

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

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HOUSE BILL 1845

Short Title: Phase Out Intangibles Tax.

(Public)

Sponsors: Representatives Gamble; Gardner, Ives, Joye, Justus, Warner, and Wood.

Referred to: Finance.

May 30, 1994

A BILL TO BE ENTITLED

AN ACT TO PHASE OUT THE INTANGIBLES TAX OVER THREE YEARS, TO EXEMPT STOCK THAT IS NOT PUBLICLY TRADED FROM THE TAX, TO REPEAL EXISTING INCOME TAX PREFERENCES FOR NORTH CAROLINA DIVIDENDS, TO PHASE OUT CORPORATE INCOME TAX DEDUCTIONS FOR BANKS' INTEREST EXPENSES RELATED TO PRODUCING TAX EXEMPT INCOME, TO PHASE IN A SURTAX ON HIGH-INCOME INDIVIDUALS, AND TO REIMBURSE LOCAL GOVERNMENTS FOR THEIR LOST INTANGIBLES TAX REVENUE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-130.5(a) is amended by adding a new subdivision to read:

"(2a) The appropriate fraction in the table below multiplied by that portion of a financial institution's interest expense that is allocable to interest exempt from taxation under this Division. The allocable portion of the interest expense is the portion for which deduction would be disallowed pursuant to section 265(b) of the Code if the interest were earned on a tax-exempt obligation as defined in section 265(b) of the Code.

<u>Tax Years Beginning</u>	<u>Fraction</u>
<u>In 1994</u>	<u>1/3</u>
<u>In 1995</u>	<u>2/3</u>
<u>Thereafter</u>	<u>1/1".</u>

Sec. 2. G.S. 105-130.5(c)(3) reads as rewritten:

1 "~~(3) No~~ Except as provided in this subdivision, ~~no~~ deduction is allowed for
2 any direct or indirect expenses related to income not taxed under this
3 Division; ~~provided, no adjustment shall be made under this subsection for~~
4 ~~adjustments addressed in G.S. 105-130.5(a) and (b).~~ Division.

5 a. A financial institution that was allowed a deduction under
6 section 265(b)(3) of the Code for interest expenses related to
7 interest exempt under this Division is not required to add back
8 the deducted interest expenses.

9 b. A corporation is not required to attribute expenses related to
10 dividend income not taxed under G.S. 105-130.5(b)(3) and G.S.
11 105-130.7."

12 Sec. 3. G.S. 105-151.19 is repealed.

13 Sec. 4. G.S. 105-130.7 reads as rewritten:

14 **"§ 105-130.7. Deductible portion of dividends.**

15 Dividends from stock issued by ~~any a~~ corporation ~~shall be deducted to the extent herein~~
16 ~~provided.~~ are deductible to the extent provided in this section.

17 ~~(1) As soon as may be practicable after September 30 of each year, the~~
18 ~~Secretary of Revenue shall determine from the corporate income tax~~
19 ~~return filed during the year ending September 30 by each corporation~~
20 ~~required to file a return during that period the proportion of the entire~~
21 ~~net income or loss of the corporation allocable to this State under the~~
22 ~~provisions of G.S. 105-130.4, except as provided herein. If a~~
23 ~~corporation has a net income in North Carolina and a net loss from all~~
24 ~~sources wherever located, or if a corporation has a net loss in North~~
25 ~~Carolina and a net income from all sources wherever located, the~~
26 ~~Secretary shall require the use of the allocation fraction determined~~
27 ~~under the provisions of G.S. 105-130.4. A corporation which is a~~
28 ~~stockholder in any such corporation shall be allowed to deduct the~~
29 ~~same proportion of the dividends received by it from such corporation~~
30 ~~during its income year ending on or after September 30. No deduction~~
31 ~~shall be allowed for any part of any dividend received from any~~
32 ~~corporation that was required to file an income tax return during the~~
33 ~~year ending September 30 but failed to file the return. In the case of~~
34 ~~dividends received from a corporation that was not required to file a~~
35 ~~return during the year ending September 30, the proportion of~~
36 ~~dividends deductible by the stockholder shall be determined by the~~
37 ~~Secretary from the best information available.~~

38 (2) Dividends received by a corporation from stock in any insurance
39 company of this State taxed under the provisions of G.S. 105-228.5
40 shall be deductible by such corporation, and a proportionate part of
41 any dividends received from stock in any foreign insurance
42 corporation shall be deductible, such part to be determined on the basis
43 of the ratio of premiums reported for taxation in this State to total
44 premiums collected both in and out of this State.

