

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2017

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SENATE BILL 628  
Finance Committee Substitute Adopted 5/24/17  
Third Edition Engrossed 6/13/17

Short Title: Various Changes to the Revenue Laws.

(Public)

Sponsors:

Referred to:

April 5, 2017

1 A BILL TO BE ENTITLED  
2 AN ACT TO MAKE VARIOUS CHANGES TO THE REVENUE LAWS.  
3 The General Assembly of North Carolina enacts:

4  
5 **PART I. BUSINESS TAX CHANGES**

6 **SECTION 1.1.** G.S. 105-114 reads as rewritten:

7 "**§ 105-114. Nature of taxes; definitions.**

8 (a) ~~Nature of Taxes.—The taxes levied in this Article upon persons and partnerships are~~  
9 ~~for the privilege of engaging in business or doing the act named.~~

10 (a1) ~~Scope. — The taxes-tax levied in this Article upon corporations are-is a privilege or~~  
11 ~~exercise taxes-tax levied upon:~~

12 (1) Corporations organized under the laws of this State for the existence of the  
13 corporate rights and privileges granted by their charters, and the enjoyment,  
14 under the protection of the laws of this State, of the powers, rights, privileges  
15 and immunities derived from the State by the form of such existence; and

16 (2) Corporations not organized under the laws of this State for doing business in  
17 this State and for the benefit and protection which these corporations receive  
18 from the government and laws of this State in doing business in this State.

19 (a2) ~~Condition for Doing Business. — If the corporation is organized under the laws of~~  
20 ~~this State, the payment of the taxes-tax levied by this Article is a condition precedent to the~~  
21 ~~right to continue in the corporate form of organization. If the corporation is not organized under~~  
22 ~~the laws of this State, payment of these taxes-this tax is a condition precedent to the right to~~  
23 ~~continue to engage in doing business in this State.~~

24 (a3) ~~Tax Year. — The taxes-tax levied in this Article are-is for the fiscal year of the State~~  
25 ~~in which the taxes become due, except that the taxes levied in G.S. 105-122 are for the income~~  
26 ~~year of the corporation in which the taxes become due.~~

27 (a4) ~~No Double Taxation. — G.S. 105-122 does not apply to holding companies taxed~~  
28 ~~under G.S. 105-120.2. G.S. 105-122 applies to a corporation taxed under another section of this~~  
29 ~~Article only to the extent the taxes levied on the corporation in G.S. 105-122 exceed the taxes~~  
30 ~~levied in other sections of this Article on the corporation or on a limited liability company~~  
31 ~~whose assets must be included in the corporation's tax base under G.S. 105-114.1.~~

32 ...."

33 **SECTION 1.2.** G.S. 105-120.2(c) reads as rewritten:

34 "(c) For purposes of this section, a "holding company" is a corporation that satisfies at  
35 least one of the following conditions:



- 1 ...  
 2 (2) It receives during its taxable year more than eighty percent (80%) of its  
 3 gross income from corporations in which it owns directly or indirectly more  
 4 than fifty percent (50%) of the outstanding voting ~~stock or stock~~, voting  
 5 capital ~~interests, interests, or ownership interests.~~"

6 **SECTION 1.3.(a)** G.S. 105-122 reads as rewritten:

7 "**§ 105-122. Franchise or privilege tax on domestic and foreign corporations.**

8 (a) Tax Imposed. – An annual franchise or privilege tax is imposed on a corporation  
 9 doing business in this State. State for the privilege of doing business in this State and for the  
 10 continuance of articles of incorporation or domestication of each corporation in this State. The  
 11 tax is determined on the basis of the books and records of the corporation as of the close of its  
 12 income year. A corporation subject to the tax must file a return under affirmation with the  
 13 Secretary at the place and in the manner prescribed by the Secretary. The return must be signed  
 14 by the president, vice-president, treasurer, or chief financial officer of the corporation. The  
 15 return is due on or before the fifteenth day of the fourth month following the end of the  
 16 corporation's income year.

17 ...  
 18 (d) ~~Tax Base and Tax Rate.~~ After determining the Base. – A corporation's tax base is  
 19 the greatest of the following:

- 20 (1) The proportion of its net worth as set out in subsection (c1) of this section,  
 21 which amount shall not be less than fifty five percent (55%) section.  
 22 (2) Fifty-five percent (55%) of the corporation's appraised value as determined  
 23 for ad valorem taxation of all the real and tangible personal property in this  
 24 State of each corporation nor less than its State. For purposes of this  
 25 subdivision, the appraised value of tangible property, including real estate, is  
 26 the ad valorem valuation for the calendar year next preceding the due date of  
 27 the franchise tax return.  
 28 (3) The corporation's total actual investment in tangible property in this State,  
 29 every corporation taxed under this section shall annually pay to the Secretary  
 30 of Revenue, at the time the return is due, a franchise or privilege tax at the  
 31 rate of one dollar and fifty cents (\$1.50) per one thousand dollars (\$1,000) of  
 32 the total amount of net worth as provided in this section. The tax imposed in  
 33 this section shall not be less than two hundred dollars (\$200.00) and is for  
 34 the privilege of carrying on, doing business, and/or the continuance of  
 35 articles of incorporation or domestication of each corporation in this State.  
 36 Appraised value of tangible property including real estate is the ad valorem  
 37 valuation for the calendar year next preceding the due date of the franchise  
 38 tax return. The term "total State. For purposes of this subdivision, the total  
 39 actual investment in tangible property" as used in this section means  
 40 property in this State is the total original purchase price or consideration to  
 41 the reporting taxpayer of its tangible properties, including real estate, in this  
 42 State plus additions and improvements thereto less (i) reserve for  
 43 depreciation as permitted for income tax purposes and (ii) any  
 44 indebtedness specifically incurred and existing solely for and as the result of  
 45 the purchase of any real estate and any permanent improvements made on  
 46 the real estate.

47 ...  
 48 (d2) Tax Rate. – The tax rate is one dollar and fifty cents (\$1.50) per one thousand  
 49 dollars (\$1,000) of the corporation's tax base as determined under subsection (d) of this section.  
 50 The tax imposed in this section shall not be less than two hundred dollars (\$200.00).

51 ...."

1           **SECTION 1.3.(b)** This section becomes effective for taxable years beginning on or  
2 after January 1, 2018, and is applicable to the calculation of franchise tax reported on the 2017  
3 and later corporate income tax returns.

4           **SECTION 1.4.(a)** G.S. 105-129.106(b) reads as rewritten:

5           "(b) Limitations. – The amount of credit allowed under this section with respect to  
6 rehabilitation expenses for a non-income-producing certified historic structure may not exceed  
7 twenty-two thousand five hundred dollars (\$22,500) per discrete property parcel. In the event  
8 that the taxpayer is the transferee of a State-certified historic structure for which rehabilitation  
9 expenses were made, the taxpayer as transferee is allowed a credit under this section for the  
10 rehabilitation expenses made by the transferor only if the transfer takes place before the  
11 structure is placed in service. In this event, ~~no~~ the transferor must provide the transferee with  
12 documentation detailing the amount of rehabilitation expenses and credit. No other taxpayer  
13 may claim such credit. A taxpayer is allowed to claim a credit under this section no more than  
14 once in any five-year period, carryovers notwithstanding."

15           **SECTION 1.4.(b)** This section becomes effective for taxable years beginning on or  
16 after January 1, 2017.

17           **SECTION 1.5.(a)** G.S. 105-130.4 reads as rewritten:

18 **"§ 105-130.4. Allocation and apportionment of income for corporations.**

19           ~~As used in this section, unless the context otherwise requires:~~ Definition. – The  
20 following definitions apply in this section:

21           (1) ~~"Apportionable income" means all Apportionable income. – All income that~~  
22 is apportionable under the United States Constitution. ~~Constitution, including~~  
23 income that arises from either of the following:

24           a. Transactions and activities in the regular course of the taxpayer's  
25 trade or business.

26           b. Tangible and intangible property if the acquisition, management,  
27 employment, development, or disposition of the property is or was  
28 related to the operation of the taxpayer's trade or business.

29           (2) Business activity. – Any activity by a corporation that would establish  
30 nexus, except as limited by 15 U.S.C. § 381.

31           (3) Casual sale of property. – The sale of any property that was not purchased,  
32 produced, or acquired primarily for sale in the corporation's regular trade or  
33 business.

34           (4) ~~"Commercial domicile" means the Commercial domicile. – The principal~~  
35 place from which the trade or business of the taxpayer is directed or  
36 managed.

37           ~~(3)(5)~~ (5) ~~"Compensation" means wages, Compensation. – Wages, salaries,~~  
38 commissions and any other form of remuneration paid to employees for  
39 personal services.

40           (4) ~~"Excluded corporation" means any corporation engaged in business as a~~  
41 building or construction contractor, a securities dealer, or a loan company or  
42 a corporation that receives more than fifty percent (50%) of its ordinary  
43 gross income from intangible property.

44           ~~(5)(6)~~ (6) ~~"Nonapportionable income" means all Nonapportionable income. – All~~  
45 income other than apportionable income.

46           (6) ~~"Public utility" means any corporation that is subject to control of one or~~  
47 more of the following entities: the North Carolina Utilities Commission, the  
48 Federal Communications Commission, the Federal Energy Regulatory  
49 Commission, or the Federal Aviation Agency; and that owns or operates for  
50 public use any plant, equipment, property, franchise, or license for the  
51 transmission of communications, the transportation of goods or persons, or

1 ~~the production, storage, transmission, sale, delivery or furnishing of~~  
2 ~~electricity, water, steam, oil, oil products, or gas. The term also includes a~~  
3 ~~motor carrier of property whose principal business activity is transporting~~  
4 ~~property by motor vehicle for hire over the public highways of this State.~~

5 (7) ~~"Sales" means all Sales. – All gross receipts of the corporation except for the~~  
6 ~~following receipts:~~

7 ...

8 (8) ~~"Casual sale of property" means the sale of any property which was not~~  
9 ~~purchased, produced or acquired primarily for sale in the corporation's~~  
10 ~~regular trade or business.~~

11 (9)(8) ~~"State" means any State. – A state of the United States, the District of~~  
12 ~~Columbia, the Commonwealth of Puerto Rico, any territory or possession of~~  
13 ~~the United States, and any foreign country or political subdivision thereof.~~

14 (b) Multistate Corporations. – A corporation having income from business activity  
15 which is taxable both within and without this State shall allocate and apportion its net income  
16 or net loss as provided in this section. For purposes of allocation and apportionment, a  
17 corporation is taxable in another state if ~~(i) the either of the following applies:~~

18 (1) The corporation's business activity in that state subjects it to a net income tax  
19 or a tax measured by net income, or (ii) that income.

20 (2) That state has jurisdiction based on the corporation's business activity in that  
21 state to subject the corporation to a tax measured by net income regardless  
22 whether that state exercises its jurisdiction. For purposes of this section,  
23 "business activity" includes any activity by a corporation that would  
24 establish a taxable nexus pursuant to 15 United States Code section 381.

25 (c) Nonapportionable Income. – Rents and royalties from real or tangible personal  
26 property, gains and losses, interest, dividends, patent and copyright royalties and other kinds of  
27 income, to the extent that they constitute nonapportionable income, less related expenses shall  
28 be allocated as provided in subsections (d) through (h) of this section.

29 (d) Rents and Royalties. – Net rents and royalties are allocable to this State as follows:

30 ...

31 (e) Gains and Losses. – Gains and losses are allocable to this State as follows:

32 ...

33 (f) Interest and Net Dividends. – Interest and net dividends are allocable to this State if  
34 the corporation's commercial domicile is in this State. For purposes of this section, the term  
35 "net dividends" means gross dividend income received less related expenses.

36 (g) Intangible Property. – Intangible property is allocable to this State as follows:

37 ...

38 (h) Other Income. – The income less related expenses from any other activities  
39 producing nonapportionable income or investments not otherwise specified in this section is  
40 allocable to this State if the business situs of the activities or investments is located in this  
41 State.

42 ...

43 (m) Railroad Company. – All apportionable income of a railroad company shall be  
44 apportioned to this State by multiplying the income by a fraction, the numerator of which is the  
45 "railway operating revenue" from business done within this State and the denominator of which  
46 is the "total railway operating revenue" from all business done by the company as shown by its  
47 records kept in accordance with ~~the standard classification of accounts prescribed by the~~  
48 Interstate Commerce Commission generally accepted accounting principles.

49 ~~"Railway operating revenue" from business done within this State shall mean "railway~~  
50 ~~operating revenue" from business wholly within this State, plus the equal mileage proportion~~  
51 ~~within this State of each item of "railway operating revenue" received from the interstate~~

1 business of the company. "Equal mileage proportion" shall mean the proportion which the  
2 distance of movement of property and passengers over lines in this State bears to the total  
3 distance of movement of property and passengers over lines of the company receiving such  
4 revenue. "Interstate business" shall mean "railway operating revenue" from the interstate  
5 transportation of persons or property into, out of, or through this State. If the Secretary of  
6 Revenue finds, with respect to any particular company, that its accounting records are not kept  
7 so as to reflect with exact accuracy such division of revenue by State lines as to each  
8 transaction involving interstate revenue, the Secretary of Revenue may adopt such regulations,  
9 based upon averages, as will approximate with reasonable accuracy the proportion of interstate  
10 revenue actually earned upon lines in this State. Provided, that where a railroad is being  
11 operated by a partnership which is treated as a corporation for income tax purposes and pays a  
12 net income tax to this State, or if located in another state would be so treated and so pay as if  
13 located in this State, each partner's share of the net profits shall be considered as dividends paid  
14 by a corporation for purposes of this Part and shall be so treated for inclusion in gross income,  
15 deductibility, and separate allocation of dividend income.

16 The following definitions apply in this subsection:

- 17 (1) Equal mileage proportion. – The proportion which the distance of movement  
18 of property and passengers over lines in this State bears to the total distance  
19 of movement of property and passengers over lines of the company  
20 receiving such revenue.  
21 (2) Interstate business. – Railroad operating revenue from the interstate  
22 transportation of persons or property into, out of, or through this State.  
23 (3) Railway operating revenue from business done within this State. – Railroad  
24 operating revenue from business wholly within this State, plus the equal  
25 mileage proportion within this State of each item of railway operating  
26 revenue received from the interstate business of the company.

