

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

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HOUSE BILL 1968

Short Title: Repeal Intangibles Tax.

(Public)

Sponsors: Representatives Cole; Bowman, Daughtry, Russell, Spears, Morgan, Nichols, Gardner, and Culp.

Referred to: Finance.

June 1, 1994

A BILL TO BE ENTITLED

AN ACT TO REPEAL THE INTANGIBLES TAX, TO PROVIDE LOCAL GOVERNMENTS A TEMPORARY REIMBURSEMENT PHASED OUT OVER FIVE YEARS, AND TO REPEAL EXISTING INCOME TAX PREFERENCES FOR NORTH CAROLINA DIVIDENDS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-213.1 is recodified as G.S. 105-275.2. The remainder of Article 7 of Chapter 105 of the General Statutes is repealed. Any taxes collected pursuant to Article 7 of Chapter 105 of the General Statutes on or after the date the Article is repealed shall remain in the General Fund and any refunds made on or after the date the Article is repealed of taxes collected pursuant to that Article shall be charged to the General Fund. The Secretary shall retain from collections under Division II of Article 4 of Chapter 105 of the General Statutes the cost for the 1994-95 fiscal year of collecting and administering the taxes levied in Article 7 of Chapter 105 of the General Statutes.

Sec. 2. G.S. 105-275 is amended by adding the following new subdivisions:

(31a) Accounts receivable.

(31b) Bonds, notes, and other evidences of debt.

(31c) Shares of stock, including shares and units of ownership of mutual funds, investment trusts, and investment funds.

(31d) The beneficial or equitable interest in a trust, trust fund, or trust account, including custodial accounts, held by a foreign fiduciary."

1           Sec. 3. G.S. 105-213.1, as recodified as G.S. 105-275.2 by Section 1 of this  
2 act, reads as rewritten:

3 **"§ 105-275.2. ~~Reimbursement~~ Partial reimbursement to counties and municipalities**  
4 **for partial repeal of State tax on intangible personal property.**

5       (a) Reimbursement for Repeal of Tax on Money on Deposit, Money on Hand,  
6 and Funds on Deposit with Insurance Companies. – On or before August 30 of each  
7 year, the Secretary of Revenue shall allocate for distribution to each county and the  
8 municipalities in the county the amount allocated to the county under this subsection in  
9 1990.

10 ~~Amounts allocated to a county under this subsection shall in turn be divided and~~  
11 ~~distributed between the county and the municipalities located in the county in~~  
12 ~~accordance with the method of allocating intangible tax revenue between a county and~~  
13 ~~the municipalities located in the county provided in G.S. 105-213.~~

14       (a1) Reimbursement for Partial Repeal of Tax on Accounts Receivable. – On or  
15 before August 30 of each year, the Secretary of Revenue shall distribute to counties and  
16 municipalities an amount equal to forty percent (40%) of the tax collected on accounts  
17 receivable under former Article 7 of this Chapter (repealed) during the 1989-90 fiscal  
18 year. ~~The Secretary of Revenue shall first allocate the amount to be distributed in this~~  
19 ~~subsection to the counties in the same manner as the amount allocated in G.S. 105-213. The~~  
20 ~~amount allocated to each county shall in turn be divided and distributed between the county and~~  
21 ~~the municipalities located in the county in accordance with the method of allocating intangible~~  
22 ~~tax revenue between a county and the municipalities located in the county provided in G.S.~~  
23 ~~105-213. The Secretary shall allocate this amount among the counties in proportion to~~  
24 ~~the amount allocated to each county under former G.S. 105-213 (repealed) in August~~  
25 ~~1993.~~

26       (a2) Temporary Partial Reimbursement for Repeal of Tax on Accounts  
27 Receivable, Bonds, Stocks, and Foreign Trust Interests. – On or before August 30,  
28 1995, 1996, 1997, and 1998, the Secretary shall distribute to counties and municipalities  
29 the amount of revenue collected under former Article 7 of this Chapter (repealed)  
30 during the 1989-90 fiscal year times the appropriate percentage in the following table:

<u>Year</u>	<u>Percentage</u>
<u>1995</u>	<u>80%</u>
<u>1996</u>	<u>60%</u>
<u>1997</u>	<u>40%</u>
<u>1998</u>	<u>20%</u>

36       (a3) Distribution Between County and its Municipalities. – The amounts allocated  
37 to each county under this section shall be allocated between the county and the  
38 municipalities in the county in proportion to the total amount of ad valorem taxes levied  
39 by each during the fiscal year preceding the distribution. In dividing these amounts  
40 between each county and its municipalities, the Secretary of Revenue shall treat taxes  
41 levied by a merged school administrative unit described in G.S. 115C-513 in a part of  
42 the unit located in a county as taxes levied by the county in which that part is located.