- 1 (3) A corporation shall be allowed to deduct such proportionate part of
2 dividends received by it from a regulated investment company or a real
3 estate investment trust, as defined in G.S. 105-130.12, as represents
4 and corresponds to income received by such regulated investment
5 company or real estate investment trust which would not be taxed by
6 this State if received directly by the corporation.
- 7 (3a) Dividends received on shares of capital stock owned in a stock-owned
8 savings and loan association taxed under Article 8D of this Chapter
9 shall be deductible.
- 10 (4) Notwithstanding ~~the provisions of subdivisions (1) through (3a) any~~
11 ~~other provision~~ of this section, a corporation ~~which, at the close of its~~
12 ~~taxable year, has its commercial domicile within North Carolina shall~~
13 ~~be allowed to~~ may deduct all dividends received from corporations in
14 which it owns more than fifty percent (50%) of the outstanding voting
15 stock.
- 16 (5) Notwithstanding any other provisions of this Division, a corporation
17 ~~which that~~ is a shareholder in a holding company ~~shall be allowed as a~~
18 ~~deduction may deduct~~ an amount equal to those dividends received by
19 it from ~~such the~~ holding company, multiplied by a fraction, the
20 numerator of which ~~shall be is~~ the dividends received by ~~such the~~
21 holding company ~~attributable to North Carolina, that are deductible by it~~
22 under subdivisions (2) through (3a) of this section and the denominator
23 of which ~~shall be is~~ the gross dividends received by ~~such the~~ holding
24 company. ~~company;~~ provided, however, that no deduction shall be allowed
25 ~~where the fraction is smaller than one third (1/3). For purposes of this~~
26 ~~section, 'dividends attributable to North Carolina' shall be the amount of~~
27 ~~dividend income received by the holding company on stock owned in other~~
28 ~~corporations equal to the total of the proportion of each of such corporation's~~
29 ~~dividends as shall be determined deductible by the Secretary under~~
30 ~~subdivisions (1) through (3a) of this section; provided that a~~ A holding
31 company ~~which that~~ owns more than fifty percent (50%) of the
32 outstanding voting stock of one or more holding companies as defined
33 in this subdivision ~~shall be permitted is allowed~~ a deduction for all
34 dividends received from ~~such those~~ holding companies and all other
35 corporations in which it owns more than fifty percent (50%) of the
36 outstanding voting ~~stock.~~ ~~stock except that no deduction shall be allowed~~
37 ~~if less than one third (1/3) of the dividends received by the holding company~~
38 ~~are attributable to North Carolina. A shareholder of such a holding company~~
39 ~~shall determine the deductible portion of its dividends received from such~~
40 ~~holding company as hereinabove provided except that the amounts received~~
41 ~~from a subsidiary holding company as 'dividends attributable to North~~
42 ~~Carolina' shall be determined as though the subsidiary corporation of the~~
43 ~~subsidiary holding company had paid the dividends directly to the parent~~
44 ~~holding company. For the purposes of this section and unless the context~~
45 ~~clearly requires a different meaning, As used in this section, the term~~

'holding company' ~~shall mean any~~ means a corporation subject to the tax imposed by G.S. 105-130.3 whose ordinary gross income consists of fifty percent (50%) or more of dividend income received from corporations in which it owns more than fifty percent (50%) of the outstanding voting stock, and 'subsidiary' ~~shall mean any corporation, more than fifty percent (50%) of whose outstanding voting stock is owned by another corporation.~~ For the purposes of this subsection, stock. As used in this subdivision, the term 'dividend' includes, in addition to corporate dividends, distributions received from a partnership by a corporation owning more than a fifty percent (50%) interest in the partnership.

(6) In no case shall the total amount of dividends that are allowed as a deduction to a corporation as a result of the application of subdivisions ~~(1)-(2)~~ through (3a) of this section be in excess of fifteen thousand dollars (\$15,000) for the taxable year."

Sec. 5. G.S. 105-134.2 is amended by adding a new subsection to read:

"(c) In addition to the income tax imposed by subsection (a) or (b), the following individuals required to file a return under this Division shall pay an income tax surtax equal to the applicable percentage in the table below of the tax payable by the individual to the State for the taxable year. This surtax is due at the time prescribed for filing income tax returns in G.S. 105-155.

