

GENERAL ASSEMBLY OF NORTH CAROLINA  
1989 SESSION

CHAPTER 557  
HOUSE BILL 272

AN ACT TO CREATE A TAX AMNESTY PROGRAM AND IMPROVE STATE  
TAX ENFORCEMENT AND COMPLIANCE TO ASSURE FAIRNESS IN THE  
COLLECTION OF TAXES FROM ALL TAXPAYERS.

Whereas, over ninety-five percent (95%) of State taxes are collected under our voluntary compliance system; and

Whereas, uncollected taxes are needed to fund improvements in the quality of education demanded by citizens and the business community; and

Whereas, recent federal legislative and judicial mandates will impose a major burden on the current tax structure; and

Whereas, uncollected taxes undermine the fairness of the overall tax system; and

Whereas, the State's voluntary tax compliance system can be enhanced by a modernization package that includes a tax amnesty program, increased penalties for tax evasion, and additional enforcement and compliance resources; Now, therefore,

The General Assembly of North Carolina enacts:

Part I: Amnesty Program

Section 1. This act shall be known as the "Fair Share Tax Act of 1989."

Sec. 2. Amnesty program established; scope. The Department of Revenue shall administer a tax amnesty program to be conducted during the period September 1, 1989, through December 1, 1989. During the tax amnesty period, the Department of Revenue may not initiate a criminal prosecution for failure to report or pay taxes within the scope of the Program and shall waive all penalties assessed for such failure when the taxes, plus any interest due, are paid in full.

The taxes within the scope of the tax amnesty program are:

- (1) Inheritance taxes levied under Article 1 of Chapter 105 of the General Statutes;
- (2) License taxes levied under Articles 2, 2A, 2B, and 2C of Chapter 105 of the General Statutes;
- (3) Franchise taxes levied under Article 3 of Chapter 105 of the General Statutes;
- (4) Income taxes levied under Articles 4, 4A, 4B, and 4C of Chapter 105 of the General Statutes;
- (5) Sales and use taxes levied under Articles 5, 39, 40, 41, and 42 of Chapter 105 of the General Statutes, and under Chapter 1096 of the 1967 Session Laws;

- (6) Gift taxes levied under Article 6 of Chapter 105 of the General Statutes;
- (7) Intangibles taxes levied under Article 7 of Chapter 105 of the General Statutes;
- (8) Motor fuels taxes levied under Articles 36, 36A, and 36B of Chapter 105 of the General Statutes; and
- (9) Inspection taxes levied under Article 3 of Chapter 119 of the General Statutes.

The program applies to inheritance tax liabilities due for the estates of decedents dying prior to December 1, 1988; license tax liabilities for taxable periods ending on or before June 30, 1988; gift tax liabilities due and remaining unpaid after December 31, 1987; individual income withholding tax liabilities, sales and use tax liabilities, motor fuels tax liabilities, and inspection tax liabilities for taxable periods ending on or before December 31, 1988; income tax liabilities and intangibles tax liabilities for taxable periods ending on or before December 31, 1987; and franchise tax liabilities for taxable periods beginning on or before January 1, 1988. The program does not apply to any matter that is the subject of a pending court proceeding.

Sec. 3. Effect of payment under program. A taxpayer who pays unreported, underreported, or assessed but unpaid taxes as part of the program is not subject to criminal prosecution for not reporting, underreporting, or not paying the taxes, but must pay the interest due on the taxes at the rate established under G.S. 105-241.1(i). An attorney, accountant, paid preparer of a tax return, or other person who would otherwise be subject to criminal prosecution under G.S. 105-236(9a) for his actions concerning returns prepared for unreported or underreported taxes paid pursuant to the amnesty program is not subject to criminal prosecution under that subdivision on the basis of those actions.

Sec. 4. Requirements for participation. To be eligible to participate in the program, a taxpayer shall:

- (1) File an application to participate before the end of the amnesty period;
- (2) File a return for all reporting periods for which the taxpayer has not previously filed a return but was required to file a return;
- (3) File an amended tax return for all reporting periods for which the taxpayer underreported tax liability; and
- (4) Pay the taxpayer's previously assessed taxes or unreported or underreported taxes for all reporting periods in full plus any interest due on the taxes by December 1, 1989.

