

N.C.P.I.—Crim 259.51
WILLFUL FAILURE TO [COLLECT] [WITHHOLD] [PAY OVER] TAX.
MISDEMEANOR.
CRIMINAL VOLUME
REPLACEMENT JUNE 2016
N.C. Gen. Stat. § 105-236 (a)(8)

259.51 WILLFUL FAILURE TO [COLLECT] [WITHHOLD] [PAY OVER] TAX.
MISDEMEANOR.

The defendant has been charged with the willful failure to [[collect] [withhold] [account for] a tax]] [pay collected taxes] for (*describe time period*).¹

For you to find the defendant guilty of this offense, the State must prove three things beyond a reasonable doubt:

First, that the defendant was required to [[collect] [withhold] [account for] a tax]] [pay collected taxes] for (*describe time period*);

Second, that the defendant willfully² failed to [[collect] [withhold] [truthfully account for] a tax]].

And Third, that the defendant failed to pay these collected taxes.

If you find from the evidence beyond a reasonable doubt that on or about the alleged date the defendant was required to [[collect] [withhold] [account for] a tax] [pay collected taxes] for (*describe time period*), that the defendant willfully failed to [[collect] [truthfully account for] a tax], and that defendant failed to pay these collected taxes, it would be your duty to return a verdict of guilty. If you do not so find or have a reasonable doubt as to one or more of these things, then it would be your duty to return a verdict of not guilty.

1 N.C. Gen. Stat. § 105-236(a)(8) states "Notwithstanding any other provision of law, no prosecution for a violation brought under this subdivision shall be barred before the expiration of six years after the date of the violation."

2 To act willfully in this context is "a voluntary, intentional violation of a known legal duty." See *Cheek v. United States*, 498 U.S. 192, 200, 111 S. Ct. 604, 610, 112 L. Ed. 2d 617, 629 (1991).