43       After making these allocations, the Secretary shall certify to the State Controller and  
44 to the State Treasurer the amount to be distributed to each county and municipality in

1 the State. The State Controller shall then issue a warrant on the State Treasurer to each  
2 county and municipality in the amount certified.

3 For the purpose of computing the distribution to any county and the municipalities  
4 located in the county for any year with respect to which the property valuation of a  
5 public service company is the subject of an appeal and the Department of Revenue is  
6 restrained by law from certifying the valuation to the county and the municipalities in  
7 the county, the Department shall use the last property valuation of the public service  
8 company that has been certified.

9 The chair of each board of county commissioners and the mayor of each  
10 municipality shall report to the Secretary of Revenue information requested by the  
11 Secretary to enable the Secretary to allocate the amount distributed by this section. If a  
12 county or municipality fails to make a requested report within the time allowed, the  
13 Secretary may disregard the county or municipality in allocating the amount distributed  
14 by this section.

15 ~~(b) Restrictions on Use. — Amounts distributed to a county or a municipality~~  
16 ~~under this section are subject to the same restrictions as amounts distributed under G.S.~~  
17 ~~105-213. The amount distributed to each county and municipality shall be used by the~~  
18 ~~county or municipality in proportion to property tax levies made by it for the various~~  
19 ~~funds and activities of the county or municipality, unless the county or municipality has~~  
20 ~~pledged the amount to be distributed to it under this section in payment of a loan~~  
21 ~~agreement with the North Carolina Solid Waste Management Capital Projects Financing~~  
22 ~~Agency. A county or municipality that has pledged amounts distributed under this~~  
23 ~~section in payment of a loan agreement with the Agency may apply the amount the loan~~  
24 ~~agreement requires.~~

25 ~~(c) Municipality Defined. — As used in this section, the term 'municipality' has~~  
26 ~~the same meaning as in G.S. 105-213.~~

27 ~~(d) Source. — Funds distributed under this section shall be drawn from collections~~  
28 ~~received under Division II of Article 4 of this Chapter."~~

29 ~~Sec. 4. G.S. 105-151.19 is repealed.~~

30 ~~Sec. 5. G.S. 105-130.7 reads as rewritten:~~

31 **"§ 105-130.7. Deductible portion of dividends.**

32 ~~Dividends from stock issued by any a corporation shall be deducted to the extent herein~~  
33 ~~provided. are deductible to the extent provided in this section.~~

34 ~~(1) As soon as may be practicable after September 30 of each year, the~~  
35 ~~Secretary of Revenue shall determine from the corporate income tax~~  
36 ~~return filed during the year ending September 30 by each corporation~~  
37 ~~required to file a return during that period the proportion of the entire~~  
38 ~~net income or loss of the corporation allocable to this State under the~~  
39 ~~provisions of G.S. 105-130.4, except as provided herein. If a~~  
40 ~~corporation has a net income in North Carolina and a net loss from all~~  
41 ~~sources wherever located, or if a corporation has a net loss in North~~  
42 ~~Carolina and a net income from all sources wherever located, the~~  
43 ~~Secretary shall require the use of the allocation fraction determined~~  
44 ~~under the provisions of G.S. 105-130.4. A corporation which is a~~

1           ~~stockholder in any such corporation shall be allowed to deduct the~~  
2           ~~same proportion of the dividends received by it from such corporation~~  
3           ~~during its income year ending on or after September 30. No deduction~~  
4           ~~shall be allowed for any part of any dividend received from any~~  
5           ~~corporation that was required to file an income tax return during the~~  
6           ~~year ending September 30 but failed to file the return. In the case of~~  
7           ~~dividends received from a corporation that was not required to file a~~  
8           ~~return during the year ending September 30, the proportion of~~  
9           ~~dividends deductible by the stockholder shall be determined by the~~  
10          ~~Secretary from the best information available.~~

11          (2) Dividends received by a corporation from stock in any insurance  
12          company of this State taxed under the provisions of G.S. 105-228.5  
13          shall be deductible by such corporation, and a proportionate part of  
14          any dividends received from stock in any foreign insurance  
15          corporation shall be deductible, such part to be determined on the basis  
16          of the ratio of premiums reported for taxation in this State to total  
17          premiums collected both in and out of this State.

