

**GENERAL ASSEMBLY OF NORTH CAROLINA**

**SESSION 1989**

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**HOUSE BILL 263**

Short Title: Revenue Enhancement/Debt Collection.

(Public)

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Sponsors: Representative Wood.

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Referred to: Government.

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February 16, 1989

**A BILL TO BE ENTITLED**

**AN ACT TO ENHANCE REVENUES AND COLLECT STATE DEBTS BY CREATING A ONE-TIME TAX AMNESTY PROGRAM, INCREASING PENALTIES FOR WILLFUL VIOLATION OF THE REVENUE LAWS, AND APPROPRIATING FUNDS TO THE DEPARTMENT OF REVENUE TO ENHANCE ENFORCEMENT CAPABILITIES AND INCREASE TAXPAYER COMPLIANCE.**

The General Assembly of North Carolina enacts:

**PART I: AMNESTY PROGRAM**

Section 1. Amnesty program established; scope. The Department of Revenue shall administer a tax amnesty program to be conducted during the period September 1, 1989, through December 31, 1989. During the tax amnesty period, the Department of Revenue may not initiate a criminal prosecution for failure to report or pay taxes within the scope of the Program and shall waive all penalties assessed for such failure when the taxes, plus interest, are paid in full.

The taxes within the scope of the tax amnesty program are:

- (1) Inheritance taxes levied under Article 1 of Chapter 105 of the General Statutes;
- (2) License taxes levied under Articles 2, 2A, 2B, and 2C of Chapter 105 of the General Statutes;
- (3) Franchise taxes levied under Article 3 of Chapter 105 of the General Statutes;
- (4) Income taxes levied under Articles 4, 4A, 4B, and 4C of Chapter 105 of the General Statutes;

- 1 (5) Sales and use taxes levied under Articles 5, 39, 40, 41, and 42 of  
2 Chapter 105 of the General Statutes, and under Chapter 1096 of the  
3 1967 Session Laws;
- 4 (6) Gift taxes levied under Article 6 of Chapter 105 of the General  
5 Statutes;
- 6 (7) Intangibles taxes levied under Article 7 of Chapter 105 of the General  
7 Statutes; and
- 8 (8) Motor fuels taxes levied under Articles 36, 36A, and 36B of Chapter  
9 105 of the General Statutes.

10 The program shall apply to inheritance tax liabilities, license tax liabilities, gift tax  
11 liabilities, withholding tax liabilities, sales and use tax liabilities, and motor fuels tax  
12 liabilities for taxable periods ending on or before December 31, 1988, and to income tax  
13 liabilities, franchise tax liabilities, and intangibles tax liabilities for taxable periods  
14 ending on or before December 31, 1987. The program does not apply to any matter that  
15 is the subject of a pending court proceeding.

16 Sec. 2. Effect of payment under program. A taxpayer who pays unreported,  
17 underreported, or assessed but unpaid taxes as part of the program is not subject to  
18 criminal prosecution for not reporting, underreporting, or not paying the taxes, but must  
19 pay interest on the amount due at the rate established under G.S. 105-241.1(i).

20 Sec. 3. Requirements for participation. To be eligible to participate in the  
21 program, a taxpayer shall:

- 22 (1) File an application to participate before the end of the amnesty period;
- 23 (2) File a return for all reporting periods for which the taxpayer has not  
24 previously filed a return but was required to file a return;
- 25 (3) File an amended tax return for all reporting periods for which the  
26 taxpayer underreported tax liability; and
- 27 (4) Pay the taxpayer's previously assessed taxes or unreported or  
28 underreported taxes for all reporting periods in full plus any interest  
29 due by December 1, 1989.

30 Sec. 4. Administration. The Secretary of Revenue shall issue forms and  
31 instructions to implement the amnesty program and shall publicize the tax amnesty  
32 period to maximize public awareness of and participation in the program. The Secretary  
33 may establish a toll-free amnesty "hotline" to enable taxpayers and the Department of  
34 Revenue to communicate easily about the amnesty program.

35 Sec. 5. Appropriation. There is appropriated from the General Fund to the  
36 Department of Revenue the sum of five hundred thousand dollars (\$500,000) for the  
37 1989-90 fiscal year to be used to implement Sections 1 through 5 of this act.

## 38 PART II: INCREASED PENALTIES

39 Sec. 6. G.S. 105-236(7) reads as rewritten:

40 "(7) Attempt to Evade or Defeat Tax. – Any person who willfully attempts, or any  
41 person who aids or abets any person to attempt in any manner to evade or defeat any tax  
42 imposed by this Subchapter of the General Statutes, or the payment thereof, shall, in  
43 addition to other penalties provided by law, be guilty of a ~~misdemeanor~~—Class I felony

1 punishable by imprisonment up to five years, a fine up to twenty-five thousand dollars  
2 (\$25,000), or both."

