

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

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SENATE BILL 20
Finance Committee Substitute Adopted 2/10/15
Third Edition Engrossed 2/12/15
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Short Title: IRC Update/Motor Fuel Tax Changes.

(Public)

Sponsors:

Referred to:

February 4, 2015

A BILL TO BE ENTITLED

AN ACT TO UPDATE THE REFERENCE TO THE INTERNAL REVENUE CODE, TO
DECOUPLE FROM CERTAIN PROVISIONS OF THE FEDERAL TAX INCREASE
PREVENTION ACT OF 2014, TO MODIFY THE MOTOR FUELS TAX RATE, AND
TO MAKE CERTAIN REDUCTIONS WITHIN THE DEPARTMENT OF
TRANSPORTATION FOR THE 2014-2015 FISCAL YEAR.

The General Assembly of North Carolina enacts:

PART I. IRC UPDATE

SECTION 1.1. G.S. 105-228.90(b)(1b) reads as rewritten:

"(1b) Code. – The Internal Revenue Code as enacted as of ~~December 31, 2013,~~
January 1, 2015, including any provisions enacted as of that date that
become effective either before or after that date."

SECTION 1.2.(a) G.S. 105-130.5B(c) reads as rewritten:

**"§ 105-130.5B. Adjustments when State decouples from federal accelerated depreciation
and expensing.**

...

(c) Section 179 Expense. – For purposes of this subdivision, the definition of section
179 property has the same meaning as under section 179 of the Code as of ~~January 2, 2013.~~
January 1, 2015. A taxpayer who places section 179 property in service during a taxable year
listed in the table below must add to the taxpayer's federal taxable income eighty-five percent
(85%) of the amount by which the taxpayer's expense deduction under section 179 of the Code
exceeds the dollar and investment limitation listed in the table below for the taxable year.

A taxpayer is allowed to deduct twenty percent (20%) of the add-back in each of the first
five taxable years following the year the taxpayer is required to include the add-back in income.

Taxable Year of 85% Add-Back	Dollar Limitation	Investment Limitation
2010	\$250,000	\$800,000
2011	\$250,000	\$800,000
2012	\$250,000	\$800,000
2013	\$25,000	\$200,000
<u>2014</u>	<u>\$25,000</u>	<u>\$200,000"</u>

SECTION 1.2.(b) G.S. 105-153.6(c) reads as rewritten:



1 **"§ 105-153.6. Adjustments when State decouples from federal accelerated depreciation**
 2 **and expensing.**

3 ...
 4 (c) Section 179 Expense. – For purposes of this subdivision, the definition of section
 5 179 property has the same meaning as under section 179 of the Code as of ~~January 2, 2013.~~
 6 January 1, 2015. A taxpayer who places section 179 property in service during a taxable year
 7 listed in the table below must add to the taxpayer's federal taxable income or adjusted gross
 8 income, as appropriate, eighty-five percent (85%) of the amount by which the taxpayer's
 9 expense deduction under section 179 of the Code exceeds the dollar and investment limitation
 10 listed in the table below for that taxable year. For taxable years before 2012, the taxpayer must
 11 add the amount to the taxpayer's federal taxable income. For taxable year 2012 and after, the
 12 taxpayer must add the amount to the taxpayer's adjusted gross income.

13 A taxpayer is allowed to deduct twenty percent (20%) of the add-back in each of the first
 14 five taxable years following the year the taxpayer is required to include the add-back in income.

15 Taxable Year of	Dollar Limitation	Investment Limitation
16 85% Add-Back		
17 2010	\$250,000	\$800,000
18 2011	\$250,000	\$800,000
19 2012	\$250,000	\$800,000
20 2013	\$25,000	\$200,000
21 <u>2014</u>	<u>\$25,000</u>	<u>\$200,000"</u>

22 **SECTION 1.3.** G.S. 105-153.5 reads as rewritten:

23 **"§ 105-153.5. Modifications to adjusted gross income.**

24 (a) Deduction Amount. – In calculating North Carolina taxable income, a taxpayer may
 25 deduct from adjusted gross income either the standard deduction amount provided in
 26 subdivision (1) of this subsection or the itemized deduction amount provided in subdivision (2)
 27 of this subsection that the taxpayer claimed under the Code. The deduction amounts are as
 28 follows:

- 29 (1) Standard deduction amount. – The standard deduction amount is zero for a
 30 person who is not eligible for a standard deduction under section 63 of the
 31 Code. For all other taxpayers, the standard deduction amount is equal to the
 32 amount listed in the table below based on the taxpayer's filing status:

33 Filing Status	Standard Deduction
34 Married, filing jointly	\$15,000
35 Head of Household	12,000
36 Single	7,500
37 Married, filing separately	7,500.

