## GENERAL ASSEMBLY OF NORTH CAROLINA SESSION 2001

S SENATE BILL 1218

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Short Title: Revenue Laws Enforcement Enhancements. (Public)

Sponsors: Senators Clodfelter, Dalton, Hartsell, Hoyle, and Kerr.

Referred to: Judiciary I.

## June 6, 2002

A BILL TO BE ENTITLED 1 2 AN ACT TO **IMPROVE** THE ENFORCEMENT OF TAX LAWS BY 3 CRIMINALIZING OR INCREASING THE PENALTY FOR CERTAIN FORMS OF TAX FRAUD AND BY ALLOWING THE DEPARTMENT OF REVENUE 4 TO DISCLOSE CERTAIN INFORMATION TO LAW ENFORCEMENT 5 AGENCIES. 6

The General Assembly of North Carolina enacts:

**SECTION 1.** G.S. 105-228.90(b) is amended by adding a new subdivision to read:

"(b) Definitions. – The following definitions apply in this Article:

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(4) Income Tax Return Preparer. – Any person who prepares for compensation, or who employs one or more persons to prepare for compensation, any return of tax imposed by Article 4 of this Chapter or any claim for refund of tax imposed by Article 4 of this Chapter. For purposes of this definition, the completion of a substantial portion of a return or claim for refund is treated as the preparation of the return or claim for refund. The term does not include a person merely because the person (i) furnishes typing, reproducing, or other mechanical assistance, (ii) prepares a return or claim for refund of the employer, or an officer or employee of the employer, by whom the person is regularly and continuously employed, (iii) prepares as a fiduciary a return or claim for refund for any person, or (iv) represents a taxpayer in a hearing regarding a proposed assessment."

**SECTION 2.** 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 the person knows is fraudulent or

| 1              | false as to any material matter, whether or not the falsity or fraud is                  |
|----------------|--|
| 2              | with the knowledge or consent of the person authorized or required to                    |
| 3              | present or file the return, affidavit, claim, or other document, shall beis              |
| 4              | guilty of a Class H felony. felony as follows:   |
| 5              | a. If the person who commits an offense under this subdivision is                        |
| 6              | an income tax return preparer and the amount of all taxes                                |
| 7              | fraudulently evaded on returns filed in one taxable year is one                          |
| 8              | hundred thousand dollars (\$100,000) or more, the person is                              |
| 9              | guilty of a Class C felony.  |
| 10             | b. If the person who commits an offense under this subdivision is                        |
| 11             | an income tax return preparer and the amount of all taxes                                |
| 12             | fraudulently evaded on returns filed in one taxable year is less                         |
| 13             | than one hundred thousand dollars (\$100,000), the person is                             |
| 14             | guilty of a Class F felony.  |
| 15             | <u>c.</u> <u>If the person who commits an offense under this subdivision is </u>         |
| 16             | not covered under sub-subdivision a. or b. of this subdivision.                          |
| 17             | the person is guilty of a Class H felony."   |
| 18             | <b>SECTION 3.</b> G.S. 105-159.1(e) reads as rewritten:                                  |
| 19             | "(e) A An paid preparer of tax returns income tax return preparer may not                |
| 20             | designate on a return that the taxpayer does or does not desire to make the political    |
| 21             | contribution authorized in this section unless the taxpayer or the taxpayer's spouse has |
| 22             | consented to the designation."   |
| 23             | <b>SECTION 4.</b> G.S. 105-236 is amended by adding a new subdivision to read:           |
| 24             | "§ 105-236. Penalties.   |
| 25             | Penalties assessed by the Secretary under this Subchapter are assessed as an             |
| 26             | additional tax. Except as otherwise provided by law, and subject to the provisions of    |
| 27             | G.S. 105-237, the following penalties shall be applicable:                               |
| 28             | •••  |
| 29             | (10b) Misrepresentation Concerning Payment. – A person who receives                      |
| 30             | money from a taxpayer with the understanding that the money is to be                     |
| 31             | remitted to the Secretary for application to the taxpayer's tax liability                |
| 32             | and who willfully fails to remit the money to the Secretary is guilty of                 |
| 33             | a Class F felony."   |
| 34             | <b>SECTION 5.</b> G.S. 105-259(b) is amended by adding a new subdivision to              |
| 35             | read:  |
| 36             | "(b) Disclosure Prohibited. – An officer, an employee, or an agent of the State          |
| 37             | who has access to tax information in the course of service to or employment by the State |
| 38             | may not disclose the information to any other person unless the disclosure is made for   |
| 39             | one of the following purposes:   |
| 40             | •••  |
| 41             | "(15a)To furnish to the head of the appropriate State or federal law                     |
| <del>1</del> 2 | enforcement agency information concerning the commission of an                           |
| 43             | offense under the jurisdiction of that agency discovered by the                          |
| 1/1            | Department during a criminal investigation of the taynayar "                             |

SECTION 6. Sections 1 through 4 of this act become effective December 1, 2002, and apply to actions that are committed on or after that date. The remainder of this act is effective when it becomes law.