

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

H

1

HOUSE BILL 1288

Short Title: Credit/Refund Federal Retirees.

(Public)

Sponsors: Representatives Hurley and Shaw (Co-sponsors); Aldridge, Barbee, Black, W. Brown, Hensley, Hill, R. Hunter, McAllister, K. Miller, Richardson, Sutton, Wainwright, Watson, and Yongue.

Referred to: Finance.

May 22, 1996

A BILL TO BE ENTITLED

AN ACT TO PROVIDE FEDERAL RETIREES TAX CREDITS AND PARTIAL REFUNDS TO REIMBURSE THEM FOR NORTH CAROLINA INCOME TAX THEY PAID ON THEIR RETIREMENT BENEFITS FOR TAX YEARS 1985 THROUGH 1988.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-151.20 reads as rewritten:

"§ 105-151.20. **Credit or partial refund for tax paid on certain ~~government~~ federal retirement benefits.**

(a) Purpose; Definitions. – The purpose of this section is to benefit certain retired federal government workers on account of their public service. The following definitions apply in this section:

(1) Federal retirement benefits. – Retirement benefits received from one or more federal government retirement plans.

(2) Net pension tax. – The amount of tax a taxpayer paid under this Division for the 1985, 1986, 1987, and 1988 tax years on federal retirement benefits, without interest, less any part of the tax for which

1 the taxpayer received a credit under this section before 1997 and any
2 part of the tax refunded to the taxpayer before 1997.

3 (3) Tax year. – The taxpayer's taxable year beginning on a day in the
4 applicable calendar year.

5 (b) Credit. – A taxpayer who received ~~government~~ federal retirement benefits
6 during the 1985, 1986, 1987, or 1988 tax year may claim a credit against the tax imposed
7 by this Division equal to the net pension tax on those benefits. The amount by which the
8 tax under this Division paid by the taxpayer for the 1988 tax year would have been reduced if
9 none of the taxpayer's government retirement benefits had been included in the taxpayer's taxable
10 income. If a taxpayer received a refund of any tax paid under this Division on government
11 retirement benefits for the 1988 tax year, the amount of the refund reduces the amount of the
12 credit allowed under this section.

13 As used in this section, the term "government retirement benefits" means retirement
14 benefits received from one or more state, local, or federal government retirement plans.
15 As used in this section, the term "1988 tax year" means the taxpayer's taxable year
16 beginning on a day in 1988.

17 The
18 credit allowed under this section shall be taken in equal installments over the taxpayer's
19 first three taxable years beginning on or after January 1, 1990-1996. The credit allowed
20 under this section may not exceed the amount of tax imposed by this Division reduced by
21 the sum of all credits allowed against the tax, except payments of tax made by or on
22 behalf of the taxpayer.

23 (c) Partial Refund Alternative. – If the amount of tax imposed by this Division on
24 the taxpayer for the taxpayer's 1996 tax year, reduced by the sum of all credits allowed
25 against the tax except payments of tax made by or on behalf of the taxpayer, is less than
26 five percent (5%) of the taxpayer's net pension tax for which credit is allowed, the
27 taxpayer is eligible to elect a partial refund under this subsection in lieu of claiming the
28 credit. The partial refund allowed under this subsection is equal to the lesser of eighty-
29 five percent (85%) of the taxpayer's net pension tax or the reduced amount determined by
30 the Secretary as provided in this subsection. To elect the partial refund, an eligible
31 taxpayer must file with the Secretary on or before April 15, 1997, a written request for a
32 partial refund of the taxpayer's net pension. The Secretary shall calculate from these
33 requests eighty-five percent (85%) of the total amount of net pension tax for which partial
34 refunds have been claimed and, if this sum exceeds the amount in the Federal Retiree
35 Refund Account created in this section, shall allocate the amount in the Account among
36 the eligible taxpayers claiming partial refunds by reducing each taxpayer's claimed refund
37 in proportion to the size of the claimed refund. The Secretary shall remit these partial
38 refunds before January 1, 1997.

39 (d) Substantiation; Limitations. – In order to claim a refund or credit under this
40 section, a taxpayer must provide any information required by the Secretary to establish
41 the taxpayer's eligibility for tax benefit and the amount of the tax benefit. No credit or
42 refund is allowed under this section to a taxpayer who died before January 1, 1996.

1 (e) Federal Retiree Accounts. – There are created in the Department of Revenue
2 two special accounts to be known as the Federal Retiree Refund Account and the Federal
3 Retiree Administration Account. Funds in the Federal Retiree Refund Account shall be
4 spent only for partial refunds pursuant to subsection (c) of this section. The Department
5 of Revenue may use funds in the Federal Retiree Administration Account only for the
6 costs of administering this section. Funds in the Federal Retiree Refund Account and the
7 Federal Retiree Administration Account shall not revert to the General Fund until the
8 Director of the Budget certifies that the Department of Revenue has completed all duties
9 necessary to implement this section, including processing the escheat of refund checks
10 that have not been cashed."

11 Sec. 2. Effective January 1, 2003, G.S. 105-151.20 is repealed.

12 Sec. 3. There is appropriated from the General Fund to the Department of
13 Revenue the sum of twenty-five million dollars (\$25,000,000) for the 1996-97 fiscal year
14 to the credit of the Federal Retiree Refund Account created in this act. These funds shall
15 be used to make refunds to federal retirees as provided in this act.

16 Sec. 4. There is appropriated from the General Fund to the Department of
17 Revenue the sum of two million three hundred thousand dollars (\$2,300,000) for the
18 1996-97 fiscal year to the credit of the Federal Retiree Administration Account created in
19 this act. These funds shall be used for the Department of Revenue's costs in
20 administering this act.

21 Sec. 5. This act becomes effective July 1, 1996.