

GENERAL ASSEMBLY OF NORTH CAROLINA
1989 SESSION

CHAPTER 7
HOUSE BILL 58

AN ACT TO MAKE CONFORMING CHANGES TO THE MOTOR CARRIER FUEL USE TAX SO THAT A UNIFORM TAX REPORTING FORM MAY BE ADOPTED.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-449.37 reads as rewritten:

"§ 105-449.37. Definitions; tax liability.

- (a) As used in this Article unless the context clearly requires otherwise:
- (1) 'Motor carrier' means every person, firm, or corporation who operates or causes to be operated on any highway in this State a passenger motor vehicle used, designed, or maintained for transportation of persons or property and (i) having two axles and a gross vehicle weight or registered gross vehicle weight exceeding 26,000 pounds, (ii) having three or more axles regardless of weight, or (iii) used in combination when the weight of the combination exceeds 26,000 pounds gross vehicle weight. ~~with seating capacity for more than 20 passengers, a road tractor, a tractor truck, or a truck with more than two axles.~~ The term does not include the United States, the State or its political subdivisions, operators of special mobile equipment as defined in G.S. 20-4.01(44), or nonprofit religious, educational, ~~charitable-charitable~~, or benevolent organizations;
 - (1a) 'Motor vehicle' means motor vehicle as defined in G.S. 20-4.01(23) except that the term does not include recreational vehicles;
 - (2) 'Operations' means operations of all vehicles described in subdivision (1), whether loaded or empty and whether or not operated for compensation; and
 - (3) 'Secretary' means the Secretary of Revenue.

(b) A motor carrier who operates on one or more days of a quarter is liable for the tax imposed by this Article for that quarter and is entitled to the credits allowed for that quarter."

Sec. 2. G.S. 105-449.39 reads as rewritten:

"§ 105-449.39. Credit for payment of motor fuel tax.

Every motor carrier subject to the tax levied by this Article is entitled to a credit for tax paid on fuel purchased in the State. The credit shall be allowed at a rate equal to fourteen cents (14¢) per gallon plus the wholesale cents-per-gallon rate of tax in effect during the quarter for which the credit is claimed. Evidence of the payment of such tax

in such form as may be required by, or is satisfactory to, the Secretary shall be furnished by each such carrier claiming the credit herein allowed. When the amount of the credit herein provided to which any motor carrier is entitled for any quarter exceeds the amount of the tax for which such carrier is liable for the same quarter, such excess may under regulations of the Secretary be allowed as a credit on the tax for which such carrier would be otherwise liable for another quarter or quarters; or upon application ~~within 180 days from the end of any quarter, duly verified and presented,~~ presented in accordance with regulations promulgated by the Secretary and supported by such evidence as may be satisfactory to the Secretary, such excess may be refunded to said motor carrier.

Unless the Secretary of Revenue exercises his discretion as hereinafter provided, or as provided in G.S. 105-449.40, he shall allow such refund only after an audit of the applicant's records. However, he may, in his sole discretion, make refunds without prior audit or without having been furnished a bond pursuant to G.S. 105-449.40 if the motor carrier has complied with the provisions of this Subchapter and rules and regulations promulgated thereunder for a period of one full prior registration year."

Sec. 3. This act does not affect the rights or liabilities of the State, a taxpayer, or other person arising under a statute amended or repealed by this act before its amendment or repeal; nor does it affect the right to any refund or credit of a tax that would otherwise have been available under the amended or repealed statute before its amendment or repeal.

Sec. 4. This act shall become effective January 1, 1990.

In the General Assembly read three times and ratified this the 7th day of March, 1989.