# GENERAL ASSEMBLY OF NORTH CAROLINA <br> SESSION 2013 

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SENATE BILL 523
PROPOSED COMMITTEE SUBSTITUTE S523-PCS75322-TDx-21
Short Title: Late Filing Penalty.
(Public)
Sponsors:
Referred to:
April 1, 2013

## A BILL TO BE ENTITLED AN ACT TO CLARIFY AND AMEND THE PENALTIES FOR A TAXPAYER'S FAILURE TO FILE A RETURN.

The General Assembly of North Carolina enacts:
SECTION 1. G.S. 105-236(a)(3) 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 the following:
a. For personal income tax imposed under Part 2 of Article 4 of this Chapter, the penalty is one hundred dollars (\$100.00).
b. For all other taxes, the penalty is 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-aggregate.
...."
SECTION 2. G.S. 105-236(a), as amended by Section 1 of this act, reads as rewritten:
"§ 105-236. Penalties; situs of violations; penalty disposition.
(a) Penalties. - The following civil penalties and criminal offenses apply:
(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).tax. 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 later of the following:


1. The date of the notice of proposed assessment of the tax, if the taxpayer does not file a timely request for a Departmental review of the proposed assessment.
2. The date the proposed assessment becomes collectible under one of the circumstances listed in G.S. 105-241.22(3) through (6), if the taxpayer files a timely request for a Departmental review of the proposed assessment.
c. When a taxpayer timely files a consolidated or combined return at the request of the Secretary under Part 1 of Article 4 of this Chapter and the tax due is paid within 45 days after the latest of the following:
3. The date the return is filed.
4. The date of a notice of proposed assessment based on the return, if the taxpayer does not file a timely request for a Departmental review of the proposed assessment.
5. The date the Departmental review of the proposed assessment ends as a result of the occurrence of one of the actions listed in G.S. 105-241.22(3) through (6), if the taxpayer files a timely request for a Departmental review.

SECTION 3. Section 2.18 of S.L. 2012-79 is repealed.
SECTION 4. Sections 1 and 2 of this act are effective for penalties assessed on or after October 1, 2013. The remainder of this act is effective when it becomes law.