- 38 (2) Itemized deduction amount. – An amount equal to the sum of the items listed
 39 in this subdivision. The amounts allowed under this subdivision are not
 40 subject to the overall limitation on itemized deductions under section 68 of
 41 the Code:

- 42 a. The amount allowed as a deduction for charitable contributions under
 43 section 170 of the Code for that taxable year.
 44 b. The amount allowed as a deduction for interest paid or accrued
 45 during the taxable year under section 163(h) of the Code with respect
 46 to any qualified residence plus the amount claimed by the taxpayer as
 47 a deduction for property taxes paid or accrued on real estate under
 48 section 164 of the Code for that taxable year. For taxable year 2014,
 49 the amount allowed as a deduction for interest paid or accrued during
 50 the taxable year under section 163(h) of the Code with respect to any
 51 qualified residence shall not include the amount for mortgage

1 insurance premiums treated as qualified residence interest. The
2 amount allowed under this sub-subdivision may not exceed twenty
3 thousand dollars (\$20,000). For spouses filing as married filing
4 separately or married filing jointly, the total mortgage interest and
5 real estate taxes claimed by both spouses combined may not exceed
6 twenty thousand dollars (\$20,000). For spouses filing as married
7 filing separately with a joint obligation for mortgage interest and real
8 estate taxes, the deduction for these items is allowable to the spouse
9 who actually paid them. If the amount of the mortgage interest and
10 real estate taxes paid by both spouses exceeds twenty thousand
11 dollars (\$20,000), these deductions must be prorated based on the
12 percentage paid by each spouse. For joint obligations paid from joint
13 accounts, the proration is based on the income reported by each
14 spouse for that taxable year.

15 ...
16 (d) Decoupling Adjustments. – In calculating North Carolina taxable income, a
17 taxpayer must add to the taxpayer's adjusted gross income any of the following items that are
18 not included in the taxpayer's adjusted gross income:

19 ~~(d)~~(e) S Corporations. – Each shareholder's pro rata share of an S Corporation's income is
20 subject to the adjustments provided in this section and in G.S. 105-153.6."

21 **SECTION 1.4.** This Part is effective when this act becomes law. Notwithstanding
22 Section 1 of this act, any amendments to the Internal Revenue Code enacted after December
23 31, 2013, that increase North Carolina taxable income for the 2014 taxable year are effective
24 for taxable years beginning on or after January 1, 2015.

25 **PART II. MOTOR FUEL TAX CHANGES**

26 **SECTION 2.1.** Effective April 1, 2015, and notwithstanding G.S. 105-449.80, the
27 motor fuel excise tax rate is thirty-six cents (36¢) a gallon.

28 **SECTION 2.2.** G.S. 105-449.80(a) reads as rewritten:

29 "(a) Rate. – The motor fuel excise tax rate is a flat rate of seventeen and one-half cents
30 (17 1/2¢) a gallon plus a variable wholesale component. The variable wholesale component is
31 either three and one-half cents (3 1/2¢) a gallon or seven percent (7%) of the average wholesale
32 price of motor fuel for the applicable base period, whichever is greater.

33 ~~The two base periods are six-month periods; one ends on September 30 and one ends on~~
34 ~~March 31. period is a twelve-month period ending September 30. The Secretary must set the~~
35 ~~tax rate twice for a year based on the wholesale price for each base period. A tax rate set by the~~
36 ~~Secretary using information for the base period that ends on September 30 applies to the~~
37 ~~six-month period calendar year that begins the following January 1. A tax rate set by the~~
38 ~~Secretary using information for the base period that ends on March 31 applies to the six-month~~
39 ~~period that begins the following July 1."~~

40 **SECTION 2.3.** G.S. 105-449.107(c) reads as rewritten:

