

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

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SENATE BILL 121

Short Title: Inheritance/Gift Tax Changes.

(Public)

Sponsors: Senators Kerr, Cochrane, Hoyle; Carpenter, Forrester, Foxx, and Hobbs.

Referred to: Finance.

February 1, 1995

A BILL TO BE ENTITLED

AN ACT TO INCREASE THE CLASS A INHERITANCE TAX CREDIT, TO REDUCE THE INHERITANCE AND GIFT TAX RATES FOR CLASS B AND C BENEFICIARIES, TO CONFORM NORTH CAROLINA INHERITANCE AND GIFT TAX PROVISIONS TO FEDERAL ESTATE AND GIFT TAX PROVISIONS REGARDING QUALIFIED TERMINABLE INTEREST PROPERTY, AND TO MAKE OTHER INHERITANCE TAX CHANGES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-4 reads as rewritten:

"§ 105-4. Rate of tax – Class A.

(a) Rate. ~~Where the person or persons entitled to any beneficial interest in such property shall be the lineal issue, or lineal ancestor, or stepchild of the person who died possessed of such property aforesaid, or child adopted by the decedent in conformity with the laws of this State or of any of the United States, or of any foreign kingdom or nation, or a son-in-law or a daughter-in-law whose spouse is not entitled to any beneficial interest in such property of the person who died possessed of such property aforesaid, at the following rates of tax (for each one hundred dollars (\$100.00) or fraction thereof) of the value of such interest: A Class A beneficiary of a decedent is the decedent's lineal issue, lineal ancestor, adopted child, stepchild, or son-in-law or daughter-in-law whose spouse is not entitled to an interest in the decedent's property. The rate of tax on property~~

transferred to a Class A beneficiary is the percentage set in the following table for each one hundred dollars (\$100.00), or fraction thereof, of value of the property:

Value of Property Transferred	Rate
First \$10,000	1 percent-%
Over \$10,000 and to \$25,000	2 percent-%
Over \$25,000 and to \$50,000	3 percent-%
Over \$50,000 and to \$100,000	4 percent-%
Over \$100,000 and to \$200,000	5 percent-%
Over \$200,000 and to \$500,000	6 percent-%
Over \$ 500,000 and to \$1,000,000	7 percent-%
Over \$1,000,000 and to \$1,500,000	8 percent-%
Over \$1,500,000 and to \$2,000,000	9 percent-%
Over \$2,000,000 and to \$2,500,000	10 percent-%
Over \$2,500,000 and to \$3,000,000	11 percent-%
Over \$3,000,000	12 percent-%.

(b) Credit. – An inheritance tax credit in the amount specified in the following table of thirty-three thousand one hundred fifty dollars (\$33,150) is allowed against the tax imposed by this Article on the transfer of property to a Class A beneficiary. This

For Decedents Dying on or After	Amount of Credit
August 1, 1985	\$ 2,350
July 1, 1986	8,150
January 1, 1987	14,150
January 1, 1988	20,150
January 1, 1989	26,150

~~This~~ credit is allowed to Class A beneficiaries in the following order:

- (1) Children who are less than 18 years old, and children who are at least 18 years old and who are single, are unable to support themselves because of mental or physical incapacity, and either are members of the decedent's household or, because of their mental or physical incapacity, live in an institution.

- (2) Other Class A Beneficiaries. ~~—The~~

The status of a beneficiary is determined as of the date of the decedent's death. When two or more beneficiaries are equally entitled to the credit, the credit shall be allocated among those beneficiaries on a pro rata basis according to their tax liability. The credit allowed by this section may not exceed the amount of tax imposed by this Article."

Sec. 2. G.S. 105-5 reads as rewritten:

"§ 105-5. Rate of tax – Class B.