(1) Married individuals who file a joint return under G.S. 105-152.1 and have adjusted gross income as determined under the Code in excess of one hundred fifty thousand dollars (\$150,000) but not more than two hundred thousand dollars (\$200,000):

<u>Taxable Years Beginning</u>	<u>Tax Rate</u>
<u>In 1994</u>	<u>X%</u>
<u>In 1995</u>	<u>Y%</u>
<u>After 1995</u>	<u>Z%</u>

(2) Married individuals who file a joint return under G.S. 105-152.1 and have adjusted gross income as determined under the Code in excess of two hundred thousand dollars (\$200,000):

<u>Taxable Years Beginning</u>	<u>Tax Rate</u>
<u>In 1994</u>	<u>A%</u>
<u>In 1995</u>	<u>B%</u>
<u>After 1995</u>	<u>C%</u>

(3) Surviving spouses, as defined in section 2(a) of the Code, who have adjusted gross income as determined under the Code in excess of one hundred fifty thousand dollars (\$150,000) but not more than two hundred thousand dollars (\$200,000):

<u>Taxable Years Beginning</u>	<u>Tax Rate</u>
<u>In 1994</u>	<u>X%</u>
<u>In 1995</u>	<u>Y%</u>
<u>After 1995</u>	<u>Z%</u>

- 1 (4) Surviving spouses, as defined in section 2(a) of the Code, who have
 2 adjusted gross income as determined under the Code in excess of two
 3 hundred thousand dollars (\$200,000):

<u>Taxable Years Beginning</u>	<u>Tax Rate</u>
<u>In 1994</u>	<u>A%</u>
<u>In 1995</u>	<u>B%</u>
<u>After 1995</u>	<u>C%</u>

- 8 (5) Heads of households, as defined in section 2(b) of the Code, who have
 9 adjusted gross income as determined under the Code in excess of one
 10 hundred twenty thousand dollars (\$120,000) but not more than one
 11 hundred sixty thousand dollars (\$160,000):

<u>Taxable Years Beginning</u>	<u>Tax Rate</u>
<u>In 1994</u>	<u>X%</u>
<u>In 1995</u>	<u>Y%</u>
<u>After 1995</u>	<u>Z%</u>

- 16 (6) Heads of households, as defined in section 2(b) of the Code, who have
 17 adjusted gross income as determined under the Code in excess of one
 18 hundred sixty thousand dollars (\$160,000):

<u>Taxable Years Beginning</u>	<u>Tax Rate</u>
<u>In 1994</u>	<u>A%</u>
<u>In 1995</u>	<u>B%</u>
<u>After 1995</u>	<u>C%</u>

- 23 (7) Unmarried individuals other than surviving spouses and heads of
 24 households who have adjusted gross income as determined under the
 25 Code in excess of ninety thousand dollars (\$90,000) but not more than
 26 one hundred twenty thousand dollars (\$120,000):

<u>Taxable Years Beginning</u>	<u>Tax Rate</u>
<u>In 1994</u>	<u>X%</u>
<u>In 1995</u>	<u>Y%</u>
<u>After 1995</u>	<u>Z%</u>

- 31 (8) Unmarried individuals other than surviving spouses and heads of
 32 households who have adjusted gross income as determined under the
 33 Code in excess of one hundred twenty thousand dollars (\$120,000):

<u>Taxable Years Beginning</u>	<u>Tax Rate</u>
<u>In 1994</u>	<u>A%</u>
<u>In 1995</u>	<u>B%</u>
<u>After 1995</u>	<u>C%</u>

- 38 (9) Married individuals who do not file a joint return under G.S. 105-
 39 152.1 who have adjusted gross income as determined under the Code
 40 in excess of seventy-five thousand dollars (\$75,000) but not more than
 41 one hundred thousand dollars (\$100,000):

<u>Taxable Years Beginning</u>	<u>Tax Rate</u>
<u>In 1994</u>	<u>X%</u>
<u>In 1995</u>	<u>Y%</u>

1 **"§ 105-202. Bonds, notes, and other evidences of debt.**

2 All bonds, notes, and other evidences of debt however evidenced whether secured by
3 mortgage, deed of trust, judgment or otherwise, or not so secured, having a business,
4 commercial or taxable situs in this State on December 31 of each year shall be subject to
5 an annual tax which is hereby levied, ~~of twenty-five cents (25¢)~~ at the rate provided in
6 G.S. 105-198 on every one hundred dollars (\$100.00) of the actual value thereof, except
7 that taxpayers reporting on a fiscal year basis for income tax purposes under the
8 provisions of Article 4 shall report evidences of debt on the last day of such fiscal year
9 ending during the year prior to the December 31 as of which such property would
10 otherwise be reported; provided, that from the actual value of such bonds, notes, and
11 other evidences of debt there may be deducted like evidences of debt owed by the
12 taxpayer as of the valuation date of the receivable evidences of debt. The term 'like
13 evidences of debt' deductible under this section shall not include:

