

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2007

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SENATE DRS35330-LYx-159 (3/12)

Short Title: Income Tax Modernization. (Public)

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Sponsors: Senator Hoyle.

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Referred to:

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1 A BILL TO BE ENTITLED  
2 AN ACT TO IMPLEMENT A RECOMMENDATION OF THE STATE AND LOCAL  
3 FISCAL MODERNIZATION STUDY COMMISSION TO LOWER INDIVIDUAL  
4 INCOME TAX RATES BY USING ADJUSTED GROSS INCOME RATHER  
5 THAN FEDERAL TAXABLE INCOME AS THE STARTING POINT FOR  
6 CALCULATING STATE INCOME TAX LIABILITY.

7 The General Assembly of North Carolina enacts:

8 **SECTION 1.** G.S. 105-134.1 reads as rewritten:

9 "**§ 105-134.1. Definitions.**

10 The following definitions apply in this Part:

11 (1) Adjusted gross income. – Defined in section 62 of the Code.

12 (1c) Code. – Defined in G.S. 105-228.90.

13 ...."

14 **SECTION 2.** G.S. 105-134.2(a) reads as rewritten:

15 "(a) A tax is imposed upon the North Carolina taxable income of every individual.  
16 The tax shall be levied, collected, and paid annually and shall be computed at the  
17 following percentages of the taxpayer's North Carolina taxable income.

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

Over	Up To	Rate
0	<del>\$21,250</del> \$40,000	<del>6%</del> 4.5%
<del>\$21,250</del> \$40,000	\$100,000\$80,000	7% <del>5.5%</del>
<del>\$100,000</del> \$80,000	NA	<del>7.75%</del> 7%

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26 (2) For heads of households, as defined in section 2(b) of the Code:  
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	Over	Up To	Rate
1	0	\$17,000	6%4.5%
2		\$30,000	
3	\$17,000	\$80,000	7%5.5%
4	\$30,000	\$60,000	
5		NA	7.75%7%

(3) For unmarried individuals other than surviving spouses and heads of households:

	Over	Up To	Rate
9	0	\$12,750	6%4.5%
10		\$20,000	
11	\$12,750	\$60,000	7%5.5%
12	\$20,000	\$40,000	
13		NA	7.75%7%

(4) For married individuals who do not file a joint return under G.S. 105-152:

	Over	Up To	Rate
17	0	\$10,625	6%4.5%
18		\$20,000	
19	\$10,625	\$50,000	7%5.5%
20	\$20,000	\$40,000	
21		NA	7.75%7%"

SECTION 3. G.S. 105-134.5 reads as rewritten:

**"§ 105-134.5. North Carolina taxable income defined.**

(a) Residents. – For residents of this State, the term "North Carolina taxable income" means the taxpayer's ~~taxable~~ adjusted gross income as determined under the Code, adjusted as provided in G.S. 105-134.6 and G.S. 105-134.7.

(b) Nonresidents. – For nonresident individuals, the term "North Carolina taxable income" means the taxpayer's ~~taxable~~ adjusted gross income as determined under the Code, adjusted as provided in G.S. 105-134.6 and G.S. 105-134.7, multiplied by a fraction the denominator of which is the taxpayer's gross income as determined under the Code, adjusted as provided in G.S. 105-134.6 and G.S. 105-134.7, and the numerator of which is the amount of that gross income, as adjusted, that is derived from North Carolina sources and is attributable to the ownership of any interest in real or tangible personal property in this State, is derived from a business, trade, profession, or occupation carried on in this State, or is derived from gambling activities in this State.

(c) Part-year Residents. – If an individual was a resident of this State for only part of the taxable year, having moved into or removed from the State during the year, the term "North Carolina taxable income" has the same meaning as in subsection (b) except that the numerator shall include gross income, adjusted as provided in G.S. 105-134.6 and G.S. 105-134.7, derived from all sources during the period the individual was a resident.

