

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

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SENATE BILL 1365*

Short Title: Inheritance Tax Adjustment.

(Public)

Sponsors: Senators Winner, Guy, Kincaid, Rauch, Staton; and Simpson.

Referred to: Finance.

May 23, 1990

A BILL TO BE ENTITLED

AN ACT TO PROVIDE AN INHERITANCE TAX EXEMPTION FOR STATE AND LOCAL GOVERNMENT RETIREMENT BENEFITS PAID TO LINEAL DESCENDANTS AND ANCESTORS AND TO LIMIT THE CURRENT INHERITANCE TAX EXEMPTION FOR FEDERAL GOVERNMENT RETIREMENT BENEFITS TO ONLY THOSE BENEFITS PAID TO LINEAL DESCENDANTS AND ANCESTORS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-3 reads as rewritten:

"§ 105-3. Property exempt.

The following property shall be exempt from taxation under this Article:

(1) Property passing to or for the use of any one or more of the following: the United States, any state, territory or any political subdivision thereof, or the District of Columbia, for exclusively public purposes.

(2) Property passing to religious, charitable, or educational corporations, or to churches, hospitals, orphan asylums, public libraries, religious, or charitable organizations, or passing to any trustee or trustees for religious or charitable purposes, where such religious, charitable, or educational institutions, corporations, churches, trusts, etc., are located within the State and not conducted for profit.

(3) Property passing to religious, educational, or charitable corporations, foundations or trusts, not conducted for profit,

1 incorporated or created or administered under the laws of any other
2 state: If such other state levies no inheritance or estate taxes on
3 property similarly passing from residents of such state to religious,
4 educational or charitable corporations, foundations or trusts
5 incorporated or created or administered under the laws of this State;
6 or if such corporation, foundation or trust is one receiving and
7 disbursing funds donated in this State for religious, educational or
8 charitable purposes.

9 (4) The proceeds of all life insurance policies payable to
10 beneficiaries named in subdivisions (1), (2) and (3) of this section.
11 And also proceeds of all policies of insurance and the proceeds of all
12 adjusted service certificates that have been or may be paid by the
13 United States government, or that have been or may be paid on
14 account of policies required to be carried by the United States
15 government or any agency thereof, to the estate, beneficiary, or
16 beneficiaries of any person who has served in the armed forces of
17 the United States or in the merchant marine during the first or
18 second World War or any subsequent military engagement; and
19 proceeds, not exceeding the sum of twenty thousand dollars
20 (\$20,000), of all policies of insurance paid to the estate, beneficiary
21 or beneficiaries of any person whose death was caused by enemy
22 action during the second World War or any subsequent military
23 engagement involving the United States. This provision will be
24 operative only when satisfactory proof that the death was caused by
25 enemy action is filed by the executor, administrator, or beneficiary
26 with the Secretary of Revenue.

27 (5) The value of an annuity or other payment receivable by any
28 beneficiary (other than the executor) under (a) an employees' trust
29 (or under a contract or insurance policy purchased by an employees'
30 trust) forming part of a pension, stock bonus, or profit-sharing plan,
31 which at the time of the decedent's separation from employment
32 (whether by death or otherwise), or at the time of termination of the
33 plan if earlier, met the requirements of 26 U.S.C. § 401(a); or (b) a
34 retirement annuity contract purchased by an employer (and not by an
35 employees' trust) pursuant to a plan, which at the time of decedent's
36 separation from employment (by death or otherwise), or at the time
37 of termination of the plan if earlier, met the requirements of 26
38 U.S.C. § 403(a) or § 403(b). If such amounts payable after the death
39 of the decedent under a plan described in clause (a) or (b) are
40 attributable to any extent to payments or contributions made by the
41 decedent, no exemption shall be allowed for that part of the value of
42 such amounts in the proportion that the total payments or
43 contributions made by the decedent bears to the total payments or
44 contributions made. For purposes of the preceding sentence

1 contributions or payments made by the decedent's employer or
2 former employer under a trust or plan described in clause (a) or (b)
3 shall not be considered to be contributed by the decedent nor shall
4 any deductible employee contributions within the meaning of 26
5 U.S.C. § 72(o)(5) be considered to have been contributed by the
6 decedent. For purposes of this subdivision, contributions or
7 payments on behalf of the decedent while he was an employee
8 within the meaning of 26 U.S.C. § 401(c)(1) made under a trust or
9 plan described in clause (a) or (b) shall, to the extent allowable as a
10 deduction under 26 U.S.C. § 404, be considered to be made by a
11 person other than the decedent and, to the extent not so allowable,
12 shall be considered to be made by the decedent. Provided, that the
13 value of such annuities or other payments receivable described in
14 this subdivision shall not be exempt unless the payments received
15 therefrom are or will be subject to income taxation under Article 4 of
16 this Subchapter, and if such payments are not or will not be subject
17 to income taxation under Article 4 of this Subchapter the value of
18 such annuities or other payments receivable shall be included in the
19 gross value of the estate of the decedent and taxable under the
20 provisions of this Article.

- 21 (6) The value of an annuity receivable by any beneficiary (other than the
22 executor) under:
- 23 a. An individual retirement account described in section 408(a) of
24 the Code,
 - 25 b. An individual retirement annuity described in section
26 408(b) of the Code, or
 - 27 c. A retirement bond described in section 409(a) of the
28 Code.

29 If any payment to an account described in paragraph a or for an
30 annuity described in paragraph b or a bond described in
31 paragraph c was not allowable as a deduction under 26 U.S.C. §
32 219 or § 220 and was not a rollover contribution described in 26
33 U.S.C. §§ 402(a)(5), 403(a)(4), 408(d)(3), or 409(b)(3)(C), the
34 preceding sentence shall not apply to that portion of the value of
35 the amount receivable under such account, annuity, or bond (as
36 the case may be) which bears the same ratio to the total value of
37 the amount so receivable as the total amount which was paid to
38 or for such account, annuity, or bond and which was not
39 allowable as a deduction under 26 U.S.C. § 219 or § 220 and
40 was not such a rollover contribution bears to the total amount
41 paid to or for such account, annuity, or bond. For purposes of
42 this subdivision, the term 'annuity' means an annuity contract or
43 other arrangement providing for a series of substantially equal
44 periodic payments to be made to a beneficiary (other than the

1 executor) for his life or over a period extending for at least 36
2 months after the date of the decedent's death.

3 (7) The total value of proceeds of an annuity or other payment
4 receivable by any beneficiary (other than the executor) under a
5 military family protection, or survivor benefit, plan, or other
6 comparable plan, pursuant to Chapter 73 of Title 10 of the United
7 States Code.

8 (8) The value of an annuity ~~receivable by any beneficiary, or other~~
9 ~~than the estate, payment receivable by a Class A beneficiary under a~~
10 ~~federal government~~ employee retirement or deferred compensation
11 program to which the employee made ~~contributions during his working~~
12 ~~years. contributions before retiring.~~ The term 'deferred
13 compensation program' includes a plan under section 401(k) of the
14 Code, a federal thrift savings plan, and other deferred compensation
15 arrangements. The term 'government' means the United States, a
16 state, or a local unit of government.

17 (9) The total value of death benefits paid to a decedent's estate or a named
18 beneficiary from voluntary pledges made by the North Carolina
19 Highway Patrol or other association of law-enforcement officers
20 employed by the State or a county or municipality, if the benefits are
21 paid from an assessment against the members of the association.

22 (10) Property passing to the surviving spouse of a decedent."

23 Sec. 2. This act shall become effective September 1, 1990, and shall apply to
24 the estates of decedents dying on or after that date.