

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003**

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HOUSE BILL 61*

Short Title: Revenue Administrative Changes. (Public)

Sponsors: Representatives G. Allen; Hill, Holliman, Luebke, Wainwright, and Alexander.

Referred to: Finance.

February 24, 2003

A BILL TO BE ENTITLED

AN ACT TO MODIFY THE DIVIDEND RECEIVED DEDUCTION FOR REGULATED INVESTMENT COMPANIES AND REAL ESTATE INVESTMENT TRUSTS TO ENSURE THAT ALL DIVIDENDS ARE TREATED UNIFORMLY, TO EXTEND FOR TWO YEARS THE DEPARTMENT OF REVENUE'S AUTHORITY TO OUTSOURCE THE COLLECTION OF IN-STATE TAX DEBTS, AND TO MAKE VARIOUS ADMINISTRATIVE CHANGES IN THE TAX LAWS.

The General Assembly of North Carolina enacts:

MODIFY DIVIDEND RECEIVED DEDUCTION FOR RICs AND REITs.

SECTION 1. G.S. 105-130.7 and G.S. 105-130.5(b)(3) are repealed.

SECTION 2. G.S. 105-130.4(c) reads as rewritten:

"(c) Rents and royalties from real or tangible personal property, gains and losses, interest, ~~dividends less the portion deductible under G.S. 105-130.7,~~ dividends, patent and copyright royalties and other kinds of income, to the extent that they constitute nonbusiness income, less related expenses shall be allocated as provided in subsections (d) through (h) of this section."

SECTION 3. G.S. 105-130.4(f) reads as rewritten:

"(f) Interest and net dividends are allocable to this State if the corporation's commercial domicile is in this State. For purposes of this section, the term "net dividends" means gross dividend income received less related ~~expenses and less that portion of the dividends deductible under G.S. 105-130.7,~~ expenses."

AVOID DUPLICATIVE REPORTING REQUIREMENTS REGARDING SALES OF SEIZED PROPERTY.

SECTION 4. G.S. 105-242(a)(2) reads as rewritten:

"(2) The Secretary may issue a warrant or order under the Secretary's hand and seal to any revenue officer or other employee of the Department of Revenue charged with the duty to collect taxes, commanding the

1 officer or employee to levy upon and sell the taxpayer's personal
2 property, including that described in G.S. 105-366(d), found within the
3 State for the payment of the tax, including penalties and interest.
4 Except as otherwise provided in this subdivision, the levy upon the
5 sale of personal property shall be governed by the laws regulating levy
6 and sale under execution. The person to whom the warrant is directed
7 shall proceed to levy upon and sell the personal property subject to
8 levy in the same manner and with the same powers and authority
9 normally exercised by sheriffs in levying upon and selling personal
10 property under execution, except that the property may be sold in any
11 county, in the discretion of the Secretary. In addition to the notice of
12 sale required by the laws governing sale of property levied upon under
13 execution, the Secretary may advertise the sale in any reasonable
14 manner and for any reasonable period of time to produce an adequate
15 bid for the property. Levy and sale fees, plus actual advertising costs,
16 shall be added to and collected in the same manner as taxes. The
17 Secretary is not required to file a report of sale with the clerk of
18 superior court, as required by the laws governing sale of property
19 levied upon under execution, if the sale is otherwise publicly
20 reported."

21 **EXTEND AUTHORITY TO CONTINUE USING OUTSIDE COLLECTION**
22 **AGENCIES.**

23 **SECTION 5.** Section 9 of S.L. 2001-380 reads as rewritten:

24 "SECTION 9. Section 3 of this act becomes effective November 1, 2001. Section 6
25 of this act is effective on and after July 1, 2001. Section 8 of this act becomes effective
26 ~~October 1, 2003.~~ October 1, 2005. The remainder of this act is effective when it
27 becomes law and applies to tax debts that remain unpaid on or after that date."

