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SENATE BILL 490*
Finance Committee Substitute Adopted 5/7/13
House Committee Substitute Favorable 6/19/13

Short Title: Exclude Custom Software from Property Tax.   (Public)

Sponsors:

Referred to:

March 28, 2013

1	A BILL TO BE ENTITLED
2	AN ACT TO EXCLUDE CUSTOM SOFTWARE FROM PROPERTY TAX.
3	The General Assembly of North Carolina enacts:
4	**SECTION 1.** G.S. 105-275(40) reads as rewritten:
5	"**§ 105-275. Property classified and excluded from the tax base.**
6	The following classes of property are designated special classes under Article V, Sec. 2(2),
7	of the North Carolina Constitution and are excluded from tax:
8	…
9	(40) Computer software and any documentation related to the computer software.
10	As used in this subdivision, the term "computer software" means any
11	program or routine used to cause a computer to perform a specific task or set
12	of tasks. The term includes system and application programs and database
13	storage and management programs.
14	The exclusion established by this subdivision does not apply to computer
15	software and its related documentation if the computer software meets one
16	or more of the following descriptions:
17	a. It is embedded software. "Embedded software" means computer
18	instructions, known as microcode, that reside permanently in the
19	internal memory of a computer system or other equipment and are
20	not intended to be removed without terminating the operation of the
21	computer system or equipment and removing a computer chip, a
22	circuit, or another mechanical device.
23	b. It is purchased or licensed from a person who is unrelated to the
24	taxpayer and it is capitalized on the books of the taxpayer in
25	accordance with generally accepted accounting principles, including
26	financial accounting standards issued by the Financial Accounting
27	Standards Board. A person is unrelated to a taxpayer if (i) the
28	taxpayer and the person are not subject to any common ownership,
29	either directly or indirectly, and (ii) neither the taxpayer nor the
30	person has any ownership interest, either directly or indirectly, in the
31	other. The foregoing does not include development of software or
32	any modifications to software, whether done internally by the
33	taxpayer or externally by a third party, to meet the customer's
34	specified needs.

1   This subdivision does not affect the value or taxable status of any property
2   that is otherwise subject to taxation under this Subchapter.
3   The provisions of the exclusion established by this subdivision are not
4   severable. If any provision of this subdivision or its application is held
5   invalid, the entire subdivision is repealed.
6   …."
7   **SECTION 2.** Section 1 of this act shall not be construed to affect the interpretation
8   of any statute that is the subject of litigation pending as of the effective date of this act in the
9   General Court of Justice or to affect any other aspect of such pending litigation.
10   **SECTION 3.** Section 1 of this act is effective for taxes imposed for taxable years
11   beginning on or after July 1, 2014. The remainder of this act is effective when it becomes law.