

**GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2015**

**SESSION LAW 2016-5  
SENATE BILL 729\***

AN ACT TO MAKE VARIOUS CHANGES TO THE REVENUE LAWS.

The General Assembly of North Carolina enacts:

**PART I. BUSINESS TAX CHANGES**

**SECTION 1.1.(a)** G.S. 105-121.1 is repealed.

**SECTION 1.1.(b)** G.S. 58-6-7(a) reads as rewritten:

"(a) In order to do business in this State, an insurance company shall apply for and obtain a license from the Commissioner. The license shall be perpetual and shall continue in full force and effect, subject to timely payment of the annual license continuation fee in accordance with this Chapter and subject to any other applicable provision of the insurance laws of this State. The insurance company shall pay a fee for each year the license is in effect, as follows:

|   |          |
|---|----------|
| For each domestic farmer's mutual assessment fire insurance company.....  | \$ 25.00 |
| For each fraternal order.....   | 500.00   |
| For each of all other insurance companies, except domestic mutual burial associations <del>taxed under G.S. 105-121.1</del> ..... | 2,500.00 |

The fees levied in this subsection are in addition to those specified in G.S. 58-6-5."

**SECTION 1.1.(c)** This section is effective for taxes due on or after April 1, 2017.

**SECTION 1.3.(a)** G.S. 105-130.4(s) reads as rewritten:

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

- (1) Air carrier. – A corporation engaged in the business of transporting any combination of passengers or property of any kind in interstate commerce, and the majority of the corporation's revenue ton miles everywhere are attributed to transportation by aircraft.
- (2) Air transportation corporation. – One or more of the following:
  - a. An air carrier that carries any combination of passengers or property of any kind.
  - b. A qualified air freight forwarder.
- (3) Qualified air freight forwarder. – A corporation that is an affiliate of an air carrier and whose air freight forwarding business is primarily carried on with the affiliated air carrier.
- (4) The term "revenue ton mile" means one mile. – One ton of passengers, freight, mail, or other cargo carried one ~~mile.~~ mile by the air transportation corporation or water transportation corporation by aircraft, motor vehicle, or vessel. In making this computation, a passenger is considered to weigh two hundred pounds."

**SECTION 1.3.(b)** This section is effective for taxable years beginning on or after January 1, 2016.

**SECTION 1.4.** G.S. 105-228.5(b)(4) reads as rewritten:

"(b) Tax Base. –

...



- (4) Self-insurers. – The tax imposed by this section on a self-insurer shall be measured by the gross premiums that would be charged against the same or most similar industry or business, taken from the manual insurance rate then in force in this State, applied to the self-insurer's payroll for the previous calendar year as determined under ~~Article 2 of Chapter 97~~ Article 36 of Chapter 58 of the General Statutes modified by the self-insurer's approved experience modifier."

**SECTION 1.5.** G.S. 105-130.7A(a) reads as rewritten:

"(a) Purpose. – Royalty payments received for the use of intangible property in this State are income derived from doing business in this State. This section provides taxpayers with an option concerning the method by which these royalties can be reported for taxation when the recipient and the payer are related members. As provided in this section, these royalty payments can be either (i) deducted by the payer and included in the income of the recipient, or (ii) added back to the income of the payer and excluded from the income of the recipient. Exercising the royalty reporting income option provided in this section does not prevent a taxpayer from having taxable nexus in this State as otherwise provided in this Article and does not permit the recipient of the income to exclude royalty payments from its calculation of sales as defined in G.S. 105-130.4."

**SECTION 1.6.(a)** G.S. 105-130.4 reads as rewritten:

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

(a) As used in this section, unless the context otherwise requires:

- ...
- (7) "Sales" means all gross receipts of the corporation except for the following receipts:
- a. Receipts from a casual sale of property.
  - b. Receipts allocated under subsections (c) through (h) of this section.
  - c. Receipts exempt from taxation.
  - d. The portion of receipts realized from the sale or maturity of securities or other obligations that represents a return of principal.
  - e. The portion of receipts from financial swaps and other similar financial derivatives that represents the notional principal amount that generates the cash flow traded in the swap agreement.
  - f. Receipts in the nature of dividends subtracted under G.S. 105-130.5(b)(3a), (3b), and dividends excluded for federal tax purposes.

...."

**SECTION 1.6.(b)** This section is effective for taxable years beginning on or after January 1, 2016.

**SECTION 1.7.(a)** Section 32.15(g) of S.L. 2015-241 reads as rewritten:

~~"SECTION 32.15.(g) This section is effective January 1, 2017, for taxes due on or after that date for taxable years beginning on or after January 1, 2017, and applies to the calculation of franchise tax reported on the 2016 and later corporate income tax return."~~

**SECTION 1.7.(b)** Section 10.1(i) of S.L. 2015-268 reads as rewritten:

**"SECTION 10.1.(i)** Subsections (b) and (f) of this section become effective for taxable years beginning on or after January 1, 2016. Subsection (g) of this section becomes effective March 1, 2016, and applies to sales occurring on or after that date. Subsections (e1) to (e4) of this section become effective July 1, 2016, and apply to local option sales taxes collected on or after that date and distributed to counties and cities on or after September 1, 2016. Subsection (a) of this section becomes effective ~~January 1, 2017, for taxes due on or after that date for taxable years beginning on or after January 1, 2017, and applies to the calculation of franchise tax reported on the 2016 and later corporate income tax return.~~ The remainder of this section is effective when it becomes law."

**SECTION 1.8.(a)** G.S. 105-130.7B(b)(4) reads as rewritten:

- "(4) ...
- a. ~~Tax is imposed by the State under this Article~~ The State imposes an income tax on the interest income of the related member with respect to the interest under this Article.
  - b. ~~The related member pays a net income tax or gross receipts tax to another state with respect to the interest income.~~ Another state

imposes an income tax or gross receipts tax on the interest income of the related member. Interest amounts eliminated by combined or consolidated return requirements do not qualify as interest that is subject to tax under this sub-subdivision.

c. The related member is organized under the laws of a foreign country that has a comprehensive income tax treaty with the United States, and that country taxes the interest income at a rate equal to or greater than G.S. 105-130.3.

d. The related member is a bank."

**SECTION 1.8.(b)** G.S. 105-130.7B reads as rewritten:

**"§ 105-130.7B. Limitation on qualified interest for certain indebtedness.**

(a) **Limitation.** – In determining State net income, a deduction is allowed only for qualified interest expense paid or accrued by the taxpayer to a related member during a taxable year. This section does not limit the Secretary's authority to adjust a taxpayer's net income as it relates to payments to or charges by a parent, subsidiary, or affiliated corporation in excess of fair compensation in an intercompany transaction under G.S. 105-130.5(a)(9).

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

(1) **Adjusted taxable income.** – State net income of the taxpayer determined without regard to this section and other adjustments as the Secretary may by rule provide.

(2) **Bank.** – One or more of the following, or a subsidiary or affiliate of one or more of the following:

a. A bank holding company as defined in the federal Bank Holding Company Act of 1956, as amended.

b. One or more of the following entities incorporated or chartered under the laws of this State, another state, or the United States:

1. A bank. This term has the same meaning as defined in G.S. 53C-1-4.

2. A savings bank. This term has the same meaning as defined in G.S. 54C-4.

3. A savings and loan association. This term has the same meaning as defined in G.S. 54B-4.

4. A trust company. This term has the same meaning as defined in G.S. 53C-1-4.

(3) **Net interest expense.** – The excess of the interest paid or accrued by the taxpayer to ~~a each~~ related member during the taxable year over the amount of interest from ~~a each~~ related member includible in the gross income of the taxpayer for the taxable year.