~~Where the person or persons entitled to any beneficial interest in such property shall be the brother or sister or descendant of the brother or sister, or shall be the uncle or aunt by blood of the person who died possessed as aforesaid, at the following rates of tax (for each one hundred dollars (\$100.00) or fraction thereof) of the value of such interest: A~~
Class B beneficiary of a decedent is the decedent's brother, sister, descendant of a brother or sister, or uncle or aunt by blood. The rate of tax on property transferred to a Class B

1 beneficiary is the percentage set in the following table for each one hundred dollars
 2 (\$100.00), or fraction thereof, of value of the property:

Value of Property Transferred	Rate
3 First \$5,000	4 percent 3%
4 Over \$5,000 and to \$10,000	5 percent 4%
5 Over \$10,000 and to \$25,000	6 percent %
6 Over \$25,000 and to \$50,000	7 percent %
7 Over \$50,000 and to \$100,000	8 percent %
8 Over \$100,000 and to \$250,000	10 percent %
9 Over \$250,000 and to \$500,000	11 percent %
10 Over \$500,000 and to \$1,000,000	12 percent %
11 Over \$1,000,000 and to \$1,500,000	13 percent %
12 Over \$1,500,000 and to \$2,000,000	14 percent %
13 Over \$2,000,000 and to \$3,000,000	15 percent %
14 Over \$3,000,000	16 percent %."

15 Sec. 3. G.S. 105-6 reads as rewritten:

17 "**§ 105-6. Rate of tax – Class C.**

18 ~~Where the person or persons entitled to any beneficial interest in such property shall~~
 19 ~~be in any other degree of relationship or collateral consanguinity than is hereinbefore~~
 20 ~~stated, or shall be a stranger in blood to the person who died possessed as aforesaid, or~~
 21 ~~shall be a body politic or corporate, at the following rates of tax (for each one hundred~~
 22 ~~dollars (\$100.00) or fraction thereof) of the value of such interest: A Class C beneficiary~~
 23 ~~of a decedent is a person who is not a Class A or Class B beneficiary. The rate of tax on~~
 24 ~~property transferred to a Class C beneficiary is the percentage set in the following table~~
 25 ~~for each one hundred dollars (\$100.00), or fraction thereof, of value of the property:~~

Value of Property Transferred	Rate
26 First \$5,000	4%
27 First Over \$5,000 and to \$10,000	8 percent 6%
28 Over \$10,000 and to \$25,000	9 percent 8%
29 Over \$25,000 and to \$50,000	10 percent %
30 Over \$50,000 and to \$100,000	11 percent %
31 Over \$ 100,000 and to \$250,000	12 percent %
32 Over \$ 250,000 and to \$500,000	13 percent %
33 Over \$ 500,000 and to \$1,000,000	14 percent %
34 Over \$1,000,000 and to \$1,500,000	15 percent %
35 Over \$1,500,000 and to \$2,500,000	16 percent %
36 Over \$2,500,000	17 percent %."

38 Sec. 4. G.S. 105-188(f) reads as rewritten:

39 "(f) ~~The rates of tax, which tax on net gifts are based on the relationship between the~~
 40 ~~donor and the donee, shall be donee and are as follows:~~

- 41 (1) ~~Where the~~ For a donee who is the lineal issue, lineal ancestor, adopted
 42 child, or stepchild of the donor (for each one hundred dollars (\$100.00) or
 43 ~~fraction thereof): donor, the rate is the percentage set in the following~~

table for each one hundred dollars (\$100.00), or fraction thereof, of value of the gift:

Value of Gift	Rate
First \$10,000 above exemption	1 percent %
Over \$10,000 and to \$25,000	2 percent %
Over \$25,000 and to \$50,000	3 percent %
Over \$50,000 and to \$100,000	4 percent %
Over \$100,000 and to \$200,000	5 percent %
Over \$200,000 and to \$500,000	6 percent %
Over \$500,000 and to \$1,000,000	7 percent %
Over \$1,000,000 and to \$1,500,000	8 percent %
Over \$1,500,000 and to \$2,000,000	9 percent %
Over \$2,000,000 and to \$2,500,000	10 percent %
Over \$2,500,000 and to \$3,000,000	11 percent %
Over \$3,000,000	12 percent % .