- 14 (1) Accounts payable; provided, however, that accounts payable
15 to security brokers incurred directly for the purchase of bonds,
16 debentures and similar investments taxable under this section shall
17 be deductible;
- 18 (2) Taxes of any kind owing by the taxpayer;
- 19 (3) Reserves, secondary liabilities or contingent liabilities
20 except upon satisfactory showing that the taxpayer will actually be
21 compelled to pay the debt or liability;
- 22 (4) Evidences of debt owed to a corporation of which the
23 taxpayer is parent or subsidiary or with which the taxpayer is closely
24 affiliated by stock ownership or with which the taxpayer is
25 subsidiary of same parent corporation, unless the credits created by
26 such evidences of debt are listed, if so required by law for ad
27 valorem or property taxation, for taxation at the situs of such credits;
28 or
- 29 (5) Debts incurred to purchase assets which are not subject to
30 taxation at the situs of such assets.

31 From the total actual value of bonds, notes, and other evidences of debt returned to
32 this State for taxation by or in behalf of any taxpayer who or which also owns other
33 such evidences of debt as have situs outside of this State, like evidences of debt owed
34 by the taxpayer may be deducted only in the proportion which the total actual value of
35 evidences of debt taxable under this section bears to the total actual value of all like
36 evidences of debt owned by the taxpayer.

37 The tax levied in this section shall not apply to bonds, notes and other evidences of
38 debt of the United States, State of North Carolina, political subdivisions of this State or
39 agencies of such governmental units, or of nonprofit educational institutions organized
40 or chartered under the laws of the State of North Carolina, but the tax shall apply to all
41 bonds and other evidences of debt of political subdivisions and governmental units other
42 than those specifically excluded herein.

1 In every action or suit in any court for the collection on any bonds, notes, or other
2 evidences of debt, the plaintiff shall be required to allege in his pleadings or to prove at
3 any time before final judgment is entered

4 (1) That such bonds, notes or other evidences of debt have been
5 assessed for taxation for each and every tax year, under the
6 provisions of this Article, during which the plaintiff was owner of
7 same, not exceeding five years prior to that in which the suit or
8 action is brought; or

9 (2) That such bonds, notes or other evidences of debt sued upon
10 are not taxable hereunder in the hands of the plaintiff; or

11 (3) That the suitor has not paid, or is unable to pay such taxes,
12 penalties and interest as might be due, but is willing for the same to
13 be paid out of the first recovery on the evidence of debt sued upon.

14 When in any action at law or suit in equity it is ascertained that there are unpaid
15 taxes, penalties and interest due on the evidence of debt sought to be enforced, and the
16 suitor makes it appear to the court that he has not paid or is unable to pay said taxes,
17 penalties and interest, but is willing for the same to be paid out of the first recovery on
18 the evidence of debt, the court shall have authority to enter as a part of any judgment or
19 decretal order in said proceedings that the amount of taxes, penalties and interest due
20 and owing shall be paid to the proper officer out of the first collection on said judgment
21 or decree. The title to real estate heretofore or hereafter sold under a deed of trust shall
22 not be drawn in question upon the ground that the holder of the notes secured by such
23 deed of trust did not list and return the same for taxation as required by this Article."

24 Sec. 10. G.S. 105-203 reads as rewritten:

25 "**§ 105-203. Shares of stock.**

26 All shares of stock (including shares and units of ownership of mutual funds,
27 investment trusts, and investment funds) owned by residents of this State or having a
28 business, commercial, or taxable situs in this State on December 31 of each year, with
29 the exception herein provided, shall be subject to an annual tax, which is hereby levied,
30 ~~of twenty-five cents (25¢) at the rate provided in G.S. 105-198~~ on every one hundred
31 dollars (\$100.00) of the total fair market value of the stock on December 31 of each
32 year less the proportion of the value that is equal to:

33 (1) In the case of a taxpayer that is a corporation, the proportion of the
34 dividends upon the stock deductible by the taxpayer in computing its
35 income tax liability under G.S. 105-130.7 without regard to the fifteen
36 thousand dollar (\$15,000) limitation under G.S. 105-130.7; and

37 (2) In the case of a taxpayer that is not a corporation, the proportion of the
38 dividends upon the stock that would be deductible by the taxpayer, if
39 the taxpayer were a corporation, in computing its income tax liability
40 under the provisions of G.S. 105-130.7(1), (2), (3), (3a), and (5),
41 without regard to the fifteen thousand dollar (\$15,000) limitation under
42 G.S. 105-130.7.

