

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005**

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HOUSE BILL 1892

Short Title: IRC Update. (Public)

Sponsors: Representatives Wainwright, Luebke, Carney, Wilkins (Primary Sponsors); Church and Hill.

Referred to: Finance.

May 11, 2006

A BILL TO BE ENTITLED

AN ACT TO UPDATE THE REFERENCE TO THE INTERNAL REVENUE CODE USED IN DEFINING AND DETERMINING CERTAIN STATE TAX PROVISIONS AND TO MAKE OTHER CHANGES TO MORE CLOSELY CONFORM TO FEDERAL TAX LAW.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 105-228.90(b)(1b) reads as rewritten:

"(b) Definitions. – The following definitions apply in this Article:

...

(1b) Code. – The Internal Revenue Code as enacted as of January 1, ~~2005,2006~~, including any provisions enacted as of that date which become effective either before or after that date."

SECTION 2. Notwithstanding Section 1 of this act, any amendments to the Internal Revenue Code enacted after January 1, 2005, that increase North Carolina taxable income for the 2005 taxable year become effective for taxable years beginning on or after January 1, 2006.

SECTION 3. G.S. 105-32.8 reads as rewritten:

"§ 105-32.8. Federal determination that changes the amount of tax payable to the State.

If the federal government corrects or otherwise determines the gross estate tax imposed under section 2001 of the Code or the amount of the maximum state death tax credit allowed an estate under section 2011 of the Code, the personal representative must, within ~~two years~~ six months after being notified of the correction or final determination by the federal government, file an estate tax return with the Secretary reflecting the correct amount of tax payable under this Article. If the federal government corrects or otherwise determines the amount of the maximum state generation-skipping transfer tax credit allowed under section 2604 of the Code, the person who made the transfer must, within ~~two years~~ six months after being notified of the correction or final

1 determination by the federal government, file a tax return with the Secretary reflecting
2 the correct amount of tax payable under this Article.

3 The Secretary must assess and collect any additional tax due as provided in Article 9
4 of this Chapter and must refund any overpayment of tax as provided in Article 9 of this
5 Chapter. A person who fails to report a federal correction or determination in
6 accordance with this section forfeits the right to any refund due by reason of the
7 determination."

8 **SECTION 4.** G.S. 105-130.20 reads as rewritten:

9 **"§ 105-130.20. Federal corrections.**

10 If a taxpayer's federal taxable income is corrected or otherwise determined by the
11 federal government, the taxpayer must, within ~~two years~~six months after being notified
12 of the correction or final determination by the federal government, file an income tax
13 return with the Secretary reflecting the corrected or determined taxable income. The
14 Secretary shall determine from all available evidence the taxpayer's correct tax liability
15 for the income year. As used in this section, the term 'all available evidence' means
16 evidence of any kind that becomes available to the Secretary from any source, whether
17 or not the evidence was considered in the federal correction or determination.

18 The Secretary shall assess and collect any additional tax due from the taxpayer as
19 provided in Article 9 of this Chapter. The Secretary shall refund any overpayment of tax
20 as provided in Article 9 of this Chapter. A taxpayer that fails to comply with this section
21 is subject to the penalties in G.S. 105-236 and forfeits its rights to any refund due by
22 reason of the determination."

23 **SECTION 5.** G.S. 105-159 reads as rewritten:

24 **"§ 105-159. Federal corrections.**

25 If a taxpayer's federal taxable income is corrected or otherwise determined by the
26 federal government, the taxpayer must, within ~~two years~~six months after being notified
27 of the correction or final determination by the federal government, file an income tax
28 return with the Secretary reflecting the corrected or determined taxable income. The
29 Secretary shall determine from all available evidence the taxpayer's correct tax liability
30 for the taxable year. As used in this section, the term 'all available evidence' means
31 evidence of any kind that becomes available to the Secretary from any source, whether
32 or not the evidence was considered in the federal correction or determination.

33 The Secretary shall assess and collect any additional tax due from the taxpayer as
34 provided in Article 9 of this Chapter. The Secretary shall refund any overpayment of tax
35 as provided in Article 9 of this Chapter. A taxpayer who fails to comply with this
36 section is subject to the penalties in G.S. 105-236 and forfeits the right to any refund
37 due by reason of the determination."

38 **SECTION 6.** G.S. 105-197.1 reads as rewritten:

39 **"§ 105-197.1. Federal corrections.**

40 If the amount of a taxpayer's net gifts is corrected or otherwise determined by the
41 federal government, the taxpayer must, within ~~two years~~six months after being notified
42 of the correction or final determination by the federal government, file a gift tax return
43 with the Secretary of Revenue reflecting the corrected or determined net gifts. The
44 Secretary of Revenue shall determine from all available evidence the taxpayer's correct

1 tax liability for the taxable year. As used in this section, the term 'all available evidence'
2 means evidence of any kind that becomes available to the Secretary from any source,
3 whether or not the evidence was considered in the federal correction or determination.

4 The Secretary shall assess and collect any additional tax due from the taxpayer as
5 provided in Article 9 of this Chapter. The Secretary shall refund any overpayment of tax
6 as provided in Article 9 of this Chapter. A taxpayer who fails to comply with this
7 section is subject to the penalties in G.S. 105-236 and forfeits the right to any refund
8 due by reason of the determination."

9 **SECTION 7.** G.S. 105-130.17 is amended by adding a new subsection to
10 read:

11 "(g) A corporation that files a federal return pursuant to section 6072(c) of the
12 Code shall file its return on or before the fifteenth day of the sixth month following the
13 close of its income year."

14 **SECTION 8.** G.S. 105-155(a) reads as rewritten:

15 "(a) ~~Where and When to File Return.~~ – An income tax return shall be filed as
16 ~~prescribed by the Secretary at the place and in the form~~ prescribed by the Secretary. The
17 income tax return of every taxpayer reporting on a calendar year basis ~~shall be filed~~
18 due on or before the fifteenth day of April in each year, ~~and the year.~~ The income tax
19 return of every taxpayer reporting on a fiscal year basis ~~shall be filed~~ is due on or before
20 the fifteenth day of the fourth month following the close of the fiscal year. These dates
21 do not apply to a nonresident alien whose federal income tax return is due at a later date
22 under section 6072(c) of the Code. The return of a nonresident alien affected by that
23 Code section is due on or before the fifteenth day of the sixth month following the close
24 of the taxable year. An information return shall be filed at the times prescribed by the
25 Secretary. A taxpayer may ask the Secretary for an extension of time to file a return
26 under G.S. 105-263."

27 **SECTION 9.** G.S. 105-151.11(b) reads as rewritten:

28 "(b) Employment Related Expenses. – The amount of employment-related
29 expenses for which a credit may be claimed may not exceed ~~two thousand four hundred~~
30 ~~dollars (\$2,400)~~ three thousand dollars (\$3,000) if the taxpayer's household includes one
31 qualifying individual, as defined in section 21(b)(1) of the Code, and may not exceed
32 ~~four thousand eight hundred dollars (\$4,800)~~ six thousand dollars (\$6,000) if the
33 taxpayer's household includes more than one qualifying individual. The amount of
34 employment-related expenses for which a credit may be claimed is reduced by the
35 amount of employer-provided dependent care assistance excluded from gross income."

36 **SECTION 10.** Sections 1, 2, and 10 of this act are effective when they
37 become law. Sections 3 through 6 of this act become effective July 1, 2006, and apply
38 to federal determinations made on or after that date. Sections 7 through 9 of this act are
39 effective for taxable years beginning on or after January 1, 2006.