(4) **Qualified interest expense.** – The amount of net interest expense paid or accrued to a related member in a taxable year ~~not to exceed thirty percent (30%) with the amount limited to the greater of (i) fifteen percent (15%) of the taxpayer's adjusted taxable income—~~income or (ii) the taxpayer's proportionate share of interest paid or accrued to a person who is not a related member during the same taxable year. This limitation does not apply to interest paid or accrued to a related member if one or more of the following applies:

...  
(5) Proportionate share of interest. – The amount of taxpayer's net interest expense paid or accrued directly to or through a related member to an ultimate payer divided by the total net interest expense of all related members that is paid or accrued directly to or through a related member to the same ultimate payer, multiplied by the interest paid or accrued to a person who is not a related member by the ultimate payer. Any amount that is distributed, paid, or accrued directly or through a related member that is not treated as interest under this Part does not qualify.

(6) Ultimate payer. – A related member that receives or accrues interest from related members directly or through a related member and pays or accrues interest to a person who is not a related member."

**SECTION 1.8.(c)** This section is effective for taxable years beginning on or after January 1, 2016.

**SECTION 1.9.(a)** G.S. 105-130.5(b)(25) reads as rewritten:

"(25) The amount added to federal taxable income as deferred income under section 108(i)(1) of the Code. ~~This deduction applies to taxable years beginning on or after January 1, 2014.~~"

**SECTION 1.9.(b)** This section is effective for taxable years beginning on or after January 1, 2009.

## **PART II. PERSONAL TAX CHANGES**

**SECTION 2.1.(a)** G.S. 105-153.5(a)(2) is amended by adding a new sub-subdivision to read:

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

...

d. Repayment in the current taxable year of an amount included in adjusted gross income in an earlier taxable year because it appeared that the taxpayer had an unrestricted right to such item, to the extent the repayment is not deducted in arriving at adjusted gross income in the current taxable year. If the repayment is three thousand dollars (\$3,000) or less, the deduction is the amount of repayment less (i) the limitation provided under section 67(a) of the Code minus (ii) all other items deductible under section 67(b) of the Code, not to exceed the limitation provided under section 67(a) of the Code. If the repayment is more than three thousand dollars (\$3,000), the deduction is the amount of repayment. No deduction is allowed if the taxpayer calculates the federal income tax for the year of repayment under section 1341(a)(5) of the Code."

**SECTION 2.1.(b)** G.S. 105-153.5(b) is amended by adding a new subdivision to read:

"(b) Other Deductions. – In calculating North Carolina taxable income, a taxpayer may deduct from the taxpayer's adjusted gross income any of the following items that are included in the taxpayer's adjusted gross income:

...

(10) The amount added to federal taxable income under section 108(i)(1) of the Code."

**SECTION 2.1.(c)** G.S. 105-153.5(b) is amended by adding a new subdivision to read:

"(b) Other Deductions. – In calculating North Carolina taxable income, a taxpayer may deduct from the taxpayer's adjusted gross income any of the following items that are included in the taxpayer's adjusted gross income:

...

(11) The amount by which the deduction for an ordinary and necessary business expense was required to be reduced or was not allowed under the Code because the taxpayer claimed a federal tax credit against its federal income tax liability for the income year in lieu of a deduction. This deduction is allowed only to the extent that a similar credit is not allowed by this Chapter for the amount."

**SECTION 2.1.(d)** Subsection 2.1(c) of this section is effective for taxable years beginning on or after January 1, 2016. The remainder of this section is effective for taxable years beginning on or after January 1, 2014.

**SECTION 2.2.(a)** G.S. 105-153.5(c) is amended by adding new subdivisions to read:

"(c) Additions. – In calculating North Carolina taxable income, a taxpayer must add to the taxpayer's adjusted gross income any of the following items that are not included in the taxpayer's adjusted gross income:

...

- (6) The amount of net operating loss carried to and deducted on the federal return but not absorbed in that year and carried forward to a subsequent year.
- (7) The amount deducted in a prior taxable year to the extent this amount was withdrawn from the Parental Savings Trust Fund of the State Education Assistance Authority established pursuant to G.S. 116-209.25 and not used to pay for the qualified higher education expenses of the designated beneficiary, unless the withdrawal was made without penalty under section 529 of the Code due to the death or permanent disability of the designated beneficiary."

**SECTION 2.2.(b)** This section is effective for taxable years beginning on or after January 1, 2016.

**SECTION 2.3.** G.S. 105-163.1 reads as rewritten:

**"§ 105-163.1. Definitions.**

The following definitions apply in this Article:

- ...  
(6) Individual. – Defined in ~~G.S. 105-134.1~~G.S. 105-153.3.
- ...  
(13) Wages. – The term has the same meaning as in section 3401 of the Code except it does not include ~~the either of the following:~~
  - a. ~~The amount of severance wages paid to an employee during the taxable year that is exempt from State income tax for that taxable year under G.S. 105-134.6(b)(11).~~
  - b. ~~The amount an employer pays an employee as reimbursement for ordinary and necessary expenses incurred by the employee on behalf of the employer and in the furtherance of the business of the employer.~~

...  
**SECTION 2.4.(a)** G.S. 105-134.6(b)(20) reads as rewritten:

"(20) The amount added to federal taxable income as deferred income under section 108(i)(1) of the Code. ~~This deduction applies to taxable years beginning on or after January 1, 2014.~~"

**SECTION 2.4.(b)** This section is effective for taxable years beginning on or after January 1, 2009.

**PART III. SALES TAX CHANGES**

**SECTION 3.1.** Section 2.4 of S.L. 2014-66 reads as rewritten:

**"SECTION 2.4.** ~~Sections 2.1~~Section 2.1 of this act becomes effective July 1, 2013. Sections 2.2 through 2.4 of this act become effective July 1, 2014. The remainder of this act is effective when it becomes law."

**SECTION 3.2.(a)** G.S. 105-164.3 reads as rewritten:

**"§ 105-164.3. Definitions.**

The following definitions apply in this Article:

- ...  
(3) ~~Clothing. — All human wearing apparel suitable for general use including coats, jackets, hats, hosiery, scarves, and shoes.~~
- ...  
(4) ~~Clothing accessories or equipment. — Incidental items worn on the person or in conjunction with clothing including jewelry, cosmetics, eyewear, wallets, and watches.~~
- ...  
(8g) ~~Energy Star qualified product. — A product that meets the energy efficient guidelines set by the United States Environmental Protection Agency and the United States Department of Energy and is authorized to carry the Energy Star label.~~
- ...  
(28) Prepared food. – Food that meets at least one of the conditions of this subdivision. Prepared food does not include food the retailer sliced, repackaged, or pasteurized but did not heat, mix, or sell with eating utensils.
- ...

- c. It is sold with eating utensils provided by the retailer, such as plates, knives, forks, spoons, glasses, cups, napkins, and straws. A plate does not include a container or packaging used to transport the food.

...  
~~(37b) School instructional material. — Written material commonly used by a student in a course of study as a reference and to learn the subject being taught. The following is an all-inclusive list:~~

- ~~a. Reference books.~~
- ~~b. Reference maps and globes.~~
- ~~c. Textbooks.~~
- ~~d. Workbooks.~~

~~(37d) School supply. — An item that is commonly used by a student in the course of study and is considered a "school supply" or "school art supply" under the Streamlined Agreement.~~

...  
~~(42) Sport or recreational equipment. — Items designed for human use and worn in conjunction with an athletic or recreational activity that are not suitable for general use including ballet shoes, cleated athletic shoes, shin guards, and ski boots.~~

...  
~~(45a) Streamlined Agreement. — The Streamlined Sales and Use Tax Agreement as amended as of October 30, 2013; September 17, 2015.~~

...  
"SECTION 3.2.(b) G.S. 105-164.3 reads as rewritten:

"§ 105-164.3. Definitions.

The following definitions apply in this Article:

...  
(44) Storage. — The keeping or retention in this State for any purpose, except sale in the regular course of business, of tangible personal property or digital property for any period of time purchased from a retailer person in business. ~~The term does not include a purchaser's storage of tangible personal property or digital property in any of the following circumstances:~~

- ~~a. When the purchaser is able to document that at the time the purchaser acquires the property the property is designated for the purchaser's use outside the State and the purchaser subsequently takes it outside the State and uses it solely outside the State.~~
- ~~b. When the purchaser acquires the property to process, fabricate, manufacture, or otherwise incorporate it into or attach it to other property for the purchaser's use outside the State and, after incorporating or attaching the purchased property, the purchaser subsequently takes the other property outside the State and uses it solely outside the State.~~

...  
"SECTION 3.2.(c) Subsection (b) of this section becomes effective January 1, 2017.