18          (3) A corporation shall be allowed to deduct such proportionate part of  
19          dividends received by it from a regulated investment company or a real  
20          estate investment trust, as defined in G.S. 105-130.12, as represents  
21          and corresponds to income received by such regulated investment  
22          company or real estate investment trust which would not be taxed by  
23          this State if received directly by the corporation.

24          (3a) Dividends received on shares of capital stock owned in a stock-owned  
25          savings and loan association taxed under Article 8D of this Chapter  
26          shall be deductible.

27          (4) ~~Notwithstanding the provisions of subdivisions (1) through (3a) any~~  
28          other provision of this section, a corporation ~~which, at the close of its~~  
29          ~~taxable year, has its commercial domicile within North Carolina shall~~  
30          ~~be allowed to~~ may deduct all dividends received from corporations in  
31          which it owns more than fifty percent (50%) of the outstanding voting  
32          stock.

33          (5) Notwithstanding any other provisions of this Division, a corporation  
34          ~~which that~~ is a shareholder in a holding company ~~shall be allowed as a~~  
35          ~~deduction~~ may deduct an amount equal to those dividends received by  
36          it from ~~such the~~ holding company, multiplied by a fraction, the  
37          numerator of which ~~shall be~~ is the dividends received by ~~such the~~  
38          holding company ~~attributable to North Carolina, that are deductible by it~~  
39          under subdivisions (2) through (3a) of this section and the denominator  
40          of which ~~shall be~~ is the gross dividends received by ~~such the~~ holding  
41          company. ~~company; provided, however, that no deduction shall be allowed~~  
42          ~~where the fraction is smaller than one third (1/3). For purposes of this~~  
43          ~~section, 'dividends attributable to North Carolina' shall be the amount of~~  
44          ~~dividend income received by the holding company on stock owned in other~~

1 corporations equal to the total of the proportion of each of such corporation's  
 2 dividends as shall be determined deductible by the Secretary under  
 3 subdivisions (1) through (3a) of this section; provided that a A holding  
 4 company ~~which that~~ owns more than fifty percent (50%) of the  
 5 outstanding voting stock of one or more holding companies as defined  
 6 in this subdivision shall be ~~permitted~~ is allowed a deduction for all  
 7 dividends received from ~~such those~~ holding companies and all other  
 8 corporations in which it owns more than fifty percent (50%) of the  
 9 outstanding voting stock. ~~stock except that no deduction shall be allowed~~  
 10 ~~if less than one third (1/3) of the dividends received by the holding company~~  
 11 ~~are attributable to North Carolina. A shareholder of such a holding company~~  
 12 ~~shall determine the deductible portion of its dividends received from such~~  
 13 ~~holding company as hereinabove provided except that the amounts received~~  
 14 ~~from a subsidiary holding company as 'dividends attributable to North~~  
 15 ~~Carolina' shall be determined as though the subsidiary corporation of the~~  
 16 ~~subsidiary holding company had paid the dividends directly to the parent~~  
 17 ~~holding company. For the purposes of this section and unless the context~~  
 18 ~~clearly requires a different meaning, As used in this section, the term~~  
 19 ~~'holding company' shall mean any means a corporation subject to the~~  
 20 ~~tax imposed by G.S. 105-130.3 whose ordinary gross income consists~~  
 21 ~~of fifty percent (50%) or more of dividend income received from~~  
 22 ~~corporations in which it owns more than fifty percent (50%) of the~~  
 23 ~~outstanding voting stock, and 'subsidiary' shall mean any corporation, more~~  
 24 ~~than fifty percent (50%) of whose outstanding voting stock is owned by~~  
 25 ~~another corporation. For the purposes of this subsection, stock. As used in~~  
 26 ~~this subdivision, the term 'dividend' includes, in addition to corporate~~  
 27 ~~dividends, distributions received from a partnership by a corporation~~  
 28 ~~owning more than a fifty percent (50%) interest in the partnership.~~

- 29 (6) In no case shall the total amount of dividends that are allowed as a  
 30 deduction to a corporation as a result of the application of subdivisions  
 31 ~~(1)-(2)~~ through (3a) of this section be in excess of fifteen thousand  
 32 dollars (\$15,000) for the taxable year."