27 (n) ~~All apportionable income of a telephone company shall be apportioned to this State~~  
28 ~~by multiplying the income by a fraction, the numerator of which is gross operating revenue~~  
29 ~~from local service in this State plus gross operating revenue from toll services performed~~  
30 ~~wholly within this State plus the proportion of revenue from interstate toll services attributable~~  
31 ~~to this State as shown by the records of the company plus the gross operating revenue in North~~  
32 ~~Carolina from other service less the uncollectible revenue in this State, and the denominator of~~  
33 ~~which is the total gross operating revenue from all business done by the company everywhere~~  
34 ~~less total uncollectible revenue. Provided, that where a telephone company is required to keep~~  
35 ~~its records in accordance with the standard classification of accounts prescribed by the Federal~~  
36 ~~Communications Commission the amounts in such accounts shall be used in computing the~~  
37 ~~apportionment fraction as provided in this subsection.~~

38 (o) Motor Carrier. – All apportionable income of a motor carrier of property or a motor  
39 carrier of people shall be apportioned by multiplying the income by a fraction, the numerator of  
40 which is the number of vehicle miles in this State and the denominator of which is the total  
41 number of vehicle miles of the company everywhere. The words "vehicle miles" shall mean  
42 miles traveled by vehicles owned or operated by the company based upon one of the following:

- 43 (1) Miles on a scheduled route.  
44 (2) Miles hauling property for a charge or traveling on a scheduled route.  
45 (3) Miles carrying passengers for a fare.

46 (p) ~~All apportionable income of a motor carrier of passengers shall be apportioned by~~  
47 ~~multiplying the income by a fraction, the numerator of which is the number of vehicle miles in~~  
48 ~~this State and the denominator of which is the total number of vehicle miles of the company~~  
49 ~~everywhere. The words "vehicle miles" shall mean miles traveled by vehicles owned or~~  
50 ~~operated by the company carrying passengers for a fare or traveling on a scheduled route.~~

1       ~~(q) All apportionable income of a telegraph company shall be apportioned by~~  
2 ~~multiplying the income by a fraction, the numerator of which is the property factor plus the~~  
3 ~~payroll factor plus the sales factor and the denominator of which is three.~~

4       ~~The property factor shall be as defined in subsection (j) of this section, the payroll factor~~  
5 ~~shall be as defined in subsection (k) of this section, and the sales factor shall be as defined in~~  
6 ~~subsection (l) of this section.~~

7       (r) All apportionable income of an excluded corporation and of all other public utilities  
8 shall be apportioned by multiplying the income by the sales factor as determined under  
9 subsection (l) of this section.

10       The following definitions apply in this subsection:

11           (1) Excluded corporation. – Any corporation engaged in business as a building  
12 or construction contractor, a securities dealer, or a loan company or a  
13 corporation that receives more than fifty percent (50%) of its ordinary gross  
14 income from intangible property.

15           (2) Public utility. – Any corporation that is subject to control of one or more of  
16 the following entities: the North Carolina Utilities Commission, the Federal  
17 Communications Commission, the Federal Energy Regulatory Commission,  
18 or the Federal Aviation Agency; and that owns or operates for public use any  
19 plant, equipment, property, franchise, or license for the transmission of  
20 communications, the transportation of goods or persons, or the production,  
21 storage, transmission, sale, delivery, or furnishing of electricity, water,  
22 steam, oil, oil products, or gas. The term also includes a motor carrier of  
23 property whose principal business activity is transporting property by motor  
24 vehicle for hire over the public highways of this State.

25       (s) Transportation Corporation. – All apportionable income of an air transportation  
26 corporation or a water transportation corporation shall be apportioned by a fraction, the  
27 numerator of which is the corporation's revenue ton miles in this State and the denominator of  
28 which is the corporation's revenue ton miles everywhere. A qualified air freight forwarder shall  
29 use the revenue ton mile fraction of its affiliated air carrier. The following definitions apply in  
30 this subsection:

31           ...

32           (s2) Pipeline Company. – Receipts from transportation of a petroleum-based liquids  
33 pipeline company shall be apportioned by multiplying the income by a fraction, the numerator  
34 of which is the number of barrel miles in this State during the tax year and the denominator of  
35 which is the total number of barrel miles everywhere during the tax year. For purposes of this  
36 section, the term "barrel mile" means one barrel of liquid property transported one mile.

37           ...."

38       **SECTION 1.5.(b)** G.S. 105-130.4(s2), as enacted by subsection (a) of this section,  
39 reads as rewritten:

40       "(s2) Pipeline Company. – Receipts from transportation of a petroleum-based liquids  
41 pipeline company or a gas pipeline company subject to rate regulation by the Federal Energy  
42 Regulatory Commission shall be apportioned by multiplying the income by a fraction, the  
43 numerator of which is the number of ~~barrel miles~~ traffic units in this State during the tax year,  
44 and the denominator of which is the total number of ~~barrel miles~~ traffic units everywhere  
45 during the tax year. For purposes of this section, the term "~~barrel mile~~" "traffic unit" means one  
46 of the following:

47           (1) Barrel mile. – One barrel of liquid property transported one mile.

48           (2) Cubic foot mile. – One cubic foot of gaseous property transported one mile."

49       **SECTION 1.5.(c)** Subsection (a) of this section is effective for taxable years  
50 beginning on or after January 1, 2017. If Section 38.7(a) of Senate Bill 257 of the 2017 Regular  
51 Session of the 2017 General Assembly is enacted, then subsection (b) of this section becomes

1 effective for taxable years beginning on or after January 1, 2018. The remainder of this section  
2 is effective when it becomes law.

3 **SECTION 1.6.(a)** G.S. 105-130.7B(b)(1) is repealed.

4 **SECTION 1.6.(b)** G.S. 105-130.7B(b) reads as rewritten:

5 "(b) Definitions. – The definitions in G.S. 105-130.7A apply in this section. In addition,  
6 the following definitions apply in this section:

7 ...  
8 (3a) Proportionate share of interest. – The amount of taxpayer's net interest  
9 expense paid or accrued directly to or through a related member to an  
10 ultimate payer divided by the total net interest expense of all related  
11 members that is paid or accrued directly to or through a related member to  
12 the same ultimate payer, multiplied by the interest paid or accrued to a  
13 person who is not a related member by the ultimate payer. Any amount that  
14 is distributed, paid, or accrued directly or through a related member that is  
15 not treated as interest under this Part does not qualify. In determining  
16 whether a nominal debt instrument creates deductible interest allowable  
17 under this section, the Secretary will not apply the covered debt instrument  
18 rules contained in the regulations promulgated under section 385 of the  
19 Code.

20 (4) Qualified interest expense. – The amount of net interest expense paid or  
21 accrued to a related member in a taxable year with the amount limited to ~~the~~  
22 ~~greater of (i) fifteen percent (15%) of the taxpayer's adjusted taxable income~~  
23 ~~or (ii) the taxpayer's proportionate share of interest paid or accrued to a~~  
24 person who is not a related member during the same taxable year. This  
25 limitation does not apply to interest paid or accrued to a related member if  
26 one or more of the following applies:

27 ...."

28 **SECTION 1.6.(c)** This section is effective for taxable years beginning on or after  
29 January 1, 2017.

30 **SECTION 1.7.(a)** G.S. 105-131.5 reads as rewritten:

31 **§ 105-131.5. Part-year resident shareholder.**

32 If a shareholder of an S Corporation is both a resident and nonresident of this State during  
33 any taxable period, the shareholder's pro rata share of the S Corporation's income attributable to  
34 the State and income not attributable to the State for the taxable period shall be further prorated  
35 between the shareholder's periods of residence and nonresidence, in accordance with the  
36 number of days in each period, as provided in ~~G.S. 105-134.5, G.S. 105-153.4.~~"

37 **SECTION 1.7.(b)** This section is effective for taxable years beginning on or after  
38 January 1, 2014.

39 **SECTION 1.8.** G.S. 105-131.7(a) reads as rewritten:

40 "(a) An S Corporation incorporated or doing business in the State shall file with the  
41 Department an annual return, on a form prescribed by the Secretary, on or before the due date  
42 prescribed for the filing of C Corporation returns in G.S. 105-130.17. The return shall show the  
43 name, address, and social security or federal identification number of each shareholder, income  
44 attributable to the State and the income not attributable to the State with respect to each  
45 shareholder as defined in ~~G.S. 105-131(4) and (5), G.S. 105-131(b)(4) and (5),~~ and such other  
46 information as the Secretary may require."

47 **SECTION 1.9.(a)** G.S. 105-134.1 is amended by adding a new subdivision to read:

48 "(5a) Guaranteed payments. – Defined in section 707(c) of the Code."

49 **SECTION 1.9.(b)** G.S. 105-153.3 is amended by adding a new subdivision to read:

50 "(5a) Guaranteed payments. – Defined in section 707(c) of the Code."

51 **SECTION 1.9.(c)** G.S. 105-134.5(d) reads as rewritten:

1       "(d) S Corporations and Partnerships. – In order to calculate the numerator of the  
2 fraction provided in subsection (b) of this section, the amount of a shareholder's pro rata share  
3 of S Corporation income that is includable in the numerator is the shareholder's pro rata share  
4 of the S Corporation's income attributable to the State, as defined in G.S. 105-131(b)(4). In  
5 order to calculate the numerator of the fraction provided in subsection (b) of this section for a  
6 partner in a partnership or a member of a partnership or other another unincorporated business  
7 that has one or more nonresident partners or members and operates in one or more other states,  
8 the amount of the partner's or member's distributive share of income of the business plus any  
9 guaranteed payments made to a partner from the partnership that is includable in the numerator  
10 is determined by multiplying the total net income of the business by the ratio ascertained under  
11 the provisions of G.S. 105-130.4. As used in this subsection, total net income means the entire  
12 gross income of the business less all expenses, taxes, interest, and other deductions allowable  
13 under the Code that were incurred in the operation of the business."

14               **SECTION 1.9.(d)** G.S. 105-153.4(d) reads as rewritten:

15       "(d) S Corporations and Partnerships. – In order to calculate the numerator of the  
16 fraction provided in subsection (b) of this section, the amount of a shareholder's pro rata share  
17 of S Corporation income that is includable in the numerator is the shareholder's pro rata share  
18 of the S Corporation's income attributable to the State, as defined in G.S. 105-131(b)(4). In  
19 order to calculate the numerator of the fraction provided in subsection (b) of this section for a  
20 partner in a partnership or a member of a partnership or other another unincorporated business  
21 that has one or more nonresident partners or members and operates in one or more other states,  
22 the amount of the partner's or member's distributive share of income of the business plus any  
23 guaranteed payments made to a partner from the partnership that is includable in the numerator  
24 is determined by multiplying the total net income of the business by the ratio ascertained under  
25 the provisions of G.S. 105-130.4. As used in this subsection, total net income means the entire  
26 gross income of the business less all expenses, taxes, interest, and other deductions allowable  
27 under the Code that were incurred in the operation of the business."

28               **SECTION 1.9.(e)** G.S. 105-153.4(d) reads as rewritten:

29       "(d) S Corporations and Partnerships. – In order to calculate the numerator of the  
30 fraction provided in subsection (b) of this section, the amount of a shareholder's pro rata share  
31 of S Corporation income, as modified in G.S. 105-153.5 and G.S. 105-153.6, that is includable  
32 in the numerator is the shareholder's pro rata share of the S Corporation's income attributable to  
33 the State, as defined in G.S. 105-131(b)(4). In order to calculate the numerator of the fraction  
34 provided in subsection (b) of this section for a partner in a partnership or a member of a  
35 partnership or other another unincorporated business that has one or more nonresident partners  
36 or members and operates in one or more other states, the amount of the partner's or member's  
37 distributive share of the total net income of the business, as modified in G.S. 105-153.5 and  
38 G.S. 105-153.6, plus any guaranteed payments made to a partner from the partnership that is  
39 includable in the numerator is determined in accordance with the provisions of G.S. 105-130.4.  
40 As used in this subsection, total net income means the entire gross income of the business less  
41 all expenses, taxes, interest, and other deductions allowable under the Code that were incurred  
42 in the operation of the business."

43               **SECTION 1.9.(f)** G.S. 105-154 reads as rewritten:

44       "**§ 105-154. Information at the source returns.**

45       ...

46       (c) Information Returns of Partnerships. – A partnership doing business in this State  
47 and required to file a return under the Code shall file an information return with the Secretary.  
48 A partnership that the Secretary believes to be doing business in this State and to be required to  
49 file a return under the Code shall file an information return when requested to do so by the  
50 Secretary. The information return shall contain all information required by the Secretary. It  
51 shall state specifically the items of the partnership's gross income, the deductions allowed under

1 the Code, each partner's distributive share of the partnership's income, and the adjustments  
2 required by this Part. A partner's distributive share of partnership net income includes any  
3 guaranteed payments made to the partner. The information return shall also include the name  
4 and address of each person who would be entitled to share in the partnership's net income, if  
5 distributable, and the amount each person's distributive share would be. ~~The information return~~  
6 ~~shall specify the part of each person's distributive share of the net income that represents~~  
7 ~~corporation dividends.~~ The information return shall be signed by one of the partners under  
8 affirmation in the form required by the Secretary.

9 A partnership that files an information return under this subsection shall furnish to each  
10 person who would be entitled to share in the partnership's net income, if distributable, any  
11 information necessary for that person to properly file a State income tax return. The  
12 information shall be in the form prescribed by the Secretary and must be furnished on or before  
13 the due date of the information return.

14 (d) Payment of Tax on Behalf of Nonresident Owner or Partner. – If a business  
15 conducted in this State is owned by a nonresident individual or by a partnership having one or  
16 more nonresident members, the manager of the business shall report information concerning  
17 the earnings of the business in this State, the distributive share of the income of each  
18 nonresident owner or partner, and any other information required by the Secretary. The  
19 distributive share of the income of each nonresident partner includes any guaranteed payments  
20 made to the partner. The manager of the business shall pay with the return the tax on each  
21 nonresident owner or partner's share of the income computed at the rate levied on individuals  
22 under G.S. 105-153.7. The business may deduct the payment for each nonresident owner or  
23 partner from the owner or partner's distributive share of the ~~profits-income~~ of the business in  
24 this State. If the nonresident partner is not an individual and the partner has executed an  
25 affirmation that the partner will pay the tax with its corporate, partnership, trust, or estate  
26 income tax return, the manager of the business is not required to pay the tax on the partner's  
27 share. In this case, the manager shall include a copy of the affirmation with the report required  
28 by this subsection.

29 "...."

30 **SECTION 1.9.(g)** Subsections (a) and (c) of this section are effective for taxable  
31 years beginning before January 1, 2014. Subsections (b) and (d) of this section are effective for  
32 taxable years beginning on or after January 1, 2014. Subsection (e) of this section is effective  
33 for taxable years beginning on or after January 1, 2015. The remainder of this section is  
34 effective when it becomes law, and subsection (f) of this section applies to all taxable years.

35 **SECTION 1.10.(a)** G.S. 105-228.4A reads as rewritten:

36 "**§ 105-228.4A. Tax on captive insurance companies.**

37 (a) Tax Levied. – A tax is levied in this section on a captive insurance company doing  
38 business in this State. In the case of a branch captive insurance company, the tax levied in this  
39 section applies only to the branch business of the company. Two or more captive insurance  
40 ~~companies-companies, other than a protected cell captive insurance company or a special~~  
41 purpose captive insurance company that is structured in a manner similar to that of a protected  
42 cell captive insurance company, under common ownership and control are taxed under this  
43 section as a single captive insurance company.

