

**GENERAL ASSEMBLY OF NORTH CAROLINA**  
**SESSION 2001**

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**SENATE BILL 859**

Short Title: Interstate Reciprocal Tax Agreements. (Public)

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Sponsors: Senators Webster; Allran, Ballance, Ballantine, Berger, Bingham, Carpenter, Carrington, Clodfelter, Cunningham, Forrester, Foxx, Garrou, Garwood, Harris, Hartsell, Horton, Hoyle, Kerr, Lucas, Moore, Rand, Robinson, Rucho, Shaw of Cumberland, Shaw of Guilford, Swindell, and Thomas.

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Referred to: Finance.

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April 4, 2001

A BILL TO BE ENTITLED

1 AN ACT TO EXCLUDE FROM INCOME TAX WAGES RECEIVED BY A  
2 NONRESIDENT FROM WORK PERFORMED IN THIS STATE IF THAT  
3 INDIVIDUAL'S HOME STATE HAS A SIMILAR LAW AND TO MAKE  
4 CONFORMING CHANGES.  
5

6 The General Assembly of North Carolina enacts:

7 **SECTION 1.(a)** G.S. 105-134.2 reads as rewritten:

8 "**§ 105-134.2. Individual income tax imposed.**

9 (a) A Except as provided in subsection (c) of this section, a tax is imposed upon  
10 the North Carolina taxable income of every individual. The tax ~~shall~~ must be levied,  
11 collected, and paid annually and ~~shall be~~ is computed at the following percentages of  
12 the taxpayer's North Carolina taxable income.

13 (1) For married individuals who file a joint return under G.S. 105-152 and  
14 for surviving spouses, as defined in section 2(a) of the Code:

15 On the North Carolina taxable income up to twenty-one thousand two  
16 hundred fifty dollars (\$21,250), six percent (6%).

17 On the amount over twenty-one thousand two hundred fifty dollars  
18 (\$21,250) and up to one hundred thousand dollars (\$100,000),  
19 seven percent (7%).

20 On the amount over one hundred thousand dollars (\$100,000), seven  
21 and seventy-five one-hundredths percent (7.75%).

22 (2) For heads of households, as defined in section 2(b) of the Code:

23 On the North Carolina taxable income up to seventeen thousand  
24 dollars (\$17,000), six percent (6%).

- 1 On the amount over seventeen thousand dollars (\$17,000) and up to  
2 eighty thousand dollars (\$80,000), seven percent (7%).  
3 On the amount over eighty thousand dollars (\$80,000), seven and  
4 seventy-five one-hundredths percent (7.75%).  
5 (3) For unmarried individuals other than surviving spouses and heads of  
6 households:  
7 On the North Carolina taxable income up to twelve thousand seven  
8 hundred fifty dollars (\$12,750), six percent (6%).  
9 On the amount over twelve thousand seven hundred fifty dollars  
10 (\$12,750) and up to sixty thousand dollars (\$60,000), seven  
11 percent (7%).  
12 On the amount over sixty thousand dollars (\$60,000), seven and  
13 seventy-five one-hundredths percent (7.75%).  
14 (4) For married individuals who do not file a joint return under G.S. 105-  
15 152:  
16 On the North Carolina taxable income up to ten thousand six hundred  
17 twenty-five dollars (\$10,625), six percent (6%).  
18 On the amount over ten thousand six hundred twenty-five dollars  
19 (\$10,625) and up to fifty thousand dollars (\$50,000), seven  
20 percent (7%).  
21 On the amount over fifty thousand dollars (\$50,000), seven and  
22 seventy-five one-hundredths percent (7.75%).

23 (b) ~~It~~ Except as provided in subsection (c) of this section, in lieu of the tax  
24 imposed by subsection (a) of this section, there is imposed for each taxable year upon  
25 the North Carolina taxable income of every individual a tax determined under tables,  
26 applicable to the taxable year, which may be prescribed by the Secretary. The amounts  
27 of the tax determined under the tables shall must be computed on the basis of the rates  
28 prescribed by subsection (a) of this section. This subsection does not apply to an  
29 individual making a return under section 443(a)(1) of the Code for a period of less than  
30 12 months on account of a change in the individual's annual accounting period, or to an  
31 estate or trust. The tax imposed by this subsection shall be is treated as the tax imposed  
32 by subsection (a) of this section.