(d) S Corporations and Partnerships. – In order to calculate the numerator of the fraction provided in subsection (b), the amount of a shareholder's pro rata share of S Corporation income that is includable in the numerator shall be the shareholder's pro rata share of the S Corporation's income attributable to the State, as defined in

G.S. 105-131(b)(4). In order to calculate the numerator of the fraction provided in subsection (b) for a member of a partnership or other unincorporated business with one or more nonresident members that operates in one or more other states, the amount of the member's distributive share of income of the business that is includable in the numerator shall be determined by multiplying the total net income of the business by the ratio ascertained under the provisions of G.S. 105-130.4. As used in this subsection, total net income means the entire gross income of the business less all expenses, taxes, interest, and other deductions allowable under the Code which were incurred in the operation of the business."

**SECTION 4.** Part 2 of Article 4 of Chapter 105 of the General Statutes is amended by adding a new section to read:

**"§ 105-134.5A. Personal exemption amounts.**

A taxpayer may claim a personal exemption for each person for which the taxpayer may claim a deduction under section 151 of the Code. The amount of the personal exemption varies depending on filing status and North Carolina taxable income computed without respect to this subdivision and is as follows:

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

<u>Income</u>	<u>Exemption Amount</u>
<u>Less than \$40,000</u>	<u>\$2,000</u>
<u>At least \$40,000 but less than \$80,000</u>	<u>\$1,200</u>
<u>At least \$80,000</u>	<u>\$500</u>

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

<u>Income</u>	<u>Exemption Amount</u>
<u>Less than \$30,000</u>	<u>\$2,000</u>
<u>At least \$30,000 but less than \$60,000</u>	<u>\$1,200</u>
<u>At least \$60,000</u>	<u>\$500</u>

- (3) For unmarried individuals other than surviving spouses and heads of households:

<u>Income</u>	<u>Exemption Amount</u>
<u>Less than \$20,000</u>	<u>\$2,000</u>
<u>At least \$20,000 but less than \$40,000</u>	<u>\$1,200</u>
<u>At least \$40,000</u>	<u>\$500</u>

- (4) For married individuals who do not file a joint return under G.S. 105-152:

<u>Income</u>	<u>Exemption Amount</u>
<u>Less than \$20,000</u>	<u>\$2,000</u>
<u>At least \$20,000 but less than \$40,000</u>	<u>\$1,200</u>
<u>At least \$40,000</u>	<u>\$500</u>

**SECTION 5.** G.S. 105-159 reads as rewritten:

**"§ 105-159. Federal corrections.**

If a taxpayer's ~~federal taxable~~adjusted gross income is corrected or otherwise determined by the federal government, the taxpayer must, within six months after being notified of the correction or final determination by the federal government, file an

1 income tax return with the Secretary reflecting the corrected or determined taxable  
2 adjusted gross income. The Secretary shall determine from all available evidence the  
3 taxpayer's correct tax liability for the taxable year. As used in this section, the term "all  
4 available evidence" means evidence of any kind that becomes available to the Secretary  
5 from any source, whether or not the evidence was considered in the federal correction or  
6 determination.

7 The Secretary shall assess and collect any additional tax due from the taxpayer as  
8 provided in Article 9 of this Chapter. The Secretary shall refund any overpayment of tax  
9 as provided in Article 9 of this Chapter. A taxpayer who fails to comply with this  
10 section is subject to the penalties in G.S. 105-236 and forfeits the right to any refund  
11 due by reason of the determination."

12 **SECTION 6.** The Revenue Laws Study Committee shall study issues related  
13 to converting the starting point for determining State taxable income from federal  
14 taxable income to federal adjusted gross income. The Committee shall report on this  
15 study to the 2008 Regular Session of the 2007 General Assembly. The study shall  
16 include all of the following:

- 17 (1) A review of the current deductions and additions to federal taxable  
18 income used in determining State taxable income to identify which of  
19 these deductions or additions are required by federal law or other State  
20 law.
- 21 (2) A review of the current individual income tax credits to determine the  
22 extent to which the tax rates set out in G.S. 105-134.2, as amended by  
23 Section 2 of this act, would need to be adjusted in order to maintain the  
24 current revenue stream if the credits were retained.
- 25 (3) Any other item the Committee finds relevant to this study.

26 **SECTION 7.** Sections 1 through 5 of this act are effective for taxable years  
27 beginning on or after January 1, 2009. The remainder of this act is effective when it  
28 becomes law.