41 "(c) Sales Tax Amount. – Article 5 of Subchapter I of this Chapter determines the
42 amount of State sales and use tax to be deducted under this section from a motor fuel excise tax
43 refund. Articles 39, 40, and 42 of Subchapter VIII of this Chapter and the Mecklenburg First
44 1% Sales Tax Act determine the amount of local sales and use tax to be deducted under this
45 section from a motor fuel excise tax refund. The sales price and the cost price of motor fuel to
46 be used in determining the amount to deduct is the average of the wholesale prices used under
47 G.S. 105-449.80 to determine the excise tax rates rate in effect for the ~~two six-month periods of~~
48 ~~the calendar year for which the refund is claimed."~~

49 **SECTION 2.4.(a)** Section 4.1 of S.L. 2014-100 reads as rewritten:
50

"SECTION 4.1. Appropriations from the State Highway Trust Fund for the maintenance and operation of the Department of Transportation and for other purposes as enumerated are adjusted for the fiscal year ending June 30, 2015, according to the following schedule. Amounts set out in parentheses are reductions from Highway Trust Fund Appropriations for the 2014-2015 fiscal year.

Current Operations – Highway Trust Fund **2014-2015**

Program Administration	(\$11,000,000)
Aid to Municipalities	0
Intrastate	0
Secondary Roads	0
Urban Loops	0
Mobility Fund	0
Turnpike Authority	0
Transfer to General Fund	0
Transfer to Highway Fund	0
Debt Service	0
Strategic Prioritization Funding Plan for Transportation Investments	<u>67,993,140</u> <u>64,643,140</u>

Total Highway Trust Fund Appropriations **\$ 1,162,393,140 1,159,043,140**

SECTION 2.4.(b) Section 4.2 of S.L. 2014-100 reads as rewritten:

"SECTION 4.2. Section 4.2 of S.L. 2013-360 is repealed. The Highway Trust Fund availability used in developing the 2014-2015 fiscal year budget is shown below:

Highway Trust Fund Availability Statement **2014-2015**

Unreserved Fund Balance	\$ 0
Estimated Revenue	<u>1,162,370,000</u> <u>1,159,020,000</u>
Adjustment to Revenue Availability:	
Motor Fuel Tax Refund Repeal (Taxi Cabs)	23,140

Total Highway Trust Fund Availability **\$ 1,162,393,140 1,159,043,140**

Unappropriated Balance \$ 0"

SECTION 2.4.(c) Section 3.1 of S.L. 2014-100 reads as rewritten:

"SECTION 3.1. Appropriations from the State Highway Fund for the maintenance and operation of the Department of Transportation and for other purposes as enumerated are adjusted for the fiscal year ending June 30, 2015, according to the following schedule. Amounts set out in parentheses are reductions from Highway Fund Appropriations for the 2014-2015 fiscal year.

Current Operations – Highway Fund **2014-2015**

Department of Transportation	
Administration	\$ 1,949,344
Division of Highways	
Administration	0
Construction	0
Maintenance	53,407,586

1	Planning and Research	0
2	OSHA Program	(7,307)
3		
4	Ferry Operations	(1,542,317)
5		
6	State Aid to Municipalities	9,453,990
7		
8	Intermodal Divisions	
9	Public Transportation	0
10	Aviation	(800,000)
11	Rail	(960,325)
12	Bicycle and Pedestrian	(30,043)
13		
14	Governor's Highway Safety	(5,699)
15		
16	Division of Motor Vehicles	(988,255)
17		
18	Other State Agencies, Reserves, Transfers	7,354,812
19		
20	Capital Improvements	0
21		
22	<u>Reductions Made Pursuant to Senate Bill 20:</u>	
23	<u>"IRC Update/Motor Fuel Tax Changes," 2015 Regular Session</u>	<u>(10,050,000)</u>
24		

25 **Total Highway Fund Appropriations** ~~\$1,984,142,286~~ **\$1,974,092,286"**

26 **SECTION 2.4.(d)** Section 3.2 of S.L. 2014-100 reads as rewritten:

27 **"SECTION 3.2.** Section 3.2 of S.L. 2013-360 is repealed. The Highway Fund availability
 28 used in adjusting the 2014-2015 fiscal year budget is shown below:

30	Highway Fund Availability Statement	2014-2015
31		
32	Unreserved Fund Balance	\$ 12,000,000
33	Estimated Revenue	1,973,750,000
34	Adjustment to Revenue Availability:	
35	Motor Fuel Tax (Shallow Draft Navigation Channel Dredging Fund)	(1,677,134)
36	Motor Fuel Tax Refund Repeal (Taxi Cabs)	69,420
37	<u>Reductions Made Pursuant to Senate Bill 20:</u>	
38	<u>"IRC Update/Motor Fuel Tax Changes," 2015 Regular Session</u>	<u>(10,050,000)</u>
39	Revised Total Highway Fund Availability	\$1,984,142,286 \$1,974,092,286