The remainder of this section is effective when this act becomes law.

SECTION 3.3. G.S. 105-164.4B(e) reads as rewritten:

"(e) Accommodations. — The rental of an accommodation, as defined in G.S. 105-164.4(a)(3), G.S. 105-164.4F, is sourced to the location of the accommodation."

SECTION 3.4. G.S. 105-164.4G(b) reads as rewritten:

"(b) Tax. — The gross receipts derived from an admission charge to an entertainment activity are taxed at the general rate set in G.S. 105-164.4. The tax is due and payable by the retailer in accordance with G.S. 105-164.16. For purposes of the tax imposed by this section, the retailer is the applicable person listed below:

- (1) The operator of the venue where the entertainment activity occurs, unless the retailer and the facilitator have a contract between them allowing for dual remittance, as provided in subsection (d) of this section.
- (2) The person that provides the entertainment and that receives admission charges directly from a purchaser.

- (3) A person other than a person listed in subdivision (1) or (2) of this subsection that receives gross receipts derived from an admission charge sold at retail."

**SECTION 3.5.** G.S. 105-164.4H(b) reads as rewritten:

"(b) Retailer-Contractor. – This section applies to a retailer-contractor when the retailer-contractor acts as a real property contractor. A retailer-contractor that purchases tangible personal property to be installed or ~~affixed~~-applied to real property may purchase items exempt from tax under a certificate of exemption pursuant to G.S. 105-164.28 provided the retailer-contractor also purchases inventory items from the seller for resale. When the tangible personal property is withdrawn from inventory and installed or ~~affixed~~-applied to real property, use tax must be accrued and paid on the retailer-contractor's purchase price of the tangible personal property. Tangible personal property that the retailer-contractor withdraws from inventory for use that does not become part of real property is also subject to the tax imposed by this Article.

If a retailer-contractor subcontracts any part of the real property contract, tax is payable by the subcontractor on the subcontractor's purchase of the tangible personal property that is installed or ~~affixed~~-applied to real property in fulfilling the contract. The retailer-contractor, the subcontractor, and the owner of the real property are jointly and severally liable for the tax. The liability of a retailer-contractor, a subcontractor, or an owner who did not purchase the property is satisfied by receipt of an affidavit from the purchaser certifying that the tax has been paid."

**SECTION 3.7.(a)** G.S. 105-164.4D(b) reads as rewritten:

"(b) Determining Threshold. – A retailer of a bundled transaction subject to this section may use either the retailer's ~~cost~~-purchase price or the retailer's sales price to determine if the transaction meets the fifty percent (50%) test or the ten percent (10%) test set out in subdivisions (a)(1) and (a)(3) of this section. A retailer may not use a combination of ~~cost~~ purchase price and sales price to make this determination. If a bundled transaction subject to subdivision (a)(3) of this section includes a service contract, the retailer must use the full term of the contract in determining whether the transaction meets the threshold set in the subdivision."

**SECTION 3.7.(b)** G.S. 105-468 reads as rewritten:

**"§ 105-468. Scope of use tax.**

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

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

**SECTION 3.7.(c)** G.S. 105-471 reads as rewritten:

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

Every retailer whose place of business is in a taxing county shall on and after the levy of the tax herein authorized collect the one percent (1%) local sales tax provided by this Article.

The tax to be collected under this Article shall be collected as a part of the sales price of the item of tangible personal property sold, the ~~cost~~-purchase price of the item of tangible personal property used, or as a part of the charge for the rendering of any services, renting or leasing of tangible personal property, or the furnishing of any accommodation taxable hereunder. The tax

shall be stated and charged separately from the sales price or ~~cost-purchase price~~ and shall be shown separately on the retailer's sales record and shall be paid by the purchaser to the retailer as trustee for and on account of the State or county wherein the tax is imposed. It is the intent and purpose of this Article that the local sales and use tax herein authorized to be imposed and levied by a taxing county shall be added to the sales price and that the tax shall be passed on to the purchaser instead of being borne by the retailer. The Secretary of Revenue shall design, print and furnish to all retailers in a taxing county in which he shall collect and administer the tax the necessary forms for filing returns and instructions to insure the full collection from retailers, and the Secretary may adapt the present form used for the reporting and collecting of the State sales and use tax to this purpose."

**SECTION 3.8.(a)** G.S. 105-164.12B reads as rewritten:

"**§ 105-164.12B. Tangible personal property sold below cost with conditional service contract.**

(a) ~~Conditional Service-Contract Defined.~~ – A conditional ~~service~~-contract is a contract in which all of the following conditions are met:

- (1) A seller transfers an item of tangible personal property to a consumer on the condition that the consumer enter into an agreement to purchase services on an ongoing basis for a minimum period of at least six months.
- (2) The agreement requires the consumer to pay a cancellation fee to the seller if the consumer cancels the contract for services within the minimum period.
- (3) For the item transferred, the seller charges the consumer a price that, after any price reduction the seller gives the consumer, is below the purchase price the seller paid for the item. The seller's purchase price is presumed to be no greater than the price the seller paid, as shown on the seller's purchase invoice, for the same item within 12 months before the seller entered into the conditional ~~service~~-contract.

(b) ~~Tax.~~ – If a seller transfers an item of tangible personal property as part of a conditional ~~service~~-contract, a sale has occurred. The sales price of the item is presumed to be the retail price at which the item would sell in the absence of the conditional ~~service~~-contract. Sales tax at the general rate under G.S. 105-164.4(a) is due at the time of the transfer on the following:

- (1) Any part of the presumed sales price the consumer pays at that time, if the service in the contract is taxable at the combined general rate.
- (2) The presumed sales price, if the service in the contract is not taxable at the combined general rate.
- (3) The percentage of the presumed sales price that is equal to the percentage of the service in the contract that is not taxable at the combined general rate, if any part of the service in the contract is not taxable at the combined general rate.

(c)-(f) Repealed by Session Laws 2007-244, s. 3, effective October 1, 2007."

**SECTION 3.8.(b)** G.S. 105-467(a) is amended by adding a new subdivision to read:

"(a) Sales Tax. – The sales tax that may be imposed under this Article is limited to a tax at the rate of one percent (1%) of the following:

- ...
- (8) The presumed sales price of an item of tangible personal property under G.S. 105-164.12B."

**SECTION 3.9.(a)** G.S. 105-164.13(34) is repealed.

**SECTION 3.9.(b)** G.S. 105-164.13 is amended by adding a new subdivision to read:

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

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

- ...
- (26b) Food, prepared food, soft drinks, candy, and other items of tangible personal property sold not for profit for or at an event that is sponsored by an elementary or secondary school when the net proceeds of the sales will be given or contributed to the school or to a nonprofit charitable organization,

one of whose purposes is to serve as a conduit through which the net proceeds will flow to the school. For purposes of this exemption, the term "school" is an entity regulated under Chapter 115C of the General Statutes.

...."

**SECTION 3.9.(c)** This section becomes effective January 1, 2017, and applies to sales made on or after that date.

**SECTION 3.11.(a)** G.S. 105-164.13 reads as rewritten:

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

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

(52) Items subject to sales and use tax under G.S. 105-164.4, other than electricity, telecommunications service, and ancillary service as defined in ~~G.S. 105-164.4, G.S. 105-164.3,~~ if all of the following conditions are met:

(57) ~~Fuel and electricity~~ Fuel, electricity, and piped natural gas sold to a manufacturer for use in connection with the operation of a manufacturing facility. The exemption does not apply to the following:

a. ~~electricity~~ Electricity used at a facility at which the primary activity is not manufacturing.

b. Fuel or piped natural gas that is used solely for comfort heating at a manufacturing facility where there is no use of fuel or piped natural gas in a manufacturing process.

