

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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HOUSE BILL 537

Short Title: Relief for Federal Retirees.

(Public)

Sponsors: Representatives Grady, Morgan (Cosponsors); Allred, Baddour, Braswell, Buchanan, Cansler, Capps, Davis, Hurley, Kinney, McAllister, McComas, Morris, Preston, Rayfield, Redwine, Russell, Sexton, Sherrill, Smith, Warner, and Watson.

Referred to: Finance.

March 18, 1997

A BILL TO BE ENTITLED

AN ACT TO PROVIDE RELIEF FOR FEDERAL RETIREES AND THE SURVIVING SPOUSES OF FEDERAL RETIREES.

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

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

3 (b) Credit. – A taxpayer who received federal retirement benefits during the 1985,
4 1986, 1987, or 1988 tax year may claim a credit against the tax imposed by this Division
5 equal to the net pension tax on those benefits. The credit allowed under this section shall
6 be taken in equal installments over the taxpayer's first three taxable years beginning on or
7 after January 1, 1996. The credit allowed under this section may not exceed the amount
8 of tax imposed by this Division reduced by the sum of all credits allowed against the tax,
9 except payments of tax made by or on behalf of the taxpayer. any unused
10 portion of a credit installment may be carried forward to succeeding tax years until the
11 entire installment has been taken.

12 (c) Partial Refund Alternative. – If the amount of tax imposed by this Division on
13 the taxpayer for the taxpayer's 1996 tax year, reduced by the sum of all credits allowed
14 against the tax except payments of tax made by or on behalf of the taxpayer, is less than
15 five percent (5%) of the taxpayer's net pension tax for which credit is allowed, the
16 taxpayer is eligible to elect a partial refund under this subsection in lieu of claiming the
17 credit. The partial refund allowed under this subsection is equal to the lesser of eighty-
18 five percent (85%) of the taxpayer's net pension tax or the reduced amount determined by
19 the Secretary as provided in this subsection. To elect the partial refund, an eligible
20 taxpayer must file with the Secretary on or before April 15, 1997, a written request for a
21 partial refund of the taxpayer's net pension. The Secretary shall calculate from these
22 requests eighty-five percent (85%) of the total amount of net pension tax for which partial
23 refunds have been claimed and, if this sum exceeds the amount in the Federal Retiree
24 Refund Account created in this section, shall allocate the amount in the Account among
25 the eligible taxpayers claiming partial refunds by reducing each taxpayer's claimed refund
26 in proportion to the size of the claimed refund. The Secretary shall remit these partial
27 refunds before January 1, 1998.

28 (d) Substantiation; Deceased Taxpayers. – In order to claim a refund or credit
29 under this section, a taxpayer must provide any information required by the Secretary to
30 establish the taxpayer's eligibility for tax benefit and the amount of the tax benefit. In the
31 case of a taxpayer who is deceased, the representative of the taxpayer's estate may claim
32 the refund ~~or credit~~ in the name of the deceased taxpayer. taxpayer and, if the taxpayer
33 does not qualify for a refund, the surviving spouse may claim the deceased taxpayer's
34 credit. If there is no surviving spouse, the representative of the taxpayer's estate may
35 claim the credit in the name of the taxpayer.

36 (e) Federal Retiree Accounts. – There are created in the Department of Revenue
37 two special accounts to be known as the Federal Retiree Refund Account and the Federal
38 Retiree Administration Account. Funds in the Federal Retiree Refund Account shall be
39 spent only for partial refunds pursuant to subsection (c) of this section. The Department
40 of Revenue may use funds in the Federal Retiree Administration Account only for the
41 costs of administering this section. Funds in the Federal Retiree Refund Account and the
42 Federal Retiree Administration Account shall not revert to the General Fund until the
43 Director of the Budget certifies that the Department of Revenue has completed all duties

1 necessary to implement this section, including processing the escheat of refund checks
2 that have not been cashed."

3 Section 2. Section 2 of Chapter 19 of the Session Laws, Second Extra Session
4 1996, is repealed.

5 Section 3. This act is effective for taxable years beginning on or after January
6 1, 1996.