44 ...

45 (f) Total Tax Liability. – ~~The aggregate amount of tax payable under this section by a~~  
46 ~~protected cell captive insurance company with more than 10 cells may not be less than ten~~  
47 ~~thousand dollars (\$10,000) and may not exceed the lesser of (i) one hundred thousand dollars~~  
48 ~~(\$100,000) plus five thousand dollars (\$5,000) multiplied by the number of cells over 10 and~~  
49 ~~(ii) two hundred thousand dollars (\$200,000).~~ The aggregate amount of tax payable under this  
50 section for ~~any other a captive insurance company may company, other than a protected cell~~  
51 captive insurance company or a special purpose captive insurance company that has a cell or

1 series structure similar to that of a protected cell captive insurance company, shall not be less  
 2 than five thousand dollars (\$5,000) and may not exceed one hundred thousand dollars  
 3 (\$100,000)-(\$5,000). The minimum tax under this section for a protected cell captive insurance  
 4 company or a special purpose captive insurance company that has a cell or series structure  
 5 similar to that of a protected cell captive insurance company, shall not be less than five  
 6 thousand dollars (\$5,000) and shall apply to the protected cell captive insurance company or  
 7 special purpose captive insurance company as a whole and not to each cell or series. The  
 8 maximum tax to be paid by a protected cell captive insurance company or a special purpose  
 9 captive insurance company that has a cell or series structure, shall be the greater of either five  
 10 thousand dollars (\$5,000) or the aggregate of the tax liabilities of the core and each cell or  
 11 series within the insurance company.

12 ~~If a captive insurance company is a special purpose financial captive and if the special~~  
 13 ~~purpose financial captive is under common ownership and control with one or more other~~  
 14 ~~captive insurance companies, the following provisions apply to the consolidated group of~~  
 15 ~~companies that are taxed as a single captive insurance company pursuant to subsection (a) of~~  
 16 ~~this section:~~

- 17 (1) ~~The amount of premium tax payable under this section is allocated to each~~  
 18 ~~member of the consolidated group in the same proportion that the premium~~  
 19 ~~allocable to the member bears to the total premium of all members.~~  
 20 (2) ~~The aggregate amount of tax payable under this section by the consolidated~~  
 21 ~~group is equal to the greater of the following:~~  
 22 ~~a. The sum of the premium tax allocated to the members.~~  
 23 ~~b. Five thousand dollars (\$5,000).~~  
 24 (3) ~~If the total premium tax allocated to all members of a consolidated group~~  
 25 ~~that are special purpose financial captives exceeds one hundred thousand~~  
 26 ~~dollars (\$100,000), then the total premium tax allocated to those members is~~  
 27 ~~one hundred thousand dollars (\$100,000).~~  
 28 (4) ~~If the total premium tax allocated to all members of the consolidated group~~  
 29 ~~that are not special purpose financial captives exceeds one hundred thousand~~  
 30 ~~dollars (\$100,000), then the total premium tax allocated to those members is~~  
 31 ~~one hundred thousand dollars (\$100,000).~~

32 (g) For the purposes of this section:

- 33 (1) Common ownership and control shall mean ownership and control of two or  
 34 more captive insurance companies by the same person.  
 35 (2) Ownership and control shall mean:  
 36 a. In the case of a stock corporation, the direct or indirect ownership of  
 37 eighty percent (80%) or more of the outstanding voting stock and  
 38 value of the corporation.  
 39 b. In the case of a mutual or nonprofit corporation, the direct or indirect  
 40 control of eighty percent (80%) or more of the surplus and voting  
 41 power of such corporation.  
 42 c. In the case of a limited liability company, the direct or indirect  
 43 control of eighty percent (80%) or more of the membership interests  
 44 in the limited liability company."

45 **SECTION 1.10.(b)** This section becomes effective for taxable years beginning on  
 46 or after January 1, 2017.

47 **SECTION 1.11.(a)** G.S. 105-228.5(d)(3) reads as rewritten:

- 48 "(3) **Additional Rate on Property Coverage Contracts.** – An additional tax at the  
 49 rate of seventy-four hundredths percent (0.74%) applies to gross premiums  
 50 on insurance contracts for property coverage. The tax is imposed on ten  
 51 percent (10%) of the gross premiums from insurance contracts for

1 automobile physical damage coverage and on one hundred percent (100%)  
2 of the gross premiums from all other contracts for property coverage.  
3 Twenty percent (20%) of the net proceeds of this additional tax must be  
4 credited to the Volunteer Fire Department Fund established in Article 87 of  
5 Chapter 58 of the General Statutes. Twenty percent (20%) of the net  
6 proceeds must be credited to the Department of Insurance for disbursement  
7 pursuant to G.S. 58-84-25. Up to twenty percent (20%), as determined in  
8 accordance with G.S. 58-87-10(f), must be credited to the Workers'  
9 Compensation Fund. The remaining net proceeds must be credited to the  
10 General Fund. The additional tax imposed on property coverage contracts  
11 under this subdivision is a special purpose assessment based on gross  
12 premiums and not a gross premiums tax."

13 **SECTION 1.11.(b)** The gross premiums tax is a tax imposed on the gross  
14 premiums of insurers, Article 65 corporations, health maintenance organizations, and  
15 self-insurers. Entities subject to the gross premiums tax are not subject to franchise or income  
16 taxes. In S.L. 2009-548, the General Assembly broadened the taxes against which the business  
17 and energy tax credits could be taken from income and franchise taxes to income, franchise,  
18 and gross premiums taxes.

19 The gross premiums tax rate is set in G.S. 105-228.5(d)(1) and (2). Separate and  
20 apart from the gross premiums taxes, G.S. 105-228.5(d)(3) imposes an additional tax that is  
21 calculated using a person's gross premiums but is not considered part of the gross premiums tax  
22 imposition. The Department of Revenue has historically administered the gross premium tax  
23 and the additional tax imposed under G.S. 105-228.5 as two separate and distinct taxes.  
24 Satisfied with this administration, the General Assembly did not address the separate treatment  
25 of the two taxes in S.L. 2009-548. It is the intent of this section to further clarify for taxpayers  
26 the accuracy of and to endorse the Department's interpretation of the current and continuing  
27 state of the law by expressly codifying the long-standing interpretation of the additional tax  
28 imposed by G.S. 105-228.5(d)(3) as a separate and distinct tax that is based upon gross  
29 premiums but is not a gross premiums tax.  
30

## 31 **PART II. SALES AND USE TAX**

32 **SECTION 2.1.** G.S. 105-164.3 reads as rewritten:

### 33 **"§ 105-164.3. Definitions.**

34 The following definitions apply in this Article:

35 ...

36 (1i) Bundled transaction. – A retail sale of two or more distinct and identifiable  
37 products, at least one of which is taxable and one of which is exempt, for  
38 one nonitemized price. The term does not apply to real property and services  
39 to real property. Products are not sold for one nonitemized price if an invoice  
40 or another sales document made available to the purchaser separately  
41 identifies the price of each product. A bundled transaction does not include  
42 the retail sale of any of the following:

43 ...

44 (2c) Capital improvement. – An addition or alteration to real property that is  
45 permanently affixed or installed to real property. The term does not include  
46 activities listed in subdivision (33l) of this section as repair, maintenance,  
47 and installation services. The term does include the following:

48 a. New construction, reconstruction, or remodeling.

49 b. Performance of work that requires the issuance of a permit under the  
50 State Building Code, other than repair or replacement of electrical

- 1                    components, gas logs, water heater, and similar individual items that
- 2                    are not part of new construction, reconstruction, or remodeling.
- 3                    c.    Installation of utilities on utility-owned land, right-of-way, or
- 4                    easement, notwithstanding that charges for such are included in the
- 5                    gross receipts derived from services subject to the combined general
- 6                    rate under G.S. 105-164.4.
- 7                    d.    Installation of equipment or fixture that is attached to real property so
- 8                    that removal of the item would cause physical, functional, or
- 9                    economic damage to the property and that is capitalized under one or
- 10                  more of the following: the Code, generally accepted accounting
- 11                  principles, or International Financial Reporting Standards.
- 12                  e.    Painting or wallpapering of real property, except where painting or
- 13                  wallpapering is incidental to the repair, maintenance, and installation
- 14                  service.
- 15                  f.    Replacement or installation of a septic tank system, siding, roof,
- 16                  plumbing, electrical, commercial refrigeration, irrigation, sprinkler,
- 17                  or other similar system. The term does not include the repair,
- 18                  replacement, or installation of electrical or plumbing components,
- 19                  water heaters, gutters, and similar individual items that are not part of
- 20                  new construction, reconstruction, or remodeling.
- 21                  g.    Replacement or installation of a heating, ventilation, and air
- 22                  conditioning unit or system. The term does not include the repair,
- 23                  replacement, or installation of gas logs, water heaters, pool heaters,
- 24                  and similar individual items that are not part of new construction,
- 25                  reconstruction, or remodeling.
- 26                  h.    Replacement or installation of roads, driveways, parking lots, patios,
- 27                  decks, and sidewalks.
- 28                  i.    Services performed to resolve an issue that was part of a real
- 29                  property contract if the services are performed within six months of
- 30                  completion of the real property contract or, for new construction,
- 31                  within 12 months of the new structure being occupied for the first
- 32                  time.
- 33                  j.    Landscaping.
- 34                  ...
- 35                  (11b) Free-standing appliance. – An appliance commonly thought of as a
- 36                  household machine operated by gas or electric current. Examples include
- 37                  installation of a dishwasher, washing machine, clothes dryer, refrigerator,
- 38                  freezer, microwave, and range, regardless of whether the range is slide-in or
- 39                  drop-in.
- 40                  ...
- 41                  (16e) ~~Landscaping service.~~ Landscaping. – A service to maintain or improve
- 42                  ~~lawns, yards, or ornamental plants and trees.~~ that modifies the living
- 43                  elements of an area of land. Examples include the installation of trees,
- 44                  shrubs, or flowers; flowers on land; tree trimming; lawn-mowing; and the
- 45                  application of seed, mulch, pine straw, pesticide, or fertilizer to a lawn or
- 46                  ~~yard.~~ an area of land. The term does not include services to trees, shrubs,
- 47                  flowers, and similar items in pots or in buildings.
- 48                  ...
- 49                  (20b) Mixed transaction contract. – A contract that includes both a real property
- 50                  contract for a capital improvement and a repair, maintenance, and
- 51                  installation service that is not related to the capital improvement.

- 1 ...
- 2 (23a) Motor vehicle service contract. – A service contract for a motor vehicle or
- 3 for one or more components, systems, or accessories for a motor vehicle
- 4 when sold by a motor vehicle dealer or by or on behalf of dealer, by a motor
- 5 vehicle service agreement company for a motor vehicle or for one or more
- 6 components, systems, or accessories for a motor vehicle. company, or by a
- 7 motor vehicle dealer on behalf of a motor vehicle service agreement
- 8 company. For purposes of this subdivision, the term "motor vehicle dealer"
- 9 has the same meaning as defined in G.S. 20-286 and the term "motor vehicle
- 10 service agreement company" has the same meaning as defined in
- 11 G.S. 66-370. is a person other than a motor vehicle dealer that is an obligor
- 12 of a service contract for a motor vehicle or for one or more components,
- 13 systems, or accessories for a motor vehicle and who is not an insurer.
- 14 ...
- 15 (24a) New construction. – Construction of or site preparation for a permanent new
- 16 building, structure, or fixture on land or an increase in the square footage of
- 17 an existing building, structure, or fixture on land.
- 18 ...
- 19 (33d) Real property. – Any one or more of the following:
- 20 a. Land.
- 21 b. Building or structure on land.
- 22 c. Permanent fixture on land.
- 23 d. A manufactured home or a modular home ~~that is placed on a~~
- 24 ~~permanent foundation on land.~~
- 25 (33e) Real property contract. – A contract between a real property contractor and
- 26 another person to perform ~~construction, reconstruction, or remodeling with~~
- 27 ~~respect to~~ a capital improvement to real property.
- 28
- 29 (33f) Real property contractor. – A person that contracts to perform a real property
- 30 contract in accordance with G.S. 105-164.4H. The term includes a general
- 31 contractor, a subcontractor, or a builder for purposes of ~~G.S. 105-164.4H.~~ this
- 32 Article.
- 33 (33g) Reconstruction. – Rebuild or construct again a prior existing permanent
- 34 building, structure, or fixture on land and may include a change in the square
- 35 footage from the prior existing building, structure, or fixture on land.
- 36 (33h) Related member. – Defined in G.S. 105-130.7A.
- 37 (33i) Remodeling. – A transaction comprised of multiple services to restore,
- 38 improve, alter, or update real property that may otherwise be subject to tax
- 39 as repair, maintenance, and installation services if separately performed. The
- 40 term includes a transaction where the internal structure or design of one or
- 41 more rooms or areas within a room or building are substantially changed and
- 42 tangible personal property or digital property is installed or applied and
- 43 becomes part of real property. The term does not include a single repair,
- 44 maintenance, and installation service such as installation of carpet, flooring,
- 45 floor coverings, floor refinishing, windows, doors, cabinets, countertops, and
- 46 other installations where the item being installed may replace a similar
- 47 existing item. The term does not include a transaction where the true purpose
- 48 is a repair, maintenance, and installation service no matter that another
- 49 repair, maintenance, and installation service is performed that is incidental to
- 50 the true purpose of the transaction; examples include repair of sheetrock that
- 51 includes applying paint, replacement of cabinets that includes installation of

1                    caulk or molding, and the installation of hardwood floors that includes  
 2                    installation of shoe molding.

3                    ~~(33h)~~(33j) Remote sale. – A sale of tangible personal property or digital property  
 4                    ordered by mail, by telephone, via the Internet, or by another similar method,  
 5                    to a purchaser who is in this State at the time the order is remitted, from a  
 6                    retailer who receives the order in another state and delivers the property or  
 7                    causes it to be delivered to a person in this State. It is presumed that a  
 8                    resident of this State who remits an order was in this State at the time the  
 9                    order was remitted.

10                   (33k) Renovation. – Same meaning as the term "remodeling."

11                   ~~(33i)~~(33l) Repair, maintenance, and installation services. – The term includes the  
 12                   activities listed in this subdivision and applies to tangible personal property,  
 13                   motor vehicle, digital property, and real ~~property except tangible personal~~  
 14                   ~~property or digital property installed or applied by a real property contractor~~  
 15                   ~~pursuant~~ property. The term does not include services defined as a capital  
 16                   improvement to a real property contract ~~taxed~~ in accordance with  
 17                   G.S. 105-164.4H:

18                   a.            To keep or attempt to keep property or a motor vehicle in working  
 19                   order to avoid breakdown and prevent deterioration or repairs.  
 20                   Examples include to clean, wash, or polish property.