...."

**SECTION 3.11.(b)** This section becomes effective January 1, 2017.

**SECTION 3.12.(a)** G.S. 105-164.13E(c), as enacted by S.L. 2015-6, reads as rewritten:

"(c) Contract with a Farmer. – A qualifying item listed in subdivisions (5), (8), and (9) of subsection (a) of this section purchased to fulfill a contract with a person who holds a qualifying farmer exemption certificate or a conditional farmer exemption certificate issued under G.S. 105-164.28A is exempt from sales and use tax to the same extent as if purchased directly by the person who holds the exemption certificate. A contractor that purchases one of the items allowed an exemption under this section must provide an exemption certificate to the retailer that includes the name of the agricultural-qualifying farmer or conditional farmer exemption certificate holder and the agricultural-qualifying farmer or conditional farmer exemption certificate number issued to that holder."

**SECTION 3.12.(b)** Section 2.13(b) of S.L. 2015-6 reads as rewritten:

**"SECTION 2.13.(b)** This section becomes effective July 1, 2014. A contractor who paid sales and use tax on an item exempt from sales and use tax pursuant to ~~G.S. 105-164.13(e), G.S. 105-164.13E(c),~~ as enacted by this section, may request a refund from the retailer, and the retailer may, upon issuance of the refund or credit, request a refund for the overpayment of tax under G.S. 105-164.11(a)(1)."

**SECTION 3.14.** G.S. 105-164.14A(a)(3) is repealed.

**SECTION 3.15.** G.S. 105-164.22 reads as rewritten:

**"§ 105-164.22. Record-keeping requirements, inspection authority, and effect of failure to keep records.**

Retailers, wholesale merchants, and consumers must keep ~~for a period of three years~~ records that establish their tax liability under this Article. The Secretary or a person designated by the Secretary may inspect these records at any reasonable time during the day.

A retailer's records must include records of the retailer's gross income, gross sales, net taxable sales, and all items purchased for resale. Failure of a retailer to keep records that establish that a sale is exempt under this Article subjects the retailer to liability for tax on the sale.

A wholesale merchant's records must include a bill of sale for each customer that contains the name and address of the purchaser, the date of the purchase, the item purchased, and the price at which the wholesale merchant sold the item. Failure of a wholesale merchant to keep these records for the sale of an item subjects the wholesale merchant to liability for tax at the rate that applies to the retail sale of the item.

A consumer's records must include an invoice or other statement of the purchase price of an item the consumer purchased from outside the State. Failure of the consumer to keep these records subjects the consumer to liability for tax on the purchase price of the item, as determined by the Secretary."

**SECTION 3.16.** G.S. 105-164.30 reads as rewritten:

"§ 105-164.30. **Secretary or agent may examine books, etc.**

For the purpose of enforcing the collection of the tax levied by this Article, the Secretary or his duly authorized agent is authorized to examine at all reasonable hours during the day the books, papers, records, documents or other data of all retailers or wholesale merchants bearing upon the correctness of any return or for the purpose of filing a return where none has been made as required by this Article, and may require the attendance of any person and take his testimony with respect to any such matter, with power to administer oaths to such person or persons. If any person summoned as a witness fails to obey any summons to appear before the Secretary or his authorized agent, or refuses to testify or answer any material question or to produce any book, record, paper, or other data when required to do so, the Secretary or his authorized agent shall report the failure or refusal to the Attorney General or the district solicitor, who shall thereupon institute proceedings in the superior court of the county where the witness resides to compel obedience to any summons of the Secretary or his authorized agent. Officers who serve summonses or subpoenas, and witnesses attending, shall receive like compensation as officers and witnesses in the superior courts, to be paid from the proper appropriation for the administration of this Article.

In the event any retailer or wholesale merchant fails or refuses to permit the Secretary or his authorized agent to examine his books, papers, accounts, records, documents or other data, the Secretary may require the retailer or wholesale merchant to show cause before the superior court of the county in which said taxpayer resides or has its principal place of business as to why the books, records, papers, ~~or documents~~ documents, or data should not be examined and the superior court shall have jurisdiction to enter an order requiring the production of all necessary books, records, papers, ~~or documents~~ documents, or data and to punish for contempt any person who violates the order."

**SECTION 3.17.(a)** G.S. 105-164.42L reads as rewritten:

"§ 105-164.42L. **Liability relief for erroneous information or insufficient notice by Department.**

(a) The Secretary may develop databases that provide information on the boundaries of taxing jurisdictions and the tax rates applicable to those taxing jurisdictions. A person who relies on the information provided in these databases is not liable for underpayments of tax attributable to erroneous information provided by the Secretary in those ~~databases~~ databases until 10 business days after the date of notification by the Secretary.

(b) The Secretary may develop a taxability matrix that provides information on the taxability of certain ~~items~~ items or certain tax administration practices. A person who relies on the information provided in the taxability matrix is not liable for underpayments of tax attributable to erroneous information provided by the Secretary in the taxability ~~matrix~~ matrix until 10 business days after the date of notification by the Secretary.

...."

**SECTION 3.17.(b)** G.S. 105-466(c) reads as rewritten:

"(c) Collection of the tax, and liability therefor, must begin and continue only on and after the first day of a calendar quarter, as set by the board of county commissioners in the resolution levying the tax. ~~In no event may the tax be imposed, or the tax rate changed, earlier than the first day of the second succeeding calendar month after the date of the adoption of the resolution.~~ The county must give the Secretary at least 90 days advance notice of a new tax levy or tax rate change. The applicability of a new tax or a tax rate change to purchases from printed catalogs becomes effective on the first day of a calendar quarter after a minimum of 120 days from the date the Secretary notifies the seller that receives orders by means of a catalog or similar publication of the new tax or tax rate change. A local rate increase may only be effective on the first day of a calendar quarter after a minimum of 60 days' notice to sellers by the Secretary."

**SECTION 3.18.** G.S. 105-164.42I(b) reads as rewritten:

"(b) Contract. – The Secretary may contract or authorize in writing the Streamlined Sales Tax Governing Board to contract on behalf of the Secretary with a certified service provider for the collection and remittance of sales and use taxes. A certified service provider must file with

the Secretary or the Streamlined Sales Tax Governing Board ~~a bond or an irrevocable letter of credit~~ one of the following in the amount set by the ~~Secretary.~~ Secretary: (i) a bond; (ii) an irrevocable letter of credit; or (iii) evidence of a certificate of deposit. A ~~bond or bond,~~ irrevocable letter of ~~credit~~ credit, or certificate of deposit must be conditioned upon compliance with the contract, be payable to the State or the Streamlined Sales Tax Governing Board, and be in the form required by the ~~Secretary.~~ Secretary or the Streamlined Sales Tax Governing Board. The amount a certified service provider charges under the contract is a cost of collecting the tax and is payable from the amount collected."

**SECTION 3.19.(a)** G.S. 105-187.1 reads as rewritten:

**"§ 105-187.1. Definitions.**

The following definitions and the definitions in G.S. 105-164.3 apply to this Article:

- (1) Commissioner. – The Commissioner of Motor Vehicles.
- (2) Division. – The Division of Motor Vehicles, Department of Transportation.
- (3) Long-term lease or rental. – A lease or rental made under a written agreement to lease or rent property to the same person for a period of at least 365 continuous days.
- (4) Park model RV. – A vehicle that meets all of the following conditions:
  - a. Is designed and marketed as temporary living quarters for recreational, camping, travel, or seasonal use.
  - b. Is certified by the manufacturer as complying with ANSI A119.5.
  - c. Is built on a single chassis mounted on wheels with a gross trailer area not exceeding 400 square feet in the setup mode.
- ~~(4)~~(5) Recreational vehicle. – Defined in G.S. 20-4.01. The term also includes a park model RV.
- ~~(5)~~(6) Rescue squad. – An organization that provides rescue services, emergency medical services, or both.
- ~~(6)~~(7) Retailer. – A retailer as defined in G.S. 105-164.3 who is engaged in the business of selling, leasing, or renting motor vehicles.
- ~~(7)~~(8) Short-term lease or rental. – A lease or rental that is not a long-term lease or rental."