33 Sec. 6. G.S. 105-501 reads as rewritten:

34 **"§ 105-501. Distribution of additional taxes.**

35 The Secretary shall, on a quarterly basis, allocate the net proceeds of the additional  
 36 one-half percent (1/2%) sales and use taxes levied under this Article to the taxing  
 37 counties on a per capita basis according to the most recent annual population estimates  
 38 certified to the Secretary by the State Budget Officer. The Secretary shall then adjust  
 39 the amount allocated to each county as provided in G.S. 105-486(b). The amount  
 40 allocated to each taxing county shall then be divided among the county and the  
 41 municipalities located in the county in accordance with the method by which the one  
 42 percent (1%) sales and use taxes levied in that county pursuant to Article 39 of this  
 43 Chapter or Chapter 1096 of the 1967 Session Laws are distributed.

44 If any taxes levied under this Article by a county have not been collected in that  
 45 county for a full quarter because of the levy or repeal of the taxes, the Secretary shall

1 distribute a pro rata share to that county for that quarter based on the number of months  
2 the taxes were collected in that county during the quarter.

3 In determining the net proceeds of the tax to be distributed, the Secretary shall  
4 deduct from the collections to be allocated an amount equal to one-fourth of the costs  
5 during the preceding fiscal year of:

- 6 (1) The Department of Revenue in performing the duties imposed by  
7 Article 15 of this Chapter.
- 8 (2) The Property Tax Commission.
- 9 (3) The Institute of Government in operating a training program in  
10 property tax appraisal and assessment.
- 11 (4) The personnel and operations provided by the Department of State  
12 Treasurer for the Local Government Commission."

13 Sec. 7. G.S. 105-288(d) reads as rewritten:

14 "(d) Expenses. – The members of the Property Tax Commission shall receive  
15 travel and subsistence expenses in accordance with G.S. 138-5 and a salary of two  
16 hundred dollars (\$200.00) a day when hearing cases. The Secretary of Revenue shall  
17 supply all the clerical and other services required by the Commission. All expenses of  
18 the Commission and the Department of Revenue in performing the duties enumerated in  
19 this Article shall be paid ~~from funds appropriated out of revenue derived from the tax on~~  
20 ~~intangible personal property as provided by G.S. 105-213, as provided in G.S. 105-501."~~

21 Sec. 8. G.S. 105-276 reads as rewritten:

22 **"§ 105-276. Taxation of intangible personal property.**

23 Intangible personal property that is not excluded from taxation under G.S. 105-  
24 ~~275(31) or classified under Schedule H, G.S. 105-198 through G.S. 105-217, 105-275~~  
25 is subject to this Subchapter. ~~The classification of such property for taxation under~~  
26 ~~Schedule H shall not exclude the property from the system property valuation of public~~  
27 ~~service companies under Article 23 provided proper adjustments are made to prevent~~  
28 ~~duplicate taxation."~~

29 Sec. 9. G.S. 105-305 reads as rewritten:

30 **"§ 105-305. Place for listing intangible personal property.**

31 (a) Listing Instructions. – This section ~~shall apply~~ applies to all taxable intangible  
32 personal property that has a tax situs in this State, ~~that State and~~ is not required by this  
33 Subchapter to be appraised originally by the Department of Revenue, ~~and that is not~~  
34 ~~subject to taxation under the provisions of Schedule H, G.S. 105-198 through 105-217.~~  
35 Revenue. The place in this State at which ~~such~~ this property is taxable shall be  
36 determined ~~according to the rules prescribed in subsections (b) through (e), below, as~~  
37 provided in this section. The person whose duty it is to list property shall list it in the  
38 county in which the place of taxation is located, indicating on the abstract the  
39 information required by G.S. 105-309(d). If the place of taxation lies within a city or  
40 town that requires separate listing under G.S. 105-326(a), the person whose duty it is to  
41 list shall also list the property for taxation in the city or town.