21                   b.            To calibrate, refinish, restore, or attempt to calibrate, refinish, or  
 22                   restore property or a motor vehicle to proper working order or good  
 23                   condition. This activity may include replacing or putting together  
 24                   what is torn or broken.

25                   c.            To troubleshoot, identify, or attempt to identify the source of a  
 26                   problem for the purpose of determining what is needed to restore  
 27                   property or a motor vehicle to proper working order or good  
 28                   condition. The term includes activities that may lead to the issuance  
 29                   of an inspection report.

30                   d.            To install, apply, connect, adjust, or set into position tangible  
 31                   personal property, digital property, or a motor vehicle. The term  
 32                   includes the installation of carpet, flooring, floor coverings, floor  
 33                   refinishing, windows, doors, cabinets, countertops, and other  
 34                   installations where the item being installed replaces a similar existing  
 35                   item and the installation of the item is not part of a capital  
 36                   improvement.

37                   e.            To inspect or monitor property or a motor vehicle, but does not  
 38                   include security or similar monitoring services for real property.

39                   ...  
 40                   (38b) Service contract. – A contract where the obligor under the contract agrees to  
 41                   maintain, monitor, inspect, ~~or repair~~ repair, or provide another service  
 42                   included in the definition of repair, maintenance, and installation service to  
 43                   digital property or property, tangible personal property or real  
 44                   property for a period of time or some other defined measure, regardless of  
 45                   whether the property becomes a part of or is applied to real property.  
 46                   measure. The term does not include a single repair, maintenance, or  
 47                   installation ~~service.~~ service, but generally includes a contract where the  
 48                   obligor must provide a service included in the definition of repair,  
 49                   maintenance, and installation services as a condition of the contract. The  
 50                   term includes a service contract for a pool, fish tank, or similar aquatic  
 51                   feature and a home warranty. Examples include a warranty agreement other

1 than a manufacturer's warranty or dealer's warranty provided at no charge to  
 2 the purchaser, an extended warranty agreement, a maintenance agreement, a  
 3 repair ~~contract, agreement,~~ or a similar agreement or contract.

4 ...."

5 **SECTION 2.2.** G.S. 105-164.4(a) reads as rewritten:

6 "(a) A privilege tax is imposed on a retailer engaged in business in the State at the  
 7 percentage rates of the retailer's net taxable sales or gross receipts, listed in this subsection. The  
 8 general rate of tax is four and three-quarters percent (4.75%). The percentage rates are as  
 9 follows:

10 (1) The general rate of tax applies to the sales price of each item or article of  
 11 tangible personal property that is sold at retail and is not subject to tax under  
 12 another subdivision in this section. A sale of a free-standing appliance is a  
 13 retail sale of tangible personal property. This subdivision does not apply to  
 14 repair, maintenance, and installation services for real property; these services  
 15 are taxable under subdivision (16) of this subsection.

16 ...

17 ~~(13) The general rate of tax applies to the sales price of an item or service subject~~  
 18 ~~to tax under this Article sold to a real property contractor for use by the real~~  
 19 ~~property contractor or to fulfill a real property contract. These sales are taxed~~  
 20 ~~in accordance with G.S. 105-164.4H.~~

21 ...

22 (16) The general rate applies to the sales price of or the gross receipts derived  
 23 from repair, maintenance, and installation services and generally includes  
 24 any tangible personal property or digital property that becomes a part of or is  
 25 applied to a purchaser's property. A mixed transaction contract and a real  
 26 property contract are taxed in accordance with G.S. 105-164.4H."

27 **SECTION 2.3.** G.S. 105-164.4B(a) reads as rewritten:

28 "(a) General Principles. – The following principles apply in determining where to source  
 29 the sale of a product. Except as otherwise provided in this section, a service is sourced where  
 30 the purchaser can potentially first make use of the service. These principles apply regardless of  
 31 the nature of the product, except as otherwise noted in this section:

32 ...."

33 **SECTION 2.4.(a)** G.S. 105-164.4H(b1) and (e) are repealed.

34 **SECTION 2.4.(b)** G.S. 105-164.4H, as amended by subsection (a) of this section,  
 35 reads as rewritten:

36 "**§ 105-164.4H. Real property contract.**

37 (a) Applicability. – A real property contractor is the consumer of the tangible personal  
 38 ~~property, digital property, or service property or digital property~~ that the real property  
 39 contractor purchases, installs, or applies for others to fulfill a real property contract and that  
 40 becomes part of real property or used to fulfill the contract. A retailer engaged in business in  
 41 the State shall collect tax on the sales price of the tangible personal property, digital property,  
 42 or service sold at retail to a real property contractor unless a statutory exemption in  
 43 G.S. 105-164.13 or G.S. 105-164.13E applies. Where a real property contractor purchases  
 44 tangible personal property or digital property for storage, use, or consumption in this State, or a  
 45 service sourced to this State, and the tax due is not paid at the time of purchase, the provisions  
 46 of G.S. 105-164.6 apply except as provided in subsection (b) of this section.

47 (a1) Substantiation. – Generally, services to real property are retail sales of, or the gross  
 48 receipts derived from, repair, maintenance, and installation services and subject to tax in  
 49 accordance with G.S. 105-164.4(a)(16) unless a person substantiates that a transaction is  
 50 subject to tax as a real property contract in accordance with subsection (a) of this section,  
 51 subject to tax as a mixed transaction in accordance with subsection (d) of this section, or the

1 transaction is not subject to tax. A person may substantiate that a transaction is a real property  
 2 contract or a mixed transaction by records that establish the transaction is a real property  
 3 contract or by receipt of an affidavit of capital improvement or a mixed transaction. The receipt  
 4 of an affidavit of capital improvement, absent fraud or other egregious activities, establishes  
 5 that the subcontractor or other person receiving the affidavit should treat the transaction as a  
 6 capital improvement, and the transaction is subject to tax in accordance with subsection (a) of  
 7 this section. A person that issues an affidavit of capital improvement is liable for any additional  
 8 tax due on the transaction, in excess of tax paid on related purchases under subsection (a) of  
 9 this section, if it is determined that the transaction is not a capital improvement but rather the  
 10 transaction is subject to tax as a retail sale. A person who receives an affidavit of capital  
 11 improvement from another person, absent fraud or other egregious activities, is not liable for  
 12 any additional tax on the gross receipts from the transaction if it is determined that the  
 13 transaction is not a capital improvement.

14 The Secretary may establish guidelines for transactions where an affidavit of capital  
 15 improvement is not required, but rather a person may establish by records that such transactions  
 16 are subject to tax in accordance with subsection (a) of this section.

17 (b) Retailer-Contractor. – This section applies to a retailer-contractor as follows:

18 (1) Acting as a real property contractor. – A retailer-contractor acts as a real  
 19 property contractor when it contracts to perform a real property contract. A  
 20 retailer-contractor that purchases tangible personal property or digital  
 21 property to be installed or applied to real property ~~or a service~~ to fulfill the  
 22 contract may purchase those items exempt from tax under a certificate of  
 23 exemption pursuant to G.S. 105-164.28 provided the retailer-contractor also  
 24 purchases inventory items or services from the seller for resale. When the  
 25 property is withdrawn from inventory and installed or applied to real  
 26 property, ~~or when the service is deemed used,~~ use tax must be accrued and  
 27 paid on the retailer-contractor's purchase price of the property. Property that  
 28 the retailer-contractor withdraws from inventory for use that does not  
 29 become part of real property is also subject to the tax imposed by this  
 30 Article.

31 (2) Acting as a retailer. – A retailer-contractor is acting as a retailer when it  
 32 makes a sale at retail.

33 ...

34 (d) Mixed Transaction Contract. – A mixed transaction contract ~~that includes both a~~  
 35 ~~real property contract for a capital improvement and repair, maintenance, and installation~~  
 36 ~~services~~ is taxable as follows:

37 (1) If the sales price of the taxable repair, maintenance, and installation services  
 38 included in the contract ~~does not exceed ten percent (10%)~~ is less than or  
 39 equal to twenty-five percent (25%) of the contract price, then the repair,  
 40 maintenance, and installation services portion of the contract, and the  
 41 tangible personal property, digital property, or service used to perform ~~that~~  
 42 ~~service,~~ those services, are taxable as a real property contract in accordance  
 43 with this section.

44 (2) If the sales price of the taxable repair, maintenance, and installation services  
 45 included in the contract is ~~equal to or greater than ten percent (10%)~~  
 46 twenty-five percent (25%) of the contract price, then sales and use tax  
 47 applies to the sales price of or the gross receipts derived from the taxable  
 48 repair, maintenance, and installation services portion of the contract. The  
 49 person must determine an allocated price for ~~each the~~ taxable repair,  
 50 maintenance, and installation ~~service~~ services in the contract based on a  
 51 reasonable allocation of revenue that is supported by the person's business

1 records kept in the ordinary course of business. Any purchase of tangible  
 2 personal ~~property, digital property, or services~~ property or digital property to  
 3 fulfill the real property contract ~~are~~ is taxed in accordance with this section."

4 **SECTION 2.4.(c)** G.S. 105-164.6(b) reads as rewritten:

5 "(b) Liability. – The tax imposed by this section is payable by the person who purchases,  
 6 leases, or rents tangible personal property or digital property or who purchases a service. If the  
 7 property purchased becomes a part of a ~~building or other structure~~ real property in the State and  
 8 ~~the purchaser is a contractor or subcontractor, State, the real property contractor, the~~  
 9 ~~retailer-contractor,~~ the subcontractor, the lessee, and the owner ~~of the building~~ are jointly and  
 10 severally liable for the ~~tax~~ tax, except as provided in G.S. 105-164.4H(a) regarding receipt of  
 11 an affidavit of capital improvement. The liability of a real property contractor, a  
 12 retailer-contractor, a subcontractor, a lessee, or an owner who did not purchase the property is  
 13 satisfied by receipt of an affidavit from the purchaser certifying that the tax has been paid."

14 **SECTION 2.4.(d)** G.S. 105-164.15A(a)(2) reads as rewritten:

15 "(a) General Rate Items. – The effective date of a tax change for tangible personal  
 16 property, digital property, or services taxable under this Article is administered as follows:

17 ...

18 (2) For a taxable item that is not billed on a monthly or other periodic basis, a  
 19 tax change applies to amounts received for items provided on or after the  
 20 effective date, except amounts received for items ~~provided under a~~  
 21 ~~lump sum or unit price contract~~ purchased to fulfill a real property contract  
 22 for a capital improvement entered into or awarded before the effective date  
 23 or entered into or awarded pursuant to a bid made before the effective date."

24 **SECTION 2.4.(e)** G.S. 105-468.1 reads as rewritten:

25 **"§ 105-468.1. Certain building materials exempt from sales and use taxes.**

26 The provisions of this Article shall not be applicable with respect to any ~~building materials~~  
 27 tangible personal property or digital property purchased for the purpose of fulfilling ~~any lump~~  
 28 ~~sum or unit price contract~~ a real property contract for a capital improvement entered into or  
 29 awarded, or entered into or awarded pursuant to any bid made, before the effective date of the  
 30 tax imposed by a taxing county when, absent the provisions of this section, such ~~building~~  
 31 ~~materials~~ property would otherwise be subject to tax under the provisions of this Article."

32 **SECTION 2.5.(a)** G.S. 105-164.4I(b) is repealed.

33 **SECTION 2.5.(b)** G.S. 105-164.4I(c) reads as rewritten:

34 "(c) Exceptions. – The tax imposed by this section does not apply to ~~a~~ any of the  
 35 following:

36 (1) A security or similar monitoring contract for real property.

37 (2) A contract to provide a certified operator for a wastewater system."

38 **SECTION 2.6.** G.S. 105-164.13 reads as rewritten:

39 **"§ 105-164.13. Retail sales and use tax.**

40 The sale at retail and the use, storage, or consumption in this State of the following tangible  
 41 personal property, digital property, and services are specifically exempted from the tax imposed  
 42 by this Article:

43 ...

44 (61) A motor vehicle service contract ~~may be exempt as provided in~~  
 45 ~~G.S. 105-164.4I~~ contract.

46 (61a) ~~Repair, maintenance, and installation services provided for an item, other~~  
 47 ~~than a motor vehicle, for which a service contract on the item is exempt from~~  
 48 ~~tax under G.S. 105-164.4I. Repair, maintenance, and installation services~~  
 49 ~~provided for a motor vehicle are subject to tax, except as provided under~~  
 50 ~~subdivision (62a) of this subsection. Sales~~ The sales price of or the gross  
 51 receipts derived from the following ~~repair, maintenance, and installation~~

1 services and service contracts listed in this subdivision are exempt from  
 2 ~~tax~~:tax. For purposes of this exemption, property and services used to fulfill  
 3 either a repair, maintenance, or installation service or a service contract  
 4 exempt from tax under this subdivision are taxable, other than property and  
 5 services used to fulfill a service or contract exempt under sub-subdivision a.  
 6 of this subdivision.

7 a. An item exempt from tax under this Article. This exemption does not  
 8 apply to water for a pool, fish tank, or similar aquatic feature or to a  
 9 motor vehicle, except as provided under subdivision (62a) of this  
 10 section.

11 b. A motor vehicle emissions and safety inspection fee ~~or charge for an~~  
 12 inspection required by law, regardless of whether the amount is paid  
 13 to a public or private entity, imposed pursuant to G.S. 20-183.7,  
 14 provided the ~~charge fee~~ is separately stated on the invoice or other  
 15 documentation provided to the purchaser at the time of the sale.

16 ~~b.c.~~ Services performed for a person by a related member.

17 e. ~~Services performed to resolve an issue that was part of a real~~  
 18 ~~property contract if the services are performed within six months of~~  
 19 ~~completion of the real property contract or, for new construction,~~  
 20 ~~within 12 months of the new structure being occupied for the first~~  
 21 ~~time.~~

22 d. Cleaning of real property, except where the service constitutes a part  
 23 of the gross receipts derived from the rental of an accommodation  
 24 subject to tax under G.S. 105-164.4 or for a pool, fish tank, or other  
 25 similar aquatic feature. Examples of cleaning of real property include  
 26 custodial services, window washing, mold remediation services,  
 27 carpet cleaning, removal of debris from gutters, removal of dust and  
 28 other pollutants from ductwork, and power washing other than for a  
 29 pool.

30 e. Services on roads, driveways, parking lots, and sidewalks.

31 f. Removal of waste, trash, debris, grease, snow, and other similar  
 32 items from ~~tangible personal property, including a motor vehicle, and~~  
 33 ~~real property, other than a motor vehicle. The exemption applies to~~  
 34 ~~household and commercial trash collection and removal services.~~  
 35 The exemption applies to the removal of septage from property,  
 36 including motor vehicles, but does not include removal of ~~waste~~  
 37 septage from portable toilets.

38 g. ~~Home inspections~~—The following inspection reports, including  
 39 services required to prepare the reports:

40 1. A home inspection related to the preparation for or the sale of  
 41 real property.

