

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

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HOUSE BILL 1296  
Committee Substitute Favorable 6/13/96

Short Title: Repeal 30-Day Tax Protest Rule.

(Public)

Sponsors:

Referred to:

May 22, 1996

A BILL TO BE ENTITLED

AN ACT TO REPEAL THE THIRTY-DAY TAX PROTEST RULE AND ALLOW A TAXPAYER TO REQUEST A REFUND OF CERTAIN ILLEGAL TAXES ANYTIME WITHIN THREE YEARS AFTER THE TAX WAS DUE OR SIX MONTHS AFTER PAYING THE TAX, WHICHEVER IS LATER.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-267 reads as rewritten:

**"§ 105-267. Taxes to be paid; suits for recovery of taxes.**

No court of this State shall entertain a suit of any kind brought for the purpose of preventing the collection of any tax imposed in this subchapter. Whenever a person ~~shall have~~ has a valid defense to the enforcement of the collection of a ~~tax assessed or charged against him or his property, such tax,~~ the person shall pay such the tax to the proper officer, and such that payment shall be without prejudice to any defense of rights he the person may have in the premises regarding the tax. At any time within ~~30 days after payment, the applicable protest period,~~ the taxpayer may demand a refund of the tax paid in writing from the Secretary of Revenue and if the same shall not be tax is not refunded within 90 days thereafter, may sue the Secretary of Revenue in the courts of the State for the amount ~~so~~ demanded. The protest period for a tax levied in Article 2A, 2B, 2C, or 2D of this Chapter is 30 days after payment. The protest period for all other taxes is the period set by the statute of limitations in G.S. 105-266(c).

1       ~~Such~~ The suit may be brought in the Superior Court of Wake County, or in the county  
2 in which the taxpayer resides at any time within three years after the expiration of the 90-  
3 day period allowed for making the refund. If upon the trial it ~~shall be determined that such~~  
4 ~~a tax or any part thereof is determined that all or part of the tax~~ was levied or assessed for  
5 an illegal or unauthorized purpose, or was for any reason invalid or excessive, judgment  
6 shall be rendered therefor, with interest, and ~~the same the judgment~~ shall be collected as in  
7 other cases. The amount of taxes for which judgment ~~shall be is~~ rendered in such an  
8 action shall be refunded by the State; ~~provided, nothing in this section shall be construed to~~  
9 ~~conflict with or supersede the provisions of G.S. 105-241.2.~~ State. G.S. 105-241.2 provides  
10 an alternate procedure for a taxpayer to contest a tax and is not in conflict with or  
11 superseded by this section."

12               Sec. 2. This act becomes effective November 1, 1996, and applies to taxes  
13 paid on or after that date.