(2) ~~Where the~~ For a donee who is the donor's brother or sister, ~~or a~~ descendant of the donor's brother or sister, or ~~is the~~ donor's uncle or aunt by blood of the donor ~~(for each one hundred dollars (\$100.00) or fraction thereof):~~ blood, the rate of tax is the percentage set in the following table for each one hundred dollars (\$100.00), or fraction thereof, of value of the gift:

Value of Gift	Rate
First \$5,000	4 percent 3%
Over \$5,000 and to \$10,000	5 percent 4%
Over \$10,000 and to \$25,000	6 percent %
Over \$25,000 and to \$50,000	7 percent %
Over \$50,000 and to \$100,000	8 percent %
Over \$100,000 and to \$250,000	10 percent %
Over \$250,000 and to \$500,000	11 percent %
Over \$500,000 and to \$1,000,000	12 percent %
Over \$1,000,000 and to \$1,500,000	13 percent %
Over \$1,500,000 and to \$2,000,000	14 percent %
Over \$2,000,000 and to \$3,000,000	15 percent %
Over \$3,000,000	16 percent % .

(3) ~~Where the donee is in any other degree of relationship than is hereinbefore stated, or shall be a stranger in blood to the donor, or shall be a body politic or corporate (for each one hundred dollars (\$100.00) or fraction thereof):~~ For a donee who is not described in subdivisions (1) or (2) of this subsection, the rate of tax is the percentage set in the following table for each one hundred dollars (\$100.00), or fraction thereof, of value of the gift:

Value of Gift	Rate
First \$5,000	4%

1	Over \$5,000 and to First \$10,000	8 percent 6%
2	Over \$10,000 and to \$25,000	9 percent 8%
3	Over \$25,000 and to \$50,000	10 percent %
4	Over \$50,000 and to \$100,000	11 percent %
5	Over \$100,000 and to \$250,000	12 percent %
6	Over \$250,000 and to \$500,000	13 percent %
7	Over \$500,000 and to \$1,000,000	14 percent %
8	Over \$1,000,000 and to \$1,500,000	15 percent %
9	Over \$1,500,000 and to \$2,500,000	16 percent %
10	Over \$2,500,000	17 percent %."

11 Sec. 5. G.S. 105-3 is amended by adding a new subdivision to read:

12 "(11) Property transferred to another when the transfer of the property is
 13 exempt from federal estate and gift taxes under § 2056(b)(7) of the
 14 Code because it is considered qualified terminable interest property."

15 Sec. 6. G.S. 105-188 is amended by adding a new subsection to read:

16 "(j) The tax does not apply to property transferred to another when the transfer of
 17 the property is exempt from federal estate and gift taxes under § 2523(f) of the Code
 18 because it is considered qualified terminable interest property."

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

20 "(a) A tax shall be and is hereby imposed upon the transfer of any property, real or
 21 personal, or of any interest therein or income therefrom, in trust or otherwise, to persons
 22 or corporations, in the following cases:

23 (1) When the transfer is from a person who dies seized of the
 24 property while a resident of the State and it is made:

- 25 a. By will or by intestacy;
- 26 b. Pursuant to a final judgment entered in a proceeding to caveat a
 27 will; or
- 28 c. Pursuant to a settlement agreement, to which the personal
 29 representative is a party, that, in the determination of the
 30 Secretary of Revenue in his sole discretion based on evidence
 31 presented by the personal representative, reflects the good faith,
 32 arm's-length compromise of an actual dispute between
 33 beneficiaries, heirs, or personal representatives and does not have
 34 the primary purpose of avoiding inheritance tax.