42 2. An inspection report prepared by a person who is required to  
 43 obtain a State privilege license under G.S. 105-41.

44 ~~h. Landscaping service.~~

45 ~~i.h.~~ Alteration and repair of clothing, except where the service constitutes  
 46 a part of the gross receipts derived from the rental of clothing subject  
 47 to tax under G.S. 105-164.4 or for alteration and repair of belts and  
 48 shoes.

49 ~~j.i.~~ Pest control service.

50 ~~k.j.~~ Moving services.

51 ~~l.k.~~ Self-service car ~~washes~~-washes and vacuums.



1 services for a motor vehicle, railroad car, locomotive, or airplane the carrier operates. An  
 2 "interstate carrier" is a person who is engaged in transporting persons or property in interstate  
 3 commerce for compensation. The Secretary shall prescribe the periods of time, whether  
 4 monthly, quarterly, semiannually, or otherwise, with respect to which refunds may be claimed,  
 5 and shall prescribe the time within which, following these periods, an application for refund  
 6 may be made.

7 An applicant for refund shall furnish the following information and any proof of the  
 8 information required by the Secretary:

- 9 (1) A list identifying the railway cars, locomotives, fuel, lubricants, repair parts,  
 10 ~~and accessories~~ accessories, service contracts other than motor vehicle  
 11 service contracts, and repair, maintenance, and installation services  
 12 purchased by the applicant inside or outside this State during the refund  
 13 period.

14 ...."

15 **SECTION 2.7.(b)** This section becomes effective retroactively to March 1, 2016.

16 **SECTION 2.8.(a)** If the Secretary of Revenue determines that a seller paid sales  
 17 and use taxes on a product and the seller uses the product as part of a taxable repair,  
 18 maintenance, and installation service to real property, the Secretary may allow the seller to  
 19 offset the sales tax liability on the taxable repair, maintenance, and installation service with the  
 20 sales and use tax paid on the products provided the retailer can support the amount of tax  
 21 originally paid. A retailer entitled to a credit for tax originally paid under this provision may  
 22 reduce taxable receipts by the taxable amount of the credit for the period in which the credit  
 23 occurs.

24 **SECTION 2.8.(b)** The Revenue Laws Study Committee is directed to study the  
 25 feasibility of providing a seller of taxable repair, maintenance, and installation services to real  
 26 property the option of paying sales tax on the property used to fulfill the repair, maintenance,  
 27 and installation service at the time the property is purchased and offsetting the sales tax liability  
 28 on the taxable repair, maintenance, and installation service with the sales and use tax paid on  
 29 the products. Subsection (a) of this section provides sellers this option until July 1, 2018. The  
 30 Revenue Laws Study Committee must recommend to the 2018 Regular Session of the 2017  
 31 General Assembly whether this option should be allowed on a permanent basis.

32 **SECTION 2.8.(c)** Subsection (a) of this section becomes effective retroactively to  
 33 January 1, 2017, and expires on July 1, 2018. The remainder of this section is effective when it  
 34 becomes law.

35 **SECTION 2.9.(a)** G.S. 105-164.13 reads as rewritten:

36 "**§ 105-164.13. Retail sales and use tax.**

37 The sale at retail and the use, storage, or consumption in this State of the following tangible  
 38 personal property, digital property, and services are specifically exempted from the tax imposed  
 39 by this Article:

40 ...

- 41 (43) Custom computer software. Custom computer software and the portion of  
 42 prewritten computer software that is modified or enhanced if the  
 43 modification or enhancement is designed and developed to the specifications  
 44 of a specific purchaser and the charges for the modification or enhancement  
 45 are separately ~~stated~~ stated on the invoice or similar billing document given  
 46 to the purchaser at the time of the sale.

47 ...

- 48 (57a) Fuel, piped natural gas, and electricity sold to a ~~secondary metals recycler~~  
 49 person subject to tax on certain tangible personal property pursuant to  
 50 G.S. 105-187.51B(a)(6) for use in recycling at its facility at which the  
 51 primary activity is recycling.

1 ...."

2 **SECTION 2.9.(b)** G.S. 105-164.14(b) reads as rewritten:

3 "(b) Nonprofit Entities and Hospital Drugs. – A nonprofit entity is allowed a semiannual  
4 refund of sales and use taxes paid by it under this Article on direct purchases of tangible  
5 personal property and services for use in carrying on the work of the nonprofit entity. Sales and  
6 use tax liability indirectly incurred by a nonprofit entity through reimbursement to an  
7 authorized person of the entity for the purchase of tangible personal property and services for  
8 use in carrying on the work of the nonprofit entity is considered a direct purchase by the entity.  
9 Sales and use tax liability indirectly incurred by a nonprofit entity on building materials,  
10 supplies, fixtures, and equipment that become a part of or annexed to any building or structure  
11 that is owned or leased by the nonprofit entity and is being erected, altered, or repaired for use  
12 by the nonprofit entity for carrying on its nonprofit activities is considered a sales or use tax  
13 liability incurred on direct purchases by the nonprofit entity. The refund allowed under this  
14 subsection does not apply to purchases of electricity, telecommunications service, ancillary  
15 service, piped natural gas, video programming, or a prepaid meal plan. A request for a refund  
16 must be in writing and must include any information and documentation required by the  
17 Secretary. A request for a refund for the first six months of a calendar year is due the following  
18 October 15; a request for a refund for the second six months of a calendar year is due the  
19 following April 15. The aggregate annual refund amount allowed an entity under this  
20 subsection for ~~a—the State's~~ fiscal year may not exceed thirty-one million seven hundred  
21 thousand dollars (\$31,700,000).

22 The refunds allowed under this subsection do not apply to an entity that is owned and  
23 controlled by the United States or to an entity that is owned or controlled by the State and is not  
24 listed in this subsection. A hospital that is not listed in this subsection is allowed a semiannual  
25 refund of sales and use taxes paid by it on over-the-counter drugs purchased for use in carrying  
26 out its work. The following nonprofit entities are allowed a refund under this subsection:

27 ...."

28 **SECTION 2.9.(c)** G.S. 105-467 reads as rewritten:

29 **"§ 105-467. Scope of sales tax.**

30 ...

31 (b) Exemptions and Refunds. – The State exemptions and exclusions contained in  
32 ~~G.S. 105-164.13 and G.S. 105-164.27A~~ Article 5 of Subchapter I of this Chapter, except for the  
33 exemption for food in G.S. 105-164.13B, apply to the local sales and use tax authorized to be  
34 levied and imposed under this Article. The State refund provisions contained in  
35 ~~G.S. 105-164.14 through G.S. 105-164.14B and G.S. 105-164.14A~~ apply to the local sales and  
36 use tax authorized to be levied and imposed under this Article. A refund of an excessive or  
37 erroneous State sales tax collection allowed under G.S. 105-164.11 and a refund of State sales  
38 tax paid on a rescinded sale or cancelled service contract under G.S. 105-164.11A apply to the  
39 local sales and use tax authorized to be levied and imposed under this Article. The aggregate  
40 annual local refund amount allowed an entity under G.S. 105-164.14(b) for ~~a—the State's~~ fiscal  
41 year may not exceed thirteen million three hundred thousand dollars (\$13,300,000).

42 Except as provided in this subsection, a taxing county may not allow an exemption,  
43 exclusion, or refund that is not allowed under the State sales and use tax. A local school  
44 administrative unit and a joint agency created by interlocal agreement among local school  
45 administrative units pursuant to G.S. 160A-462 to jointly purchase food service-related  
46 materials, supplies, and equipment on their behalf is allowed an annual refund of sales and use  
47 taxes paid by it under this Article on direct purchases of tangible personal property and  
48 services. Sales and use tax liability indirectly incurred by the entity ~~on building materials,~~  
49 ~~supplies, fixtures, and equipment that become a part of or annexed to any building or structure~~  
50 as part of a real property contract for real property that is owned or leased by the entity and is  
51 ~~being erected, altered, or repaired~~ a capital improvement for use by the entity is considered a

1 sales or use tax liability incurred on direct purchases by the entity for the purpose of this  
2 subsection. The refund allowed under this subsection does not apply to purchases of electricity,  
3 telecommunications service, ancillary service, piped natural gas, video programming, or a  
4 prepaid meal plan. A request for a refund is due in the same time and manner as provided in  
5 G.S. 105-164.14(c). Refunds applied for more than three years after the due date are barred.

6 (c) Sourcing. – The sourcing principles in ~~G.S. 105-164.4B~~ Article 5 of Subchapter I of  
7 this Chapter apply in determining whether the local sales tax applies to a transaction."

8 **SECTION 2.9.(d)** G.S. 105-468 reads as rewritten:

9 **"§ 105-468. Scope of use tax.**

10 The use tax authorized by this Article is a tax at the rate of one percent (1%) of the  
11 purchase price of ~~each an item or article of tangible personal property transaction~~ that is not  
12 sold in the taxing county but is ~~used, consumed, or stored for use~~ storage, use, or consumption  
13 in the taxing county, county and sourced in accordance with Article 5 of Subchapter I of this  
14 Chapter. The tax applies to the same items that are subject to tax under G.S. 105-467. The  
15 collection and administration of this tax shall be in accordance with Article 5 of ~~Chapter 105 of~~  
16 ~~the General Statutes.~~ Subchapter I of this Chapter.

17 Where a local sales or use tax was due and has been paid ~~with respect to tangible personal~~  
18 ~~property on an item or transaction~~ by the purchaser in another taxing county within the State, or  
19 where a local sales or use tax was due and has been paid in a taxing jurisdiction outside the  
20 State where the purpose of the tax is similar in purpose and intent to the tax which may be  
21 imposed pursuant to this Article, the tax paid may be credited against the tax imposed under  
22 this section by a taxing county upon the same ~~property.~~ property or transaction. If the amount  
23 of sales or use tax so paid is less than the amount of the use tax due the taxing county under this  
24 section, the purchaser shall pay to the Secretary an amount equal to the difference between the  
25 amount so paid in the other taxing county or jurisdiction and the amount due in the taxing  
26 county. The Secretary may require such proof of payment in another taxing county or  
27 jurisdiction as is deemed to be necessary. The use tax levied under this Article is not subject to  
28 credit for payment of any State sales or use tax not imposed for the benefit and use of counties  
29 and municipalities. No credit shall be given under this section for sales or use taxes paid in a  
30 taxing jurisdiction outside this State if that taxing jurisdiction does not grant similar credit for  
31 sales taxes paid under this Article."

32 **SECTION 2.9.(e)** G.S. 105-471 reads as rewritten:

33 **"§ 105-471. Retailer to collect sales tax.**

34 Every retailer whose place of business is in a taxing county shall on and after the levy of the  
35 tax herein authorized collect the one percent (1%) local sales tax provided by this Article. A  
36 retailer is required to collect a local use tax on a transaction if a local sales tax does not apply to  
37 the transaction in accordance with G.S. 105-164.8(c).

38 The tax to be collected under this Article shall be collected as a part of the sales price ~~of the~~  
39 ~~item of tangible personal property sold, the purchase price of the item of tangible personal~~  
40 ~~property used, or as a part of the charge for the rendering of any services, renting or leasing of~~  
41 ~~tangible personal property, or the furnishing of any accommodation taxable hereunder.~~ of an  
42 item or transaction subject to tax in accordance with G.S. 105-467. The tax shall be stated and  
43 charged separately from the sales price or purchase price and shall be shown separately on the  
44 retailer's sales record and shall be paid by the purchaser to the retailer as trustee for and on  
45 account of the State or county wherein the tax is imposed. It is the intent and purpose of this  
46 Article that the local sales and use tax herein authorized to be imposed and levied by a taxing  
47 county shall be added to the sales price and that the tax shall be passed on to the purchaser  
48 instead of being borne by the retailer. The Secretary of Revenue shall design, print and furnish  
49 to all retailers in a taxing county in which he shall collect and administer the tax the necessary  
50 forms for filing returns and instructions to insure the full collection from retailers, and the

1 Secretary may adapt the present form used for the reporting and collecting of the State sales  
2 and use tax to this purpose."

3 **SECTION 2.9.(f)** G.S. 105-474 reads as rewritten:

4 "**§ 105-474. Definitions; construction of Article; remedies and penalties.**

5 The definitions set forth in ~~G.S. 105-164.3~~ Article 5 of Subchapter I of this Chapter shall  
6 apply to this Article insofar as such definitions are not inconsistent with the provisions of this  
7 Article, and all other provisions of ~~Article 5 and of Article 9 of Subchapter 1, Chapter 105 of~~  
8 ~~the General Statutes, Articles 5 and 9 of Subchapter I of this Chapter~~ as the same relate to the  
9 North Carolina Sales and Use Tax Act shall be applicable to this Article unless such provisions  
10 are inconsistent with the provisions of this Article. The administrative interpretations made by  
11 the Secretary of Revenue with respect to the North Carolina Sales and Use Tax Act, to the  
12 extent not inconsistent with the provisions of this Article, may be uniformly applied in the  
13 construction and interpretation of this Article. It is the intention of this Article that the  
14 provisions of this Article and the provisions of the North Carolina Sales and Use Tax Act,  
15 insofar as practicable, shall be harmonized.

16 The provisions with respect to remedies and penalties applicable to the North Carolina  
17 Sales and Use Tax Act, as contained in ~~Article 5 and Article 9, Subchapter 1, Chapter 105 of~~  
18 ~~the General Statutes, Articles 5 and 9 of Subchapter I of this Chapter,~~ shall be applicable in like  
19 manner to the tax authorized to be levied and collected under this Article, to the extent that the  
20 same are not inconsistent with the provisions of this Article."

21 **SECTION 2.9.(g)** G.S. 105-187.31 reads as rewritten:

22 "**§ 105-187.31. Tax imposed.**

23 A privilege tax is imposed on a dry-cleaning solvent retailer at a flat rate for each gallon of  
24 dry-cleaning solvent sold by the retailer to a dry-cleaning facility. An excise tax is imposed on  
25 dry-cleaning solvent purchased ~~outside the State~~ for storage, use, or consumption by a  
26 dry-cleaning facility in this State. The rate of the privilege tax and the excise tax is ten dollars  
27 (\$10.00) for each gallon of halogenated hydrocarbon-based dry-cleaning solvent and one dollar  
28 and thirty-five cents (\$1.35) for each gallon of hydrocarbon-based dry-cleaning solvent. These  
29 taxes are in addition to all other taxes."

30 **SECTION 2.10.** Except as otherwise provided, Sections 2.1 through 2.8 of this part  
31 become effective retroactively to January 1, 2017, and apply to sales and purchases made on or  
32 after that date. Any amendments made in Sections 2.1 through 2.8 of this part that increase  
33 sales or use tax liability are effective when this act becomes law. The remainder of this part is  
34 effective when it becomes law.