43 This tax does not apply to shares of stock in building and loan associations or
44 savings and loan associations that pay a tax under Article 8D of this Chapter, nor to

1 shares of stock owned by any corporation that has its commercial domicile in North
2 Carolina, where the corporation owns more than fifty percent (50%) of the outstanding
3 voting stock.

4 This tax does not apply to units of ownership in an investment trust, the corpus of
5 which is composed (i) entirely of obligations of this State or (ii) entirely of
6 obligations of the United States and of this State, at least eighty percent (80%) of the
7 fair market value of which represents obligations of this State. For the purpose of this
8 paragraph, 'State' includes the State of North Carolina, political subdivisions of this
9 State, and agencies of these governmental units; 'United States' includes the United
10 States and its possessions, and the District of Columbia; 'obligations' includes bonds,
11 notes, and other evidences of debt. In order for the exemption provided in this
12 paragraph to apply, the trustees of an investment trust must provide the Secretary of
13 Revenue, in the form required by the Secretary, not later than December 31 of the year
14 with respect to which the exemption applies, information sufficient to establish the
15 applicability of this exemption.

16 Indebtedness incurred directly for the purchase of shares of stock may be deducted
17 from the total value of those shares if the specific shares of stock so purchased are
18 pledged as collateral to secure the indebtedness; however, only so much of the
19 indebtedness may be deducted as is in the same proportion as the taxable value of the
20 shares of stock is to the total value of the shares of stock.

21 This tax does not apply to shares of corporate stock that are not (i) publicly
22 traded on a securities exchange or board of trade or (ii) publicly traded over-the-counter
23 in the usual course of business by registered brokers or securities dealers. This
24 exemption applies only to corporate stock held directly by the taxpayer, and does not
25 apply to shares or units of ownership of mutual funds, investment trusts, or investment
26 funds, or to similar securities."

27 Sec. 11. G.S. 105-204 reads as rewritten:

28 "**§ 105-204. Beneficial interest in foreign trusts.**

29 The beneficial or equitable interest on December 31 of each year of any resident of
30 this State, or of a nonresident having a business, commercial or taxable situs in this
31 State, in any trust, trust fund or trust account (including custodian accounts) held by a
32 foreign fiduciary, shall be subject to an annual tax, which is hereby levied, ~~of twenty-five~~
33 ~~cents (25¢) at the rate provided in G.S. 105-198 on every one hundred dollars (\$100.00)~~
34 of the total actual value thereof less, however, the proportion of such value as is equal to
35 the proportion of the beneficiary's income from the trust, trust fund, or trust account
36 (including custodian accounts) that is attributable to (i) interest received by the fiduciary
37 on bonds, notes or other evidences of debt of the United States, State of North Carolina,
38 subdivisions of this State, or agencies of such governmental units and (ii) dividends
39 received by the fiduciary on shares of stock to the extent that the dividends would be
40 deductible by a corporate shareholder under G.S. 105-130.7(1), (2), (3), (3a), or (5)
41 except that no deduction shall be allowed for dividends deemed distributable from
42 earnings for a taxable period during which the corporation is an S Corporation subject to
43 the provisions of Division I-S of Article 4 of this Chapter; provided, however, that a
44 resident beneficiary of a foreign trust shall be allowed a credit against any tax due under

1 this section for any foreign intangibles tax paid on his beneficial interest in a foreign
2 trust.

3 The value of the corpus of such trust, trust fund or trust account shall not be
4 considered in computing taxable value hereunder, unless the person subject to the tax:

- 5 (1) Has the right to the present possession of an interest therein, and then
6 only to the extent of the value of such present interest; or
- 7 (2) Has the present right to receive a part or all of the income realized
8 from the corpus of such trust, and then only to the extent of the present
9 value of such income interest; or
- 10 (3) Has created the trust and reserved for himself an income, reversionary
11 or remainder interest therein, and then only to the extent of the present
12 value of such interest."

13 Sec. 12. G.S. 105-213(a) reads as rewritten:

14 "(a) Amount to be Distributed. – On or before June ~~25 of each year,~~ 25, 1996, the
15 Secretary shall distribute to counties and municipalities one hundred three percent
16 (103%) of the amount of revenue that would have been collected under this Article from
17 the preceding July 1 through the preceding April ~~30,~~ 30 if the taxes levied in this Article
18 were at the rate of twenty-five cents (25¢) per one hundred dollars (\$100.00) of value,
19 less all of the following:

- 20 (1) An amount equal to the costs during the preceding fiscal year of:
 - 21 a. Refunds made during the fiscal year of taxes levied under this
22 Article.
 - 23 b. The Department of Revenue to collect and administer the taxes
24 levied under this Article.
 - 25 c. The Department of Revenue in performing the duties imposed by
26 Article 15 of this Chapter.
 - 27 d. The Property Tax Commission.
 - 28 e. The Institute of Government in operating a training program in
29 property tax appraisal and assessment.
 - 30 f. The personnel and operations provided by the Department of State
31 Treasurer for the Local Government Commission.
- 32 (2) An amount equal to the excess of the amount of revenue collected
33 under this Article during the 1993-94 fiscal year over the amount of
34 revenue collected under this Article during the 1989-90 fiscal year, as
35 certified by the Secretary.