**SECTION 3.19.(b)** G.S. 105-164.13(32) reads as rewritten:

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

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

- ...
- (32) Sales of motor vehicles, the sale of a motor vehicle body to be mounted on a motor vehicle chassis when a certificate of title has not been issued for the chassis, and the sale of a motor vehicle body mounted on a motor vehicle chassis that temporarily enters the State so the manufacturer of the body can mount the body on the chassis. For purposes of this subdivision, a park model RV, as defined in G.S. 105-187.1, is a motor vehicle."

**SECTION 3.19.(d)** This section becomes effective July 1, 2016.

**SECTION 3.20.(a)** G.S. 105-187.21 reads as rewritten:

**"§ 105-187.21. Tax imposed.**

A privilege tax is imposed on a white goods retailer at a flat rate for each new white good that is sold by the retailer. An excise tax is imposed on a new white good purchased ~~outside the State~~ for storage, use, or consumption in this State. The rate of the privilege tax and the excise tax is three dollars (\$3.00). These taxes are in addition to all other taxes."

**SECTION 3.20.(b)** This section becomes effective July 1, 2016.

**SECTION 3.21.** G.S. 105-538 reads as rewritten:

**"§ 105-538. Administration of taxes.**

The Secretary shall, on a monthly basis, allocate to each taxing county the net proceeds of the tax levied under this Article. If the Secretary collects taxes under this Article in a month and the taxes cannot be identified as being attributable to a particular taxing county, the Secretary must allocate the net proceeds of these taxes among the taxing counties in proportion to the amount of taxes collected in each county under this Article in that month. For purposes of this Article, the term "net proceeds" has the same meaning as defined in G.S. 105-472.

Except as provided in this Article, the adoption, levy, collection, administration, and repeal of these additional taxes must be in accordance with Article 39 of this Chapter. G.S. 105-468.1 is an administrative provision that applies to this Article. A tax levied under this Article does not apply to the sales price of food that is exempt from tax pursuant to G.S. 105-164.13B or to the sales price of a bundled transaction taxable pursuant to G.S. 105-467(a)(5a). The Secretary shall not divide the amount allocated to a county between the county and the municipalities within the county."

**SECTION 3.22.(a)** G.S. 105-164.29A(a) reads as rewritten:

"(a) Application. – To be eligible for the exemption provided in G.S. 105-164.13(52), a State agency must obtain from the Department a sales tax exemption number. The application for exemption must be in the form required by the Secretary, be signed by the State agency's head, and contain any information required by the Secretary. The Secretary must assign a sales tax exemption number to a State agency that submits a proper application. This section does not apply to any of the following State agencies:

(1) An occupational licensing board, as defined in G.S. 93B-1.

(2) An entity listed in G.S. 105-164.14(c)."

**SECTION 3.22.(b)** G.S. 105-164.14(e) reads as rewritten:

"(e) State Agencies. – The State is allowed quarterly refunds of local sales and use taxes paid indirectly by the State agency on building materials, supplies, fixtures, and equipment that become a part of or annexed to a building or structure that is owned or leased by the State agency and is being erected, altered, or repaired for use by the State agency. This subsection does not apply to a State agency that is ineligible for a sales and use tax exemption number under G.S. 105-164.29A(a).

A person who pays local sales and use taxes on building materials or other tangible personal property for a State building project shall give the State agency for whose project the property was purchased a signed statement containing all of the following information:

....  
**SECTION 3.22.(c)** This section becomes effective July 1, 2017.

**SECTION 3.23.(a)** G.S. 105-164.13(11b) reads as rewritten:

"(11b) Sales of aviation gasoline and jet fuel to an interstate air business for use in a commercial aircraft. For purposes of this subdivision, the term "commercial aircraft" has the same meaning as defined in subdivision (45a) of this subsection. This exemption applies to aviation gasoline and jet fuel purchased for use in a commercial aircraft in interstate or foreign commerce by a person whose primary business is scheduled passenger air transportation. This subdivision expires January 1, 2020."

**SECTION 3.23.(b)** This section becomes effective January 1, 2016.

**SECTION 3.24.(a)** G.S. 105-164.4I(b)(3) reads as rewritten:

"(b) Exemptions. – The tax imposed by this section does not apply to the sales price of or the gross receipts derived from a service contract applicable to any of the following items:

...  
(3) A transmission, an engine, rear-end gears, and any other item ~~purchased~~ purchased, leased, or rented by a professional motorsports racing team or a related member of a team for which the team ~~or related member~~ may receive a sales tax exemption under G.S. 105-164.13(65) or G.S. 105-164.13(65a) or a sales tax refund under G.S. 105-164.14A(a)(5). This subdivision expires January 1, 2020."

**SECTION 3.24.(b)** This section is effective when it becomes law and applies retroactively to January 1, 2014.

#### **PART IV. EXCISE TAX CHANGES**

**SECTION 4.1.(a)** G.S. 105-113.13 reads as rewritten:

"§ 105-113.13. **Secretary may require a bond or irrevocable letter of credit.**

(a) Repealed by Session Laws 2013-414, s. 22(c), effective September 1, 2013.

(b) The Secretary may require a distributor to furnish a bond in an amount that adequately protects the State from loss if the distributor fails to pay taxes due under this Part. A bond must be conditioned on compliance with this Part, payable to the State, and in the form required by the Secretary. ~~The Secretary must set the bond amount based on the anticipated tax liability of the distributor.~~ The amount of the bond is two times the distributor's average

expected monthly tax liability under this Article, as determined by the Secretary, provided the amount of the bond may not be less than two thousand dollars (\$2,000) and may not be more than two million dollars (\$2,000,000). The Secretary should periodically review the sufficiency of bonds required of the distributor and increase the required bond amount if the amount no longer covers the anticipated tax liability of the distributor and decrease the amount if the Secretary finds that a lower bond amount will protect the State adequately from loss.

For purposes of this section, a distributor may substitute an irrevocable letter of credit for the secured bond required by this section. The letter of credit must be issued by a commercial bank acceptable to the Secretary and available to the State as a beneficiary. The letter of credit must be in a form acceptable to the Secretary, conditioned upon compliance with this Article, and in the amounts stipulated in this section."

**SECTION 4.1.(b)** G.S. 105-113.38 reads as rewritten:

**"§ 105-113.38. Bond or irrevocable letter of credit.**

The Secretary may require a wholesale dealer or a retail dealer to furnish a bond in an amount that adequately protects the State from loss if the dealer fails to pay taxes due under this Part. A bond must be conditioned on compliance with this Part, payable to the State, and in the form required by the Secretary. ~~The bond amount must be proportionate to the anticipated tax liability of the wholesale dealer or retail dealer.~~ The amount of the bond is two times the wholesale or retail dealer's average expected monthly tax liability under this Article, as determined by the Secretary, provided the amount of the bond may not be less than two thousand dollars (\$2,000) and may not be more than two million dollars (\$2,000,000). The Secretary should periodically review the sufficiency of bonds required of dealers, and increase the amount of a required bond when the amount of the bond furnished no longer covers the anticipated tax liability of the wholesale dealer or retail dealer and decrease the amount when the Secretary determines that a smaller bond amount will adequately protect the State from loss.

For purposes of this section, a wholesale dealer or a retail dealer may substitute an irrevocable letter of credit for the secured bond required by this section. The letter of credit must be issued by a commercial bank acceptable to the Secretary and available to the State as a beneficiary. The letter of credit must be in a form acceptable to the Secretary, conditioned upon compliance with this Article, and in the amounts stipulated in this section."

**SECTION 4.2.** G.S. 105-113.35(a) reads as rewritten:

"(a) Tax on Tobacco Products. – An excise tax is levied on tobacco products ~~other than cigarettes and vapor products~~ at the rate of twelve and eight-tenths percent (12.8%) of the cost price of the products. The tax rate does not apply to the following:

(1) Cigarettes subject to the tax in G.S. 105-113.5.