42 (b) General Rule. – Except as otherwise provided in subsections (c) through (e),  
43 ~~below, (e) of this section,~~ intangible personal property shall be taxable at the residence  
44 of the owner. For the purposes of this section:

1 (1) The residence of a person who has two or more places in this State at  
 2 which ~~he~~ the person occasionally dwells shall be the place at which ~~he~~  
 3 the person dwelt for the longest period of time during the calendar year  
 4 immediately preceding the date as of which property is to be listed for  
 5 taxation.

6 (2) The residence of a domestic or foreign taxpayer other than an  
 7 individual person shall be the place at which its principal North  
 8 Carolina office is located.

9 (c) Intangible personal property representing an interest or interests in real  
 10 property that is situated in this State shall be taxable in the place in which the  
 11 represented real property is located.

12 (d) The intangible personal property of a decedent whose estate is in the process  
 13 of administration or has not been distributed shall be taxable in the place at which it  
 14 would be taxable if the decedent were still alive and still residing in the place at which  
 15 ~~he~~ the decedent resided at the time of ~~his~~ death.

16 (e) Intangible personal property within the jurisdiction of the State held by a  
 17 resident or nonresident trustee, guardian, or other fiduciary having legal title to the  
 18 property shall be taxable in accordance with the following rules:

19 (1) If ~~any~~ a beneficiary is a resident of the State, an amount representing  
 20 ~~his~~ the beneficiary's portion of the property shall be taxable in the  
 21 place at which it would be taxable if ~~he~~ the beneficiary were the owner  
 22 of ~~his~~ that portion.

23 (2) If ~~any~~ a beneficiary is a nonresident of the State, an amount  
 24 representing ~~his~~ the beneficiary's portion of the property shall be  
 25 taxable in the place at which it would be taxable if the fiduciary were  
 26 the beneficial owner of the property."

27 Sec. 10. G.S. 108A-93 reads as rewritten:

28 "**§ 108A-93. Withholding of State moneys from counties failing to pay public**  
 29 **assistance costs.**

30 The Director of the Budget ~~is authorized to~~ may withhold from any county that does  
 31 not pay its full share of public assistance costs to the State and has not ~~arranged for~~  
 32 ~~payment pursuant to G.S. 108-54.1 or obtained a loan for repayment under~~ G.S. 108A-89,  
 33 any State moneys appropriated from the General Fund for public assistance and related  
 34 administrative costs, or ~~to~~ may direct the Secretary of Revenue and State ~~Treasurer~~  
 35 Controller to withhold any tax owed to a county under ~~Article 7 of Chapter 105 of the~~  
 36 ~~General Statutes, G.S. 105-113.82, Article 39 of Chapter 105 of the General Statutes~~  
 37 Subchapter VIII of Chapter 105 of the General Statutes, or Chapter 1096 of the Session  
 38 Laws of 1967. The Director of the Budget shall notify the ~~chairman~~ chair of the board of  
 39 county commissioners of the proposed action prior to the withholding of funds."

40 Sec. 11. G.S. 105-282.1(a)(2) reads as rewritten:

41 "(2) Owners of the special classes of property excluded from taxation under  
 42 G.S. 105-275(5), (15), (16), (26), (31), (31a), (31b), (31c), (31d),  
 43 (32a), (33), (34), or (40), or exempted under G.S. 105-278.2 are not

1                   required to file applications for the exclusion or exemption of that  
2                   property."

3                   Sec. 12. Notwithstanding the provisions of G.S. 105-163.15 and G.S. 105-  
4 163.41, no addition to tax shall be made under those sections for a taxable year  
5 beginning on or after January 1, 1994, and before January 1, 1995, with respect to any  
6 underpayment to the extent the underpayment was created or increased by Section 4 or  
7 5 of this act.

8                   Sec. 13. The repeal of G.S. 105-213 by Section 1 of this act becomes  
9 effective January 1, 1995. Section 3 of this act becomes effective January 1, 1995.  
10 Section 6 of this act becomes effective July 1, 1995, and applies to distributions made  
11 on or after that date. The remainder of this act is effective for taxable years beginning  
12 on or after January 1, 1994. This act does not affect the rights or liabilities of the State,  
13 a taxpayer, or another person arising under a statute amended or repealed by this act  
14 before its amendment or repeal; nor does it affect the right to any refund or credit of a  
15 tax that would otherwise have been available under the amended or repealed statute  
16 before its amendment or repeal.