33 (c) The Department may enter into a reciprocal agreement with a state that  
34 borders this State to exempt from the tax imposed by this Part wages earned in this State  
35 by a resident of that other state. The Department may enter into this type of agreement  
36 only if (i) the other state imposes a tax on income similar to that imposed by this Part,  
37 (ii) the other state agrees to exempt from its income tax wages earned in that state by a  
38 North Carolina resident, and (iii) at least one of the states that is a party to the  
39 agreement has at least five years of experience with this type of agreement."

40 **SECTION 1.(b)** The Department shall enter into negotiations with the  
41 Commonwealth of Virginia to establish an agreement under G.S. 105-134.2(c), as  
42 enacted by this act. The Department shall report to the Revenue Laws Study Committee  
43 no later than March 1, 2002, on the status of these negotiations.

44 **SECTION 2.** G.S. 105-134.5(b) reads as rewritten:

1       (b) Nonresidents. – For nonresident individuals, the term "North Carolina taxable  
2 income" means the taxpayer's taxable income as determined under the Code, adjusted as  
3 provided in G.S. 105-134.6 and G.S. 105-134.7, multiplied by a ~~fraction~~ the fraction.  
4 The denominator of which the fraction is the taxpayer's gross income as determined  
5 under the Code, adjusted as provided in G.S. 105-134.6 and G.S. 105-134.7, and the  
6 105-134.7. The numerator of which the fraction is the amount of that gross income, as  
7 adjusted, that is derived from North Carolina sources and is attributable to the  
8 ownership of any interest in real or tangible personal property in this State or is derived  
9 from a business, trade, profession, or occupation carried on in this State. The numerator  
10 does not include wages that are exempt from the tax imposed by this Part pursuant to  
11 G.S. 105-134.2(c)."

12       **SECTION 3.** G.S. 105-152(a) reads as rewritten:

13       (a) Who Must File. – The following individuals ~~shall~~ must file with the Secretary  
14 an income tax return under affirmation:

- 15       (1) Every resident required to file an income tax return for the taxable year  
16 under the Code and every nonresident who (i) derived gross income  
17 from North Carolina sources during the taxable year attributable to the  
18 ownership of any interest in real or tangible personal property in this  
19 State or derived from a business, trade, profession, or occupation  
20 carried on in this State and (ii) is required to file an income tax return  
21 for the taxable year under the Code. However, if a nonresident's only  
22 gross income derived from North Carolina sources is wages that are  
23 exempt from the tax imposed by this Part pursuant to G.S. 105-  
24 134.2(c), the nonresident is not required to file an income tax return.
- 25       (2) Repealed by Session Laws 1991 (Reg. Sess., 1992), c. 930, s. 1.
- 26       (3) Any individual whom the Secretary believes to be liable for a tax  
27 under this Part, when so notified by the Secretary and requested to file  
28 a return."

29       **SECTION 4.** G.S. 105-163.2(a) reads as rewritten:

30       (a) Withholding Required. – ~~An~~ Except as provided in subsection (a1) of this  
31 section, an employer shall must deduct and withhold from the wages of each employee  
32 the State income taxes payable by the employee on the wages. For each payroll period,  
33 the employer ~~shall~~ must withhold from the employee's wages an amount that would  
34 approximate the employee's income tax liability under Article 4 of this Chapter if the  
35 employer withheld the same amount from the employee's wages for each similar payroll  
36 period in a calendar year. In calculating an employee's anticipated income tax liability,  
37 the employer ~~shall~~ must allow for the exemptions, deductions, and credits to which the  
38 employee is entitled under Article 4 of this Chapter. The amount of State income taxes  
39 withheld by an employer is held in trust for the Secretary."

40       **SECTION 5.** G.S. 105-163.2 is amended by adding a new subsection to  
41 read:

42       "(a1) Withholding Not Required. – If an employee's wages are exempt from the tax  
43 imposed by Article 4 of this Chapter pursuant to G.S. 105-134.2(c) and the employer  
44 withholds from the employee's wages the state income taxes payable by the employee to

1 the employee's state of residence, then the employer is not required to withhold North  
2 Carolina income taxes from that employee's wages under this Article."

3           **SECTION 6.** This act is effective for taxable years beginning on or after  
4 January 1, 2002.