35 (2) When the transfer is by will or intestate laws of this or any other
 36 state of real property or goods, wares, and merchandise within this
 37 State, or of any property, real, personal, or mixed, tangible or
 38 intangible, over which the State of North Carolina has a taxing
 39 jurisdiction, including State and municipal bonds, and the decedent
 40 was a resident of the State at the time of death; when the transfer is
 41 of real property or tangible personal property within the State, or
 42 intangible personal property that has acquired a situs in this State,
 43 and the decedent was a nonresident of the State at the time of death.

1 (3) When the transfer of property made by a resident, or
2 nonresident, is of real property within this State, or of goods, wares
3 and merchandise within this State, or of any other property, real,
4 personal, or mixed, tangible or intangible, over which the State of
5 North Carolina has taxing jurisdiction, including State and municipal
6 bonds, by deed, grant, bargain, sale, or gift made in contemplation of
7 the death of the grantor, vendor, or donor, or intended to take effect
8 in possession or enjoyment at or after such death, including a
9 transfer under which the transferor has retained for his life or any
10 period not ending before his death (i) the possession or enjoyment
11 of, or the income from, the property or (ii) the right to designate the
12 persons who shall possess or enjoy the property or the income
13 therefrom. The aggregate value exceeding ten thousand dollars
14 (\$10,000) of transfers to any one donee within a tax year by deed,
15 grant, bargain, sale, gift, or combination thereof, made within three
16 years prior to the death of the grantor, vendor, or donor, without an
17 adequate valuable consideration, shall be presumed, subject to
18 rebuttal, to have been made in contemplation of death within the
19 meaning of this section; the first ten thousand dollars (\$10,000) in
20 value shall be deemed not made in contemplation of death.

21 (4) When any person or corporation comes into possession or
22 enjoyment, by a transfer from a resident, or from a nonresident
23 decedent when such nonresident decedent's property consists of real
24 property within this State or tangible personal property within the
25 State, or intangible personal property that has acquired a situs in this
26 State, of an estate in expectancy of any kind or character which is
27 contingent or defeasible, transferred by any instrument taking effect
28 after March 24, 1939.

29 (5) a. For purposes of this Article, the term "general
30 power of appointment" means a power which is exercisable in
31 favor of the decedent, his estate, his creditors, or the creditors
32 of his estate; except that:

33 1. A power to consume, invade or appropriate
34 property for the benefit of the decedent which is limited
35 by an ascertainable standard relating to the health,
36 education, support or maintenance of the decedent shall
37 not be deemed a general power of appointment.

38 2. A power of appointment which is exercisable
39 by the decedent only in conjunction with another
40 person:

41 I. If the power is not exercisable by the decedent
42 except in conjunction with the creator of the power,

- 1 such power shall not be deemed a general power of
2 appointment.
- 3 II. If the power is not exercisable by the decedent
4 except in conjunction with a person having a
5 substantial interest in the property, subject to the
6 power, which is adverse to exercise of the power in
7 favor of the decedent, such power shall not be
8 deemed a general power of appointment. For the
9 purposes of this clause a person who, after the
10 death of the decedent, may be possessed of a power
11 of appointment (with respect to the property subject
12 to the decedent's power) which he may exercise in
13 his own favor shall be deemed as having an interest
14 in the property and such interest shall be deemed
15 adverse to such exercise of the decedent's power.
- 16 III. If (after the application of clauses I and II) the
17 power is a general power of appointment and is
18 exercisable in favor of such other person, such
19 power shall be deemed a general power of
20 appointment only in respect of a fractional part of
21 the property subject to such power, such part to be
22 determined by dividing the value of such property
23 by the number of such persons (including the
24 decedent) in favor of whom such power is
25 exercisable.
- 26 IV. For purposes of clauses II and III, a power shall be
27 deemed to be exercisable in favor of a person if it is
28 exercisable in favor of such person, his estate, his
29 creditors, or the creditors of his estate.
- 30 b. Whenever any person shall have a general power of appointment
31 with respect to any interest in property, such person shall, for the
32 purposes of this Article, be deemed the owner of such interest
33 and accordingly:
- 34 1. If in connection with any transfer of property
35 taxable under this Article the transferor shall give to any
36 person a general power of appointment with respect to
37 any interest in such property, the transferor shall be
38 deemed to have given such interest in such property to
39 such person.
- 40 2. If any person holding a general power of
41 appointment with respect to any interest in property
42 shall exercise such power in favor of any other person
43 or persons, either by will or by an appointment made in