40

41 **Unappropriated Balance** \$ **0"**

42 **SECTION 2.4.(e)** For the 2014-2015 fiscal year, appropriations to each certified
 43 fund code within the Highway Fund are hereby reduced by one and two-fifths percent (1 2/5%),
 44 which shall amount to a total reduction of five million nine hundred eight thousand one
 45 hundred twenty-one dollars (\$5,908,121). In making the reductions required by this subsection,
 46 the following fund codes shall not be reduced:

- 47 (1) 84210-0852
- 48 (2) 84210-0862
- 49 (3) 84210-0864
- 50 (4) 84210-0865
- 51 (5) 84210-0867

1	(6)	84210-0868
2	(7)	84210-0871
3	(8)	84210-0873
4	(9)	84210-0877
5	(10)	84210-0878
6	(11)	84210-0881
7	(12)	84210-0882
8	(13)	84210-0885
9	(14)	84210-0889
10	(15)	84210-0892
11	(16)	84210-0893
12	(17)	84210-0933
13	(18)	84210-0934
14	(19)	84210-0935
15	(20)	84210-0937
16	(21)	84210-1165
17	(22)	84210-1260
18	(23)	84210-7040
19	(24)	84210-7615
20	(25)	84210-7818
21	(26)	84210-7821
22	(27)	84210-7822
23	(28)	84210-7824
24	(29)	84210-7825
25	(30)	84210-7826
26	(31)	84210-7827
27	(32)	84210-7828
28	(33)	84210-7834
29	(34)	84210-7836
30	(35)	84210-7839
31	(36)	84210-7841

32 **SECTION 2.4.(f)** For the 2014-2015 fiscal year, appropriations to each of the
33 following certified fund codes within the Highway Fund are hereby reduced by one-half
34 percent (1/2%), which shall amount to a total reduction of two million three hundred
35 seventy-nine thousand nine hundred ninety-four dollars (\$2,379,994):

36	(1)	84210-7821
37	(2)	84210-7822
38	(3)	84210-7841

39 **SECTION 2.4.(g)** For the 2014-2015 fiscal year, and notwithstanding any
40 provision of law to the contrary, the Director of the Budget and the Secretary of Revenue shall
41 make the following reductions:

- | | | |
|----|-----|--|
| 42 | (1) | One million forty-five thousand two hundred dollars (\$1,045,200) to the |
| 43 | | total amount of funds appropriated pursuant to G.S. 136-41.1. |
| 44 | (2) | Sixteen thousand seven hundred fifty dollars (\$16,750) to the total amount of |
| 45 | | funds credited to the Wildlife Resources Fund pursuant to G.S. 105-449.126. |
| 46 | (3) | Sixteen thousand seven hundred fifty dollars (\$16,750) to the total amount of |
| 47 | | funds credited to the Shallow Draft Navigation Channel and Lake Dredging |
| 48 | | Fund pursuant to G.S. 105-449.126. |

49 **SECTION 2.4.(h)** The Secretary of the Department of Transportation shall
50 eliminate a minimum of 40 vacant positions within the Department of Transportation to
51 achieve a total reduction of six hundred eighty-three thousand one hundred eighty-five dollars

1 (\$683,185). The Secretary of the Department of Transportation may use lapsed salaries to meet
2 the reduction required under this subsection.

3 **SECTION 2.4.(i)** Notwithstanding any provision of law to the contrary, the total
4 amount of funds generated by the reductions in this act shall be used to support the
5 maintenance and operation of the Department of Transportation and for other purposes as
6 enumerated for the Department of Transportation in S.L. 2014-100. To the extent any of the
7 funds generated by the reductions in this act are deemed unappropriated, these funds are hereby
8 appropriated. The Director of the Budget shall modify the certified budget to reflect the
9 reductions to appropriations made in this act.

10 **SECTION 2.5.** Sections 2.2 and 2.3 of this act become effective January 1, 2016.
11 Except as otherwise provided, this act is effective when it becomes law. Section 2.1 of this act
12 expires January 1, 2016.

13
14 **PART III. EFFECTIVE DATE**

15 **SECTION 3.** Except as otherwise provided, this act is effective when it becomes
16 law.