

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

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SENATE BILL 158
Second Edition Engrossed 3/10/93

Short Title: Inheritance Tax Penalty Procedure.

(Public)

Sponsors: Senators Kerr, Plexico, Seymour, and Winner of Buncombe.

Referred to: Finance.

February 15, 1993

A BILL TO BE ENTITLED

AN ACT TO PROVIDE THAT THE PENALTY FOR FAILURE TO FILE AN INHERITANCE TAX RETURN WILL BE ASSESSED AND COLLECTED IN THE SAME MANNER AS THE PENALTY FOR FAILURE TO PAY INHERITANCE TAXES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-23 reads as rewritten:

"§ 105-23. ~~Information by administrator and executor.~~ Personal representative to file return.

(a) Return Required. – Every ~~administrator~~ personal representative of a decedent who dies intestate shall prepare a ~~statement~~ return showing as far as can be ascertained the names of all the heirs-at-large and their relationship to ~~decedent, and every executor~~ the decedent. Every personal representative of a decedent who dies testate shall prepare a ~~like statement, return,~~ accompanied by a copy of the will, showing the relationship to the decedent of all legatees, distributees, and devisees named in the will, and the age at the time of the death of the decedent of all legatees, distributees, devisees, to whom property is bequeathed or devised for life or for a term of years, and the names of those, if any, who have died before the decedent, together with decedent. Each return shall include the post-office address of executor, administrator, or trustee. the personal representative. ~~If any of the heirs at law, distributees, and devisees are minor children of the decedent, such statement shall also show the age of each of such minor children.~~ ~~The statement~~ return shall also contain a complete inventory of all the real property of the

1 decedent located in and outside the State, and of all personal property, wherever situate,
 2 of the estate, and of all insurance policies upon the life of the decedent, together with an
 3 appraisal under oath or affirmation of the value of each class of property embraced in
 4 the inventory, and the value of the whole, together with any deductions permitted by ~~this~~
 5 ~~statute, law,~~ so far as they may be ascertained at the time of filing ~~such statement; the~~
 6 ~~return;~~ and also the full statement of all gifts or advancements made by deed, grant, or
 7 sale to any person or corporation, in trust or otherwise, within three years prior to the
 8 death of the decedent. ~~The statement herein provided for~~ This return shall be filed with the
 9 Secretary of Revenue at Raleigh, North Carolina, within nine months after the
 10 qualification of the ~~executor or administrator,~~ personal representative upon blank forms to
 11 be prepared by the Secretary of Revenue. ~~If any administrator or executor~~ A personal
 12 representative who fails or refuses to comply with any of the requirements of this
 13 section, ~~he shall be~~ shall be personally liable to for a penalty ~~in the sum of~~ five hundred
 14 dollars (\$500.00), ~~to be recovered by the Secretary of Revenue in an action to be brought by~~
 15 ~~the Secretary of Revenue to collect such sum in the Superior Court of Wake County against~~
 16 ~~such administrator or executor. (\$500.00).~~ This penalty does not apply, however, if no tax
 17 is due on the estate under this Article. The Secretary of Revenue, for good cause
 18 shown, may remit all or any portion of the penalty imposed under ~~the provisions of this~~
 19 section. Every ~~executor or administrator~~ personal representative may make a tentative
 20 settlement of the inheritance tax with the Secretary of Revenue, based on the inventory
 21 supported by oath or affirmation provided in this section. If any ~~executor, administrator,~~
 22 ~~collector, committee, trustee or any~~ personal representative or other fiduciary within or
 23 without this State holding or having control of any funds, property, trust or estate, the
 24 transfer of which becomes taxable under the provisions of this Article, ~~shall fail to file the~~
 25 ~~statement herein required, within the times herein required, the Secretary of Revenue is~~
 26 ~~authorized and shall be required to secure the information herein required from the best sources~~
 27 ~~available, and therefrom assess the taxes levied hereunder, together with the penalties herein~~
 28 ~~and otherwise provided.~~ fails to file the return required by this section within the time
 29 required by this section, the Secretary of Revenue shall obtain the required information
 30 from the best sources available and, based on this information, shall assess the tax due
 31 and any applicable penalties.

32 (b) Exception. – An inheritance tax return is not required to be filed for an estate
 33 ~~(i) whose~~ that meets all of the following conditions:

- 34 (1) Its beneficiaries are all either Class A beneficiaries, as described in
 35 G.S. 105-4(a), or the surviving spouse, and (ii) whose spouse.
- 36 (2) Its gross value, including the value of transfers over which the
 37 decedent retained an interest and the value of gifts made within three
 38 years before the decedent's death, as provided in G.S. 405-2(3), 105-
 39 2(a)(3), is less than the amount specified in the following table: two
 40 hundred fifty thousand dollars (\$250,000).

41 Estates of Decedents Dying	
42 On or After	Gross Value of Estates
43 July 1, 1985	\$100,000
44 August 1, 1985	75,000

1 ~~July 1, 1986~~ ~~150,000~~

2 ~~January 1, 1987~~ ~~250,000"~~

3 Sec. 2. This act becomes effective for estates of decedents dying on or after

4 July 1, 1993.