1 contemplation of the death of such person, or by an
2 appointment intended to take effect in possession or
3 enjoyment at or after such death, he shall be deemed to
4 have made a transfer of such interest to such person or
5 persons.

6 3. If any person holding a general power of
7 appointment with respect to any interest in property
8 shall relinquish such power by any action taken in
9 contemplation of death or intended to take effect at or
10 after his death, or shall die without fully exercising such
11 power, he shall be deemed, to the extent of such
12 relinquishment or nonexercise, to have made a transfer
13 of such interest to the person or persons who shall
14 benefit thereby.

15 (6) Neither the exercise nor the relinquishment of a special power
16 of appointment (which shall mean any power other than a general
17 power) with respect to an interest in property shall be deemed to
18 constitute a transfer of such interest within the meaning of this
19 Article. If in connection with any transfer taxable under this Article
20 the transferor shall give to any person a special power of
21 appointment with respect to any interest in property, he shall be
22 deemed, for the purpose of computing the tax applicable thereto, to
23 have given such interest in equal shares to those persons, not more
24 than two, among the possible appointees and takers in default of
25 appointment whom the transferor's executor or administrator may
26 designate as transferees in the inheritance tax return, except that:

27 a. If a gift tax return is filed with respect to such transfer,
28 the persons designated therein shall also be designated in the
29 inheritance tax return, and

30 b. The tax shall be computed according to the
31 relationship of the donee of the power to the persons
32 designated if the possible appointees and takers in default of
33 appointment include any persons more closely related to the
34 donee of the power than to the donor, and if such computation
35 would produce a higher tax.

36 (7), (7a) Repealed by Session Laws, 1985, c. 656, s. 1.

37 (8) Where the proceeds of life insurance policies are payable as
38 provided in G.S. 105-13.

39 (9) Whenever any person or corporation comes into possession or
40 enjoyment of any real or personal property, including bonds of the
41 United States and bonds of a state or subdivision or agency thereof,
42 at or after the death of an individual and by reason of said
43 individual's having entered into a contract or other arrangement with

1 the United States, a state or any person or corporation to pay,
2 transfer or deliver said real or personal property, including bonds of
3 the United States and bonds of a state, to the person or corporation
4 receiving the same, whether said person or corporation is named in
5 the contract or other arrangement or not: Provided, that no tax shall
6 be due or collected on that portion of the real or personal property
7 received under the conditions outlined herein which the person or
8 corporation receiving the same purchased or otherwise acquired by
9 funds or property of the person or corporation receiving the same, or
10 had acquired by a completed **inter vivos** gift.

11 Nothing in subdivision (9) shall apply to the proceeds of life
12 insurance policies.

13 (10) Upon the death of a decedent who had a qualifying income interest
14 for life in qualified terminable interest property whose previous
15 transfer was exempt from inheritance or gift taxes under G.S. 105-
16 3(11) or G.S. 105-188(j), the qualified terminable interest property
17 that was previously exempt is considered to pass from the decedent
18 to the person who is entitled to the property upon the termination of
19 the decedent's qualifying income interest for life. This subdivision
20 does not apply to an interest in qualified terminable interest property
21 that the decedent transferred to another and was not part of the
22 decedent's qualifying income interest for life.