36 Funds distributed under this section in excess of the amount of revenue collected
37 under this Article shall be drawn from collections received under Division II of Article
38 4 of this Chapter."

39 Sec. 13. G.S. 105-216 is repealed.

40 Sec. 14. G.S. 105-213.1 is recodified as G.S. 105-275.2. The remainder of
41 Article 7 of Chapter 105 of the General Statutes is repealed. Any taxes collected
42 pursuant to Article 7 of Chapter 105 of the General Statutes on or after the date the
43 Article is repealed shall remain in the General Fund and any refunds made on or after

1 the date the Article is repealed of taxes collected pursuant to that Article shall be
2 charged to the General Fund.

3 Sec. 15. G.S. 105-275 is amended by adding the following new subdivisions:

4 "(31a) Accounts receivable.

5 (31b) Bonds, notes, and other evidences of debt.

6 (31c) Shares of stock, including shares and units of ownership of mutual
7 funds, investment trusts, and investment funds.

8 (31d) The beneficial or equitable interest in a trust, trust fund, or trust
9 account, including custodial accounts, held by a foreign fiduciary."

10 Sec. 16. G.S. 105-213.1, as recodified as G.S. 105-275.2 by this act, reads as
11 rewritten:

12 "**§ 105-275.2. Reimbursement to counties and municipalities for ~~partial-repeal of~~**
13 **State tax on intangible personal property.**

14 (a) Reimbursement for Repeal of Tax on Money on Deposit, Money on Hand,
15 and Funds on Deposit with Insurance Companies. – On or before August 30 of each
16 year, the Secretary of Revenue shall allocate for distribution to each county and the
17 municipalities in the county the amount allocated to the county under this subsection in
18 1990.

19 ~~Amounts allocated to a county under this subsection shall in turn be divided and~~
20 ~~distributed between the county and the municipalities located in the county in~~
21 ~~accordance with the method of allocating intangible tax revenue between a county and~~
22 ~~the municipalities located in the county provided in G.S. 105-213.~~

23 (a1) Reimbursement for Partial Repeal of Tax on Accounts Receivable. – On or
24 before August 30 of each year, the Secretary of Revenue shall distribute to counties and
25 municipalities an amount equal to forty percent (40%) of the tax collected on accounts
26 receivable under former Article 7 of this Chapter (repealed) during the 1989-90 fiscal
27 year. ~~The Secretary of Revenue shall first allocate the amount to be distributed in this~~
28 ~~subsection to the counties in the same manner as the amount allocated in G.S. 105-213. The~~
29 ~~amount allocated to each county shall in turn be divided and distributed between the county and~~
30 ~~the municipalities located in the county in accordance with the method of allocating intangible~~
31 ~~tax revenue between a county and the municipalities located in the county provided in G.S.~~
32 ~~105-213. The Secretary shall allocate this amount among the counties in proportion to~~
33 ~~the amount allocated to each county under former G.S. 105-213 (repealed) in June 1996.~~

34 (a2) Reimbursement for Repeal of Tax on Accounts Receivable, Bonds, Stocks,
35 and Foreign Trust Interests. – On or before June 25 of each year, the Secretary shall
36 distribute to counties and municipalities the amount of revenue distributed under G.S.
37 105-213 in June 1996 plus the amount deducted from that distribution pursuant to G.S.
38 105-213(a)(1) minus an amount equal to the costs during the preceding fiscal year of:

39 (1) The Department of Revenue in performing the duties imposed by
40 Article 15 of this Chapter.

41 (2) The Property Tax Commission.

42 (3) The Institute of Government in operating a training program in
43 property tax appraisal and assessment.

1 (4) The personnel and operations provided by the Department of State
2 Treasurer for the Local Government Commission.

3 (5) Refunds made during the fiscal year of taxes levied under former
4 Article 7 of this Chapter (repealed).

5 (6) The Department of Revenue to collect and administer the taxes levied
6 under former Article 7 of this Chapter (repealed).