### 35 **PART III. TAX COLLECTION AND ENFORCEMENT**

36 **SECTION 3.1.(a)** G.S. 105-236(a) is amended by adding a new subdivision to  
37 read:

38 "(a) Penalties. – The following civil penalties and criminal offenses apply:

39 ...

40 (9b) Identity Theft. – A person who knowingly obtains, possesses, or uses  
41 identifying information of another person, living or dead, with the intent to  
42 fraudulently utilize that information in a submission to the Department to  
43 obtain anything of value, benefit, or advantage for themselves or another is  
44 guilty of a Class G felony. If the person whose identifying information is  
45 obtained, possessed, or used by another in this manner suffers any adverse  
46 financial impact as a proximate result of the offense, then the person who  
47 obtained, possessed, or used the identifying information is guilty of a Class F  
48 felony. Each person's identity obtained, possessed, or used in this manner  
49 shall count as a separate offense. The term "identifying information" as used  
50 in this subdivision includes the following:  
51

- a. Legal name.
- b. Date of birth.
- c. Social Security Number.
- d. Taxpayer Identification Number.
- e. Federal Identification Number.
- f. Bank account numbers.
- g. Federal or State tax or tax return information.

...."

**SECTION 3.1.(b)** This section becomes effective December 1, 2017, and applies to offenses committed on or after that date.

**SECTION 3.2.** G.S. 105-251.2 is amended by adding the following new subsections to read:

"(c) Payment Settlement Entity. – For any year in which a payment settlement entity is required to make a return pursuant to section 6050W of the Code, the entity shall submit the information in the return to the Secretary at the time the return is made. For purposes of this subsection, the term "payment settlement entity" has the same meaning as provided in section 6050W of the Code.

(d) Electronic Format. – All reports submitted to the Department of Revenue under this section shall be in an electronic format as requested by the Secretary. Any report not timely filed under this section is subject to a penalty of one thousand dollars (\$1,000)."

**SECTION 3.3.(a)** G.S. 39-23.1 is amended by adding a new subdivision to read:

"(14) Voidable transaction. – The term does not include payment to the State or a political subdivision of the State of taxes, debts, fines, penalties, or other obligations or amounts."

**SECTION 3.3.(b)** G.S. 39-23.8(e) reads as rewritten:

"(e) A transfer is not voidable under G.S. 39-23.4(a)(2) or G.S. 39-23.5 if the transfer results from:

- (1) Termination of a lease upon default by the debtor when the termination is pursuant to the lease and applicable law; or
- (2) Enforcement of a security interest in compliance with Article 9 of Chapter 25 of the General Statutes, the Uniform Commercial Code, other than acceptance of collateral in full or partial satisfaction of the obligation it secures.
- (3) The payment of taxes, debts, fines, penalties, or other obligations or amounts to the State or to any political subdivision of the State."

#### **PART IV. ADMINISTRATIVE CHANGES**

**SECTION 4.1.(a)** G.S. 105-241.7 reads as rewritten:

"§ 105-241.7. **Procedure for obtaining a refund.**

...

(d) Notice. – A notice of a proposed denial of a request for refund issued pursuant to subsection (c) of this section and a notice of denial of a request for a refund issued pursuant to subsection (c1) of this section must contain the following information:

- (1) The basis for the denial or the proposed denial. The statement of the basis of the denial does not limit the Department from changing the basis.
- (2) The circumstances under which ~~the~~ a proposed denial will become final.

...

(f) Effect of Denial or Refund. – A proposed denial of a refund and a denial of a refund by the Secretary ~~is~~ are presumed to be correct. A refund does not absolve a taxpayer of a tax liability that may in fact exist. The Secretary may propose an assessment for any deficiency as provided in this Article."

1           **SECTION 4.1.(b)** G.S. 105-241.11 reads as rewritten:  
2   "**§ 105-241.11. Requesting review of a proposed denial of a refund or a proposed**  
3       **assessment.**

4       (a) Procedure. – A taxpayer who objects to a proposed denial of a refund or a proposed  
5       assessment of tax may request a Departmental review of the proposed action by filing a request  
6       for review. The request for review must be in the form prescribed by the Secretary and include  
7       an explanation for the request for review. The request must be filed with the Department as  
8       follows:

- 9           (1) Within 45 days of the date the notice of the proposed denial of the refund or  
10          proposed assessment was mailed to the taxpayer, if the notice was delivered  
11          by mail.
- 12          (2) Within 45 days of the date the notice of the proposed denial of the refund or  
13          proposed assessment was delivered to the taxpayer, if the notice was  
14          delivered in person.
- 15          (3) At any time between the date that inaction by the Department on a request  
16          for refund is considered a proposed denial of the refund and the date the time  
17          periods set in the other subdivisions of this subsection expire.

18       (b) Filing. – A request for a Departmental review of a proposed denial of a refund or a  
19       proposed assessment is considered filed on the following dates:

- 20           (1) For a request that is delivered in person, the date it is delivered.
- 21           (2) For a request that is mailed, the date determined in accordance with  
22           G.S. 105-263.
- 23           (3) For a request delivered by another method, the date the Department receives  
24           it.

25       (c) FTP Penalty. – A request for a Departmental review of a proposed assessment is  
26       considered a request for a Departmental review of a failure to pay penalty that is based on the  
27       assessment. A taxpayer who does not request a Departmental review of a proposed assessment  
28       may not request a Departmental review of a failure to pay penalty that is based on the  
29       ~~assessment~~ assessment but is assessed on a subsequent date in another notice."

30       **SECTION 4.1.(c)** Article 9 of Chapter 105 of the General Statutes is amended by  
31       adding the following new section to read:

32   "**§ 105-241.13A. Taxpayer inaction.**

33       (a) Consequence of Inaction. – If a taxpayer makes no response to the Department's  
34       request for additional information under G.S. 105-241.13(a) by the requested response date, the  
35       proposed denial of a refund or the proposed assessment becomes final as provided in this  
36       section. The Department must send the taxpayer a notice stating that the proposed denial of a  
37       refund or the proposed assessment becomes final 10 days from the date of the notice of inaction  
38       unless the taxpayer responds to the Department. A proposed denial of a refund or a proposed  
39       assessment that becomes final is not subject to further administrative or judicial review. A  
40       taxpayer may not file another amended return or claim for refund to obtain the denied refund.  
41       Upon payment of the tax, the taxpayer may request a refund of the tax.

42       (b) Notice of Collection. – Before the Department collects a proposed assessment that  
43       becomes final under this section, the Department must send the taxpayer a notice of collection  
44       containing the information required under G.S. 105-241.12."

45       **SECTION 4.1.(d)** G.S. 105-241.13 reads as rewritten:

46   "**§ 105-241.13. Action on request for review.**

47       (a) Action on Request. – If a taxpayer files a timely request for a Departmental review  
48       of a proposed denial of a refund or a proposed assessment, the Department must conduct a  
49       review of the proposed denial or proposed assessment and ~~take do one or more of the following~~  
50       actions: following:

- 51           (1) Grant the refund or remove the assessment.

- 1           (2) ~~Schedule a conference with the taxpayer.~~Adjust the amount of tax due or  
2 refund owed.
- 3           (3) Request additional information from the taxpayer concerning the requested  
4 refund or proposed assessment. If a taxpayer makes no response to the  
5 Department's request for additional information by the requested response  
6 date, the refund or assessment shall be subject to the provisions of  
7 G.S. 105-241.13A.

8           (a1) Payment by Taxpayer. – If a taxpayer timely requests a Departmental review of a  
9 proposed assessment and thereafter pays the amount due or the amount due as adjusted by the  
10 Department, the Department may accept payment and take no further action on the request for  
11 Departmental review, unless the taxpayer states in writing that the taxpayer wishes to continue  
12 the Departmental review. If the review is not continued, the taxpayer may request a refund of  
13 taxes paid pursuant to G.S. 105-241.7(b).

14           (b) Conference. – When the Department and the taxpayer agree that an action taken  
15 under subsection (a) or (a1) of this section resolves the taxpayer's objection to the Department's  
16 proposed denial of a refund or a proposed assessment, the Department does not need to take  
17 further action on the request for review. When the Department reviews a proposed denial of a  
18 refund or a proposed assessment and does not grant the refund or remove the assessment, an  
19 action taken under subsection (a) or (a1) of this section do not resolve the taxpayer's objection  
20 to the Department's proposed denial of a refund or a proposed assessment, the Department must  
21 schedule a conference with the taxpayer. The Department must set the time and place for the  
22 conference, which may include a conference by telephone, and must send the taxpayer notice of  
23 the designated time and place. The Department must send the notice at least 30 days before the  
24 date of the conference or, if the Department and the taxpayer agree, within a shorter period.

25           The conference is an informal proceeding at which the taxpayer and the Department must  
26 attempt to resolve the case. Testimony under oath is not taken, and the rules of evidence do not  
27 apply. A taxpayer may designate a representative to act on the taxpayer's behalf. The taxpayer  
28 may present any objections to the proposed denial of refund or proposed assessment at the  
29 ~~conference.~~conference and is not limited by the explanation set forth in the taxpayer's request  
30 for review.

31           (c) After Conference. – One of the following must occur after the Department conducts  
32 a conference on a proposed denial of a refund or a proposed assessment:

- 33           (1) The Department and the taxpayer agree on a ~~settlement.~~resolution.
- 34           (2) The Department and the taxpayer agree that additional time is needed to  
35 resolve the taxpayer's objection to the proposed denial of the refund or  
36 proposed assessment.
- 37           (3) The Department and the taxpayer are unable to resolve the taxpayer's  
38 objection to the proposed denial of the refund or proposed assessment. If a  
39 taxpayer fails to attend a scheduled conference on the proposed denial of a  
40 refund or a proposed assessment without prior notice to the Department, the  
41 Department and the taxpayer are considered to be unable to resolve the  
42 taxpayer's objection."

43           **SECTION 4.1.(e)** G.S. 105-241.16 reads as rewritten:

44           "**§ 105-241.16. Judicial review of decision after contested case hearing.**

45           A ~~taxpayer-party~~ aggrieved by the final decision in a contested case commenced at the  
46 Office of Administrative Hearings may seek judicial review of the decision in accordance with  
47 Article 4 of Chapter 150B of the General Statutes. Notwithstanding G.S. 150B-45, a petition  
48 for judicial review must be filed in the Superior Court of Wake County and in accordance with  
49 the procedures for a mandatory business case set forth in G.S. 7A-45.4(b) through (f). Before  
50 filing a petition for judicial review, a taxpayer must pay the amount of tax, penalties, and

1 interest the final decision states is due. A ~~taxpayer-party~~ may appeal a decision of the Business  
2 Court to the appellate division in accordance with G.S. 150B-52."

3 **SECTION 4.2.** G.S. 105-241.22 reads as rewritten:

4 "**§ 105-241.22. Collection of tax.**

5 The Department may collect a tax in the following circumstances:

6 ...

- 7 (2) When the Department sends a notice of collection after a taxpayer does not  
8 file a timely request for a Departmental review of a proposed assessment of  
9 ~~tax-tax~~ or based upon taxpayer inaction in accordance with  
10 G.S. 105-241.13A.

11 ...."

12 **SECTION 4.3.(a)** G.S. 105-113.4A reads as rewritten:

13 "**§ 105-113.4A. Licenses.**

14 ...

15 (c) Denial. – The Secretary may investigate an applicant for a license required under  
16 this Article to determine if the information the applicant submits with the application is  
17 accurate and if the applicant is eligible to be licensed under this Article. The Secretary may  
18 refuse to issue a license to an applicant that has done any of the following:

19 ...

- 20 (2) Had a license issued under this Article ~~cancelled-revoked~~ by the ~~Secretary~~  
21 ~~for cause.~~Secretary.  
22 (3) Had a tobacco products license or registration issued by another state  
23 ~~cancelled for cause.~~revoked.

24 (d) Refund. – A refund of a license tax is allowed only when the tax was collected or  
25 paid in error. No refund is allowed when a ~~license holder~~licensee surrenders a license or the  
26 Secretary revokes a license.

27 (e) Duplicate or Amended License. – Upon application to the Secretary, a ~~license~~  
28 ~~holder-licensee~~ may obtain without charge a duplicate or amended license as provided in this  
29 subsection. A duplicate or amended license must state that it is a duplicate or amended license,  
30 as appropriate:

- 31 (1) A duplicate license, if the ~~license holder~~licensee establishes that the original  
32 license has been lost, destroyed, or defaced.  
33 (2) An amended license, if the ~~license holder~~licensee establishes that the  
34 location of the place of business for which the license was issued has  
35 changed.

36 (f) Information on License. – The Secretary must include the following information on  
37 each license required by this Article:

- 38 (1) The legal name of the ~~license holder~~licensee.  
39 (2) The name under which the ~~license holder~~licensee conducts business.  
40 (3) The physical address of the place of business of the ~~license holder~~licensee.  
41 (4) The account number assigned to the license by the Department.

42 (g) Records. – The Secretary must keep a record of the following:

- 43 (1) Applicants for a license under this Article.  
44 (2) Persons to whom a license has been issued under this Article.  
45 (3) Persons that hold a current license issued under this Article, by license  
46 category.

47 (h) Lists. – The Secretary must provide the list required under subsection (g) of this  
48 section upon request of a manufacturer that is a ~~license holder~~licensee under this Article. The  
49 list must state the name, account number, and business address of each ~~license holder~~licensee  
50 on the list."

51 **SECTION 4.3.(b)** G.S. 105-113.4B reads as rewritten:

1 "~~§ 105-113.4B. Reasons why the Secretary can cancel a license.~~ Cancellation or revocation  
2 of license.

3 (a) Reasons. – The Secretary may cancel a license issued under this Article upon the  
4 written request of the ~~license holder~~licensee. The Secretary may summarily ~~cancel the~~revoke a  
5 ~~license of a license holder~~issued under this Article when the Secretary finds that the ~~license~~  
6 ~~holder~~licensee is incurring liability for the tax imposed under this Article after failing to pay a  
7 tax when due under this Article. In addition, the Secretary may ~~cancel the~~revoke the license of  
8 a ~~license holder~~licensee that commits one or more of the following acts after holding a hearing  
9 on whether the license should be ~~cancelled~~revoked:

- 10 (1) Fails to obtain a license in a timely manner or for all places of business as  
11 required by this Article.
- 12 (2) Willfully fails to file a return required by this Article.
- 13 (3) Willfully fails to pay a tax when due under this Article.
- 14 (4) Makes a false statement in an application or return required under this  
15 Article.
- 16 (5) Fails to keep records as required by this Article.
- 17 (6) Refuses to allow the Secretary or a representative of the Secretary to  
18 examine the person's books, accounts, and records concerning tobacco  
19 product.
- 20 (7) Fails to disclose the correct amount of tobacco product taxable in this State.
- 21 (8) Fails to file a replacement bond or an additional bond if required by the  
22 Secretary under this Article.
- 23 (9) Violates G.S. 14-401.18.