23 However, nothing in this Article shall be construed as imposing a tax upon any
24 transfer of intangibles not having a commercial or business situs in this State, by a
25 person, or by reason of the death of a person, who was not a resident of this State at the
26 time of his death, and, if held or transferred in trust, such intangibles shall not be deemed
27 to have a commercial or business situs in this State merely because the trustee is a
28 resident or, if a corporation, is doing business in this State, unless the same be employed
29 in or held or used in connection with some business carried on in whole or in part in this
30 State."

31 Sec. 8. G.S. 105-9(8) reads as rewritten:

32 "(8) Costs of administration, including administration not claimed as a
33 deduction on the federal income tax return filed under the Code by
34 the fiduciary for the decedent's estate. Costs of administration
35 include reasonable attorneys' fees."

36 Sec. 9. G.S. 105-29 reads as rewritten:

37 **"§ 105-29. Uniform valuation.**

38 (a) ~~If the value of any estate taxed under this schedule shall have been assessed~~
39 ~~and fixed by the federal government for the purpose of determining the federal taxes due~~
40 ~~thereon prior to the time the report from the executor or administrator is made to the~~
41 ~~Secretary of Revenue under the provisions of this Article, the amount or value of such~~
42 ~~estate so fixed, assessed, and determined by the federal government shall be stated in~~
43 ~~such report. If the assessment of the estate by the federal government shall be made after~~

1 the filing of the report by the executor or administrator with the Secretary of Revenue, as
2 provided in this Article, the said executor or administrator shall, within 30 days after
3 receipt of notice of the final determination by the federal government of the value or
4 amount of said estate as assessed and determined for the purpose of fixing federal taxes
5 thereon, make report of the amount so fixed and assessed by the federal government,
6 under oath or affirmation, to the Secretary of Revenue. If the amount of said estate as
7 assessed and fixed by the federal government shall be in excess of that theretofore fixed
8 or assessed under this schedule for the purpose of determining the amount of taxes due
9 the State from said estate, then the Secretary of Revenue shall reassess said estate and fix
10 the value thereof at the amount fixed, assessed, and determined by the federal
11 government, unless the said executor or administrator shall, within 30 days after notice to
12 him from the Secretary of Revenue, show cause why the valuation and assessment of said
13 estate as theretofore made should not be changed or increased. If the valuation placed
14 upon said estate by the federal government shall be less than that theretofore fixed or
15 assessed under this Article, the executor or administrator may, within 30 days after filing
16 his return of the amount so fixed or assessed by the federal government, file with the
17 Secretary of Revenue a petition to have the value of said estate reassessed and the same
18 reduced to the amount as fixed or assessed by the federal government. In either event the
19 Secretary of Revenue shall proceed to determine, from such evidence as may be brought
20 to his attention or which he shall otherwise acquire, the correct value of the said estate,
21 and if the valuation is changed, he shall reassess the taxes due by said estate under this
22 Article and notify the executor or administrator of such fact. In the event the valuation of
23 said estate shall be decreased and if there shall have been an overpayment of the tax in
24 the amount of three dollars (\$3.00) or more, the Secretary of Revenue shall, within 60
25 days after the final determination of the value of said estate and the assessment of the
26 correct amount of tax against the same, refund the amount of such excess tax theretofore
27 paid. In the event that the amount of such overpayment is less than three dollars (\$3.00)
28 the overpayment shall be refunded upon receipt by the Secretary of Revenue of a written
29 demand for such refund from the taxpayer. No overpayment shall be refunded,
30 irrespective of whether upon discovery or receipt of written demand if such discovery is
31 not made or such demand is not received within three years from the date set by the
32 statute for the filing of the return, or within six months after the date of the final
33 determination of the federal estate tax liability, or within six months from the date of the
34 payment of the tax alleged to be an overpayment, whichever is the later.

