

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007

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HOUSE BILL 1564

Short Title: Repeal Estate and Gift Taxes. (Public)

Sponsors: Representatives Carney, Barnhart (Primary Sponsors); Blackwood, Faison, and Tillis.

Referred to: Rules, Calendar, and Operations of the House.

April 18, 2007

A BILL TO BE ENTITLED

AN ACT TO REPEAL THE ESTATE AND GIFT TAXES AND EXPAND THE SALES TAX BASE TO OFFSET THE LOSS IN REVENUE.

The General Assembly of North Carolina enacts:

SECTION 1. Article 1A of Chapter 105 of the General Statutes is repealed.

SECTION 2. Article 6 of Chapter 105 of the General Statutes is repealed.

SECTION 3. G.S. 105-241.1(e) reads as rewritten:

"(e) Statute of Limitations. – There is no statute of limitations and the Secretary may propose an assessment of tax due from a taxpayer at any time if (i) the taxpayer did not file a proper application for a license or did not file a return, (ii) the taxpayer filed a false or fraudulent application or return, or (iii) the taxpayer attempted in any manner to fraudulently evade or defeat the tax.

If a taxpayer files a return reflecting a federal determination as provided in G.S. ~~105-32.8,~~ 105-130.20, 105-159, 105-160.8, ~~105-163.6A,~~ or ~~105-197.1,~~ or 105-163.6A, the Secretary must propose an assessment of any tax due within one year after the return is filed or within three years of when the original return was filed or due to be filed, whichever is later. If there is a federal determination and the taxpayer does not file the required return, the Secretary must propose an assessment of any tax due within three years after the date the Secretary received the final report of the federal determination.

If a taxpayer forfeits a tax credit or tax benefit pursuant to forfeiture provisions of this Chapter, the Secretary must assess any tax due as a result of the forfeiture within three years after the date of the forfeiture. If a taxpayer elects under section 1033(a)(2)(A) of the Code not to recognize gain from involuntary conversion of property into money, the Secretary must assess any tax due as a result of the conversion or election within the applicable period provided under section 1033(a)(2)(C) or section 1033(a)(2)(D) of the Code. If a taxpayer sells at a gain the taxpayer's principal

1 residence, the Secretary must assess any tax due as a result of the sale within the period
2 provided under section 1034(j) of the Code.

3 In all other cases, the Secretary must propose an assessment of any tax due from a
4 taxpayer within three years after the date the taxpayer filed an application for a license
5 or a return or the date the application or return was required by law to be filed,
6 whichever is later.

7 If the Secretary proposes an assessment of tax within the time provided in this
8 section, the final assessment of the tax is timely.

9 A taxpayer may make a written waiver of any of the limitations of time set out in
10 this subsection, for either a definite or an indefinite time. If the Secretary accepts the
11 taxpayer's waiver, the Secretary may propose an assessment at any time within the time
12 extended by the waiver."

13 **SECTION 4.** The Revenue Laws Study Committee and the State and Local
14 Fiscal Modernization Study Commission shall study the issue of applying the sales and
15 use tax to services. The Committee and Commission shall make recommendations on
16 expanding the sales and use tax base to offset the revenue lost due to the provisions of
17 this act. The Committee and Commission may make recommendations on further
18 expanding the sales and use tax base and lowering the tax rates to maintain revenue
19 neutrality. The Committee and Commission shall report on this study to the 2008
20 Regular Session of the 2007 General Assembly. The Committee and Commission may
21 make joint recommendations or adopt the recommendations of the other entity.

22 **SECTION 5.** Sections 1 through 3 of this act become effective January 1,
23 2009, and apply to estates of decedents dying on or after that date and to gifts made on
24 or after that date. The remainder of this act is effective when it becomes law.