

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007

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SENATE BILL 104

Short Title: Repeal Estate and Gift Taxes. (Public)

Sponsors: Senators Goodall; Allran, Blake, Brock, Brown, Brunstetter, Pittenger, Smith, and Tillman.

Referred to: Finance.

February 12, 2007

A BILL TO BE ENTITLED

AN ACT TO REPEAL THE ESTATE AND GIFT TAXES.

The General Assembly of North Carolina enacts:

SECTION 1. Article 1A of Chapter 105 of the General Statutes is repealed.

SECTION 2. G.S. 105-241.1(e) reads as rewritten:

"(e) Statute of Limitations. – There is no statute of limitations and the Secretary may propose an assessment of tax due from a taxpayer at any time if (i) the taxpayer did not file a proper application for a license or did not file a return, (ii) the taxpayer filed a false or fraudulent application or return, or (iii) the taxpayer attempted in any manner to fraudulently evade or defeat the tax.

If a taxpayer files a return reflecting a federal determination as provided in G.S. ~~105-32.8,~~ 105-130.20, 105-159, 105-160.8, 105-163.6A, or 105-197.1, the Secretary must propose an assessment of any tax due within one year after the return is filed or within three years of when the original return was filed or due to be filed, whichever is later. If there is a federal determination and the taxpayer does not file the required return, the Secretary must propose an assessment of any tax due within three years after the date the Secretary received the final report of the federal determination.

If a taxpayer forfeits a tax credit or tax benefit pursuant to forfeiture provisions of this Chapter, the Secretary must assess any tax due as a result of the forfeiture within three years after the date of the forfeiture. If a taxpayer elects under section 1033(a)(2)(A) of the Code not to recognize gain from involuntary conversion of property into money, the Secretary must assess any tax due as a result of the conversion or election within the applicable period provided under section 1033(a)(2)(C) or section 1033(a)(2)(D) of the Code. If a taxpayer sells at a gain the taxpayer's principal residence, the Secretary must assess any tax due as a result of the sale within the period provided under section 1034(j) of the Code.

In all other cases, the Secretary must propose an assessment of any tax due from a taxpayer within three years after the date the taxpayer filed an application for a license

1 or a return or the date the application or return was required by law to be filed,
2 whichever is later.

3 If the Secretary proposes an assessment of tax within the time provided in this
4 section, the final assessment of the tax is timely.

5 A taxpayer may make a written waiver of any of the limitations of time set out in
6 this subsection, for either a definite or an indefinite time. If the Secretary accepts the
7 taxpayer's waiver, the Secretary may propose an assessment at any time within the time
8 extended by the waiver."

9 **SECTION 3.** Article 6 of Chapter 105 of the General Statutes is repealed.

10 **SECTION 4.** G.S. 105-241.1(e), as amended by Section 2 of this act, reads
11 as rewritten:

12 "(e) Statute of Limitations. – There is no statute of limitations and the Secretary
13 may propose an assessment of tax due from a taxpayer at any time if (i) the taxpayer did
14 not file a proper application for a license or did not file a return, (ii) the taxpayer filed a
15 false or fraudulent application or return, or (iii) the taxpayer attempted in any manner to
16 fraudulently evade or defeat the tax.

17 If a taxpayer files a return reflecting a federal determination as provided in
18 G.S. 105-130.20, 105-159, 105-160.8, or 105-163.6A, ~~or 105-197.1~~, the Secretary must
19 propose an assessment of any tax due within one year after the return is filed or within
20 three years of when the original return was filed or due to be filed, whichever is later. If
21 there is a federal determination and the taxpayer does not file the required return, the
22 Secretary must propose an assessment of any tax due within three years after the date
23 the Secretary received the final report of the federal determination.

24 If a taxpayer forfeits a tax credit or tax benefit pursuant to forfeiture provisions of
25 this Chapter, the Secretary must assess any tax due as a result of the forfeiture within
26 three years after the date of the forfeiture. If a taxpayer elects under section
27 1033(a)(2)(A) of the Code not to recognize gain from involuntary conversion of
28 property into money, the Secretary must assess any tax due as a result of the conversion
29 or election within the applicable period provided under section 1033(a)(2)(C) or section
30 1033(a)(2)(D) of the Code. If a taxpayer sells at a gain the taxpayer's principal
31 residence, the Secretary must assess any tax due as a result of the sale within the period
32 provided under section 1034(j) of the Code.

33 In all other cases, the Secretary must propose an assessment of any tax due from a
34 taxpayer within three years after the date the taxpayer filed an application for a license
35 or a return or the date the application or return was required by law to be filed,
36 whichever is later.

37 If the Secretary proposes an assessment of tax within the time provided in this
38 section, the final assessment of the tax is timely.

39 A taxpayer may make a written waiver of any of the limitations of time set out in
40 this subsection, for either a definite or an indefinite time. If the Secretary accepts the
41 taxpayer's waiver, the Secretary may propose an assessment at any time within the time
42 extended by the waiver."

43 **SECTION 5.** Sections 1 and 2 of this act become effective July 1, 2007, and
44 apply to the estates of decedents dying on or after that date. Sections 3 and 4 of this act

- 1 become effective January 1, 2008, and apply to gifts made on or after that date. The
- 2 remainder of this act is effective when it becomes law.