(2) Vapor products subject to the tax in subsection (a1) of this section."

**SECTION 4.3.** G.S. 105-113.83(b) reads as rewritten:

"(b) Beer and Wine. – The excise taxes on malt beverages and wine levied under G.S. 105-113.80(a) and (b), respectively, are payable to the Secretary by the resident wholesaler or importer who first handles the beverages in this State. The excise taxes levied under G.S. 105-113.80(b) on wine shipped directly to consumers in this State pursuant to G.S. 18B-1001.1 must be paid by the wine shipper permittee. The taxes on malt beverages and wine are payable only once on the same beverages. ~~The~~ Unless otherwise provided, the tax is due on or before the 15th day of the month following the month in which the beverage is first sold or otherwise disposed of in this State by the wholesaler, importer, or wine shipper permittee. When excise taxes are paid on wine or malt beverages, the wholesaler, importer, or wine shipper permittee ~~wholesaler or importer~~ must submit to the Secretary verified reports on forms provided by the Secretary detailing sales records for the month for which the taxes are paid. The report must indicate the amount of excise tax due, contain the information required by the Secretary, and indicate separately any transactions to which the excise tax does not apply. A wine shipper permittee shall submit verified reports once a year on forms provided by the Secretary detailing sales records for the year the taxes are paid. The verified report is due on or before the fifteenth day of the first month of the following calendar year."

**SECTION 4.4.(a)** G.S. 105-187.82 is repealed.

**SECTION 4.4.(b)** G.S. 105-187.77(a) reads as rewritten:

"(a) Purpose. – An excise tax is levied on the privilege of engaging in the severance of energy minerals from the soil or water of this State. The tax is imposed on the producer of the energy mineral. The purpose of the tax is to provide revenue to administer and enforce the

provisions of this Article, to administer the State's natural gas and oil reclamation regulatory program, to meet the environmental and resource management needs of this State, and to reclaim land affected by exploration for, drilling for, and production of natural gas and oil. The severance tax is imposed upon all energy minerals severed when sold."

**SECTION 4.4.(c)** G.S. 105-187.81 reads as rewritten:

**"§ 105-187.81. Bond or letter of credit required.**

A producer must file with the Secretary a bond or an irrevocable letter of credit ~~if the producer fails to file a return required under this Article after obtaining a permit under G.S. 113-395.~~ A bond or an irrevocable letter of credit must be conditioned upon compliance with the requirements of this Article, be payable to the State, and be in the form required by the Secretary. The amount of the bond or irrevocable letter of credit is two times the applicant's average expected monthly tax liability under this Article, as determined by the ~~Secretary.~~ Secretary, provided the amount of the bond may not be less than two thousand dollars (\$2,000) and may not be more than two million dollars (\$2,000,000). The Secretary should periodically review the sufficiency of bonds required of producers and increase the amount of a required bond when the amount of the bond furnished no longer covers the anticipated tax liability of the producer and decrease the amount when the Secretary determines that a smaller bond amount will adequately protect the State from loss. When notified to do so by the Secretary, a person who is required to file a bond or an irrevocable letter of credit must file the bond or irrevocable letter of credit in the amount required by the Secretary within 30 days after receiving the notice from the Secretary."

**SECTION 4.5.(a)** G.S. 105-259(b) reads as rewritten:

"(b) Disclosure Prohibited. – An officer, an employee, or an agent of the State who has access to tax information in the course of service to or employment by the State may not disclose the information to any other person except as provided in this subsection. Standards used or to be used for the selection of returns for examination and data used or to be used for determining the standards may not be disclosed for any purpose. All other tax information may be disclosed only if the disclosure is made for one of the following purposes:

- ...  
(40) To furnish a nonparticipating manufacturer, as defined in G.S. 66-292, the amount of the manufacturer's tobacco products that a taxpayer ~~sells~~ sold in this State by distributor, and that the Secretary reports to the Attorney General under G.S. 105-113.4C.
- ...  
(50) To provide public access to a list containing the name and account number of entities licensed under Article 2A of this Chapter to aid in the administration of the tobacco products tax.
- (51) To exchange information regarding the tax imposed on motor carriers under Article 36B of this Chapter with other jurisdictions that administer the International Fuel Tax Agreement to aid in the administration of the Agreement."

**SECTION 4.5.(b)** G.S. 105-449.57(c) reads as rewritten:

"(c) Disclosure. – In accordance with G.S. 105-259, the Secretary may, as required by the terms of an agreement, forward to officials of another jurisdiction any information in the Department's possession relative to the administration and collection of a tax imposed on the use of motor fuel or alternative fuel by any motor carrier. The Secretary may disclose to officials of another jurisdiction the location of offices, motor vehicles, and other real and personal property of motor carriers."

**SECTION 4.6.** G.S. 105-449.49 reads as rewritten:

**"§ 105-449.49. Temporary permits.**

(a) Issuance. – Upon application to the Secretary and payment of a fee of fifty dollars (\$50.00), a ~~motor carrier~~ permitting service may obtain a temporary permit authorizing ~~the a~~ motor carrier to operate a vehicle in the State for three days without registering the vehicle in accordance with G.S. 105-449.47. The permitting service may sell the temporary permit to a motor carrier. A motor carrier to whom a temporary permit has been issued may elect not to report its operation of the vehicle during the three-day period. Fees collected under this subsection are credited to the Highway Fund.

(b) Refusal. — ~~The Secretary may refuse to issue a temporary permit to any of the following:~~

- (1) ~~A motor carrier whose registration has been withheld or revoked.~~
- (2) ~~A motor carrier who the Secretary determines is evading payment of tax through the successive purchase of temporary permits."~~

**SECTION 4.7.(a)** G.S. 105-449.57(a) reads as rewritten:

"(a) Authority. – The Secretary may enter into cooperative agreements with other jurisdictions for exchange of information in administering the tax imposed by this Article. No agreement, arrangement, declaration, or amendment to an agreement is effective until stated in writing and approved by the ~~Secretary~~ Secretary or the Secretary's designee."

**SECTION 4.7.(b)** G.S. 105-449.57(e) reads as rewritten:

"(e) Restriction. – The Secretary or the Secretary's designee may not enter into any agreement that would increase or decrease taxes and fees imposed under Subchapter V of Chapter 105 of the General Statutes. Any provision to the contrary is void."

**SECTION 4.8.** G.S. 105-449.45 is amended by adding a new subsection to read:

"(e) Interest. – Interest on overpayments and underpayments of tax imposed on motor carriers under this Article is subject to the interest rate adopted in the International Fuel Tax Agreement."

**SECTION 4.9.(a)** G.S. 105-449.107(c) reads as rewritten:

"(c) Sales Tax Amount. – Article 5 of Subchapter I of this Chapter determines the amount of State sales and use tax to be deducted under this section from a motor fuel excise tax refund. Articles 39, 40, and 42 of Subchapter VIII of this Chapter and the Mecklenburg First 1% Sales Tax Act determine the amount of local sales and use tax to be deducted under this section from a motor fuel excise tax refund. The cents-per-gallon cost of motor fuel used to calculate the amount of State and local sales and use tax deducted from a claim for refund for each taxable period equals the average of the United States city average price of finished motor gasoline and No. 2 diesel fuel for resale in the "Consumer Price Index Detailed Reports" published by the Bureau of Labor Statistics of the United States Department of Labor or data determined by the Secretary to be equivalent. The average is computed by weighting the cost of finished motor gasoline and No. 2 diesel fuel by the proportion of tax collected on each under this Article for the taxable period, rounding to the nearest one-tenth of a cent (1/10¢). If the cents-per-gallon cost is exactly between two-tenths of a cent (2/10¢), the average is rounded up to the higher of the two."

