

March 6, 2001

S 353. DOR DEBT COLLECTION CHANGES. TO PROVIDE A PERMANENT MECHANISM FOR THE COLLECTION OF OUT-OF-STATE TAX DEBTS AND TO MODIFY THE FEE FOR FEDERAL SETOFF OF STATE TAX DEBTS. Codifies Sec. 5(a) of SL 1999-341, as amended by Sec. 16 of SL 2000-120 as GS 105-268.3 and amends the provision to provide that the Sec'y of Revenue shall contract for the collection of delinquent tax debts owned by nonresidents and foreign entities. Defines "delinquent tax debts." Adds a requirement providing that a collection assistance fee shall be imposed on each debt collected and that the Dep't must set the amount of the fee based on its actual cost of collection. Provides that before the Dep't submits a delinquent tax for collection, it must notify the taxpayer that the debt will be submitted for collection if payment is not received. Amends Sec. 6 of SL 1999-341, as amended by Sec. 17 of SL 2000-120 to provide that to implement the recommendations of the study required by the section, the Sec'y may enter into a performance-based contract and may withhold from collections under Art. 4 of GS Ch. 105 in the 2001-03 biennium the amount needed to obtain assistance in developing a request for proposal for the performance based contract. Amends GS 105A-13(b) to provide that the amount of the collection assistance fee applying to a setoff made by the Dep't of Treasury to recover tax owed to NC shall be the amount the U.S. Dep't of Treasury charges for setoff, plus \$5 to cover administrative costs of the Dep't of Revenue. Effective July 1, 2001.

Intro. by Kerr.

Ref. to Finance

GS 105

March 15, 2001

S 353. DOR DEBT COLLECTION CHANGES. Intro. 3/6/01. Senate committee substitute makes the following changes to 1st edition. Provides that Sec'y of Revenue may (was, shall) contract for the collection of delinquent tax debts. Sets amount of collection assistance fee at the amount the contractor charges Dep't of Revenue for its services. Permits dep't to recover initial costs associated with collecting tax debts under act by withholding from collections the costs of modifying Dep't database to conform to contractor's requirements.

April 25, 2001

S 353. DOR DEBT COLLECTION CHANGES. Intro. 3/6/01. Senate committee substitute makes the following changes to 2nd edition. Changes title to *AN ACT TO PROVIDE A PERMANENT MECHANISM FOR THE COLLECTION OF TAX DEBTS*. Rewrites proposed new GS 105-243.1. Adds definitions of "tax debt" and "overdue tax debt." Requires Dep't of Revenue to notify taxpayer before submitting tax debt to a contractor for collection. Imposes collection assistance fee of 20 percent of the amount of overdue tax debts that remain unpaid 30 days after notice is mailed. Makes additional technical and conforming amendments.

April 26, 2001

S 353. DOR DEBT COLLECTION CHANGES. Intro. 3/6/01. Senate amendment makes the following changes to 3rd edition. Provides that fee for collection assistance to be applied to costs of collecting overdue tax debts and proceeds must be credited to a non-reverting special account and expended only pursuant to an appropriation by the General Assembly. Requires Dep't to report quarterly beginning Nov. 1, 2001, to Joint Legislative Comm'n on Governmental Operations and Revenue Law Study Committee regarding efforts to collect tax debts. Authorizes Dep't of Revenue to use funds available for 2000-2001 fiscal year to cover costs of modifying database to conform to requirements of private collection contractors and to obtain assistance in developing request for proposals for performance-based contract to implement recommendation of study authorized in Sec. 6 of SL 1999-341.

April 30, 2001

S 353. DOR DEBT COLLECTION CHANGES. Intro. 3/6/01. House amendment makes the following changes to 3rd edition. In new GS 105-243.1 the bill creates a new collection assistance fee on overdue tax debt. An amendment adopted 4/26/01 provides that the proceeds of that fee must be credited to a special account and may be expended only as appropriated by

the General Assembly. Today's amendment further revises the new statute to provide that the proceeds of the fee may be used to pay contractors for collecting tax debts under the new statute and to pay the fee the US Dep't of the Treasury charges for setoffs to recover taxes owed to North Carolina. The remaining proceeds then may be expended only as appropriated by the General Assembly.