3 Sec. 7. G.S. 105-236(8) reads as rewritten:

4 "(8) Willful Failure to Collect, Withhold, or Pay Over Tax. – Any person required  
5 under this Subchapter to collect, withhold, account for, and pay over any tax imposed  
6 by this Subchapter who willfully fails to collect or truthfully account for and pay over  
7 such tax shall, in addition to other penalties provided by law, be guilty of a ~~misdemeanor~~  
8 ~~and shall be punished by a fine not to exceed one thousand dollars (\$1,000), or by~~  
9 ~~imprisonment not to exceed two years, or by both such fine and imprisonment.~~ misdemeanor.  
10 Notwithstanding any other provision of law, no prosecution for a violation brought  
11 under this subdivision shall be barred before the expiration of three years after the date  
12 of the violation."

13 Sec. 8. G.S. 105-236(9) reads as rewritten:

14 "(9) Willful Failure to File Return, Supply Information, or Pay Tax. – Any person  
15 required under this Subchapter to pay any tax, to make a return, to keep any records, or  
16 to supply any information, who willfully fails to pay such tax, make such return, keep  
17 such records, or supply such information, at the time or times required by law, or  
18 regulations issued pursuant thereto, shall, in addition to other penalties provided by law,  
19 be guilty of a misdemeanor. Notwithstanding any other provision of law, no  
20 prosecution for a violation brought under this subdivision shall be barred before the  
21 expiration of three years after the date of the violation."

22 Sec. 9. G.S. 105-236(9a) reads as rewritten:

23 "(9a) Aid or Assistance. – Any person, pursuant to or in connection with the  
24 revenue laws, who willfully aids, assists in, procures, counsels, or advises the  
25 preparation, presentation, or filing of a return, affidavit, claim, or any other document  
26 that he knows is fraudulent or false as to any material matter, whether or not the falsity  
27 or fraud is with the knowledge or consent of the person authorized or required to present  
28 or file the return, affidavit, claim, or other document, shall be guilty of a ~~misdemeanor~~.  
29 Class J felony punishable by imprisonment up to three years, a fine up to ten thousand  
30 dollars (\$10,000), or both."

### 31 **PART III: ENFORCEMENT/COMPLIANCE FUNDS**

32 Sec. 10. There is appropriated from the General Fund to the Department of  
33 Revenue the sum of four million nine hundred fifty-seven thousand five hundred forty-  
34 two dollars (\$4,957,542) for the 1989-90 fiscal year and the sum of four million eight  
35 hundred twenty-seven thousand ten dollars (\$4,827,010) for the 1990-91 fiscal year to  
36 be allocated as follows:

- 37 (1) The sum of three million seven hundred twenty thousand two hundred  
38 thirty-six dollars (\$3,720,236) for the 1989-90 fiscal year and the sum  
39 of three million forty-seven thousand three hundred thirty-one dollars  
40 (\$3,047,331) for the 1990-91 fiscal year shall be used to upgrade data  
41 processing equipment to enhance information processing;
- 42 (2) The sum of four hundred ninety-nine thousand one hundred six dollars  
43 (\$499,106) for the 1989-90 fiscal year and the sum of two hundred  
44 ninety-seven thousand five hundred forty-five dollars (\$297,545) for

1 the 1990-91 fiscal year shall be used to increase the number of field  
2 auditors and clerical personnel to keep up with the increase in the  
3 number of returns filed;

4 (3) The sum of five hundred eight thousand six hundred fourteen dollars  
5 (\$508,614) for the 1989-90 fiscal year and the sum of seventy-six  
6 thousand three dollars (\$76,003) for the 1990-91 fiscal year shall be  
7 used for additional equipment to enhance timely remittance and  
8 processing of tax returns;

9 (4) The sum of three hundred ninety-six thousand nine hundred sixty-three  
10 dollars (\$396,963) for the 1989-90 fiscal year and the sum of four  
11 hundred sixty-four thousand two hundred sixty dollars (\$464,260) for  
12 the 1990-91 fiscal year shall be used for additional personnel to meet  
13 remittance processing needs caused by the increase in the number of  
14 tax returns;

15 (5) The sum of forty-six thousand three hundred sixty- nine dollars  
16 (\$46,369) for the 1989-90 fiscal year and the sum of one hundred  
17 twenty-two thousand nine hundred thirty-nine dollars (\$122,939) for  
18 the 1990-91 fiscal year shall be used for additional clerical personnel  
19 to free audit personnel from clerical duties;

20 (6) The sum of one hundred thirty-two thousand six hundred sixty-nine  
21 dollars (\$132,669) for the 1989-90 fiscal year and the sum of one  
22 hundred forty-six thousand eight hundred twenty-seven dollars  
23 (\$146,827) for the 1990-91 fiscal year shall be used for additional  
24 audit and clerical personnel to enhance sales tax compliance.

25 **PART IV: EFFECTIVE DATES**

26 Sec. 11. Sections 5 and 10 of this act shall become effective July 1, 1989;  
27 Sections 6 through 9 shall become effective December 2, 1989, and shall apply to  
28 violations occurring on or after that date; the remainder of this act is effective upon  
29 ratification.