b) reads as rewritten:

35 "(b) Each calendar quarter, the Secretary of Revenue shall remit to the State
36 Treasurer for credit to the Public School Building Capital Fund an amount equal to ~~two~~
37 ~~thirty-firsts (2/31)~~ one-fifteenth (1/15) of the net collections received during the previous
38 quarter by the Department of Revenue under G.S. 105-130.3 minus two million five
39 hundred thousand dollars (\$2,500,000). All funds deposited in the Public School
40 Building Capital Fund shall be invested as provided in G.S. 147-69.2 and G.S. 147-69.3."

41 Sec. 10. Effective July 1, 1997, G.S. 105-113.45, as amended by Chapter 646
42 of the 1995 Session Laws, reads as rewritten:

43 **"§ 105-113.45. Excise taxes on soft drinks and base products.**

1 (a) Bottled Soft Drinks. – An excise tax of ~~three-fourths cent (3/4¢)~~ one-half cent
2 (1/2¢) is levied on each bottled soft drink.

3 (b) Repealed by Session Laws 1991, c. 689, s. 276.

4 (c) Liquid Base Products. – An excise tax at the rate of ~~seventy-five cents (75¢)~~ fifty
5 cents (50¢) a gallon is levied on each individual container of a liquid base product. The
6 tax applies regardless whether the liquid base product is diverted to and used for a
7 purpose other than making a soft drink.

8 (d) Dry Base Products. – An excise tax is levied on each individual container of a
9 dry base product at the rate:

10 (1) Of ~~three-fourths cent (3/4¢)~~ one-half cent (1/2¢) an ounce if the dry base
11 product is not converted into a syrup or other liquid base product before
12 it is used to make a soft drink.

13 (2) That would apply under subsection (c) to the resulting liquid base
14 product if the dry base product is converted into a liquid base product
15 before it is used to make a soft drink.

16 (e) Repealed by Session Laws 1991, c. 689, s. 276."

17 Sec. 11. G.S. 105-151.20 reads as rewritten:

18 "**§ 105-151.20. Credit or partial refund for tax paid on certain government-federal**
19 **retirement benefits.**

20 (a) Purpose; Definitions. – The purpose of this section is to benefit certain retired
21 federal government workers on account of their public service. The following definitions
22 apply in this section:

23 (1) Federal retirement benefits. – Retirement benefits received from one or
24 more federal government retirement plans.

25 (2) Net pension tax. – The amount of tax a taxpayer paid under this
26 Division for the 1985, 1986, 1987, and 1988 tax years on federal
27 retirement benefits, without interest, less any part of the tax for which
28 the taxpayer received a credit under this section before 1998 and any
29 part of the tax refunded to the taxpayer before 1998.

30 (3) Tax year. – The taxpayer's taxable year beginning on a day in the
31 applicable calendar year.

32 (b) Credit. – A taxpayer who received government-federal retirement benefits
33 during the 1985, 1986, 1987, or 1988 tax year may claim a credit against the tax imposed
34 by this Division equal to the net pension tax on those benefits. The amount by which the
35 tax under this Division paid by the taxpayer for the 1988 tax year would have been reduced if
36 none of the taxpayer's government retirement benefits had been included in the taxpayer's taxable
37 income. If a taxpayer received a refund of any tax paid under this Division on government
38 retirement benefits for the 1988 tax year, the amount of the refund reduces the amount of the
39 credit allowed under this section.

40 ~~As used in this section, the term "government retirement benefits" means retirement~~
41 ~~benefits received from one or more state, local, or federal government retirement plans.~~
42 ~~As used in this section, the term "1988 tax year" means the taxpayer's taxable year~~
43 ~~beginning on a day in 1988.~~

1 The
2 credit allowed under this section shall be taken in equal installments over the taxpayer's
3 first three taxable years beginning on or after January 1, ~~1990-1996~~. The credit allowed
4 under this section may not exceed the amount of tax imposed by this Division reduced by
5 the sum of all credits allowed against the tax, except payments of tax made by or on
6 behalf of the taxpayer.

7 (c) Partial Refund Alternative. – If the amount of tax imposed by this Division on
8 the taxpayer for the taxpayer's 1996 tax year, reduced by the sum of all credits allowed
9 against the tax except payments of tax made by or on behalf of the taxpayer, is less than
10 five percent (5%) of the taxpayer's net pension tax for which credit is allowed, the
11 taxpayer is eligible to elect a partial refund under this subsection in lieu of claiming the
12 credit. The partial refund allowed under this subsection is equal to the lesser of eighty-
13 five percent (85%) of the taxpayer's net pension tax or the reduced amount determined by
14 the Secretary as provided in this subsection. To elect the partial refund, an eligible
15 taxpayer must file with the Secretary on or before April 15, 1997, a written request for a
16 partial refund of the taxpayer's net pension. The Secretary shall calculate from these
17 requests eighty-five percent (85%) of the total amount of net pension tax for which partial
18 refunds have been claimed and, if this sum exceeds the amount in the Federal Retiree
19 Refund Account created in this section, shall allocate the amount in the Account among
20 the eligible taxpayers claiming partial refunds by reducing each taxpayer's claimed refund
21 in proportion to the size of the claimed refund. The Secretary shall remit these partial
22 refunds before January 1, 1998.

23 (d) Substantiation; Deceased Taxpayers. – In order to claim a refund or credit
24 under this section, a taxpayer must provide any information required by the Secretary to
25 establish the taxpayer's eligibility for tax benefit and the amount of the tax benefit. In the
26 case of a taxpayer who is deceased, the representative of the taxpayer's estate may claim
27 the refund or credit in the name of the deceased taxpayer.

28 (e) Federal Retiree Accounts. – There are created in the Department of Revenue
29 two special accounts to be known as the Federal Retiree Refund Account and the Federal
30 Retiree Administration Account. Funds in the Federal Retiree Refund Account shall be
31 spent only for partial refunds pursuant to subsection (c) of this section. The Department
32 of Revenue may use funds in the Federal Retiree Administration Account only for the
33 costs of administering this section. Funds in the Federal Retiree Refund Account and the
34 Federal Retiree Administration Account shall not revert to the General Fund until the
35 Director of the Budget certifies that the Department of Revenue has completed all duties
36 necessary to implement this section, including processing the escheat of refund checks
37 that have not been cashed."

38 Sec. 12. Effective January 1, 2003, G.S. 105-151.20 is repealed.

39 Sec. 13. It is the intent of the General Assembly to appropriate from the
40 General Fund to the Department of Revenue the sum of twenty-five million dollars
41 (\$25,000,000) for the 1996-97 fiscal year to the credit of the Federal Retiree Refund
42 Account created in this Part. It is the intent that these funds be used to make refunds to
43 federal retirees as provided in this Part.

1 Sec. 14. There is appropriated from the General Fund to the Department of
2 Revenue the sum of two million three hundred thousand dollars (\$2,300,000) for the
3 1996-97 fiscal year to the credit of the Federal Retiree Administration Account created in
4 this act. These funds shall be used for the Department of Revenue's costs in
5 administering this act.

6 Sec. 15. Sections 1 through 7 of this act become effective January 1, 1997, and
7 apply to sales made on or after that date. Section 8 of this act is effective for taxable
8 years beginning on or after January 1, 1997. Section 9 of this act becomes effective
9 October 1, 1997, and applies to remittances made on or after that date. Section 10 of this
10 act becomes effective July 1, 1997. Sections 11 through 14 of this act become effective
11 July 1, 1996. The remainder of this act is effective upon ratification.