Sec. 5. Administration. The Secretary of Revenue shall issue forms and instructions to implement the amnesty program and shall publicize the tax amnesty period to maximize public awareness of and participation in the program.

Sec. 6. Funds. To pay for the amnesty program provided in Part I of this act, the Secretary of Revenue may draw up to one million one hundred thousand dollars (\$1,100,000) from collections received by the Department during July 1989 under Division II of Article 4 of Chapter 105 of the General Statutes.

#### Part II: Increased Penalties

Sec. 7. G.S. 105-236(7) reads as rewritten:

"(7) Attempt to Evade or Defeat Tax. – Any person who willfully attempts, or any person who aids or abets any person to attempt in any manner to evade or defeat any tax imposed by this Subchapter of the General Statutes, or the payment thereof, shall, in addition to other penalties provided by law, be guilty of a ~~misdemeanor~~. Class I felony punishable by imprisonment up to five years, a fine up to twenty-five thousand dollars (\$25,000), or both."

Sec. 8. G.S. 105-236(8) reads as rewritten:

"(8) Willful Failure to Collect, Withhold, or Pay Over Tax. – Any person required under this Subchapter to collect, withhold, account for, and pay over any tax imposed by this Subchapter who willfully fails to collect or truthfully account for and pay over such tax shall, in addition to other penalties provided by law, be guilty of a ~~misdemeanor and shall be punished by a fine not to exceed one thousand dollars (\$1,000), or by imprisonment not to exceed two years, or by both such fine and imprisonment~~. misdemeanor. Notwithstanding any other provision of law, no prosecution for a violation brought under this subdivision shall be barred before the expiration of three years after the date of the violation."

Sec. 9. G.S. 105-236(9) reads as rewritten:

"(9) Willful Failure to File Return, Supply Information, or Pay Tax. – Any person required under this Subchapter to pay any tax, to make a return, to keep any records, or to supply any information, who willfully fails to pay such tax, make such return, keep such records, or supply such information, at the time or times required by law, or regulations issued pursuant thereto, shall, in addition to other penalties provided by law, be guilty of a misdemeanor. Notwithstanding any other provision of law, no prosecution for a violation brought under this subdivision shall be barred before the expiration of three years after the date of the violation."

Sec. 10. G.S. 105-236(9a) reads as rewritten:

"(9a) Aid or Assistance. – Any person, pursuant to or in connection with the revenue laws, who willfully aids, assists in, procures, counsels, or advises the preparation, presentation, or filing of a return, affidavit, claim, or any other document that he knows is fraudulent or false as to any material matter, whether or not the falsity or fraud is with the knowledge or consent of the person authorized or required to present or file the return, affidavit, claim, or other document, shall be guilty of a ~~misdemeanor~~. Class J felony punishable by imprisonment up to three years, a fine up to ten thousand dollars (\$10,000), or both."

### Part III: Enforcement/Compliance Funds

Sec. 11. (a) There is appropriated:

- (1) From the Highway Fund to the Department of Revenue the sum of \$117,950 for the 1989-90 fiscal year and the sum of \$149,690 for the 1990-91 fiscal year; and
- (2) From the General Fund to the Department of Revenue the sum of \$4,953,192 for the 1989-90 fiscal year and the sum of \$4,765,218 for the 1990-91 fiscal year

for additional tax enforcement personnel, support personnel, and other costs resulting from the additional tax enforcement personnel.

(b) Notwithstanding any other provision of this section, this section does not appropriate any funds and no funds may be expended under this section.

Part IV: Effective Dates

Sec. 12. Section 11 of this act shall become effective July 1, 1989; Sections 7 through 10 shall become effective December 2, 1989, and shall apply to violations occurring on or after that date; the remainder of this act is effective upon ratification.

In the General Assembly read three times and ratified this the 4th day of July, 1989.