24 (b) Procedure. – The Secretary must send a person whose license is summarily  
25 ~~cancelled~~revoked a notice of the ~~cancellation~~revocation and must give the person an  
26 opportunity to have a hearing on the ~~cancellation~~revocation within 10 days after the  
27 ~~cancellation~~revocation. The Secretary must give a person whose license may be ~~cancelled~~  
28 revoked after a hearing at least 10 days' written notice of the date, time, and place of the  
29 hearing. A notice of a summary license ~~cancellation~~revocation and a notice of hearing must be  
30 sent by registered mail to the last known address of the ~~license holder~~licensee.

31 (c) Release of Bond. – When the Secretary ~~cancels~~or revokes a license and the ~~license~~  
32 ~~holder~~licensee has paid all taxes and penalties due under this Article, the Secretary must take  
33 one of the following actions concerning a bond or an irrevocable letter of credit filed by the  
34 ~~license holder~~licensee:

- 35 (1) Return an irrevocable letter of credit to the ~~license holder~~licensee.
- 36 (2) Return a bond to the ~~license holder~~licensee or notify the person liable on the  
37 bond and the ~~license holder~~licensee that the person is released from liability  
38 on the bond."

39 **SECTION 4.4.(a)** G.S. 105-449.44(c) reads as rewritten:

40 "(c) Vehicles. – The number of qualified motor vehicles of a motor carrier that is  
41 ~~registered~~licensed under this Article is the number of sets of decals issued to the carrier. The  
42 number of qualified motor vehicles of a carrier that is not ~~registered~~licensed under this Article  
43 is the number of qualified motor vehicles licensed or registered by the motor carrier in the  
44 carrier's base state under the International Registration Plan."

45 **SECTION 4.4.(b)** G.S. 105-449.45(b) reads as rewritten:

46 "(b) Exemptions. – A motor carrier is not required to file a quarterly return if any of the  
47 following applies:

- 48 (1) All the motor carrier's operations during the quarter were made under a  
49 temporary permit issued under G.S. 105-449.49.
- 50 (2) The motor carrier is an intrastate motor carrier, as indicated on the motor  
51 carrier's application for ~~registration~~licensure with the Secretary."

1           **SECTION 4.4.(c)** G.S. 105-449.47 reads as rewritten:

2   "**§ 105-449.47. Registration-Licensure of vehicles.**

3       (a) Requirement. – A motor carrier may not operate or cause to be operated in this State  
4 a qualified motor vehicle unless both the motor carrier and at least one qualified motor vehicle  
5 are ~~registered-licensed~~ as provided in this subsection. This subsection applies to a motor carrier  
6 that operates a recreational vehicle that is ~~considered a qualified motor vehicle used in~~  
7 ~~connection with any business endeavor.~~ A motor carrier that is subject to the International Fuel  
8 Tax Agreement must ~~register-be licensed~~ with the motor carrier's base state jurisdiction. A  
9 motor carrier that is not subject to the International Fuel Tax Agreement must ~~register-be~~  
10 ~~licensed~~ with the Secretary for purposes of the tax imposed by this Article.

11       (a1) ~~Registration-License~~ and Decal. – When the Secretary ~~registers-licenses~~ a motor  
12 carrier, the Secretary must issue a ~~registration-card~~license for the motor carrier and a set of  
13 decals for each qualified motor ~~vehicle the motor carrier registers-vehicle.~~ A motor carrier must  
14 keep records of decals issued to it and must be able to account for all decals it receives from the  
15 Secretary. ~~Registrations-Licenses~~ and decals issued by the Secretary are for a calendar year. All  
16 decals issued by the Secretary remain the property of the State. The Secretary may revoke a  
17 ~~registration-license~~ or a decal when a motor carrier fails to comply with this Article or Article  
18 36C or 36D of this Subchapter.

19       A motor carrier must carry a copy of its ~~registration-license~~ in each motor vehicle operated  
20 by the motor carrier when the vehicle is in this State. A motor vehicle must clearly display one  
21 decal on each side of the vehicle at all times. A decal must be affixed to the qualified motor  
22 vehicle for which it was issued in the place and manner designated by the authority that issued  
23 it.

24       (b) Exemption. – This section does not apply to the operation of a qualified motor  
25 vehicle that is ~~registered-licensed~~ in another state and is operated temporarily in this State by a  
26 public utility, a governmental or cooperative provider of utility services, or a contractor for one  
27 of these entities for the purpose of restoring utility services in an emergency outage."

28           **SECTION 4.4.(d)** G.S. 105-449.47A reads as rewritten:

29   "**§ 105-449.47A. ~~Reasons why the Secretary can deny an application for a registration~~**  
30   **and decals.Denial of license application and decal issuance.**

31       The Secretary may refuse to ~~register-license~~ and issue a decal to an applicant that does not  
32 meet the requirements set out in G.S. 105-449.69(b) or that has done any of the following:

- 33       (1) Had a ~~registration-license~~ issued under Chapter 105 or Chapter 119 of the  
34 General Statutes ~~cancelled by the Secretary for cause-revoked by the~~  
35 ~~Secretary.~~
- 36       (2) Had a ~~registration-license~~ issued by another jurisdiction, pursuant to the  
37 International Fuel Tax Agreement, ~~cancelled for cause-revoked.~~
- 38       (3) Been convicted of fraud or misrepresentation.
- 39       (4) Been convicted of any other offense that indicates that the applicant may not  
40 comply with this Article if ~~registered-licensed~~ and issued a decal.
- 41       (5) Failed to remit payment for a tax debt under Chapter 105 or Chapter 119 of  
42 the General Statutes. The term "tax debt" has the same meaning as defined in  
43 G.S. 105-243.1.
- 44       (6) Failed to file a return due under Chapter 105 or Chapter 119 of the General  
45 Statutes."

46           **SECTION 4.4.(e)** G.S. 105-449.49(a) reads as rewritten:

47       "(a) Issuance. – Upon application to the Secretary and payment of a fee of fifty dollars  
48 (\$50.00), a permitting service may obtain a temporary permit authorizing a motor carrier to  
49 operate a vehicle in the State for three days without ~~registering-licensing~~ the vehicle in  
50 accordance with G.S. 105-449.47. The permitting service may sell the temporary permit to a  
51 motor carrier. A motor carrier to whom a temporary permit has been issued may elect not to

1 report its operation of the vehicle during the three-day period. Fees collected under this  
2 subsection are credited to the Highway Fund."

3 **SECTION 4.4.(f)** G.S. 105-449.51 reads as rewritten:

4 **"§ 105-449.51. Violations declared to be misdemeanors.**

5 ~~Any~~ A person who operates or causes to be operated on a highway in this State a qualified  
6 motor vehicle that does not carry a ~~registration card~~ license as required by this Article, does not  
7 properly display a decal as required by this Article, or is not ~~registered~~ licensed in accordance  
8 with this Article commits a Class 3 misdemeanor and is punishable by a fine of two hundred  
9 dollars (\$200.00). Each day's operation in violation of this section constitutes a separate  
10 offense."

11 **SECTION 4.4.(g)** G.S. 105-449.52 reads as rewritten:

12 **"§ 105-449.52. Civil penalties applicable to motor carriers.**

13 (a) Penalty. – A motor carrier who does any of the following is subject to a civil  
14 penalty:

- 15 (1) Operates in this State or causes to be operated in this State a qualified motor  
16 vehicle that either fails to carry the ~~registration card~~ license required by this  
17 Article or fails to display a decal in accordance with this Article. The amount  
18 of the penalty is one hundred dollars (\$100.00).
- 19 (2) Is unable to account for a decal the Secretary issues the motor carrier, as  
20 required by G.S. 105-449.47. The amount of the penalty is one hundred  
21 dollars (\$100.00) for each decal for which the carrier is unable to account.
- 22 (3) Displays a decal on a qualified motor vehicle operated by a motor carrier  
23 that was not issued to the carrier by the Secretary under G.S. 105-449.47.  
24 The amount of the penalty is one thousand dollars (\$1,000) for each decal  
25 unlawfully obtained. Both the licensed motor carrier to whom the Secretary  
26 issued the decal and the motor carrier displaying the unlawfully obtained  
27 decal are jointly and severally liable for the penalty under this subdivision.

28 (a1) Payment. – A penalty imposed under this section is payable to the agency that  
29 assessed the penalty. When a qualified motor vehicle is found to be operating without a  
30 ~~registration card~~ license or a decal or with a decal the Secretary did not issue for the vehicle,  
31 the qualified motor vehicle may not be driven for a purpose other than to park it until the  
32 penalty imposed under this section is paid unless the officer that imposes the penalty  
33 determines that operating it will not jeopardize collection of the penalty.

34 (b) Penalty-Penalty Reduction. – The Secretary may reduce or waive the penalty as  
35 provided under G.S. 105-449.119."

36 **SECTION 4.5.(a)** G.S. 105-449.68 reads as rewritten:

37 **"§ 105-449.68. Restrictions on who can get a license as a distributor.**

38 A bulk end-user of motor fuel may not be licensed as a distributor unless the bulk end-user  
39 also acquires motor fuel from a supplier or from another distributor for subsequent sale. This  
40 restriction does not apply to a bulk end-user that was licensed as a distributor on January 1,  
41 1996. If a distributor license held by a bulk end-user on January 1, 1996, is subsequently  
42 revoked or cancelled, the bulk end-user is subject to the restriction set in this section."

43 **SECTION 4.5.(b)** G.S. 105-449.72 reads as rewritten:

44 **"§ 105-449.72. Bond or letter of credit required as a condition of obtaining and keeping  
45 certain licenses or of applying for certain refunds.**

46 ...

47 (c) Adjustment to Bond. – When notified to do so by the Secretary, a person that has  
48 filed a bond or an irrevocable letter of credit and that holds a license listed in subdivision (a)(2)  
49 of this section must file an additional bond or irrevocable letter of credit in the amount  
50 requested by the Secretary. The person must file the additional bond or irrevocable letter of  
51 credit within 30 days after receiving the notice from the Secretary. The amount of the initial

1 bond or irrevocable letter of credit and any additional bond or irrevocable letter of credit filed  
2 by the ~~license holder~~, licensee, however, may not exceed the limits set in subdivision (a)(2) of  
3 this section.

4 (d) Replacements. – When a ~~license holder~~ licensee files a bond or an irrevocable letter  
5 of credit as a replacement for a previously filed bond or letter of credit and the ~~license holder~~  
6 licensee has paid all taxes and penalties due under this Article, the Secretary must take one of  
7 the following actions:

8 (1) Return the previously filed bond or letter of credit.

9 (2) Notify the person liable on the previously filed bond that the person is  
10 released from liability on the bond.

11 ...."

12 **SECTION 4.5.(c)** G.S. 105-449.73 reads as rewritten:

13 "**§ 105-449.73. ~~Reasons why the Secretary can deny an application for a license.~~Denial of**  
14 **license application.**

15 The Secretary may refuse to issue a license to an applicant that has done any of the  
16 following:

17 (1) Had a license or registration issued under this Article or former Article 36 or  
18 36A of this Chapter ~~cancelled~~ revoked by the ~~Secretary for cause.~~ Secretary.

19 (1a) Had a motor fuel license or registration issued by another state ~~cancelled for~~  
20 cause revoked.

21 ...."

22 **SECTION 4.5.(d)** G.S. 105-449.74 reads as rewritten:

23 "**§ 105-449.74. Issuance of license.**

24 Upon approval of an application, the Secretary must issue a license to the applicant. A  
25 supplier's license must indicate the category of the supplier. An importer's license must indicate  
26 the category of the importer. A ~~license holder~~ licensee must maintain and display a copy of the  
27 license issued under this Part in a conspicuous place at each place of business of the ~~license~~  
28 ~~holder~~ licensee. A license is not transferable and remains in effect until ~~surrendered~~ revoked or  
29 cancelled."

30 **SECTION 4.5.(e)** G.S. 105-449.75 reads as rewritten:

31 "**§ 105-449.75. ~~License holder~~ Licensee must notify the Secretary of discontinuance of**  
32 **business.**

33 A ~~license holder~~ licensee that stops engaging in this State in the business for which the  
34 license was issued must give the Secretary written notice of the change and must surrender the  
35 license to the Secretary. The notice must give the date the change takes effect and, if the ~~license~~  
36 ~~holder~~ licensee has transferred the business to another by sale or otherwise, the date of the  
37 transfer and the name and address of the person to whom the business is transferred.

38 The ~~license holder~~ licensee is responsible for all taxes for which the ~~license holder~~ licensee  
39 is liable under this Article but are not yet due. If the ~~license holder~~ licensee has transferred the  
40 business to another and does not give the notice required by this section, the person to whom  
41 the ~~license holder~~ licensee has transferred the business is liable for the amount of any tax the  
42 ~~license holder~~ licensee owed the State on the date the business was transferred. The liability of  
43 the person to whom the business is transferred is limited to the value of the property acquired  
44 from the ~~license holder~~ licensee."

45 **SECTION 4.5.(f)** G.S. 105-449.76 reads as rewritten:

46 "**§ 105-449.76. ~~Reasons why the Secretary can cancel a license.~~Cancellation or revocation**  
47 **of license.**

48 (a) Reasons. – The Secretary may cancel a license issued under this Article upon the  
49 written request of the ~~license holder~~ licensee. The Secretary may summarily ~~cancel the~~ revoke a  
50 license ~~of a license holder~~ issued under this Article when the Secretary finds that the ~~license~~  
51 ~~holder~~ licensee is incurring liability for the tax imposed under this Article after failing to pay a

1 tax when due under this Article. In addition, the Secretary may ~~cancel the~~ revoke the license of  
2 a ~~license holder~~ licensee that commits one or more of the acts listed in G.S. 105-449.120 after  
3 holding a hearing on whether the license should be ~~cancelled~~ revoked.

4 (b) Procedure. – The Secretary must send a person whose license is summarily  
5 ~~cancelled~~ revoked a notice of the ~~cancellation~~ revocation and must give the person an  
6 opportunity to have a hearing on the ~~cancellation~~ revocation within 10 days after the  
7 ~~cancellation~~ revocation. The Secretary must give a person whose license may be ~~cancelled~~  
8 revoked after a hearing at least 10 days' written notice of the date, time, and place of the  
9 hearing. A notice of a summary license ~~cancellation~~ revocation and a notice of hearing must be  
10 sent by registered mail to the last known address of the ~~license holder~~ licensee.

11 (c) Release of Bond. – When the Secretary ~~cancels~~ or revokes a license and the ~~license~~  
12 ~~holder~~ licensee has paid all taxes and penalties due under this Article, the Secretary must take  
13 one of the following actions concerning a bond or an irrevocable letter of credit filed by the  
14 ~~license holder~~ licensee:

15 (1) Return an irrevocable letter of credit to the ~~license holder~~ licensee.