7 (a3) Distribution Between County and Its Municipalities. – The amounts allocated
8 to each county under this section shall be allocated between the county and the
9 municipalities in the county in proportion to the total amount of ad valorem taxes levied
10 by each during the fiscal year preceding the distribution. In dividing these amounts
11 between each county and its municipalities, the Secretary of Revenue shall treat taxes
12 levied by a merged school administrative unit described in G.S. 115C-513 in a part of
13 the unit located in a county as taxes levied by the county in which that part is located.

14 After making these allocations, the Secretary shall certify to the State Controller and
15 to the State Treasurer the amount to be distributed to each county and municipality in
16 the State. The State Controller shall then issue a warrant on the State Treasurer to each
17 county and municipality in the amount certified.

18 For the purpose of computing the distribution to any county and the municipalities
19 located in the county for any year with respect to which the property valuation of a
20 public service company is the subject of an appeal and the Department of Revenue is
21 restrained by law from certifying the valuation to the county and the municipalities in
22 the county, the Department shall use the last property valuation of the public service
23 company that has been certified.

24 The chair of each board of county commissioners and the mayor of each
25 municipality shall report to the Secretary of Revenue information requested by the
26 Secretary to enable the Secretary to allocate the amount distributed by this section. If a
27 county or municipality fails to make a requested report within the time allowed, the
28 Secretary may disregard the county or municipality in allocating the amount distributed
29 by this section.

30 ~~(b) Restrictions on Use. —Amounts distributed to a county or a municipality~~
31 ~~under this section are subject to the same restrictions as amounts distributed under G.S.~~
32 ~~105-213. The amount distributed to each county and municipality shall be used by the~~
33 ~~county or municipality in proportion to property tax levies made by it for the various~~
34 ~~funds and activities of the county or municipality, unless the county or municipality has~~
35 ~~pledged the amount to be distributed to it under this section in payment of a loan~~
36 ~~agreement with the North Carolina Solid Waste Management Capital Projects Financing~~
37 ~~Agency. A county or municipality that has pledged amounts distributed under this~~
38 ~~section in payment of a loan agreement with the Agency may apply the amount the loan~~
39 ~~agreement requires.~~

40 ~~(c) Municipality Defined. —As used in this section, the term 'municipality' has~~
41 ~~the same meaning as in G.S. 105-213.~~

42 (d) Source. – Funds distributed under this section shall be drawn from collections
43 received under Division II of Article 4 of this Chapter."

44 Sec. 17. G.S. 105-276 reads as rewritten:

1 **"§ 105-276. Taxation of intangible personal property.**

2 Intangible personal property that is not excluded from taxation under G.S. 405-
3 275(31) ~~or classified under Schedule H, G.S. 105-198 through G.S. 105-217, 105-275~~
4 is subject to this Subchapter. ~~The classification of such property for taxation under~~
5 ~~Schedule H shall not exclude the property from the system property valuation of public~~
6 ~~service companies under Article 23 provided proper adjustments are made to prevent~~
7 ~~duplicate taxation."~~

8 Sec. 18. G.S. 105-305 reads as rewritten:

9 **"§ 105-305. Place for listing intangible personal property.**

10 (a) Listing Instructions. – This section ~~shall apply~~ applies to all taxable intangible
11 personal property that has a tax situs in this State, ~~that State and~~ is not required by this
12 Subchapter to be appraised originally by the Department of Revenue, ~~and that is not~~
13 ~~subject to taxation under the provisions of Schedule H, G.S. 105-198 through 105-217.~~
14 Revenue. The place in this State at which ~~such~~ this property is taxable shall be
15 determined according to the rules prescribed in subsections (b) through (e), below, as
16 provided in this section. The person whose duty it is to list property shall list it in the
17 county in which the place of taxation is located, indicating on the abstract the
18 information required by G.S. 105-309(d). If the place of taxation lies within a city or
19 town that requires separate listing under G.S. 105-326(a), the person whose duty it is to
20 list shall also list the property for taxation in the city or town.

21 (b) General Rule. – Except as otherwise provided in subsections (c) through ~~(e),~~
22 ~~below, (e) of this section,~~ intangible personal property shall be taxable at the residence
23 of the owner. For the purposes of this section:

24 (1) The residence of a person who has two or more places in this State at
25 which ~~he the person~~ occasionally dwells shall be the place ~~at which he~~
26 the person dwelt for the longest period of time during the calendar year
27 immediately preceding the date as of which property is to be listed for
28 taxation.

29 (2) The residence of a domestic or foreign taxpayer other than an
30 individual person shall be the place at which its principal North
31 Carolina office is located.