**SECTION 4.9.(b)** This section becomes effective January 1, 2016.

**SECTION 4.10.(a)** G.S. 105-449.39 reads as rewritten:

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

Every motor carrier subject to the tax levied by this Article is entitled to a credit on its quarterly return for tax paid by the carrier on fuel purchased in the State. The amount of the credit is determined using the ~~flat cents per gallon rate plus the variable cents per gallon rate of tax in effect during the quarter~~ tax rate in effect under G.S. 105-449.80 for the time period covered by the return. To obtain a credit, the motor carrier must furnish evidence satisfactory to the Secretary that the tax for which the credit is claimed has been paid.

If the amount of a credit to which a motor carrier is entitled for a quarter exceeds the motor carrier's liability for that quarter, the excess is refundable in accordance with G.S. 105-241.7."

**SECTION 4.10.(b)** G.S. 105-449.106 reads as rewritten:

**"§ 105-449.106. Quarterly refunds for nonprofit organizations, taxicabs, and special mobile equipment.**

(a) Nonprofits. – A nonprofit organization listed below that purchases and uses motor fuel may receive a quarterly refund, for the excise tax paid during the preceding quarter, at a rate equal to the ~~amount of the flat cents per gallon rate plus the variable cents per gallon rate in effect during the quarter~~ tax rate in effect under G.S. 105-449.80 for the time period for which the refund is claimed, less one cent (1¢) per gallon.

An application for a refund allowed under this subsection must be made in accordance with this Part and must be signed by the chief executive officer of the organization. The chief executive officer of a nonprofit organization is the president of the organization or another officer of the organization designated in the charter or bylaws of the organization.

Any of the following entities may receive a refund under this subsection:

- (1) Repealed by Session Laws 2002-108, s. 13, effective January 1, 2003.
- (2) A private, nonprofit organization that transports passengers under contract with or at the express designation of a unit of local government.
- (3) A volunteer fire department.

- (4) A volunteer rescue squad.
- (5) A sheltered workshop recognized by the Department of Health and Human Services.

...

(c) Special Mobile Equipment. – A person who purchases and uses motor fuel for the off-highway operation of special mobile equipment registered under Chapter 20 of the General Statutes may receive a quarterly refund, for the excise tax paid during the preceding quarter, at a rate equal to the ~~flat cents per gallon rate plus the variable cents per gallon rate in effect during the quarter~~ tax rate in effect under G.S. 105-449.80 for the time period for which the refund is claimed, less the amount of sales and use tax due on the fuel under this Chapter, as determined in accordance with G.S. 105-449.107(c). An application for a refund must be made in accordance with this Part."

**SECTION 4.10.(c)** G.S. 105-449.107 reads as rewritten:

**"§ 105-449.107. Annual refunds for off-highway use and use by certain vehicles with power attachments.**

(a) Off-Highway. – A person who purchases and uses motor fuel for a purpose other than to operate a licensed highway vehicle may receive an annual refund for the excise tax the person paid on fuel used during the preceding calendar year. The amount of refund allowed is the ~~amount of the flat cents per gallon rate in effect during the year for which the refund is claimed plus the average of the two variable cents per gallon rates in effect during that year,~~ tax rate in effect under G.S. 105-449.80 for the time period less the amount of sales and use tax due on the fuel under this Chapter. An application for a refund allowed under this section must be made in accordance with this Part.

(b) Certain Vehicles. – A person who purchases and uses motor fuel in one of the vehicles listed below may receive an annual refund for the amount of fuel consumed by the vehicle:

- (1) A concrete mixing vehicle.
- (2) A solid waste compacting vehicle.
- (3) A bulk feed vehicle that delivers feed to poultry or livestock and uses a power takeoff to unload the feed.
- (4) A vehicle that delivers lime or fertilizer in bulk to farms and uses a power takeoff to unload the lime or fertilizer.
- (5) A tank wagon that delivers alternative fuel, as defined in G.S. 105-449.130, or motor fuel or another type of liquid fuel into storage tanks and uses a power takeoff to make the delivery.
- (6) A commercial vehicle that delivers and spreads mulch, soils, composts, sand, sawdust, and similar materials and that uses a power takeoff to unload, blow, and spread the materials.
- (7) A commercial vehicle that uses a power takeoff to remove and dispose of septage and for which an annual fee is required to be paid to the Department of Environmental Quality under G.S. 130A-291.1.
- (8) A sweeper.

The amount of refund allowed is thirty-three and one-third percent (33 1/3%) of the following: ~~the sum of the flat cents per gallon rate in effect during the year for which the refund is claimed and the average of the two variable cents per gallon rates in effect during that year,~~ tax rate in effect under G.S. 105-449.80 for the time period for which the refund is claimed less the amount of sales and use tax due on the fuel under this Chapter. An application for a refund allowed under this section must be made in accordance with this Part. This refund is allowed for the amount of fuel consumed by the vehicle in its mixing, compacting, or unloading operations, as distinguished from propelling the vehicle, which amount is considered to be one-third of the amount of fuel consumed by the vehicle.

...."

**SECTION 4.10.(d)** This section becomes effective January 1, 2016.

**SECTION 4.11.(a)** G.S. 105-449.125 reads as rewritten:

**"§ 105-449.125. Distribution of tax revenue among various funds and accounts.**

(a) Distribution to Funds. – The Secretary shall allocate the amount of revenue collected under this Article from an excise tax of one-half cent (1/2¢) a gallon to the following funds and accounts in the fraction indicated:

| <u>Fund or Account</u> | <u>Amount</u> |
|------------------------|---------------|
|------------------------|---------------|

(b) Distribution of Remaining Revenue. – The Secretary shall allocate ~~seventy-one percent (71%) of the remaining excise tax revenue collected under this Article~~ Article, including any revenue that is allocated but not distributed under subsection (a) of this section, as follows:

(1) Seventy-one percent (71%) to the Highway Fund and shall allocate twenty-nine Fund.

(2) Twenty-nine percent (29%) to the Highway Trust Fund.

(c) Accounting. – The Secretary shall charge a proportionate share of a refund allowed under this Article to each fund or account to which revenue collected under this Article is credited. The Secretary shall credit revenue or charge refunds to the appropriate funds or accounts on a monthly basis."

**SECTION 4.11.(b)** Section 29.27B(c) of S.L. 2015-241 reads as rewritten:

"**SECTION 29.27B.(c)** Subsection (a) of this section becomes effective July 1, 2015, and applies to excise tax revenue collected on or after that date. Subsection (b) of this section becomes effective ~~June 30, 2016~~ July 1, 2016."

**SECTION 4.11.(c)** Subsection (a) of this section becomes effective July 1, 2016. The remainder of this section is effective when it becomes law.

**SECTION 4.12.** G.S. 105-113.84 reads as rewritten:

"**§ 105-113.84. Report of resident brewery, resident winery, nonresident vendor, or wine shipper permittee.**

(a) A resident brewery, resident winery, and nonresident vendor~~vendor, and wine shipper permittee~~ must file a monthly report with the Secretary.

(b) A wine shipper permittee must file an annual report with the Secretary.

(c) The report required by this section must list the amount of beverages delivered to North Carolina wholesalers, importers, and purchasers under G.S. 18B-1001.1 during the period covered by the report.~~month.~~ The report is due by the 15th day of the month following the ~~period month~~ covered by the report. The report must be filed on a form approved by the Secretary and must contain the information required by the Secretary."

## PART V. OTHER TAX CHANGES

**SECTION 5.1.(a)** G.S. 105-242.2(e) reads as rewritten:

"(e) Statute of Limitations. – The period of limitations for assessing a responsible person for unpaid taxes under this section expires the later of (i) one year after the expiration of the period of limitations for assessing the business entity or (ii) one year after a tax becomes collectible from the business entity under G.S. 105-241.22(3), (4), (5), or (6)."

**SECTION 5.1.(b)** This section is effective when this act becomes law and applies to a tax that becomes collectible from the business entity under G.S. 105-241.22(3), (4), (5), or (6) on or after that date.