35 (b) If the executor or administrator shall fail to file with the Secretary of Revenue
36 the return under oath or affirmation, stating the amount or value at which the estate was
37 assessed by the federal government as provided for in this section, the Secretary of
38 Revenue shall assess and collect from the executor or administrator a penalty equal to
39 twenty five percent (25%) of the amount of any additional tax which may be found to be
40 due by such estate upon reassessment and reappraisal thereof, which penalty shall under
41 no condition be less than twenty five dollars (\$25.00) or more than five hundred dollars
42 (\$500.00) and which cannot be remitted by the Secretary of Revenue except for good
43 cause shown. The Secretary of Revenue is authorized and directed to confer quarterly

1 with the Department of Internal Revenue of the United States government to ascertain the
2 value of estates in North Carolina which have been assessed for taxation by the federal
3 government, and he shall cooperate with the said Department of Internal Revenue,
4 furnishing to said Department such information concerning estates in North Carolina as
5 said Department may request.

6 When filing an inheritance tax return, the personal representative of an estate must
7 report as the value of the estate the value that is reported on an estate tax return filed for
8 the estate under the Code. If the federal government does not correct or otherwise
9 determine the value of an estate reported on an estate tax return, the Secretary may
10 determine the value based on evidence of any kind that becomes available to the
11 Secretary from any source.

12 If the federal government corrects or otherwise determines the value of an estate
13 reported on an estate tax return, the personal representative must, within two years after
14 being notified of the correction or final determination by the federal government, file an
15 inheritance tax return with the Secretary reflecting the corrected or determined value.
16 The Secretary must adopt the value as corrected or determined by the federal government
17 for federal estate tax purposes. The Secretary shall assess and collect any additional tax
18 due on the transfer of property in the estate as provided in Article 9 of this Chapter and
19 shall refund any overpayment of tax as provided in Article 9 of this Chapter. A personal
20 representative who fails to report a federal correction or determination is subject to the
21 penalties in G.S. 105-236 and forfeits the right of the estate to any refund due by reason
22 of the determination."

23 Sec. 10. G.S. 105-241.1(e) reads as rewritten:

24 "(e) Statute of Limitations. – The Secretary may propose an assessment of tax due
25 from a taxpayer at any time if (i) the taxpayer did not file a proper application for a
26 license or did not file a return, (ii) the taxpayer filed a false or fraudulent application or
27 return, or (iii) the taxpayer attempted in any manner to fraudulently evade or defeat the
28 tax. If a taxpayer files a return reflecting a federal determination as provided in G.S. 105-
29 29, 105-130.20, 105-159, 105-160.8, 105-163.6A, or 105-197.1, the Secretary must
30 propose an assessment of any tax due within one year after the return is filed or within
31 three years of when the original return was filed or due to be filed, whichever is later. If
32 there is a federal determination and the taxpayer does not file the required return, the
33 Secretary must propose an assessment of any tax due within three years after the date the
34 Secretary received the final report of the federal determination. If a taxpayer forfeits a
35 tax credit pursuant to G.S. 105-163.014, the Secretary must assess any tax or additional
36 tax due as a result of the forfeiture within three years after the date of the forfeiture. In
37 all other cases, the Secretary must propose an assessment of any tax due from a taxpayer
38 within three years after the date the taxpayer filed an application for a license or a return
39 or the date the application or return was required by law to be filed, whichever is later. If
40 the Secretary proposes an assessment of tax within the time provided in this section, the
41 final assessment of the tax is timely.

42 A taxpayer may make a written waiver of any of the limitations of time set out in this
43 subsection, for either a definite or an indefinite time. If the Secretary accepts the

1 taxpayer's waiver, the Secretary may propose an assessment at any time within the time
2 extended by the waiver."

3 Sec. 11. Sections 1 through 7 of this act and this section are effective upon
4 ratification and apply to the estates of decedents dying on or after January 1, 1995, and to
5 gifts made on or after January 1, 1995. Sections 8 through 10 of this act become
6 effective July 1, 1995. Section 8 applies to the estates of decedents dying on or after that
7 date. Sections 9 and 10 apply to assessments of taxes for which the statute of limitations
8 had not expired on or before July 1, 1995.