32 (c) Intangible personal property representing an interest or interests in real
33 property that is situated in this State shall be taxable in the place in which the
34 represented real property is located.

35 (d) The intangible personal property of a decedent whose estate is in the process
36 of administration or has not been distributed shall be taxable in the place at which it
37 would be taxable if the decedent were still alive and still residing in the place at which
38 ~~he the decedent~~ resided at the time of ~~his~~ death.

39 (e) Intangible personal property within the jurisdiction of the State held by a
40 resident or nonresident trustee, guardian, or other fiduciary having legal title to the
41 property shall be taxable in accordance with the following rules:

42 (1) If ~~any a~~ a beneficiary is a resident of the State, an amount representing
43 ~~his the beneficiary's~~ portion of the property shall be taxable in the

1 place at which it would be taxable if ~~he~~ the beneficiary were the owner
2 of ~~his~~ that portion.

3 (2) If ~~any~~ a beneficiary is a nonresident of the State, an amount
4 representing ~~his~~ the beneficiary's portion of the property shall be
5 taxable in the place at which it would be taxable if the fiduciary were
6 the beneficial owner of the property."

7 Sec. 19. G.S. 105-282.1(a)(2) reads as rewritten:

8 "(2) Owners of the special classes of property excluded from taxation under
9 G.S. 105-275(5), (15), (16), (26), (31), (31a), (31b), (31c), (31d),
10 (32a), (33), (34), or (40), or exempted under G.S. 105-278.2 are not
11 required to file applications for the exclusion or exemption of that
12 property."

13 Sec. 20. G.S. 105-288(d) reads as rewritten:

14 "(d) Expenses. – The members of the Property Tax Commission shall receive
15 travel and subsistence expenses in accordance with G.S. 138-5 and a salary of two
16 hundred dollars (\$200.00) a day when hearing cases. The Secretary of Revenue shall
17 supply all the clerical and other services required by the Commission. All expenses of
18 the Commission and the Department of Revenue in performing the duties enumerated in
19 this Article shall be paid ~~from funds appropriated out of revenue derived from the tax on~~
20 ~~intangible personal property as provided by G.S. 105-213~~ as provided in G.S. 105-275.2. "

21 Sec. 21. G.S. 108A-93 reads as rewritten:

22 "**§ 108A-93. Withholding of State moneys from counties failing to pay public**
23 **assistance costs.**

24 The Director of the Budget ~~is authorized to~~ may withhold from any county that does
25 not pay its full share of public assistance costs to the State and has not ~~arranged for~~
26 ~~payment pursuant to G.S. 108-54.1 or obtained a loan for repayment under~~ G.S. 108A-89,
27 any State moneys appropriated from the General Fund for public assistance and related
28 administrative costs, or ~~to~~ may direct the Secretary of Revenue and State ~~Treasurer~~
29 ~~Controller~~ to withhold any tax owed to a county under ~~Article 7 of Chapter 105 of the~~
30 ~~General Statutes, G.S. 105-113.82, Article 39 of Chapter 105 of the General Statutes~~
31 ~~Subchapter VIII of Chapter 105 of the General Statutes, or Chapter 1096 of the Session~~
32 ~~Laws of 1967.~~ The Director of the Budget shall notify the ~~chairman~~ chair of the board of
33 county commissioners of the proposed action prior to the withholding of funds."

34 Sec. 22. Effective January 1, 1998, G.S. 105-275.2(a2)(5) and (6), as enacted
35 by this act, are repealed.

36 Sec. 23. Notwithstanding the provisions of G.S. 105-163.15 and G.S. 105-
37 163.41, no addition to tax shall be made under those sections for a taxable year
38 beginning on or after January 1, 1994, and before January 1, 1995, with respect to any
39 underpayment to the extent the underpayment was created or increased by Section 1, 3,
40 4, 5, or 6 of this act.

41 Sec. 24. Section 12 of this act becomes effective July 1, 1995. Section 16 of
42 this act becomes effective January 1, 1997. Sections 14, 15, and 17 through 21 of this
43 act are effective for taxable years beginning on or after January 1, 1996, except that the
44 repeal of G.S. 105-213 by Section 14 of this act becomes effective July 1, 1996.

1 Section 22 of this act becomes effective January 1, 1998. The remainder of this act is
2 effective for taxable years beginning on or after January 1, 1994. This act does not
3 affect the rights or liabilities of the State, a taxpayer, or another person arising under a
4 statute amended or repealed by this act before its amendment or repeal; nor does it
5 affect the right to any refund or credit of a tax that would otherwise have been available
6 under the amended or repealed statute before its amendment or repeal.