**SECTION 5.2.** G.S. 105-521 is repealed.

**SECTION 5.3.(a)** G.S. 131E-28 is repealed.

**SECTION 5.3.(b)** G.S. 105-130.5(b)(1a) reads as rewritten:

"(b) The following deductions from federal taxable income shall be made in determining State net income:

...  
(1a) Interest upon the obligations of any of the following, net of related expenses, to the extent included in federal taxable income:

a. This State, a political subdivision of this State, or a commission, an authority, or another agency of this State or of a political subdivision of this State.

b. A nonprofit educational institution organized or chartered under the laws of this State.

c. A hospital authority created under G.S. 131E-17."

**SECTION 5.3.(c)** G.S. 105-153.5(b)(1) reads as rewritten:

"(b) Other Deductions. – In calculating North Carolina taxable income, a taxpayer may deduct from the taxpayer's adjusted gross income any of the following items that are included in the taxpayer's adjusted gross income:

- (1) Interest upon the obligations of any of the following:
  - a. The United States or its possessions.
  - b. This State, a political subdivision of this State, or a commission, an authority, or another agency of this State or of a political subdivision of this State.
  - c. A nonprofit educational institution organized or chartered under the laws of this State.
  - d. A hospital authority created under G.S. 131E-17."

**SECTION 5.3.(d)** G.S. 105-449.88 is amended by adding a new subdivision to

read:

**"§ 105-449.88. Exemptions from the excise tax.**

The excise tax on motor fuel does not apply to the following:

...  
 (10) Motor fuel sold to a hospital authority created under G.S. 131E-17."

**SECTION 5.5.(a)** G.S. 105-164.3(33c) reads as rewritten:

"(33c) Qualifying datacenter. – A datacenter that satisfies each of the following conditions:

- a. The datacenter ~~meets the wage standard and health insurance requirements of G.S. 143B-437.08A.~~certifies that it satisfies the wage standard for the development tier area or zone in which the datacenter is located. There is no wage standard for a development tier one area. If an urban progress zone or an agrarian growth zone is not in a development tier one area, then the wage standard for that zone is an average weekly wage that is at least equal to ninety percent (90%) of the lesser of the average wage for all insured private employers in the State and the average wage for all insured private employers in the county in which the datacenter is located. The wage standard for a development tier two area or a development tier three area is an average weekly wage that is at least equal to one hundred ten percent (110%) of the lesser of the average wage for all insured private employers in the State and ninety percent (90%) of the average wage for all insured private employers in the county in which the datacenter is located.
- b. The Secretary of Commerce has made a written determination that at least seventy-five million dollars (\$75,000,000) in private funds has been or will be invested by one or more owners, users, or tenants of the datacenter within five years of the date the owner, user, or tenant of the datacenter makes its first real or tangible property investment in the datacenter on or after January 1, 2012. Investments in real or tangible property in the datacenter made prior to January 1, 2012, may not be included in the investment required by this subdivision.
- c. The datacenter certifies that it provides health insurance for all of its full-time employees. The datacenter provides health insurance if it pays at least fifty percent (50%) of the premiums for health care coverage that equals or exceeds the minimum provisions of the basic health care plan of coverage recommend by the Small Employer Carrier Committee pursuant to G.S. 58-50-125."

**SECTION 5.5.(b)** G.S. 105-130.4(s1) reads as rewritten:

"(s1) All apportionable income of a qualified capital intensive corporation shall be apportioned by multiplying the income by the sales factor as determined under subsection (1) of this section. A "qualified capital intensive corporation" is a corporation that satisfies all of the conditions of this subsection. A corporation that is subject to this subsection must list on its return the property, payroll, and sales factors it used in determining whether it is a qualified capital intensive corporation. If the corporation fails to invest one billion dollars (\$1,000,000,000) in private funds within nine years as required by subdivision (2) of this subsection, the benefit of this subsection expires and the corporation must apportion income as it would otherwise be required to do under this section absent this subsection. The conditions are:

...

- (5) The corporation satisfies a wage standard at the facility that satisfies the condition of subdivision (2) of this subsection. For the purposes of this subdivision, the wage standard that must be satisfied is the one established under ~~G.S. 105-129.83(e)~~. G.S. 105-164.3(33c)a.
- (6) The corporation provides health insurance for all of its full-time employees at the facility that satisfies the condition of subdivision (2) of this subsection. For the purposes of this subdivision, a company provides health insurance if it satisfies the provisions of ~~G.S. 105-129.83(d)~~. G.S. 105-164.3(33c)c."

**SECTION 5.5.(c)** G.S. 143B-437.01(a)(6) reads as rewritten:

"(a) Creation and Purpose of Fund. – There is created in the Department of Commerce a special account to be known as the Industrial Development Fund Utility Account ("Utility Account") to provide funds to assist the local government units of the most economically distressed counties in the State in creating jobs. The Department of Commerce shall adopt rules providing for the administration of the program. Those rules shall include the following provisions, which shall apply to each grant from the account:

- ...
- (6) The funds shall not be used ~~for any nonmanufacturing project that does not meet the wage standard set out in G.S. 105-129.4(b) or for any retail, entertainment, or sports projects.~~ The funds shall not be used for any nonmanufacturing project that does not meet the wage standard for the development tier area or zone in which the project is located. There is no wage standard for a development tier one area. If an urban progress zone or an agrarian growth zone is not in a development tier one area, then the wage standard for that zone is an average weekly wage that is at least equal to ninety percent (90%) of the lesser of the average wage for all insured private employers in the State and the average wage for all insured private employers in the county in which the datacenter is located. The wage standard for a development tier two area or a development tier three area is an average weekly wage that is at least equal to one hundred ten percent (110%) of the lesser of the average wage for all insured private employers in the State and ninety percent (90%) of the average wage for all insured private employers in the county in which the datacenter is located."

**SECTION 5.5.(d)** G.S. 143B-437.012(h) reads as rewritten:

"(h) Environmental Impact. – A business is eligible for consideration for a grant under this section only if the business certifies that, at the time of the application, ~~the business satisfies the environmental impact standard under G.S. 105-129.83.~~ there has not been a final determination unfavorable to the business with respect to an environmental disqualifying event. For the purposes of this section, a "final determination unfavorable to the business" occurs when there is no further opportunity for the business to seek administrative or judicial appeal, review, certiorari, or rehearing of the environmental disqualifying event and the disqualifying event has not been reversed or withdrawn."

**SECTION 5.5.(e)** G.S. 143B-437.02(g) reads as rewritten:

"(g) Environmental Impact. – A business is eligible for consideration for site development under this part only if the business certifies that, at the time of the application, ~~the business satisfies the environmental impact standard under G.S. 105-129.83.~~ there has not been a final determination unfavorable to the business with respect to an environmental disqualifying event. For the purposes of this section, a "final determination unfavorable to the business" occurs when there is no further opportunity for the business to seek administrative or judicial appeal, review, certiorari, or rehearing of the environmental disqualifying event and the disqualifying event has not been reversed or withdrawn."

**SECTION 5.5.(f)** This section is effective when it becomes law.

## **PART VI. EFFECTIVE DATE AND TIME TO FILE CERTAIN CLAIMS FOR REFUND**

**SECTION 6.1.** Except as otherwise provided, this act is effective when it becomes law. Notwithstanding the general statute of limitations for obtaining a refund of an overpayment of tax under G.S. 105-241.6(a), a taxpayer that had an amount added to taxable income as deferred income under section 108(i)(1) of the Internal Revenue Code and the amount would be excluded under Sections 1.9, 2.1, or 2.4 of this act may apply to the Department of Revenue for a refund of the State income tax paid on the deferred income. A request for a refund under this section must be made to the Secretary of Revenue on or before July 1, 2016. A request for a refund received after that date is barred unless authorized by G.S. 105-241.6(a).

In the General Assembly read three times and ratified this the 9<sup>th</sup> day of May, 2016.

s/ Tom Apodaca  
Presiding Officer of the Senate

s/ Tim Moore  
Speaker of the House of Representatives

s/ Pat McCrory  
Governor

Approved 10:01 a.m. this 11<sup>th</sup> day of May, 2016