

GENERAL ASSEMBLY OF NORTH CAROLINA
1993 SESSION

CHAPTER 661
SENATE BILL 1377

AN ACT TO CONFORM THE THRESHOLD FOR DETERMINING IF A PENALTY APPLIES TO AN UNDERPAYMENT OF WITHHELD STATE INCOME TAXES TO THAT USED UNDER THE INTERNAL REVENUE CODE FOR DETERMINING IF A PENALTY APPLIES TO AN UNDERPAYMENT OF WITHHELD FEDERAL INCOME TAXES, AND TO CLARIFY THE TYPE OF INFORMATION A TAXPAYER MUST PROVIDE TO THE SECRETARY OF REVENUE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-163.6 reads as rewritten:

"§ 105-163.6. When employer must file returns and pay withheld taxes.

(a) General. – A return is due quarterly or monthly as specified in this section. A return shall be filed with the Secretary on a form prepared by the Secretary, shall report any payments of withheld taxes made during the period covered by the return, and shall contain any other information required by the Secretary.

Withheld taxes are payable quarterly, monthly, or ~~within three banking days,~~ semiweekly, as specified in this section. If the Secretary finds that collection of the amount of taxes this Article requires an employer to withhold is in jeopardy, the Secretary may require the employer to file a return or pay withheld taxes at a time other than that specified in this section.

(b) Quarterly. – An employer who withholds an average of less than five hundred dollars (\$500.00) of State income taxes from wages each month shall file a return and pay the withheld taxes on a quarterly basis. A quarterly return covers a calendar quarter and is due by the last day of the month following the end of the quarter.

(c) Monthly. – An employer who withholds an average of at least five hundred dollars (\$500.00) but less than two thousand dollars (\$2,000) from wages each month shall file a return and pay the withheld taxes on a monthly basis. A return for the months of January through November is due by the 15th day of the month following the end of the month covered by the return. A return for the month of December is due the following January 31.

(d) ~~Three Banking Days.~~ Semiweekly. – An employer who withholds an average of at least two thousand dollars (\$2,000) of State income taxes from wages each month shall file a return by the date set under the Code for filing a return for federal ~~income~~ employment taxes withheld from attributable to the same wages and shall pay the withheld State taxes by the date set under the Code for depositing or paying federal ~~income-employment taxes withheld from attributable to~~ the same wages. The date set

by the Code for depositing or paying federal ~~income-employment~~ taxes withheld from wages shall be determined without regard to § 6302(g) of the Code.

An extension of time granted to file a return for federal ~~income-employment~~ taxes withheld from ~~attributable to~~ wages is an automatic extension of time for filing a return for State income taxes withheld from the same wages, and an extension of time granted to pay federal ~~income-employment~~ taxes withheld from ~~attributable to~~ wages is an automatic extension of time for paying State income taxes withheld from the same wages. An employer who pays withheld State income taxes under this subsection is not subject to interest on or penalties for ~~an underpayment of an~~ a shortfall in the amount due if the employer timely pays at least ninety five percent (95%) of the amount due and includes the underpayment with the next return the employer files. employer would not be subject to a failure-to-deposit penalty had the shortfall occurred in a deposit of federal employment taxes attributable to the same wages and the employer pays the shortfall by the date the employer would have to deposit a shortfall in the federal employment taxes.

(e) Category. – The Secretary shall monitor the amount of taxes withheld by an employer or estimate the amount of taxes to be withheld by a new employer and shall direct each employer to pay withheld taxes in accordance with the appropriate schedule. An employer shall file a return and pay withheld taxes in accordance with the Secretary's direction until notified in writing to file and pay under a different schedule."

Sec. 2. G.S. 105-251 reads as rewritten:

"§ 105-251. Information-Type of information a taxpayer must be furnished provide.

~~Each company, firm, corporation, person, association, copartnership, or public utility shall furnish the Secretary of Revenue in the form of returns prescribed by him, all information required by law and all other facts and information in addition to the facts and information in this act specifically required to be given, which the Secretary of Revenue may require to enable him to carry into effect the provisions of the laws which the said Secretary is required to administer, and shall make specific answers to all questions submitted by the Secretary of Revenue.~~

A taxpayer must give information to the Secretary when the Secretary requests the information. The Secretary may request a taxpayer to provide only the following kinds of information on a return, a report, or otherwise:

- (1) Information that identifies the taxpayer.
- (2) Information needed to determine the liability of the taxpayer for a tax.
- (3) Information needed to determine whether an item is subject to a tax.
- (4) Information that enables the Secretary to collect a tax.
- (5) Other information the law requires a taxpayer to provide or the Secretary needs to perform a duty a law requires the Secretary to perform."

Sec. 3. Section 1 of this act becomes effective January 1, 1995, and applies to payments of withheld income taxes made on or after that date. The remaining sections of this act are effective upon ratification.

1994. In the General Assembly read three times and ratified this the 5th day of July,

Dennis A. Wicker
President of the Senate

Daniel Blue, Jr.
Speaker of the House of Representatives