May 17, 2001

S 353. DOR DEBT COLLECTION CHANGES. Intro. 3/06/01. House committee substitute makes the following changes to 4th edition. Modifies sec. 1 of prior edition (adding new section GS 105-243.1) by changing 105-243.1(c) to provide that (1) if the Dep't collects only part of an overdue tax debt, the amount collected is allocated proportionally between the collection assistance fee and the tax debt, (2) the Dep't may use fee receipts to establish up to 100 positions for personnel that collect and support the collection of overdue tax debts, and (3) the fee proceeds do not revert but remain available for the costs of collecting overdue tax debts. Replaces sec. 5 of prior edition with provision that amends Sec. 5(a) of S.L. 1999-341, as amended by Sec. 16 of S.L. 2000-120 to provide that for the 2001-2002 fiscal years, the Sec'y may retain implementation costs from the amount collected pursuant to authorized contracts. Adds a new sec. 6 to prior edition providing that the Office of State Budget, Planning and Management shall cooperate with the Dep't of Revenue to facilitate implementation of collection efforts with respect to overdue tax debts pursuant to the act during the 2001-2002 fiscal year. Makes technical changes.

June 19, 2001

S 353. DOR DEBT COLLECTION CHANGES. Intro. 3/06/01. House committee substitute makes the following changes to 6th edition. Makes technical changes only.

June 20, 2001

S 353. DOR DEBT COLLECTION CHANGES. Intro. 3/6/01. House amendments make the following changes to 6th edition: (1) add new GS 105-241.2(b3) and amend GS 105-267, effective with respect to taxable years beginning after Dec. 31, 2001, to provide that the Tax Review Board must award costs, including attorneys' fees, to a taxpayer if the Board finds that the taxpayer is the prevailing party and that the Sec'y was not substantially justified in the position asserted and to provide that a taxpayer is the prevailing party if the taxpayer substantially prevailed with respect to the amount in controversy or with respect to the most significant issue or set of issues presented; (2) exempt from the definition of "overdue tax debt" a tax debt if either the taxpayer entered into an installment agreement for the tax debt under GS 105-237 within 90 days after the notice of final assessment was mailed and has not failed to make any payments due under the agreement OR if a notice of tax garnishment of the tax debt was served under GS 105-242(b) within 90 days after the notice of final assessment was mailed and the tax debt is being paid pursuant to a resulting agreement or judgment for garnishment; and (3) allow the Sec'y of Revenue to waive the collection assistance fee under GS 105-237 to the same extent as if it were a penalty.

June 21, 2001

S 353. DOR DEBT COLLECTION CHANGES. Intro. 3/6/01. House amendments make the following changes to 6th edition. Add provision making it a Class I felony for a contractor to disclose to any person any tax information received from the Dep't of Revenue for the collection of tax debts. Provide that contracts for the collection of tax debts are subject to the competitive bid process on a regional basis and may only be awarded to contractors who practice a code of ethics as approved by the Sec'y of Revenue. Amend definition of "overdue tax bill" to clarify that the provisions of the act apply only to those taxpayers for whom the Dep't has exhausted all other available collection remedies.

August 2, 2001

S 353. DOR DEBT COLLECTION CHANGES. Intro. 3/6/01. Conference report recommends the following changes to 7th edition to reconcile matters in controversy. Deletes from the definition of "overdue tax debt" the provision that excluded a debt from the definition if a notice of garnishment

was served under GS 105-242(b) within 90 days after the notice of final assessment was mailed and the tax debt is being paid pursuant to a resulting garnishment agreement or judgment. Deletes requirement that outsourcing contracts be awarded by the competitive bid process on a regional basis only to contractors who practice a code of ethics as approved by the Sec'y of Revenue and, effective Oct. 1, 2003, limits debts to be collected by this method to those owed by nonresidents and foreign entities. Rewrites definition of "secrecy" to provide that a contractor to whom the Dep't has submitted tax debts for collection must not disclose tax information to any person for any purpose, and makes violation of the provision a Class I felony. Adds requirement that required reports include a long-term collection plan, a timeline for implementing the plan, a summary of steps taken and their results, and any data requested by the Comm'n or the Committee. Deletes proposed amendments to GS 105-241.2 and GS 105-267, which provided for awards of prevailing taxpayer's costs and attorney fees. Adds provision, effective July 1, 2001, that Dep't of Revenue may draw up to \$500,000 for 2001-2002 from the collection assistance fee account to pay for assistance in developing a request for proposals for a performance-based contract to implement certain study recommendations relating to the collection of overdue tax debts. Makes the deletion of the federal collection assistance fee provision effective Nov. 1, 2001. Except as specified otherwise, remainder of the act is effective upon becoming law and applies to tax debts that remain unpaid on or after that date.