16 (2) Return a bond to the ~~license holder~~ licensee or notify the person liable on the  
17 bond and the ~~license holder~~ licensee that the person is released from liability  
18 on the bond."

19 **SECTION 4.5.(g)** G.S. 105-449.77(b) reads as rewritten:

20 "(b) Lists. – The Secretary must annually give a list to each ~~license holder~~ licensee of all  
21 the ~~license holders~~ licensees under this Article. The list must state the name, account number,  
22 and business address of each ~~license holder~~ licensee on the list. The Secretary must send a  
23 monthly update of the list to each licensed refiner or licensed supplier and to any other ~~license~~  
24 ~~holder~~ licensee that requests a copy of the list."

25 **SECTION 4.5.(h)** G.S. 105-449.92 reads as rewritten:

26 "**§ 105-449.92. Notice to suppliers of ~~cancellation~~ cancellation, revocation, or reissuance**  
27 **of certain licenses; effect of notice.**

28 (a) Notice to Suppliers. – If the Secretary ~~cancels~~ or revokes a distributor's license, an  
29 exporter's license, or an importer's license, the Secretary must notify all suppliers of the  
30 ~~cancellation~~ cancellation or revocation. If the Secretary issues a license to a distributor, an  
31 exporter, or an importer whose license was ~~cancelled~~ cancelled or revoked, the Secretary must  
32 notify all suppliers of the issuance.

33 (b) Effect of Notice. – A supplier that sells motor fuel to a distributor after receiving  
34 notice from the Secretary that the Secretary has ~~cancelled~~ or revoked the distributor's license is  
35 jointly and severally liable with the distributor for any tax due on motor fuel the supplier sells  
36 to the distributor after receiving the notice. This joint and several liability does not apply to  
37 excise tax due on motor fuel sold to a previously unlicensed distributor after the supplier  
38 receives notice from the Secretary that the Secretary has issued another license to the  
39 distributor."

40 **SECTION 4.5.(i)** G.S. 105-449.97(a) reads as rewritten:

41 "(a) Taxes Not Remitted. – When a supplier files a return, the supplier may deduct from  
42 the amount of tax payable with the return the amount of tax any of the following ~~license~~  
43 ~~holders~~ licensees owes the supplier but failed to remit to the supplier:

44 (1) A licensed distributor.

45 (2) A licensed importer that removed the motor fuel on which the tax is due  
46 from a terminal of an elective or a permissive supplier.

47 (3) Repealed by Session Laws 1995, c. 647, s. 32.

48 A supplier is not liable for tax a ~~license holder~~ licensee listed in this subsection owes the  
49 supplier but fails to pay. If a listed ~~license holder~~ licensee pays tax owed to a supplier after the  
50 supplier deducts the amount on a return, the supplier must promptly remit the payment to the  
51 Secretary."

1           **SECTION 4.5.(j)** G.S. 105-449.98(b) reads as rewritten:

2           "(b) Notice of Fuel Received. – A supplier must notify a licensed distributor, a licensed  
3 exporter, or a licensed importer that received motor fuel from the supplier during a reporting  
4 period of the number of taxable gallons received. The supplier must give this notice after the  
5 end of each reporting period and before the ~~license holder~~licensee must remit to the supplier  
6 the amount of tax due on the fuel."

7           **SECTION 4.5.(k)** G.S. 105-449.104 reads as rewritten:

8           "**§ 105-449.104. Use of name and account number on return.**

9           When a transaction with a person licensed under this Article is required to be reported on a  
10 return, the return must state the ~~license holder's~~licensee's name and the account number used  
11 by the Department to identify the ~~license holder~~licensee. The name of a ~~license holder~~licensee  
12 and the ~~license holder's~~licensee's account number is stated on the lists compiled under  
13 G.S. 105-449.77."

14           **SECTION 4.5.(l)** G.S. 105-449.110(a) reads as rewritten:

15           "(a) Decision. – Upon determining that an application for refund is correct, the Secretary  
16 must issue the applicant a warrant upon the State Treasurer for the amount of the refund. If the  
17 Secretary determines that an application for refund is incorrect, the Secretary must send the  
18 applicant a written notice of the determination to the applicant. The notice must advise the  
19 applicant that the applicant may request a hearing on the matter in accordance with Article 9 of  
20 this Chapter proposed denial of the request for a refund. The provisions of Article 9 of this  
21 Chapter apply to the procedure for requesting a review of proposed denial of a refund sought  
22 under this Article."

23           **SECTION 4.6.(a)** G.S. 105-449.134 reads as rewritten:

24           "**§ 105-449.134. ~~Denial or cancellation~~Denial, revocation, or cancellation of license.**

25           The Secretary may deny an application for a license or cancel or revoke a license under this  
26 Article for the same reasons that the Secretary may deny an application for a license or cancel  
27 or revoke a license under Article 36C of this Chapter. The procedure in Article 36C for  
28 ~~cancelling~~revoking a license applies to the ~~cancellation~~revocation of a license under this  
29 Article."

30           **SECTION 4.6.(b)** G.S. 105-449.135 reads as rewritten:

31           "**§ 105-449.135. Issuance of license; notification of changes.**

32           (a) Issuance. – The Secretary must issue a license to each applicant whose application is  
33 approved. A license is not transferable and remains in effect until ~~surrendered~~revoked or  
34 cancelled.

35           (b) Notice. – A ~~license holder~~licensee that stops engaging in this State in the business  
36 for which the license was issued must give the Secretary written notice of the change and must  
37 surrender the license. The notice must give the date the change takes effect and, if the ~~license~~  
38 ~~holder~~licensee has transferred the business to another by sale or otherwise, the date of the  
39 transfer and the name and address of the person to whom the business is transferred.

40           All taxes for which the ~~license holder~~licensee is liable under this Article but are not yet due  
41 become due on the date of the change. If the ~~license holder~~licensee transfers the business to  
42 another and does not give the notice required by this section, the person to whom the business  
43 was transferred is liable for the amount of any tax the ~~license holder~~licensee owed the State on  
44 the date the business was transferred. The liability of the person to whom the business is  
45 transferred is limited to the value of the property acquired from the ~~license holder~~licensee."

46           **SECTION 4.6.(c)** G.S. 105-449.139 reads as rewritten:

47           "**§ 105-449.139. Miscellaneous provisions.**

48           (a) Records. – A ~~license holder~~licensee must keep a record of all documents used to  
49 determine the information provided in a return filed under this Article. The records must be  
50 kept for three years from the due date of the return to which the records apply. The records are

1 open to inspection during business hours by the Secretary or a person designated by the  
2 Secretary.

3 ...  
4 (c) Lists. – The Secretary must give a list of licensed alternative fuel providers to each  
5 licensed bulk end-user and licensed retailer. The Secretary must also give a list of licensed bulk  
6 end-users and licensed retailers to each licensed alternative fuel provider. A list must state the  
7 name, account number, and business address of each ~~license holder~~ licensee on the list. The  
8 Secretary must send an annual update of a list to each ~~license holder~~ licensee, as appropriate."

9 **SECTION 4.6.(d)** G.S. 119-19 reads as rewritten:

10 "**§ 119-19. Authority of Secretary to cancel or revoke a license.**

11 (a) Reasons. – The Secretary of Revenue may cancel a license issued under this Article  
12 upon the written request of the ~~license holder~~ licensee. The Secretary may summarily ~~cancel~~  
13 revoke a license issued under this Article or under Article 36C or 36D of Chapter 105 of the  
14 General Statutes when the Secretary finds that the ~~license holder~~ licensee is incurring liability  
15 for the tax imposed by this Article after failing to pay a tax when due under this Article. The  
16 Secretary may ~~cancel~~ revoke the license of a ~~license holder~~ licensee who files a false report  
17 under this Article or fails to file a report required under this Article after holding a hearing on  
18 whether the license should be ~~cancelled~~ revoked.

19 (b) Procedure. – The Secretary must send a person whose license is summarily  
20 ~~cancelled~~ revoked a notice of the ~~cancellation~~ revocation and must give the person an  
21 opportunity to have a hearing on the ~~cancellation~~ revocation within 10 days after the  
22 ~~cancellation~~ revocation. The Secretary must give a person whose license may be ~~cancelled~~  
23 revoked after a hearing at least 10 days' written notice of the date, time, and place of the  
24 hearing. A notice of a summary license ~~cancellation~~ revocation and a notice of hearing must be  
25 sent by registered mail to the last known address of the ~~license holder~~ licensee.

26 (c) Release of Bond. – When the Secretary cancels or revokes a license and the ~~license~~  
27 ~~holder~~ licensee has paid all taxes and penalties due under this Article, the Secretary must either  
28 return to the ~~license holder~~ licensee the bond filed by the ~~license holder~~ licensee or notify the  
29 person liable on the bond and the ~~license holder~~ licensee that the person is released from  
30 liability on the bond."

31 **SECTION 4.7.** G.S. 105-259(b) is amended by adding a new subdivision to read:

32 "(53) To provide to the Office of Child Support and Enforcement of the  
33 Department of Health and Human Services State tax information that relates  
34 to noncustodial parent location information as required under 45 C.F.R. §  
35 303.3 and Title IV-D of the Social Security Act."

36 **SECTION 4.8.** Section 4.1(e) of this part becomes effective retroactively to  
37 January 1, 2012, and applies to contested cases commenced on or after that date. The remainder  
38 of this part is effective when it becomes law and applies to requests for review filed on or after  
39 that date and to requests for review pending on that date for which the Department reissues a  
40 request for additional information, allows the taxpayer time to respond by the requested  
41 response date, and provides notification to the taxpayer that failure to timely respond to the  
42 request will result in the request for review being subject to the provisions of  
43 G.S. 105-241.13A.

## 44 **PART V. PROPERTY TAX**

45 **SECTION 5.1.(a)** G.S. 105-330.3(a1) reads as rewritten:

46 "(a1) Unregistered Vehicles. – The owner of an unregistered classified motor vehicle  
47 must list the vehicle for taxes by filing an abstract with the assessor of the county in which the  
48 vehicle is located on or before January 31 following the date the owner acquired the  
49 unregistered vehicle or, in the case of a registration that is not renewed, January 31 following  
50 the date the registration expires, and on or before January 31 of each succeeding year that the  
51

1 vehicle is unregistered. If a classified motor vehicle required to be listed pursuant to this  
 2 subsection is registered before the end of the fiscal year for which it was required to be listed,  
 3 the following applies:

4 ...  
 5 (2) For any months for which the vehicle was not taxed between the date the  
 6 registration expired and the start of the current registered vehicle tax year,  
 7 the vehicle is taxed as an unregistered vehicle as follows:

8 a. The value of the motor vehicle is determined as of January 1 of the  
 9 year in which ~~the registration of the motor vehicle expires.~~ the taxes  
 10 are computed.

11 ...  
 12 d. The taxes are due on ~~the first day of the second month~~ September 1  
 13 following the month date the notice was prepared. Taxes are payable  
 14 at par or face amount if paid before January 6 following the due date.  
 15 Taxes paid on or after January 6 following the due date are subject to  
 16 interest charges. Interest accrues on taxes paid on or after January 6  
 17 pursuant to G.S. 105-360.

18 e. ~~Interest accrues on unpaid taxes for these unregistered classified~~  
 19 ~~motor vehicles at the rate of five percent (5%) for the remainder of~~  
 20 ~~the month following the month the taxes are due. Interest accrues at~~  
 21 ~~the rate of three fourths percent (3/4%) for each following month~~  
 22 ~~until the taxes are paid, unless the notice is prepared after the date the~~  
 23 ~~taxes are due. In that circumstance, the interest accrues beginning the~~  
 24 ~~second month following the date of the notice until the taxes are~~  
 25 ~~paid.~~

26 ...."

27 **SECTION 5.1.(b)** This section is effective for taxes imposed for taxable years  
 28 beginning on or after July 1, 2017.

29 **SECTION 5.2.** G.S. 105-330.6(c) reads as rewritten:

30 "(c) Surrender of Plates. – If the owner of a classified motor ~~vehicle listed pursuant to~~  
 31 ~~G.S. 105-330.3(a)(1)~~ vehicle, who pays the tax as required by G.S. 105-330.4(a), either  
 32 transfers the motor vehicle to a new owner or moves out-of-state and registers the vehicle in  
 33 another jurisdiction, and the owner surrenders the registration plates from the listed vehicle to  
 34 the Division of Motor Vehicles, then the owner may apply for a release or refund of taxes on  
 35 the vehicle for any full calendar months remaining in the vehicle's tax year after the date of  
 36 surrender. To apply for a release or refund, the owner must present to the county tax collector  
 37 within one year after surrendering the plates the receipt received from the Division of Motor  
 38 Vehicles accepting surrender of the registration plates. The county tax collector shall then  
 39 multiply the amount of the taxes for the tax year on the vehicle by a fraction, the denominator  
 40 of which is the number of months in the tax year and the numerator of which is the number of  
 41 full calendar months remaining in the vehicle's tax year after the date of surrender of the  
 42 registration plates. The product of the multiplication is the amount of taxes to be released or  
 43 refunded. If the taxes have not been paid at the date of application, the county tax collector  
 44 shall make a release of the prorated taxes and credit the owner's tax notice with the amount of  
 45 the release. If the taxes have been paid at the date of application, the county tax collector shall  
 46 direct an order for a refund of the prorated taxes to the county finance officer, and the finance  
 47 officer shall issue a refund to the vehicle owner."

48 **SECTION 5.3.** G.S. 105-338 reads as rewritten:

49 "**§ 105-338. Allocation of appraised valuation of public service property among local**  
 50 **taxing units.**"

1 (a) State Board's Duty. – For purposes of taxation by local taxing units in this State, the  
2 Department of Revenue shall allocate the valuations of public service company property among  
3 the local taxing units in accordance with the provisions of this section. In no event, however,  
4 shall the State Board make an allocation to a taxing unit if, when computed, the valuation for  
5 that taxing unit amounts to less than five hundred dollars (\$500.00).

6 ...  
7 (c) Certain Property of Bus Line, Motor Freight Carrier, and Airline Companies. –

8 (1) The appraised valuation of a bus line company's rolling stock is allocated for  
9 taxation to each local taxing unit according to the ratio of the company's  
10 scheduled miles during the calendar year preceding January 1 in each unit to  
11 the company's total scheduled miles in this State for the same period. ~~In no~~  
12 ~~event, however, shall the State Board make an allocation to a taxing unit if,~~  
13 ~~when computed, the valuation for that taxing unit amounts to less than five~~  
14 ~~hundred dollars (\$500.00).~~

15 ...."

16  
17 **PART VI. SEVERABILITY AND EFFECTIVE DATE**

18 **SECTION 6.1.** If any provision of this act or its application is held invalid, the  
19 invalidity does not affect other provisions or applications of this act that can be given effect  
20 without the invalid provisions or application, and, to this end, the provisions of this act are  
21 severable.

22 **SECTION 6.2** Except as otherwise provided, this act is effective when it becomes  
23 law.