28 **REVISE SECRECY PROVISION TO REFLECT TRANSFER OF DMV**
29 **ENFORCEMENT TO THE DIVISION OF THE STATE HIGHWAY PATROL.**

30 **SECTION 6.** G.S. 105-259(b)(7) reads as rewritten:

31 "(7) To exchange information with the ~~Division of Motor Vehicles of the~~
32 ~~Department of Transportation~~ Division of the State Highway Patrol of
33 the Department of Crime Control and Public Safety or the
34 International Fuel Tax Association, Inc., when the information is
35 needed to fulfill a duty imposed on the Department of Revenue or the
36 ~~Division of Motor Vehicles.~~ Division of the State Highway Patrol of
37 the Department of Crime Control and Public Safety."

38 **BASE LOCAL SALES TAX DISTRIBUTIONS ON TAXPAYER DATA.**

39 **SECTION 7.** G.S. 105-472(a) reads as rewritten:

40 "(a) County Allocation. – The Secretary shall, on a monthly basis, allocate to each
41 taxing county for which the Secretary collects the tax the net proceeds of the tax
42 collected in that county under this Article. For the purpose of this section, "net
43 proceeds" means the gross proceeds of the tax collected in each county under this
44 Article less taxes refunded, the cost to the State of collecting and administering the tax

1 in the county as determined by the Secretary, and other deductions that may be charged
2 to the county. If the Secretary collects local sales or use taxes in a month and the taxes
3 cannot be identified as being attributable to a particular taxing county, the Secretary
4 shall allocate the taxes among the taxing counties in proportion to the amount of taxes
5 collected in each county under this Article during that month and shall include them in
6 the monthly distribution. Amounts collected by electronic funds transfer payments are
7 included in the distribution for the month in which the return that applies to the payment
8 is due."

9 **SIMPLIFY PROCEDURE FOR HOLD HARMLESS CALCULATION.**

10 **SECTION 8.** G.S. 105-521(b) reads as rewritten:

11 "(b) Distributions. – On or before May 1 of each year, the Department of Revenue
12 and the Fiscal Research Division of the General Assembly must each submit to the
13 Secretary and to the General Assembly a final projection of the estimated amount that
14 all local governments would be expected to receive during the upcoming fiscal year
15 under G.S. 105-520 if every county levied the tax under this Article for the fiscal year.
16 If the Secretary does not use the lower of the two final projections to make the
17 calculation required by this subsection, the Secretary must report the reasons for this
18 decision to the Joint Legislative Commission on Governmental Operations within 60
19 days after receiving the projections.

20 ~~On or before September 15, 2003, and each September 15 thereafter,~~ 15 of each year,
21 the Secretary must multiply each local government's local sales tax share by the
22 estimated amount that all local governments would be expected to receive during the
23 current fiscal year under G.S. 105-520 if every county levied the tax under this Article
24 for the year. If the resulting amount is less than one hundred percent (100%) of the local
25 government's repealed reimbursement amount, the Secretary must pay the local
26 government the difference, but not less than one hundred dollars (\$100.00).

27 ~~On or before May 1, 2003, and each May 1 thereafter, the Office of State Budget~~
28 ~~and Management and the Fiscal Research Division of the General Assembly must each~~
29 ~~submit to the Secretary and to the General Assembly a final projection of the estimated~~
30 ~~amount that all local governments would be expected to receive during the upcoming~~
31 ~~fiscal year under G.S. 105-520 if every county levied the tax under this Article for the~~
32 ~~fiscal year. If the Secretary does not use the lower of the two final projections to make~~
33 ~~the calculation required by this subsection, the Secretary must report the reasons for this~~
34 ~~decision to the Joint Legislative Commission on Governmental Operations within 60~~
35 ~~days after receiving the projections."~~

36 **CLARIFY THAT THE FILING FEE FOR AN ANNUAL REPORT IS**
37 **NONREFUNDABLE.**

38 **SECTION 9.** G.S. 55-1-22 is amended by adding a new subsection to read:

39 "(d) The fee for the annual report in subdivision (23) of this section is
40 nonrefundable."

41 **EFFECTIVE DATE.**

42 **SECTION 10.** Sections 1, 2, and 3 of this act are effective for taxable years
43 beginning on or after January 1, 2003. Section 7 becomes effective July 1, 2003. The
44 remainder of this act is effective when it becomes law.