GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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HOUSE BILL 295*
Committee Substitute Favorable 3/12/97

Short Title: No Tax on Intangible Property. (Public)

Sponsors:

Referred to:

February 24, 1997

A BILL TO BE ENTITLED

AN ACT TO EXEMPT MOST INTANGIBLE PERSONAL PROPERTY FROM PROPERTY TAX.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-275(31) reads as rewritten:

"(31) ~~Money, whether on hand or on deposit at a bank, a credit union, a savings and loan association, or an insurance company.~~ <u>Intangible personal property other than:</u>

<u>a.</u> <u>Leasehold interests in exempted real property.</u>

<u>b.</u> <u>Software not otherwise excluded by subdivision (40) of this section.</u>"

Section 2. G.S. 105-276 reads as rewritten:

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

Intangible personal property that is not excluded from taxation under G.S. 105-275 is subject to this Subchapter. <u>The exclusion of a class of intangible personal property from taxation under G.S. 105-275 does not affect its consideration in the appraisal or assessment of real property, personal property, or public service company property.</u>"

Section 3. G.S. 105-275(31a), (31b), (31c), and (31d) are repealed.

Section 4. G.S. 105-282.1(a)(2) reads as rewritten:

"(2) Owners of the special classes of property excluded from taxation under G.S. 105-275(5), (15), (16), (26), (31), ~~(31a), (31b), (31c), (31d),~~ (32a), (33), (34), or (40), or exempted under G.S. 105-278.2 are not required to file applications for the exclusion or exemption of that property."

Section 5. G.S. 105-294(b)(3) reads as rewritten:

"(3) Within two years of the date of appointment, achieve a passing score in courses of instruction approved by the Department of Revenue covering the following topics:

a. The laws of North Carolina governing the listing, appraisal, and assessment of property for taxation;

b. The theory and practice of estimating the fair market value of real property for ad valorem tax purposes;

c. The theory and practice of estimating the fair market value of ~~tangible and intangible~~ personal property for ad valorem tax purposes; and

d. Property assessment administration."

Section 6. G.S. 105-275.2 is amended by adding a new subsection to read:

"(e) Reduction. – Each year, on or before July 15, the governing body of each county and each municipality shall notify the Secretary of the amount of taxes it collected in the preceding fiscal year from taxes on intangible personal property discovered on or after January 1, 1997, for taxable years beginning on or after July 1, 1991. The Secretary shall reduce the amount allocated to each county and municipality for distribution the following August by the amount the county or municipality reports pursuant to this subsection. If the Secretary discovers that a county or municipality failed to report any taxes as required by this subsection, the Secretary shall reduce the county or municipality's next distribution under this section by ten percent (10 %)."

Section 7. G.S. 105-275(40) reads as rewritten:

"(40) Computer software and any documentation related to the computer software. As used in this subdivision, the term ‘computer software' means any program or routine used to cause a computer to perform a specific task or set of tasks. The term includes system and application programs and database storage and management programs.

The exclusion established by this subdivision does not apply to computer software and its related documentation if the computer software meets one or more of the following descriptions:

a. It is embedded software. ‘Embedded software' means computer instructions, known as microcode, that reside permanently in the internal memory of a computer system or other equipment and are not intended to be removed without terminating the operation of the computer system or equipment and removing a computer chip, a circuit, or another mechanical device.

b. It is purchased or licensed from a person who is unrelated to the taxpayer and it is capitalized on the books of the taxpayer in accordance with generally accepted accounting principles, including financial accounting standards issued by the Financial Accounting Standards Board. A person is unrelated to a taxpayer if (i) the taxpayer and the person are not subject to any common ownership, either directly or indirectly, and (ii) neither the taxpayer nor the person has any ownership interest, either directly or indirectly, in the other.

This subdivision does not affect the value or taxable status of any property that is otherwise subject to taxation under this Subchapter.

<u>The provisions of the exclusion established by this subdivision are not severable. If any provision of this subdivision or its application is held invalid, the entire subdivision is repealed.</u>"

Section 8. Section 6 of this act becomes effective July 1, 1997, and expires September 1, 2002. The remainder of this act is effective for taxes imposed for taxable years beginning on or after July 1, 1997.