

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

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HOUSE BILL 941

Short Title: Geithner Tax Fairness for NC Citizens Act. (Public)

Sponsors: Representatives Dockham; Hurley and Starnes.

Referred to: Rules, Calendar, and Operations of the House, if favorable, Finance.

April 1, 2009

A BILL TO BE ENTITLED

AN ACT TO PROVIDE NORTH CAROLINA TAXPAYERS WITH THE SAME TAX
TREATMENT APPLIED TO UNITED STATES TREASURY SECRETARY TIMOTHY
F. GEITHNER BY DISALLOWING PENALTIES WHEN A TAXPAYER OWES LESS
THAN FIFTY THOUSAND DOLLARS OF INCOME TAXES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 105-236(a) reads as rewritten:

"§ 105-236. **Penalties; situs of violations; penalty disposition.**

(a) Penalties. – The following civil penalties and criminal offenses apply:

- ...
- (3) Failure to File Return. – In case of failure to file any return on the date it is due, determined with regard to any extension of time for filing, the Secretary shall assess a penalty equal to five percent (5%) of the amount of the tax if the failure is for not more than one month, with an additional five percent (5%) for each additional month, or fraction thereof, during which the failure continues, not exceeding twenty-five percent (25%) in the aggregate, or five dollars (\$5.00), whichever is the greater. This penalty does not apply when the amount of tax due is less than fifty thousand dollars (\$50,000) and the taxpayer is an individual.
- (4) Failure to Pay Tax When Due. – In the case of failure to pay any tax when due, without intent to evade the tax, the Secretary shall assess a penalty equal to ten percent (10%) of the tax, subject to a minimum of five dollars (\$5.00). This penalty does not apply in any of the following circumstances:
- a. When the amount of tax shown as due on an amended return is paid when the return is filed.
- b. When the Secretary proposes an assessment for tax due but not shown on a return and the tax due is paid within 45 days after the date of the notice of proposed assessment of the tax.
- c. When the amount of tax due is less than fifty thousand dollars (\$50,000) and the taxpayer is an individual.
- (5) Negligence. –
- a. Finding of negligence. – For negligent failure to comply with any of the provisions to which this Article applies, or rules issued pursuant thereto, without intent to defraud, the Secretary shall assess a penalty equal to ten percent (10%) of the deficiency due to the ~~negligence.~~ negligence, but only if the amount of tax due is fifty thousand dollars (\$50,000) or greater and the taxpayer is not an individual.



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1 b. Large individual income tax deficiency. – In the case of individual
2 income tax, if a taxpayer understates taxable income, by any means,
3 by an amount equal to twenty-five percent (25%) or more of gross
4 income, the Secretary shall assess a penalty equal to twenty-five
5 percent (25%) of the ~~deficiency~~. deficiency, but only if the amount of
6 tax due is fifty thousand dollars (\$50,000) or greater. For purposes of
7 this subdivision, "gross income" means gross income as defined in
8 section 61 of the Code.

9 "

10 **SECTION 3.** This act is effective for taxable years beginning on or after January 1,
11 2009, and expires for taxable years beginning on or after January 1, 2013.